

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 rights
- parental rights
- family law procedure
- family law

PRACTICE AREAS

- family law
- juvenile law
- termination 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)

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