

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

Decided and Entered: November 27, 2013

516019

In the Matter of JOHNATHAN
YY., Alleged to be a
Neglected Child.

SARATOGA COUNTY DEPARTMENT OF
SOCIAL SERVICES,
Appellant;

MEMORANDUM AND ORDER

KRYSTAL ZZ.,
Respondent.

Calendar Date: October 17, 2013

Before: Peters, P.J., Rose, Lahtinen and Garry, JJ.

Stephen M. Dorsey, County Attorney, Ballston Spa (Mary Beth Hynes of counsel), for appellant.

Justin C. Brusgul, Voorheesville, for respondent.

Nicole R. Rodgers, Saratoga Springs, attorney for the child.

Lahtinen, J.

Appeal from an order of the Family Court of Saratoga County (Hall, J.), entered January 31, 2013, which, in a proceeding pursuant to Family Ct Act article 10, granted respondent's motion for an order directing petitioner to return her child to her.

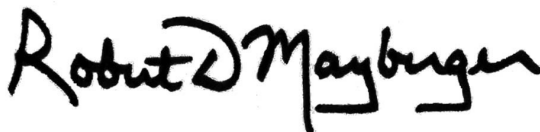
In October 2012, Family Court adjudicated respondent's older child (born in 2011) neglected based on proof that respondent had inflicted injuries upon the child that resulted in her conviction of assault in the second degree. When her younger child was born in 2013, she consented to his temporary placement in foster care and petitioner commenced this proceeding alleging that the younger child was derivatively neglected. Shortly thereafter, respondent made an application to have the younger child returned to her custody (see Family Ct Act § 1028). Following a hearing, Family Court issued an order on January 31, 2013 that granted respondent's motion to return the younger child to her. Petitioner appealed and obtained a stay from us of the January 31, 2013 order.

During the time this appeal has been pending, petitioner successfully moved for summary judgment on its derivative neglect petition, and Family Court, after a hearing, issued an order of disposition granting custody to petitioner and directing respondent to comply with the same terms and conditions as the order of disposition involving the older child. Under these circumstances, the current appeal is moot (see e.g. Matter of Angel C. [Lynn H.], 103 AD3d 1246, 1247 [2013]; Matter of Mary YY. [Albert YY.], 98 AD3d 1198, 1198 [2012]; Matter of Derrick JJ., 244 AD2d 790, 790 [1997]).

Peters, P.J., Rose and Garry, JJ., concur.

ORDERED that the appeal is dismissed, as moot, without costs.

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