

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D18108
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_____AD3d_____

Submitted - January 17, 2008

PETER B. SKELOS, J.P.
STEVEN W. FISHER
MARK C. DILLON
WILLIAM E. McCARTHY, JJ.

2006-03468
2006-03470
2006-03472

DECISION & ORDER

In the Matter of Leah Tanisha A.-N. (Anonymous),
a/k/a Leah A. (Anonymous).
New York Foundling Hospital, respondent;
Omar Xavier A. (Anonymous), et al., appellants.
(Proceeding No. 1)

In the Matter of Ayal Omar A.-N. (Anonymous),
a/k/a Ayal A. (Anonymous).
New York Foundling Hospital, respondent;
Omar Xavier A. (Anonymous), et al., appellants.
(Proceeding No. 2)

In the Matter of Iesha Dana A.-N. (Anonymous),
a/k/a Iesha A. (Anonymous).
New York Foundling Hospital, respondent;
Omar Xavier A. (Anonymous), et al., appellants.
(Proceeding No. 3)

(Docket Nos. B-0089-02, B-0090-02, B-0091-02)

February 26, 2008

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MATTER OF A.-N. (ANONYMOUS), LEAH TANISHA, a/k/a A. (ANONYMOUS), LEAH
MATTER OF A.-N. (ANONYMOUS), AYAL OMAR, a/k/a A. (ANONYMOUS), AYAL
MATTER OF A.-N (ANONYMOUS), IESHA DANA, a/k/a A. (ANONYMOUS), IESHA

Carol Kahn, New York, N.Y., for appellant Omar Xavier A.

Omotayo Orederu, Staten Island, N.Y., for appellant Jasmine N.

Jeremiah Quinlan, Hastings-on-Hudson, N.Y. (Daniel Gartenstein of counsel), for respondent.

Steven Banks, New York, N.Y. (Tamara A. Steckler and Marcia Egger of counsel), Law Guardian for the children.

In three related proceedings pursuant to Social Services Law § 384-b to terminate parental rights on the ground of permanent neglect, the parents separately appeal from three orders of fact-finding and disposition of the Family Court, Richmond County (McElrath, J.), each entered March 6, 2006 (one as to each child), which, after fact-finding and dispositional hearings, found that the subject children were permanently neglected and committed guardianship and custody rights of the children to the New York Foundling Hospital for purpose of adoption.

ORDERED that the orders of fact-finding and disposition are affirmed, without costs or disbursements.

In a proceeding to terminate parental rights on the ground of permanent neglect, the agency must, as a threshold matter, prove by clear and convincing evidence that it has fulfilled its statutory duty to exercise diligent efforts to encourage and strengthen the parent-child relationship (*see Matter of Jamie M.*, 63 NY2d 388, 390; *Matter of Sheila G.*, 61 NY2d 368, 373). If the agency establishes that it made diligent efforts, the court is required to determine whether the parent fulfilled her duties to maintain contact with and plan for the future of the child (*see Matter of Sheila G.*, 61 NY2d 368, 373).

Here, the agency demonstrated by clear and convincing evidence that it exercised diligent efforts to encourage and strengthen the relationship between the mother and the children. The agency scheduled numerous visits with the children, held semi-annual service plan review meetings, referred the mother to drug treatment programs, and assisted her in finding suitable housing (*see Matter of Star Leslie W.*, 63 NY2d 136, 143; *Matter of Deajah Shabri T.*, 44 AD3d 1060; *Matter of Olivia F.*, 34 AD3d 234). However, the mother failed to plan for the future of her children. Specifically, she failed to complete a drug rehabilitation program and failed to secure suitable housing (*see Matter of Leon G.*, 7 AD3d 524; *Matter of Ronell Dashawn P.*, 296 AD2d 502; *Matter of Maldrina R.*, 219 AD2d 723).

In addition, the Family Court properly determined that, despite the agency's diligent efforts, the father failed to plan for the return of the children. Although the agency provided the father with several referrals to anger management programs, the father failed to complete an anger management course within the statutory period (*see Matter of Olivia F.*, 34 AD3d 234).

Moreover, the Family Court properly determined that it was in the best interest of the children to be placed for adoption (*see Matter of Star Leslie W.*, 63 NY2d 136, 147-148; *Matter of "Baby Boy" E.*, 42 AD3d 536).

The father's remaining contentions are without merit.

SKELOS, J.P., FISHER, DILLON and McCARTHY, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer
Clerk of the Court