

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

Decided and Entered: October 19, 2017

523888

In the Matter of LANDYN H.,
Alleged to be a Neglected
Child.

CORTLAND COUNTY DEPARTMENT OF
SOCIAL SERVICES,

MEMORANDUM AND ORDER

Respondent;

MATTHEW H.,

Respondent.

ATTORNEY FOR THE CHILD,
Appellant.

Calendar Date: September 6, 2017

Before: Peters, P.J., Garry, Rose, Aarons and Rumsey, JJ.

Lisa K. Miller, McGraw, attorney for the child, appellant.

Stacy L. Banewicz, Cortland County Department of Social
Services, Cortland, for Cortland County Department of Social
Services, respondent.

Rose, J.

Appeal from an order of the Family Court of Cortland County
(Ames, J.), entered May 3, 2016, which, in a proceeding pursuant
to Family Ct Act article 10, temporarily removed the subject
child from respondent's custody.

Petitioner commenced this neglect proceeding in March 2016
to remove the child (born in 2015) from respondent's care based

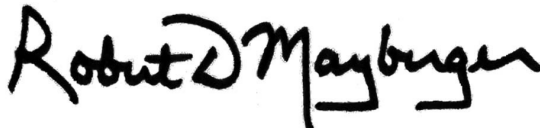
upon allegations that respondent was an active drug user. That same day, Family Court temporarily removed the child from respondent's care and placed the child with his maternal aunt and uncle pending a hearing. After a fact-finding hearing pursuant to Family Ct Act § 1027, Family Court continued the child's temporary removal and placement. The attorney for the child now appeals.

During the pendency of this appeal, Family Court issued an order of fact-finding and disposition that included a finding of neglect against respondent, returned the child to respondent's care and suspended judgment subject to various terms and conditions. In light of this subsequent order, the appeal from the temporary order is moot (see Matter of Jadalynn HH. [Roy HH.], 135 AD3d 1089, 1089 [2016]; Matter of Mary YY. [Albert YY.], 98 AD3d 1198, 1198 [2012]), and we find that the exception to the mootness doctrine does not apply (see Matter of Michael A. [Patricia A.], 79 AD3d 1230, 1231 [2010]).

Peters, P.J., Garry, Aarons and Rumsey, 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