

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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_____AD3d_____

Submitted - June 12, 2007

STEPHEN G. CRANE, J.P.
DAVID S. RITTER
MARK C. DILLON
EDWARD D. CARNI, JJ.

2006-06510

DECISION & ORDER

In the Matter of Unique R. (Anonymous).
Administration for Children's Services,
petitioner-respondent; Dawn M. (Anonymous),
respondent; Gilbert R. (Anonymous), nonparty-
appellant.

(Index No. NN-5815-06)

David Laniado, Brooklyn, N.Y., for nonparty-appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Kristin M. Helmers and
Pamela Seider Dolgow of counsel), for petitioner-respondent.

Steven Banks, New York, N.Y. (Judith Waksberg of counsel), Law Guardian for the
child.

In a child protective proceeding pursuant to Family Court Act article 10, the nonparty father appeals from an order of the Family Court, Kings County (Hall, J.), dated May 11, 2006, which, after a hearing pursuant to Family Court Act § 1028, inter alia, in effect, denied his application to have the subject child returned to his custody, denied the mother's application to have the subject child returned to her custody, continued the child's temporary removal from the care of the father, and directed the mother to perform certain actions. Assigned counsel has submitted a brief in accordance with *Anders v California* (386 US 738), in which he moves to be relieved of the assignment to prosecute this appeal.

ORDERED that the nonparty father's appeal from so much of the order as denied the

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mother's application to have the subject child returned to her custody and directed her to perform certain actions is dismissed, as he is not aggrieved by those portions of the order (*see* CPLR 5511; *Matter of Seasia D.*, 25 AD3d 607, 608); and it is further,

ORDERED that the appeal from so much of the order as continued the temporary removal of the subject child from the care of the father is dismissed as academic; and it is further,

ORDERED that the order is affirmed insofar as reviewed, without costs or disbursements.

The appeal from so much of the order as temporarily removed the subject child from the care of the father must be dismissed as academic because that part of the order has been superseded by an order paroling the subject child to the father (*see Matter of Desiree C.*, 7 AD3d 522, 523; *Matter of C. Children*, 249 AD2d 540; *Matter of Keith C.*, 226 AD2d 369, 370).

We have reviewed the record and agree with the father's assigned counsel that there are no nonfrivolous issues which could be raised on appeal. Counsel's application for leave to withdraw as counsel is granted (*see Anders v California*, 386 US 738; *Matter of Dyshea T.*, 17 AD3d 685).

CRANE, J.P., RITTER, DILLON and CARNI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court