

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

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CAF 14-00201

PRESENT: SCUDDER, P.J., SMITH, SCONIERS, VALENTINO, AND DEJOSEPH, JJ.

IN THE MATTER OF SHANTELE SMITH,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

ANDRE R. CASHAW, RESPONDENT-RESPONDENT.
(APPEAL NO. 1.)

WILLIAM D. BRODERICK, JR., ELMA, FOR PETITIONER-APPELLANT.

ALAN BIRNHOLZ, EAST AMHERST, FOR RESPONDENT-RESPONDENT.

JENNIFER Z. BLACKHALL, ATTORNEY FOR THE CHILD, CHEEKTOWAGA.

Appeal from an order of the Family Court, Erie County (Paul G. Buchanan, J.), entered June 25, 2013 in a proceeding pursuant to Family Court Act article 6. The order dismissed the petition.

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

Memorandum: These consolidated appeals arise from a series of proceedings pursuant to Family Court Act article 6, in which the parties sought, inter alia, an order resolving custody and visitation issues with respect to their daughter. We take judicial notice of the fact that, while these appeals were pending, the parties filed further petitions seeking modification of the two orders on appeal. An order resolving, among other things, custody and visitation issues with respect to the subject child, was thereafter entered upon consent of the parties, thereby rendering these appeals moot (*see Matter of Salo v Salo*, 115 AD3d 1368, 1368; *Matter of Justeen T.*, 17 AD3d 1148, 1148). We conclude that the exception to the mootness doctrine does not apply (*see generally Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715).

Entered: June 12, 2015

Frances E. Cafarell
Clerk of the Court