

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

1179

CAF 18-00452

PRESENT: SMITH, J.P., PERADOTTO, DEJOSEPH, NEMOYER, AND TROUTMAN, JJ.

IN THE MATTER OF KARNISE L. BARNEY,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

DARYL E. THOMAS, RESPONDENT-APPELLANT.

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

NEIGHBORHOOD LEGAL SERVICES, INC., BUFFALO (THERESA J. FERRARA OF
COUNSEL), FOR PETITIONER-RESPONDENT.

Appeal from an order of the Family Court, Erie County (Brenda Freedman, J.), entered January 22, 2018 in a proceeding pursuant to Family Court Act article 4. The order, among other things, committed respondent to the Erie County Correctional Facility for a period of six months.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: Respondent appeals from an order revoking a suspended sentence imposed for his willful violation of a child support order and committing him to jail for six months. Respondent's sole contention on appeal concerns the sufficiency of the evidence that he violated the conditions of the suspended sentence. Because respondent has already served his sentence, the instant appeal is moot (*see Matter of McGrath v Healey*, 158 AD3d 1069, 1069-1070 [4th Dept 2018]; *Matter of Brookins v McCann*, 137 AD3d 1726, 1727 [4th Dept 2016], *lv denied* 27 NY3d 910 [2016]).

Entered: December 20, 2019

Mark W. Bennett
Clerk of the Court