

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

Decided and Entered: December 20, 2018

525657

In the Matter of KRISTEN
HOLT,

Petitioner,

v

MEMORANDUM AND ORDER

BENJAMIN GREINER,

Appellant.

Calendar Date: November 16, 2018

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

Christopher Hammond, Cooperstown, for appellant.

Devine, J.

Appeal from an order of the Family Court of Broome County (Pines, J.), entered August 30, 2017, which, in a proceeding pursuant to Family Ct Act article 4, directed respondent to serve a suspended sentence of incarceration.

Family Court issued an order confirming that respondent had willfully violated a prior order of child support and ordered his incarceration for six months unless he made "a substantial payment toward his arrears" and remained current with his support obligation. No appeal was taken from that order. Respondent had made no progress in meeting his obligations by the time of the next court appearance, prompting Family Court to issue a second order directing him to serve the suspended sentence absent a payment of \$7,595.93 to the Support Collection Unit. Respondent appeals from that order of commitment, but we take judicial

notice that he was released from jail during the pendency of this appeal, a fact that renders such an appeal moot (see Matter of St. Lawrence County Support Collection Unit v Griffith, 101 AD3d 1318, 1318 [2012]; Matter of Lewis v Cross, 72 AD3d 1228, 1229 [2010]; Matter of Lind v Sepulveda, 66 AD3d 1087, 1087-1088 [2009]; Matter of St. Lawrence County Dept. of Social Servs. v Pratt, 24 AD3d 1050, 1050 [2005], lv denied 6 NY3d 713 [2006]; cf. Matter of St. Lawrence County Support Collection Unit v Chad T., 124 AD3d 1031, 1032 [2015]). Accordingly, the appeal is dismissed.

Garry, P.J., McCarthy, Egan Jr. and Clark, 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