

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

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CAF 14-00642

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, SCONIERS, AND DEJOSEPH, JJ.

IN THE MATTER OF MATT J.F., SR.,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

BILLIE L.F., RESPONDENT-RESPONDENT.

FERN S. ADELSTEIN, OLEAN, FOR PETITIONER-APPELLANT.

DARRYL R. BLOOM, OLEAN, FOR RESPONDENT-RESPONDENT.

MICHAEL J. SULLIVAN, ATTORNEY FOR THE CHILD, FREDONIA.

Appeal, by permission of a Justice of the Appellate Division of the Supreme Court in the Fourth Judicial Department, from an order of the Family Court, Cattaraugus County (Michael L. Nenno, J.), entered March 18, 2014 in a proceeding pursuant to Family Court Act article 5. The order directed the parties and their marital child to submit to a genetic marker test.

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

Memorandum: In this proceeding pursuant to Family Court Act article 5, petitioner father appeals from an order directing the parties and their marital child to submit to a genetic marker test. While this appeal was pending, respondent mother commenced her own paternity proceeding. Family Court ordered a genetic marker test, to which the father did not object, it was determined that the father is the biological father of the subject child, and an order of filiation was entered. We therefore conclude that this appeal has been rendered moot and that, contrary to the contention of the father, the exception to the mootness doctrine does not apply (*see generally Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715).

Entered: March 27, 2015

Frances E. Cafarell
Clerk of the Court