

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

D21881
X/prt

_____AD3d_____

Submitted - December 18, 2008

A. GAIL PRUDENTI, P.J.
ROBERT A. SPOLZINO
WILLIAM E. McCARTHY
JOHN M. LEVENTHAL, JJ.

2008-03979

DECISION & ORDER

In the Matter of Cassidy Sue R. (Anonymous).
Administration for Children's Services, et al.,
petitioners-respondents; Manuel (Emmanuel) R.
(Anonymous), appellant, et al., respondent.

(Docket No. B-1292-07)

Joseph R. Faraguna, Sag Harbor, N.Y., for appellant.

Warren & Warren, P.C., Brooklyn, N.Y. (Ira L. Eras of counsel), for petitioner-
respondent Mercy First.

Steven Banks, New York, N.Y. (Tamara A. Steckler and Louise Feld of counsel),
attorney for the child.

In a proceeding pursuant to Social Services Law § 384-b to terminate parental rights on the ground of abandonment, the father appeals from an order of the Family Court, Kings County (Ruiz, J.), dated April 4, 2008, which denied his motion to vacate so much of an order of the same court dated January 2, 2008, as, after a fact-finding inquest held upon his default in appearing at the fact-finding hearing, determined that he had abandoned the subject child, terminated his parental rights, and transferred guardianship and custody of the subject child to Mercy First and the Commissioner of Administration for Children's Services for the purpose of adoption.

ORDERED that the order is affirmed, without costs or disbursements.

“The determination whether to relieve a party of an order entered upon his or her default is a matter left to the sound discretion of the Family Court” (*Matter of Francisco R.*, 19 AD3d

January 20, 2009

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502, 502 [internal quotation marks and citation omitted]; *see Matter of Tenisha Tishonda T.*, 302 AD2d 534). To vacate the order, the father was required to show that there was a reasonable excuse for his default and a meritorious defense (*see Matter of Francisco R.*, 19 AD3d at 502). The father did not make the requisite showing (*id.*).

PRUDENTI, P.J., SPOLZINO, McCARTHY and LEVENTHAL, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court