

# RECORD IMPOUNDED

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This opinion shall not "constitute precedent or be binding upon any court."  
Although it is posted on the internet, this opinion is binding only on the  
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-1920-15T3

NEW JERSEY DIVISION OF CHILD  
PROTECTION AND PERMANENCY,

Plaintiff-Respondent,

v.

M.D.,

Defendant-Appellant,

and

M.B.,

Defendant.

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IN THE MATTER OF G.D.,

Minor.

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Submitted October 19, 2017 – Decided October 27, 2017

Before Judges Haas and Rothstadt.

On appeal from Superior Court of New Jersey,  
Chancery Division, Family Part, Cumberland  
County, Docket No. FN-06-0164-15.

Joseph E. Krakora, Public Defender, attorney  
for appellant (John A. Salois, Designated  
Counsel, on the briefs).

Christopher S. Porrino, Attorney General, attorney for respondent (Melissa H. Raksa, Assistant Attorney General, of counsel; Angela Juneau Bezer, Deputy Attorney General, on the brief).

Joseph E. Krakora, Public Defender, Law Guardian, attorney for minor (Noel C. Devlin, Assistant Deputy Public Defender, on the brief).

PER CURIAM

Defendant M.D. appeals from the September 28, 2015 Family Part order terminating the litigation initiated by the Division of Child Protection and Permanency for care and custody of his child, G.D., pursuant to N.J.S.A. 9:6-8.21 to -8.106 and N.J.S.A. 30:4C-12 (the FN matter), and directing the case to proceed as a guardianship action under N.J.S.A. 30:4C-15(c) (the FG matter). We dismiss the appeal as moot.

Because of the nature of our disposition, and the parties' familiarity with the lengthy history of this matter, we need only briefly recite the most pertinent factual and procedural background. After defendant M.B. gave birth to G.D. in January 2014, the Division learned that the baby was exhibiting symptoms of drug dependency due to M.B.'s use of the prescription drug Subutex during her pregnancy.

As a result, the Division commenced the FN matter and, following a hearing, the trial court granted it care and custody

of G.D. The Division placed G.D. with a resource family. In addition to M.B.'s substance abuse issues, the court found that M.D. posed an ongoing risk to the baby because he was undergoing treatment for drug addiction and had an active restraining order against him in a case involving the mother of another of his children. While the Division alleged that M.B. had abused or neglected G.D. under N.J.S.A. 9:6-8.21(c), it did not make similar allegations against M.D.

At the July 2, 2014 fact-finding hearing, the Division agreed to withdraw the abuse and neglect charges against M.B. in return for her agreement that her family was in need of services under N.J.S.A. 30:4C-12. M.D. also agreed to participate in services, including psychological and psychiatric evaluations, substance abuse evaluations and treatment, and domestic violence intervention counseling. Unfortunately, neither parent consistently participated in these services over the next eight months.

On March 3, 2015, the Division presented its permanency plan for G.D. Under this plan, the Division would dismiss the pending FN action, and institute a FG action for the termination of M.D. and M.B.'s parental rights under N.J.S.A. 30:4C-15(c). Concurrently, the Division would continue its efforts to reunite

G.D. with one or both of her parents. After a hearing, the trial court approved the Division's permanency plan.

On April 21, 2015, the Division filed the FG matter. Following several compliance review hearings, the trial court dismissed the FN litigation on September 28, 2015. On that same date, the court entered an order in the FG matter continuing G.D. in the Division's care and custody and ordering M.D. and M.B. to participate in services. This appeal followed.<sup>1</sup>

On appeal, M.D. challenges the trial court's approval of the Division's permanency plan. However, it is well settled that the Division's "filing of a [FG matter] and the entry in that action of an order regarding custody and related matters such as visitation, which[, as here] supersedes any orders entered in the [FN matter], moots the parent's appeal from the dismissal of the [FN matter] before an adjudication of abuse and neglect." N.J. Div. of Youth & Family Servs. v. A.P., 408 N.J. Super. 252, 255 (App. Div. 2009), certif. denied, 201 N.J. 153 (2010).

Thus, once the Division filed the FG matter, all issues concerning the custody of G.D. were governed by that proceeding. Id. at 261. Likewise, as soon as the FG matter was filed, any

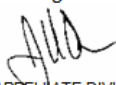
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<sup>1</sup> At the conclusion of the FG matter, the trial court entered an order terminating M.D.'s parental rights to G.D. and he has filed a separate appeal from that final judgment.

interlocutory orders entered in the FN matter could "'have no practical effect on the existing' [FG matter] . . ., which renders [the present] appeal moot." Id. at 264 (quoting Greenfield v. N.J. Dep't of Corr., 382 N.J. Super. 254, 257-58 (App. Div. 2006)).

Therefore, the appeal is dismissed as moot.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.

  
CLERK OF THE APPELLATE DIVISION