

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

D21512
X/kmg

_____AD3d_____

Submitted - November 17, 2008

STEVEN W. FISHER, J.P.
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON
ARIEL E. BELEN, JJ.

2007-06602

DECISION & ORDER

In the Matter of Ashley R. (Anonymous).
Administration for Children's Services, respondent;
Lawrence H. (Anonymous), appellant.
(Proceeding No. 1)

In the Matter of Cody R. (Anonymous).
Administration for Children's Services, respondent;
Lawrence H. (Anonymous), appellant.
(Proceeding No. 2)

In the Matter of Jacqueline H. (Anonymous).
Administration for Children's Services, respondent;
Lawrence H. (Anonymous), appellant.
(Proceeding No. 3)

(Docket Nos. N-01852-05, N-01853-05, N-01854-05)

Richard L. Herzfeld, New York, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Leonard Koerner and Alan Beckoff of counsel), for respondent.

Steven Banks, New York, N.Y. (Tamara A. Steckler and Marcia Egger of counsel), attorney for the children.

December 16, 2008

Page 1.

MATTER OF R. (ANONYMOUS), ASHLEY
MATTER OF R. (ANONYMOUS), CODY
MATTER OF R. (ANONYMOUS), JACQUELINE

In related child protective proceedings pursuant to Family Court Act article 10, the father appeals, as limited by his brief, from so much of an order of the Family Court, Richmond County (DiDomenico, J.), dated June 13, 2007, as, after a hearing, granted the petitioner's application to vacate that portion of a prior order of the same court dated November 17, 2006, trial discharging the child Jacqueline H. to him, and directed that Jacqueline H. be returned to the petitioner's custody.

ORDERED that the appeal is dismissed as academic, without costs or disbursements.

Inasmuch as the only child who is the subject of the appeal has since been returned to the father, the appeal has been rendered academic and under the particular circumstances here, an exception to the mootness doctrine does not apply (*see Matter of New York City Dept. of Social Servs. v Diognes T.*, 208 AD2d 844; *cf. Matter of Ifeiyi O.*, 53 AD3d 501).

FISHER, J.P., ANGIOLILLO, DICKERSON and BELEN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court