

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

In re Temple S.M.

97 A.D.3d 681, 947 N.Y.S.2d 611 (N.Y. App. Div. 2d Dep't 2012) · Decided July 11, 2012

SUMMARY

The Appellate Division held that the Family Court properly found that the mother permanently neglected the subject children. The court also upheld the determination that terminating the mother’s parental rights was in the children’s best interests.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Second Department
WRITING FOR THE COURT	Dillon, J.P.; Belen, J.; Austin, J.; Sgroi, J.
JURISDICTION	New York
DECIDED	July 11, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a Family Court determination finding that the mother permanently neglected the subject children and terminating her parental rights.
PRECEDENTIAL VALUE	Published appellate decision
PARTIES	Mother v. Petitioner

TOPICS

termination of parental rightsparental rightsfamily law procedurefamily law

PRACTICE AREAS

family lawjuvenile lawtermination of parental rights

QUESTIONS PRESENTED

- Whether the Family Court properly found that the mother permanently neglected the subject children.
- Whether termination of the mother's parental rights was in the best interests of the children.

HOLDINGS

1. The Family Court properly found that the mother permanently neglected the subject children because the petitioner established by clear and convincing evidence that it made diligent efforts to assist her in maintaining contact with the children and planning for their future, yet she failed to plan for their future.
2. The Family Court properly determined that terminating the mother's parental rights was in the best interests of the subject children.

KEY QUOTATIONS

“The petitioner established by clear and convincing evidence that it made diligent efforts to assist the mother in maintaining contact with the children and planning for their future” (97 A.D.3d at 681)

FACTUAL BACKGROUND

The petitioner referred the mother repeatedly to drug-treatment and mental-health programs, monitored her progress, advised her of required treatment and evaluations, required random drug screening, and scheduled regular visits with the children. Despite these efforts, the mother failed to plan for the children's future. The Family Court consequently found permanent neglect and determined that terminating her parental rights was in the children's best interests.

PROCEDURAL HISTORY

The Family Court found that the mother permanently neglected the subject children and determined that termination of her parental rights was in the children's best interests. The Appellate Division upheld those determinations.

DISPOSITION

affirmed

CASES CITED

- Matter of Star Leslie W., 63 N.Y.2d 136, 142, 147 (1984)
- Matter of Sheila G., 61 N.Y.2d 368, 373 (1984)
- Matter of Kyshawn F. (Nellie M.-F.), 95 A.D.3d 883 (2012)
- Matter of Darnell G. (Robin Denise H.), 88 A.D.3d 789 (2011)
- Matter of Harlem Dowling-Westside Ctr. for Children & Family Servs., 245 A.D.2d 449, 450 (1997)
- Matter of Jamie M., 63 N.Y.2d 388, 393 (1984)
- Matter of Orlando F., 40 N.Y.2d 103, 110 (1976)
- Matter of Malen Sansa V. (Nancy J.), 70 A.D.3d 707, 708 (2010)
- Matter of Fatima G., 64 A.D.3d 652, 653 (2009)
- Matter of Noelia T., 61 A.D.3d 983, 984 (2009)
- Matter of Rosanette O., 291 A.D.2d 237 (2002)

- Matter of Renelle S., 288 A.D.2d 229, 230 (2001)

OPINION

PER CURIAM.

Contrary to the mother's contention, the Family Court properly found that she permanently neglected the subject children. The petitioner established by clear and convincing evidence that it made diligent efforts to assist the mother in maintaining contact with the children and planning for their future (see Matter of Star Leslie W., 63 NY2d 136, 142 [1984]; Matter of Sheila G., 61 NY2d 368, 373 [1984]).

These efforts included repeated referrals of the mother to drug treatment and mental health programs, the monitoring of her progress in these programs, repeated advice to the mother that she must attend and complete certain drug treatment and mental health *682programs, submit to random drug screening, and undergo a mental health evaluation, and the scheduling of regular visits between the mother and the children (see Matter of Kyshawn F. [Nellie M.-F.], 95 AD3d 883 [2012]; Matter of Darnell G. [Robin Denise H.], 88 AD3d 789 [2011]; cf. Matter of Harlem Dowling-Westside Ctr. for Children & Family Servs., 245 AD2d 449, 450 [1997]).

Despite these efforts, the mother failed to plan for the children's future (see Matter of Jamie M., 63 NY2d 388, 393 [1984]; Matter of Orlando F., 40 NY2d 103, 110 [1976]; Matter of Kyshawn F. [Nellie M.-F.], 95 AD3d 883 [2012]; Matter of Malen Sansa V. [Nancy J.], 70 AD3d 707, 708 [2010]; Matter of Fatima G., 64 AD3d 652, 653 [2009]; Matter of Noelia T., 61 AD3d 983, 984 [2009]; Matter of Rosanette O., 291 AD2d 237 [2002]).

Furthermore, the Family Court properly determined that it was in the best interests of the subject children to terminate the mother's parental rights (see Matter of Star Leslie W., 63 NY2d at 147; Matter of Kyshawn F. [Nellie M.-F.], 95 AD3d 883 [2012]; Matter of Malen Sansa V. [Nancy J.], 70 AD3d at 708; cf. Matter of Renelle S., 288 AD2d 229, 230 [2001]). Dillon, J.P., Belen, Austin and Sgroi, JJ., concur.