

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

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CAF 16-00265

PRESENT: SMITH, J.P., CENTRA, PERADOTTO, LINDLEY, AND NEMOYER, JJ.

IN THE MATTER OF MONIQUE DESIREE KELLY,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

CHAUVONNE SENIOR, RESPONDENT-RESPONDENT.

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

DAVID J. PAJAK, ALDEN, FOR RESPONDENT-RESPONDENT.

MELISSA A. REESE, ATTORNEY FOR THE CHILD, BUFFALO.

Appeal from an order of the Family Court, Erie County (Sharon M. LoVallo, J.), entered December 14, 2015 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: In this proceeding pursuant to Family Court Act article 6, petitioner mother appeals from an order in which Family Court sua sponte dismissed her petition seeking custody of her son, with respect to whom her parental rights had previously been terminated (*Matter of Mikia H. [Monique K.]*, 78 AD3d 1575, 1576, *lv dismissed in part and denied in part* 16 NY3d 760). It is well settled that " '[n]o appeal lies as of right from an order [that] does not decide a motion made on notice,' " and here the mother has not sought leave to appeal (*Matter of Mary L.R. v Vernon B.*, 48 AD3d 1088, 1088, *lv denied* 10 NY3d 710; see *Sholes v Meagher*, 100 NY2d 333, 335). We therefore dismiss the appeal.

Entered: June 9, 2017

Frances E. Cafarell
Clerk of the Court