

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

Decided and Entered: January 3, 2019

525116

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In the Matter of NATASHA S.,  
Appellant,

v

MEMORANDUM AND ORDER

RONALD R.,  
Respondent.

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Calendar Date: November 20, 2018

Before: Garry, P.J., Mulvey, Aarons, Rumsey and Pritzker, JJ.

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Teresa C. Mulliken, Harpersfield, for appellant.

Christine E. Nicolella, Delanson, attorney for the child.

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Garry, P.J.

Appeal from an order of the Family Court of Delaware County (Rosa, J.), entered June 1, 2017, which dismissed petitioner's application, in a proceeding pursuant to Family Ct Act article 6, to modify a prior order of custody and visitation.

Petitioner (hereinafter the mother) and respondent (hereinafter the father) are the unwed parents of a child (born in 2012). Pursuant to a 2016 order, as modified in 2017, the parents shared joint legal custody, with primary physical custody to the father and parenting time to the mother. In February 2017, the mother filed a modification petition, seeking primary physical custody based upon her recent relocation closer to the child and the father's planned relocation nearly an hour

away from the mother. Following fact-finding and Lincoln hearings, Family Court dismissed the mother's petition. The mother appeals.

The attorney for the child advises that, during the pendency of this appeal, the mother and the father filed additional petitions resulting in the issuance of a further order relative to physical custody of the child. This subsequent order expressly superseded the order on appeal. Accordingly, the instant appeal has been rendered moot and, as the exception to the mootness doctrine does not apply, must be dismissed (see Matter of Charles EE. v Hanna FF., 141 AD3d 754, 755 [2016]; Matter of Attorney for the Child v Cole, 140 AD3d 1335, 1336 [2016]; Matter of Dalmida v Livermore, 134 AD3d 1306, 1306-1307 [2015]).

Mulvey, Aarons, Rumsey and Pritzker, JJ., concur.

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

ENTER:



Robert D. Mayberger  
Clerk of the Court