

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

Decided and Entered: April 9, 2020

527026

In the Matter of ANTONIO MM.,
Respondent,

v

TARA NN.,
Appellant.

(Proceeding No. 1.)

MEMORANDUM AND ORDER

In the Matter of TARA NN.,
Appellant,

v

ANTONIO MM.,
Respondent.

(Proceeding No. 2.)

Calendar Date: February 14, 2020

Before: Garry, P.J., Egan Jr., Mulvey, Aarons and
Colangelo, JJ.

Rural Law Center of New York, Castleton (Kristin A. Bluvas
of counsel), for appellant.

Krause Law, Glens Falls (W. Bradley Krause of counsel),
for respondent.

J. Mark McQuerrey, Cambridge, attorney for the child.

Aarons, J.

Appeal from an order of the Family Court of Warren County (Kershko, J.), entered June 4, 2018, which, among other things, dismissed petitioner's application, in proceeding No. 2 pursuant to Family Ct Act article 6, for permission to relocate with the parties' child.

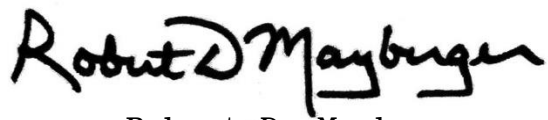
Tara NN. (hereinafter the mother) and Antonio MM. (hereinafter the father) are the parents of a child (born in 2013). As provided by an April 2017 order, the parties shared joint legal custody of the child, with the mother having primary physical custody and the father having parenting time. The father commenced a proceeding seeking to modify the April 2017 order by requesting primary physical custody of the child. The mother filed a petition seeking, among other things, sole legal and physical custody of the child and to relocate with the child to Florida. Following fact-finding and Lincoln hearings, Family Court, in June 2018, ordered that the parties would maintain joint legal custody of the child and directed that they share physical custody. The court also dismissed the mother's relocation petition. The mother appeals.

This Court has been advised that, following the issuance of the June 2018 order, the father commenced another proceeding seeking to modify such order. A hearing was held, after which Family Court, in a March 2019 order, awarded the father primary physical custody of the child with the mother having parenting time. In view of the March 2019 order, the mother's appeal from the June 2018 order has been rendered moot (see Matter of Cullop v Miller, 173 AD3d 1652, 1652 [2019]). Because the exception to the mootness doctrine does not apply (see generally Matter of Hearst Corp. v Clyne, 50 NY2d 707, 714-715 [1980]), the appeal must be dismissed.

Garry, P.J., Egan Jr., Mulvey and Colangelo, 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 style with a large, prominent "R" and "M".

Robert D. Mayberger
Clerk of the Court