

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CAF 10-00236

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, SCONIERS, AND MARTOCHE, JJ.

IN THE MATTER OF DEAMARI W. AND LAKARIE W.

MONROE COUNTY DEPARTMENT OF HUMAN SERVICES,
PETITIONER-APPELLANT;

MEMORANDUM AND ORDER

HOWARD W., RESPONDENT-RESPONDENT.

WILLIAM K. TAYLOR, COUNTY ATTORNEY, ROCHESTER (PETER ANDREW ESSLEY OF COUNSEL), FOR PETITIONER-APPELLANT.

KATHERINE GLADSTONE, ATTORNEY FOR THE CHILDREN, ROCHESTER, FOR DEAMARI W. AND LAKARIE W.

Appeal from an order of the Family Court, Monroe County (Maija C. Dixon, A.J.), entered January 20, 2010 in a proceeding pursuant to Social Services Law § 384-b. The order dismissed the petition for termination of parental rights.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: In this termination of parental rights proceeding, petitioner appeals from an order that dismissed its petition after a hearing. We take judicial notice of the fact that, subsequent to the entry of the order in this appeal, petitioner filed another petition also seeking to terminate the parental rights of respondent father, a finding of permanent neglect was entered on that petition, and the father's parental rights were terminated. Although the father filed a notice of appeal from the subsequent order, the appeal from that order was dismissed. Consequently, we dismiss this appeal as moot because the father's parental rights with respect to the children that are the subject of the instant petition have been terminated (*see generally Matter of Kim OO. v Broome County Dept. of Social Servs.*, 44 AD3d 1164; *Matter of Kila DD.*, 34 AD3d 1168; *Matter of Melody B.*, 234 AD2d 1005, *lv dismissed* 90 NY2d 888).

Entered: April 29, 2011

Patricia L. Morgan
Clerk of the Court