

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

In re Joanna P.

101 A.D.3d 1751 (4th Dep't 2012) · Decided December 28, 2012

SUMMARY

The Appellate Division dismissed as moot the mother's appeal concerning her oldest child, who had reached age 18. It upheld the termination of her parental rights as to the younger children based on permanent neglect, concluding that the petitioner made diligent efforts and that a suspended judgment would not serve the children's best interests.

OPINION

PER CURIAM.

Memorandum: Respondent mother appeals from an order that, inter alia, terminated her parental rights pursuant to *1752Social Services Law § 384-b on the ground of permanent neglect. We dismiss as moot the appeal from the order insofar as it concerned the mother's oldest child inasmuch as she has attained the age of 18 (see *Matter of Anthony M.*, 56 AD3d 1124, 1124 [2008], lv denied 12 NY3d 702 [2009]).

We conclude that petitioner met its initial burden of establishing by clear and convincing evidence that it made the requisite diligent efforts to encourage and strengthen the mother's relationship with the younger children, and the mother failed to establish that she "had 'a meaningful plan for the child[ren's] future, including that [she has] addressed the problems that caused the removal' of the child[ren]" (*Matter of Rachael N. [Christine N.]*, 70 AD3d 1374, 1374 [2010], lv denied 15 NY3d 708 [2010]). "Petitioner was not required to ensure that the mother succeeded in overcoming her obstacles but, rather, the mother was required to assume some responsibility in dealing with those challenges" (*Matter of Gerald G. [Orena G.]*, 91 AD3d 1320, 1320 [2012], lv denied 19 NY3d 801 [2012]). " '[Although [the mother] participated in [some of] the services offered by petitioner, [s]he failed to address successfully the problems that led to the removal of the children] and continued to prevent [their] safe return' " (*Matter of Brittany K.*, 59 AD3d 952, 953 [2009], lv denied 12 NY3d 709 [2009]).

Contrary to the mother's contention, the record supports Family Court's determination that a suspended judgment would not serve the best interests of the younger children (see *Matter of Tiara B. [Torrence B.]*, 70 AD3d 1307, 1307-1308 [2010], lv denied 14 NY3d 709 [2010]; see generally *Matter of Mercedes L.*, 12 AD3d 1184, 1185 [2004]; *Matter of Saboor G.*, 303 AD2d 1022, 1023 [2003]). " The progress made by [the mother] in the months preceding the

dispositional determination was not sufficient to warrant any further prolongation of the children's] unsettled familial status' ” (Matter of Roy star T. [Samaritan B.], 72 AD3d 1569, 1569 [2010], lv denied 15 NY3d 707 [2010]).

Present — Smith, J.P., Peradotto, Lindley, Valentino and Whalen, JJ.

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