

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

Decided and Entered: June 6, 2019

526122

In the Matter of MONICA R.
EVANS,

Petitioner,

v

MEMORANDUM AND ORDER

STEVEN R. PADGETT,

Appellant.

Calendar Date: April 23, 2019

Before: Garry, P.J., Egan Jr., Clark, Mulvey and Pritzker, JJ.

Larisa Obolensky, Delhi, for appellant.

Clark, J.

Appeal from an order of the Family Court of Chemung County (Rich Jr., J.), entered December 12, 2017, which, in a proceeding pursuant to Family Ct Act article 4, directed respondent to serve a sentence of incarceration.

In March 2014, petitioner commenced this Family Ct Act article 4 proceeding alleging that respondent (hereinafter the father) willfully failed to obey a 2010 order directing him to pay \$1,561 per month in child support for his two children (born in 1995 and 1998) and that he owed \$96,230.30 in arrears. Following a fact-finding hearing, at which the father's attorney appeared but the father did not, a Support Magistrate, among other things, found the father to be in willful violation of the prior order of support, determined that the father owed child support arrears in the amount of \$107,157.20 and referred the

matter to Family Court for confirmation and the imposition of sanctions, with the recommendation that the father be incarcerated for 120 days. In January 2015, the father consented to an order confirming the Support Magistrate's finding that he willfully violated his child support obligation, and Family Court adjourned disposition to allow the father an opportunity to make regular child support payments. After several additional adjournments and the father's continued failure to make child support payments, Family Court, in a December 2017 order, sentenced the father to six months in jail. The father now appeals from the December 2017 order.

The father has served the entirety of his jail sentence and, thus, his appeal from the order imposing the sentence has been rendered moot (see Matter of St. Lawrence County Support Collection Unit v Chad T., 124 AD3d 1032, 1033 [2015]; Matter of Lewis v Cross, 72 AD3d 1228, 1229 [2010]; compare Matter of Saratoga County Support Collection Unit v Caudill, 160 AD3d 1071, 1072 [2018]). As such, the father's appeal must be dismissed.

Garry, P.J., Egan Jr., Mulvey and Pritzker, JJ., concur.

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

ENTER:



Robert D. Mayberger
Clerk of the Court