

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

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CAF 20-00166

PRESENT: WHALEN, P.J., SMITH, LINDLEY, CURRAN, AND DEJOSEPH, JJ.

IN THE MATTER OF JOSEPH R. ANDREWS,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

AUTUMN APPELATE, RESPONDENT-RESPONDENT.

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

GARY MULDOON, ROCHESTER, ATTORNEY FOR THE CHILD.

Appeal from an order of the Family Court, Seneca County (Barry L. Porsch, J.), entered January 21, 2020 in a proceeding pursuant to Family Court Act article 6. The order, inter alia, granted the petitioner therapeutic visitation.

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

Memorandum: In this proceeding pursuant to Family Court Act article 6, petitioner father appeals from an order that, inter alia, modified a prior order of custody and visitation by awarding the father therapeutically supervised visitation with the subject child. While this appeal was pending, Family Court entered an order upon the consent of the parties that resolved custody and visitation issues with respect to the subject child. We conclude that the superseding order renders this appeal moot (*see Matter of Warren v Hibbs*, 136 AD3d 1306, 1306 [4th Dept 2016], *lv denied* 27 NY3d 909 [2016]; *Matter of Salo v Salo*, 115 AD3d 1368, 1368 [4th Dept 2014]). We further conclude that the exception to the mootness doctrine does not apply (*see generally Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715 [1980]).

All concur except DEJOSEPH, J., who is not participating.

Entered: January 28, 2022

Ann Dillon Flynn

