

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

301

**CAF 14-00882**

PRESENT: PERADOTTO, J.P., LINDLEY, NEMOYER, AND SCUDDER, JJ.

---

IN THE MATTER OF BARRY A. PUGH,  
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

TAMMY R. RICHARDSON, RESPONDENT-RESPONDENT.

---

THE GLENNON LAW FIRM, P.C., ROCHESTER (PETER J. GLENNON OF COUNSEL),  
FOR PETITIONER-APPELLANT.

CHARLES T. NOCE, CONFLICT DEFENDER, ROCHESTER (KATHLEEN P. REARDON OF  
COUNSEL), FOR RESPONDENT-RESPONDENT.

SUSAN LARAGY, ATTORNEY FOR THE CHILD, ROCHESTER.

---

Appeal from an order of the Family Court, Monroe County (Thomas W. Polito, R.), entered September 9, 2013 in a proceeding pursuant to Family Court Act article 6. The order, among other things, awarded sole custody of the subject child to respondent.

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

Memorandum: Petitioner father appeals from an order that, among other things, denied his petition for a change of custody to him and instead awarded full custody of the parties' child to respondent mother. While this appeal was pending, and purportedly on consent of the parties, Family Court entered an order that newly resolved the custody and visitation issues with respect to the subject child. We conclude that the superseding order renders this appeal moot (see *Matter of Warren v Hibbs*, 136 AD3d 1306, 1306; *Matter of Salo v Salo*, 115 AD3d 1368). We further conclude that the exception to the mootness doctrine does not apply (see *Warren*, 136 AD3d at 1306, citing *Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715).

Entered: April 29, 2016

Frances E. Cafarell  
Clerk of the Court