

**SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT**

Matter of Ross S.

2021 NY Slip Op 00178 (App. Div. 2021) · No. 2019-13272; 2019-13530 · Decided January 13, 2021

SUMMARY

The Appellate Division, Second Department dismissed as academic the appeal from the portion of a Family Court order placing Ross S. in the custody of the Dutchess County Department of Community and Family Services for up to 12 months because that period had expired. It also dismissed the appeal from the detention order because the order was not appealable as of right and leave to appeal had not been granted.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	William F. Mastro, A.P.J.; Betsy Barros, J.; Francesca E. Connolly, J.; Paul Wooten, J.
JURISDICTION	New York
DECIDED	January 13, 2021
DOCKET	2019-13272; 2019-13530
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from a Family Court order of fact-finding and disposition and a related order of detention in a proceeding under Family Court Act article 7.
PRECEDENTIAL VALUE	precedential
PARTIES	Ross S. (Anonymous) v. Dutchess County Department of Community and Family Services

TOPICS

[family law procedure](#) [appellate procedure](#) [mootness](#) [appellate jurisdiction](#)

PRACTICE AREAS

[Family law](#) [Family Court procedure](#) [Appellate procedure](#)

QUESTIONS PRESENTED

1. Whether the appeal from the portion of the fact-finding and disposition order placing the appellant in custody for up to 12 months was moot because the placement period had expired.
2. Whether the appeal from the order of detention was appealable as of right absent permission to appeal.

HOLDINGS

1. The appeal from the portion of the fact-finding and disposition order placing the appellant in the custody of the Dutchess County Department of Community and Family Services for up to 12 months was dismissed as academic because the placement period had expired by its own terms.
2. The appeal from the order of detention was dismissed because the order was not appealable as of right and leave to appeal had not been granted.

FACTUAL BACKGROUND

In March 2019, a Family Court Act article 7 petition alleged that Ross S. was a person in need of supervision. He was adjudicated a person in need of supervision and placed in the custody of the Dutchess County Department of Community and Family Services for up to 12 months. The placement period expired by its own terms while the appeal was pending.

PROCEDURAL HISTORY

A petition alleging that Ross S. was a person in need of supervision was filed in Family Court in March 2019. After Ross S. was adjudicated a person in need of supervision and placed in the custody of the Dutchess County Department of Community and Family Services for up to 12 months, he appealed from the fact-finding and disposition order and the detention order. The Appellate Division dismissed the custody-related appeal as academic because the placement period had expired and dismissed the detention-order appeal because the order was not appealable as of right and leave to appeal had not been granted.

DISPOSITION

dismissed

CASES CITED

- Matter of Alexandria P., 166 AD3d 781

OPINION

PER CURIAM.

Matter of Ross S. (2021 NY Slip Op 00178) Matter of Ross S. 2021 NY Slip Op 00178 Decided on January 13, 2021 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on January 13, 2021 SUPREME

COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department
WILLIAM F. MASTRO, A.P.J.

BETSY BARROS FRANCESCA E. CONNOLLY PAUL WOOTEN, JJ. 2019-13272 2019-13530
(Docket No. S-1176-19) [*1]In the Matter of Ross S. (Anonymous), appellant. Kelley M. Enderley, Poughkeepsie, NY, for appellant. James M. Fedorchak, County Attorney, Poughkeepsie, NY (Linda D. Fakhoury of counsel), for respondent. DECISION & ORDER In a proceeding pursuant to Family Court Act article 7, Ross S. appeals from (1) an order of fact-finding and disposition of the Family Court, Dutchess County (Denise M. Watson, J.), dated October 31, 2019, and (2) an order of detention of the same court, also dated October 31, 2019.

The order of fact-finding and disposition, insofar as appealed from, placed the appellant in the custody of the Dutchess County Department of Community and Family Services for a period of up to 12 months. The order of detention remanded the appellant to a nonsecure facility pending further proceedings on his placement with the Dutchess County Department of Community and Family Services.

ORDERED that the appeal from so much of the order of fact-finding and disposition as placed the appellant in the custody of the Dutchess County Department of Community and Family Services for a period of up to 12 months is dismissed as academic, without costs or disbursements; and it is further, ORDERED that the appeal from the order of detention is dismissed, without costs or disbursements, as that order is not appealable as of right, and leave to appeal has not been granted (see Family Ct Act § 1112).

In March 2019, a petition was filed pursuant to Family Court Act article 7 alleging that the appellant was a person in need of supervision. The appellant was then adjudicated a person in need of supervision and placed in the custody of the Dutchess County Department of Community and Family Services for a period of up to 12 months. This appeal ensued.

The portion of the order of fact-finding and disposition appealed from, which placed the appellant in the custody of the Dutchess County Department of Community and Family Services for a period of up to 12 months, has expired by its own terms.

Accordingly, the appeal from that order must be dismissed as academic (see Matter of Alexandria P., 166 AD3d 781). MASTRO, A.P.J., BARROS, CONNOLLY and WOOTEN, JJ., concur.
ENTER: Aprilanne Agostino Clerk of the Court