

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: July 24, 2003

93582

In the Matter of COLLIN Q.,
Alleged to be a Neglected
Child.

WARREN COUNTY DEPARTMENT OF
SOCIAL SERVICES,

Respondent;

MEMORANDUM AND ORDER

DENNIS Q.,

Appellant.

(And Another Related Proceeding.)

Calendar Date: June 6, 2003

Before: Mercure, J.P., Carpinello, Mugglin, Rose and Kane, JJ.

Thomas Marcelle, Delmar, for appellants.

Karen Judd Matt, Warren County Department of Social
Services, Lake George, for respondent.

Kara Dopman, Law Guardian, Glens Falls.

Mugglin, J.

Appeals from two orders of the Family Court of Warren
County (Breen, J.), entered December 24, 2002, which granted
petitioner's applications, in two proceedings pursuant to Family
Ct Act article 10, for temporary orders of protection.

Respondents, the parents of Collin (born in 1992), had been
home schooling their son for at least three years. Petitioner

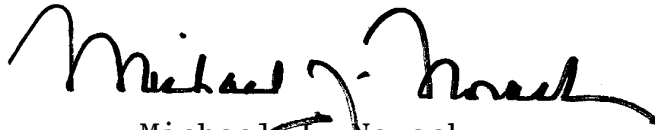
commenced these separate proceedings against respondents under Family Ct Act article 10, alleging, in essence, educational neglect by reason of respondents' failure to file the necessary quarterly reports and the latest individualized home instruction plan. Following a hearing, Family Court issued temporary orders of protection which directed respondents to "[t]ake the necessary and proper steps to enroll and ensure Collin's attendance at a public, private or parochial school of their choice."

The sole issue raised on this appeal, as defined in their brief, is whether, before trial and without proof of actual neglect, the government can interfere with parents' constitutional rights to direct their child's education. This appeal is moot for two reasons. First, the temporary order expired by its own terms on May 8, 2003. Second, during the pendency of this appeal, the neglect proceeding came to trial, at which time respondents admitted their failure to provide Collin with an education in accordance with Education Law article 65, and an order was entered April 18, 2003 adjudging Collin a neglected child within the definition of Family Ct Act § 1012 (see Matter of Curtis N., 302 AD2d 803, 803 [2003]; Matter of Senator NN., ___ AD2d ___, ___, 759 NYS2d 257, 258 [2003]). We find that no exception to the mootness doctrine applies herein (see Matter of Hearst Corp. v Clyne, 50 NY2d 707, 714-715 [1980]; see also Matter of Daily News v Teresi, 275 AD2d 812, 814 [2000]).

Mercure, J.P., Carpinello, Rose and Kane, JJ., concur.

ORDERED that the appeal is dismissed, as moot, without costs.

ENTER:



Michael J. Novack
Clerk of the Court

