

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

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CAF 12-01714

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, SCONIERS, AND VALENTINO, JJ.

IN THE MATTER OF BRIANNA C., BROOKLYN C.
AND JASMINE C.

JOSEPH W., PETITIONER-APPELLANT,

MEMORANDUM AND ORDER

V

ERIE COUNTY CHILDREN'S SERVICES,
RESPONDENT-RESPONDENT.

CHARLES J. GREENBERG, AMHERST, FOR PETITIONER-APPELLANT.

JOSEPH T. JARZEMBEK, BUFFALO, FOR RESPONDENT-RESPONDENT.

DAVID C. SCHOPP, ATTORNEY FOR THE CHILDREN, THE LEGAL AID BUREAU OF
BUFFALO, INC., BUFFALO (CHARLES D. HALVORSEN OF COUNSEL).

Appeal from an order of the Family Court, Erie County (Margaret O. Szczur, J.), entered August 15, 2012 in a proceeding pursuant to Family Court Act article 10. The order dismissed the petition.

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

Memorandum: On appeal from an order dismissing his petition seeking modification of an order of protection, petitioner contends that Family Court erred in dismissing the petition because the Attorney for the Children (AFC) and respondent failed to make written motions to dismiss, and he further contends that the AFC and respondent failed to comply with other requirements of the CPLR with respect to motions. Petitioner failed to object to the motions on the grounds now asserted, and therefore has not preserved his contentions for our review (*see Matter of Damion D.*, 42 AD3d 715, 716).

Entered: February 7, 2014

Frances E. Cafarell
Clerk of the Court