

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

Decided and Entered: June 6, 2019

526078

In the Matter of DENISE ZZ.,
Petitioner,

v

MEMORANDUM AND ORDER

JOCELYN A.,
Appellant.

Calendar Date: April 23, 2019

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

Alexandra G. Verrigni, Rexford, for appellant.

Elena Tastensen, Saratoga Springs, attorney for the child.

Egan Jr., J.

Appeal from an order of the Family Court of Saratoga County (Pelagalli, J.), entered November 13, 2017, which granted petitioner's application, in a proceeding pursuant to Family Ct Act article 6, for custody of the subject child.

Respondent (hereinafter the mother) is the mother of the subject child (born in 2000) whose father died in 2014, and petitioner (hereinafter the grandmother) is the child's paternal grandmother. In 2016, the grandmother commenced this proceeding by filing a petition seeking immediate and permanent custody of the child (see Domestic Relations Law § 72). Family Court issued a temporary order of custody awarding the parties joint legal custody with primary physical custody with the grandmother, which was continued in a subsequent order.

Following a hearing in 2017, Family Court, upon a finding that the grandmother had established extraordinary circumstances, continued the parties' joint legal custody and awarded primary physical custody to the grandmother. The mother appeals.

Pursuant to Family Ct Act article 6, Family Court is vested with jurisdiction to determine custody and visitation issues pertaining to "minors" (Family Ct Act § 651 [a], [b]), who are defined as "person[s] who [have] not attained the age of [18] years" (Family Ct Act § 119 [c]). The subject child, born in August 2000, reached the age of 18 in August 2018, during the pendency of this appeal. Accordingly, the mother's challenges to Family Court's November 2017 custody order have been rendered moot (see Matter of Cokely v Crocker, 157 AD3d 1033, 1034 [2018]; Matter of Yerkes v Hardy, 145 AD3d 1113, 1114 [2016]; Matter of Troy SS. v Judy UU., 140 AD3d 1348, 1349-1350 [2016], lv denied 28 NY3d 902 [2016]), and she has not demonstrated that the exception to the mootness doctrine is applicable under the circumstances (see Saratoga County Chamber of Commerce v Pataki, 100 NY2d 801, 811 [2003], cert denied 540 US 1017 [2003]; Matter of Hearst Corp. v Clyne, 50 NY2d 707, 714-715 [1980]).

Garry, P.J., Clark, Mulvey and Pritzker, JJ., concur.

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

ENTER:



Robert D. Mayberger
Clerk of the Court