

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

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**CAF 24-02050**

PRESENT: WHALEN, P.J., CURRAN, MONTOUR, SMITH, AND GREENWOOD, JJ.

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IN THE MATTER OF HANALISE S., MOSES B., AND SOPHIA B.

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MONROE COUNTY DEPARTMENT OF HUMAN SERVICES,  
PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

EZRA B.B., JR., RESPONDENT-APPELLANT.  
(APPEAL NO. 2.)

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JULIE CIANCA, PUBLIC DEFENDER, ROCHESTER (JAMES A. HOBBS OF COUNSEL),  
FOR RESPONDENT-APPELLANT.

BRENDON S. FLEMING, ACTING COUNTY ATTORNEY, ROCHESTER (MARY M.  
WHITESIDE OF COUNSEL), FOR PETITIONER-RESPONDENT.

SUSAN E. GRAY, CANANDAIGUA, ATTORNEY FOR THE CHILD.

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Appeal from an order of the Family Court, Monroe County (Alecia J. Mazzo, J.), entered December 2, 2024. The order granted the two youngest children an order of protection.

It is hereby ORDERED that the case is held, the decision is reserved, counsel for the subject children is relieved of his assignment, and new counsel is to be assigned in accordance with the following memorandum: In this proceeding pursuant to Family Court Act article 10, respondent appeals in appeal No. 1 from an order of protection issued in favor of the oldest subject child. In appeal No. 2, respondent appeals from an order of protection issued in favor of the youngest subject children. We note at the outset that children in article 10 proceedings are entitled to effective assistance of counsel, including on appeal (*see Matter of Brian S. [Tanya S.]*, 141 AD3d 1145, 1147 [4th Dept 2016]; *see also Matter of Jennifer VV. v Lawrence WW.*, 182 AD3d 652, 655 [3d Dept 2020]). Inasmuch as the attorney assigned to represent the youngest children in appeal No. 2 failed to file a brief, we conclude that, under the circumstances of this case, the attorney for the youngest children failed to fulfill an essential obligation related to his representation and the youngest children therefore did not receive effective assistance of appellate counsel (*see Jennifer VV.*, 182 AD3d at 655; *Matter of Mark T. v Joyanna U.*, 64 AD3d 1092, 1094-1095 [3d Dept 2009]). Therefore, in appeal No. 2, we hold the case, reserve decision, relieve counsel of his assignment, and direct the assignment of new counsel to represent the subject youngest children and file a brief on their behalf. In light of our determination in appeal No. 2 and in the interest of judicial economy, we hold the case in appeal No. 1 and reserve

decision pending the assignment of new counsel and the filing of a brief in appeal No. 2.

Entered: March 27, 2026

Ann Dillon Flynn  
Clerk of the Court