

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

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CAF 16-02012

PRESENT: WHALEN, P.J., CENTRA, LINDLEY, CURRAN, AND TROUTMAN, JJ.

IN THE MATTER OF JENESSA L.M.

ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES,
PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

SHAWN C.P., RESPONDENT-APPELLANT.

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

REBECCA HOFFMAN, BUFFALO, FOR PETITIONER-RESPONDENT.

JAMIE L. CODJOVI, BUFFALO, ATTORNEY FOR THE CHILD.

Appeal from an order of the Family Court, Erie County (Margaret O. Szczur, J.), entered September 26, 2016 in a proceeding pursuant to Family Court Act article 10. The order, among other things, adjudged that respondent had neglected the subject child.

It is hereby ORDERED that said appeal insofar as it concerns the finding of neglect is unanimously dismissed and the order is affirmed without costs.

Memorandum: In this Family Court Act article 10 proceeding, respondent mother appeals from an order adjudging, inter alia, that she neglected the subject child. The mother's challenge to the finding of neglect " 'is not reviewable on appeal because it was premised on [the mother's] admission of neglect and thereby made in an order entered on consent of the parties' " (*Matter of Martha S. [Linda M.S.]*, 126 AD3d 1496, 1497 [4th Dept 2015], *lv dismissed in part and denied in part* 26 NY3d 941 [2015]). Furthermore, the mother "never moved to vacate the finding of neglect or to withdraw her consent to the order, and thus her contention that her consent was not knowing, intelligent, and voluntary is not properly before us" (*Matter of Dah'Marii G. [Cassandra G.]*, 156 AD3d 1479, 1480 [4th Dept 2017]). We have considered the mother's remaining contention and conclude that it is without merit.

Entered: April 27, 2018

Mark W. Bennett
Clerk of the Court