

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

D24504
C/prt

_____AD3d_____

Submitted - September 8, 2009

STEVEN W. FISHER, J.P.
RUTH C. BALKIN
L. PRISCILLA HALL
LEONARD B. AUSTIN, JJ.

2008-06091
2008-06630

DECISION & ORDER

In the Matter of Chase F. (Anonymous).
Orange County Department of Social Services,
respondent; Scott F., et al., appellants.

In the Matter of Chase F. (Anonymous).
Orange County Department of Social Services,
respondent; Scott F., et al., appellants.

(Docket Nos. B-3597-07, N-2207-06/07A)

Bahn Herzfeld & Multer, New York, N.Y. (Richard L. Herzfeld of counsel), for
appellant Scott F.

David A. Brodsky, Central Valley, N.Y., for appellant Rebecca G.

David Darwin, County Attorney, Goshen, N.Y. (Peter R. Schwarz of counsel), for
respondent.

Madeleine Petrara, Bayville, N.Y., attorney for the child.

In a proceeding pursuant to Social Services Law § 384-b, inter alia, to terminate parental rights on the ground of permanent neglect, and a related child protective proceeding pursuant to Family Court Act article 10, (1) the mother and the father separately appeal, as limited by their respective briefs, from so much of an order of fact-finding and disposition of the Family Court, Orange County (Klein, J.), entered June 6, 2008, as, after a hearing, found that they each permanently neglected the subject child, terminated their respective parental rights, and transferred custody and

October 6, 2009

Page 1.

MATTER OF F. (ANONYMOUS), CHASE

guardianship of the child to the Orange County Department of Social Services for the purpose of adoption, and (2) the father separately appeals, as limited by his brief, from so much of an order of the same court, also entered June 6, 2008, as found that he willfully violated the terms and conditions of an order of disposition of the same court dated November 3, 2006, directing him, among other things, to comply with the petitioner's efforts to encourage and strengthen his parental relationship with the subject child.

ORDERED that the order of fact-finding and disposition is affirmed insofar as appealed from, without costs or disbursements; and it is further,

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

Contrary to the parents' contentions, the petitioner established that it made diligent efforts to encourage and strengthen their relationships with the subject child (*see* Social Services Law § 384-b[7][f]; *Matter of Darlene L.*, 38 AD3d 552, 554–555). Moreover, the Family Court properly found that, despite these efforts, the parents failed to plan for the child's future (*see Matter of Noelia T.*, 61 AD3d 983; *Matter of Leah Tanisha A.-N.*, 48 AD3d 801). The Family Court's determination that termination of the parents' parental rights was in the child's best interest was supported by a preponderance of the evidence (*see Matter of Fatima G.*, 64 AD3d 652; *Matter of Arnold M.*, 12 AD3d 677, 678–679; *Matter of Olivia Susan C.*, 2 AD3d 441, 442).

The parties' remaining contentions are without merit.

FISHER, J.P., BALKIN, HALL and AUSTIN, JJ., concur.

2008-06091
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DECISION & ORDER ON MOTION

In the Matter of Chase F. (Anonymous).
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respondent; Scott F., et al., appellant.

In the Matter of Chase F. (Anonymous).
Orange County Department of Social Services,
respondent; Scott F., et al., appellants.

(Docket Nos. B-3597-07, N-2207-06/07A)

Motion by the appellant Rebecca G. on an appeal from an order of fact-finding and

disposition of the Family Court, Orange County (Klein, J.), entered June 6, 2008, to strike stated portions of the brief of the attorney for the child on the ground that those portions of the brief refer to matter dehors the record. By decision and order on motion of this Court dated May 22, 2009, the motion was held in abeyance and referred to the panel of Justices hearing the appeal for determination upon the argument or submission thereof.

Upon the papers filed in support of the motion, the papers filed in opposition thereto, and upon argument of the appeals, it is

ORDERED that the motion is denied.

FISHER, J.P., BALKIN, HALL and AUSTIN, 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