

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FOURTH DEPARTMENT

In re Alisa E.

114 A.D.3d 1175, 980 N.Y.S.2d 193 (N.Y. App. Div. 4th Dep't 2014) · Decided February 7, 2014

SUMMARY

The Appellate Division, Fourth Department affirmed an order revoking a suspended judgment and terminating the respondent mother's parental rights. The court held that the petitioner proved by a preponderance of the evidence that the mother violated the suspended judgment's conditions and that termination was in the child's best interests.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Department
WRITING FOR THE COURT	Scudder, E.J.; Centra, J.; Fahey, J.; Carni, J.; Valentino, J.
JURISDICTION	New York
DECIDED	February 7, 2014
DISPOSITION	affirmed
PROCEDURAL POSTURE	Respondent mother appealed from a Family Court order that revoked a suspended judgment and terminated her parental rights in a proceeding under Social Services Law § 384-b.
STANDARD OF REVIEW	The Family Court's credibility determination was entitled to great weight, and the Appellate Division reviewed whether the record supported the determination that termination was in the child's best interests.
PRECEDENTIAL VALUE	published
PARTIES	Respondent mother v. Petitioner

TOPICS

- termination of parental rights
- parental rights
- family law procedure
- appellate procedure
- standard of review

PRACTICE AREAS

- family law
- termination of parental rights
- appellate procedure

QUESTIONS PRESENTED

1. Whether the petitioner established by a preponderance of the evidence that the mother violated the terms and conditions of the suspended judgment.
2. Whether termination of the mother's parental rights was in the child's best interests after revocation of the suspended judgment.

HOLDINGS

1. The petitioner established by a preponderance of the evidence that the mother violated the terms and conditions of the suspended judgment.
2. A hearing on a petition alleging violation of a suspended judgment is part of the dispositional phase of a permanent-neglect proceeding, and the disposition must be based on the best interests of the child.
3. The record supported the Family Court's determination that termination of the mother's parental rights was in the child's best interests.

KEY QUOTATIONS

“It is well established that a hearing on a petition alleging that the terms of a suspended judgment have been violated is part of the dispositional phase of the permanent neglect proceeding, and that the disposition shall be based on the best interests of the child” (114 A.D.3d at 1176)

FACTUAL BACKGROUND

The mother violated conditions of a suspended judgment by failing to obtain suitable housing until after the violation petition was filed and by withdrawing or limiting releases for information from programs she attended. She claimed to have completed several programs but provided no verification and did not know whether the petitioner had approved them. She continued to live at her parents' house, where the petitioner was denied access to assess whether it was an appropriate place for the child to visit, and the Family Court found her testimony about living in a rented apartment not credible.

PROCEDURAL HISTORY

The Livingston County Family Court entered an order on June 8, 2012, revoking the suspended judgment and terminating the mother's parental rights with respect to her daughter. The Appellate Division unanimously affirmed the order without costs.

DISPOSITION

affirmed

CASES CITED

- Matter of Giovanni K. [Dawn K.], 68 A.D.3d 1766, 1767 (N.Y. App. Div. 4th Dep't 2009), lv. denied, 14 N.Y.3d 707 (2010)
- Matter of Baron C. [Dominique C.], 101 A.D.3d 1622, 1622 (N.Y. App. Div. 4th Dep't 2012)

- Matter of Richelis S. [Richard S.], 68 A.D.3d 1643, 1644-45 (N.Y. App. Div. 4th Dep't 2009), appeal dismissed, 14 N.Y.3d 767 (2010)
- Matter of Mercedes L., 12 A.D.3d 1184, 1184 (N.Y. App. Div. 4th Dep't 2004)

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