

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

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CAF 23-00195

PRESENT: WHALEN, P.J., BANNISTER, GREENWOOD, AND KEANE, JJ.

IN THE MATTER OF GABRIEL H.

ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES,
PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

MELANIE H., ALSO KNOWN AS MELANIE S.,
RESPONDENT-APPELLANT.
(APPEAL NO. 2.)

CAITLIN M. CONNELLY, BUFFALO, FOR RESPONDENT-APPELLANT.

BENJAMIN MANNION, BUFFALO, FOR PETITIONER-RESPONDENT.

DAVID J. PAJAK, ALDEN, ATTORNEY FOR THE CHILD.

Appeal from an order of the Family Court, Erie County (Sharon M. LoVallo, J.), entered December 15, 2022, in a proceeding pursuant to Family Court Act article 10. The order, inter alia, determined that respondent had derivatively abused the subject child.

It is hereby ORDERED that the order so appealed from is affirmed without costs.

Same memorandum as in *Matter of Mekayla S. (Melanie H.)* ([appeal No. 1] - AD3d - [July 3, 2024] [4th Dept 2024]).

All concur except WHALEN, P.J., who dissents and votes to reverse in accordance with the same dissenting memorandum as in *Matter of Mekayla S. (Melanie H.)* ([appeal No. 1] - AD3d - [July 3, 2024] [4th Dept 2024]).

Entered: July 3, 2024

Ann Dillon Flynn
Clerk of the Court