

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: May 30, 2013

512743

In the Matter of DANA Q.,
Appellant,

v

MEMORANDUM AND ORDER

PATRICIA P.,
Respondent.

Calendar Date: April 18, 2013

Before: Lahtinen, J.P., McCarthy, Garry and Egan Jr., JJ.

Allen E. Stone, Vestal, for appellant.

Kelly E. Fischer, Binghamton, for respondent.

Norbert Higgins, Binghamton, attorney for the children.

Garry, J.

Appeal from an order of the Family Court of Broome County (Connerton, J.), entered April 25, 2011, which dismissed petitioner's application, in a proceeding pursuant to Family Ct Act article 6, to modify a prior order of custody.

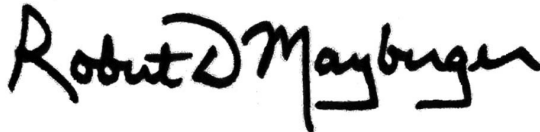
Petitioner, pro se, commenced this proceeding seeking modification of a custody order dated February 2, 2010 that granted the parties joint custody of their two children (born in 2000 and 2003) with primary residence of the children to be with respondent. Petitioner thereafter appeared before Family Court with counsel. Counsel requested that the court dismiss the petition with leave to file a similar petition based upon certain alleged changes in circumstances. The court thereafter dismissed the petition without prejudice and this appeal ensued.

Petitioner's counsel seeks to be relieved of his assignment on the basis that there are no nonfrivolous issues to be raised on appeal (see Anders v California, 386 US 738, 744 [1967]; Matter of Pamela N. v Neil N., 100 AD3d 1126, 1126 [2012]). Upon our review of the record, we agree. Accordingly, counsel's application to be relieved of his assignment is granted.

Lahtinen, J.P., McCarthy and Egan Jr., JJ., concur.

ORDERED that the order is affirmed, without costs, and application to be relieved of assignment granted.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court