

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

Matter of Alquaran F. (Anne C.)

2020 NY Slip Op 07566 (N.Y. Ct. App. 2020) · No. 2019-10975; Docket Nos. B-361-19, B-362-19, B-363-19 ·
Decided December 16, 2020

SUMMARY

The Appellate Division, Second Department, affirmed an order terminating the mother's parental rights to three children on the ground of permanent neglect and transferring guardianship and custody to the Orange County Department of Social Services for adoption. The court held that the petitioner established by clear and convincing evidence that the mother failed to maintain regular contact with the children and failed to plan for their future despite diligent agency efforts.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	William F. Mastro, J.P.; Leonard B. Austin, J.; Robert J. Miller, J.; Francesca E. Connolly, J.
JURISDICTION	New York
DECIDED	December 16, 2020
DOCKET	2019-10975; Docket Nos. B-361-19, B-362-19, B-363-19
DISPOSITION	affirmed
PROCEDURAL POSTURE	The mother appealed from an order of disposition terminating her parental rights and transferring guardianship and custody of the children to the Orange County Department of Social Services for adoption.
STANDARD OF REVIEW	Whether the petitioner established permanent neglect by clear and convincing evidence and whether termination of parental rights was in the children's best interests.
PRECEDENTIAL VALUE	Published Appellate Division decision
PARTIES	Anne C. (Anonymous), respondent-appellant v. Orange County Department of Social Services, petitioner-respondent

TOPICS

termination of parental rights

parental rights

adoption

family law procedure

PRACTICE AREAS

family law

juvenile and child welfare law

termination of parental rights

adoption

QUESTIONS PRESENTED

1. Whether the petitioner established by clear and convincing evidence that the mother permanently neglected the children by failing substantially and continuously or repeatedly to maintain contact with them or plan for their future for at least one year after they entered the custody of an authorized agency.
2. Whether termination of the mother's parental rights and freeing the children for adoption was in the children's best interests.

HOLDINGS

1. The petitioner established by clear and convincing evidence that the mother permanently neglected the children because, despite diligent efforts to encourage and strengthen the parental relationship, she failed to maintain regular and consistent contact with them and failed to plan for their future.
2. The Family Court properly determined after a dispositional hearing that terminating the mother's parental rights and freeing the children for adoption was in their best interests.

KEY QUOTATIONS

*“A parent has permanently neglected a child when he or she fails for a period of at least one year after the child came into the custody of an authorized agency substantially and continuously or repeatedly to maintain contact with or plan for the future of the child” (*2)*

FACTUAL BACKGROUND

The children had been in the custody of an authorized agency for at least one year. Despite the petitioner's diligent efforts to encourage and strengthen the parental relationship, the mother failed to maintain regular and consistent contact with the children and failed to plan for their future. Following the fact-finding and dispositional hearings, the Family Court determined that the mother permanently neglected the children and that termination of her parental rights was in their best interests.

PROCEDURAL HISTORY

The Orange County Department of Social Services commenced related Family Court proceedings under Family Court Act article 6 and Social Services Law § 384-b. After a fact-finding hearing, the Family Court found that the mother had permanently neglected the children, and after a dispositional hearing, terminated her parental rights and transferred guardianship and custody to the petitioner for adoption. The Appellate Division affirmed the order insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Matter of Joshua E.R. [Yolaine R.], 123 AD3d 723, 725
- Matter of Karina J.M. [Carmen Enid G.], 145 AD3d 893, 895
- Matter of Angelo E.S. [Katoya P.M.], 129 AD3d 850, 851
- Matter of Davon K.W. [Lisette N.C.], 187 AD3d 766
- Matter of Zach D.D. [Jeffrey D.], 124 AD3d 776, 777

OPINION

PER CURIAM.

Matter of Alquaran F. (Anne C.) (2020 NY Slip Op 07566) Matter of Alquaran F. (Anne C.) 2020 NY Slip Op 07566 Decided on December 16, 2020 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 December 16, 2020 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department WILLIAM F. MASTRO, J.P.

LEONARD B. AUSTIN ROBERT J. MILLER FRANCESCA E. CONNOLLY, JJ. 2019-10975 (Docket Nos. B-361-19, B-362-19, B-363-19) [*1]In the Matter of Alquaran F. (Anonymous). Orange County Department of Social Services, petitioner-respondent; Anne C. (Anonymous), respondent-appellant, et al., respondent. (Proceeding No. 1.)

In the Matter of Izaiah F. (Anonymous). Orange County Department of Social Services, petitioner-respondent; Anne C. (Anonymous), respondent-appellant, et al., respondent. (Proceeding No. 2.) In the Matter of La'Rai F. (Anonymous). Orange County Department of Social Services, petitioner-respondent; Anne C. (Anonymous), respondent-appellant, et al., respondent.

(Proceeding No. 3.) Alex Smith, Middletown, NY, for respondent-appellant. Langdon C. Chapman, County Attorney, Goshen, NY (Linda P. DaSilva of counsel), for petitioner-respondent. Ronna L. DeLoe, Larchmont, NY, attorney for the children. DECISION & ORDER In related proceedings pursuant to Family Court Act article 6 and Social Services Law § 384-b to terminate parental rights on the ground of permanent neglect, the mother appeals from an order of disposition of the Family Court, Orange County (Victoria B. Campbell, J.), dated September 9, 2019.

The order of disposition, insofar as appealed from, upon an order of fact-finding of the same court dated May 24, 2019, made after a fact-finding hearing, finding, inter alia, that the mother permanently neglected the subject children, and after a dispositional hearing, terminated the

mother's parental rights and transferred guardianship and custody of the subject children to the petitioner for the purpose of adoption.

ORDERED that the order of disposition is affirmed insofar as appealed from, without costs or disbursements. A parent has permanently neglected a child when he or she fails for a period of at least one year after the child came into the custody of an authorized agency substantially and continuously [*2]or repeatedly to maintain contact with or plan for the future of the child (see Social Services Law § 384-b[7][a]; Matter of Joshua E.R.

[Yolaine R.], 123 AD3d 723, 725). Here, the petitioner established, by clear and convincing evidence, that despite its diligent efforts to encourage and strengthen the parental relationship, the mother failed to have regular and consistent contact with the subject children, and failed to plan for the children's future (see Matter of Karina J.M. [Carmen Enid G.], 145 AD3d 893, 895; Matter of Angelo E.S.

[Katoya P.M.], 129 AD3d 850, 851). Furthermore, we agree with the Family Court's finding, after a dispositional hearing, that it was in the best interests of the children to terminate the mother's parental rights and to free them for adoption (see Matter of Davon K.W. [Lissette N.C.], 187 AD3d 766; Matter of Zach D.D. [Jeffrey D.], 124 AD3d 776, 777). MASTRO, J.P., AUSTIN, MILLER and CONNOLLY, JJ., concur.

ENTER: Aprilanne Agostino Clerk of the Court