

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

D25447  
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Submitted - November 24, 2009

MARK C. DILLON, J.P.  
FRED T. SANTUCCI  
ANITA R. FLORIO  
L. PRISCILLA HALL, JJ.

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2009-02392  
2009-03297

DECISION & ORDER

In the Matter of Brookes Mc. (Anonymous).  
Catholic Guardian Society and Home Bureau, et al,  
petitioners-respondents; Jacqueline Mc. (Anonymous),  
appellant; et al, respondent.

In the Matter of James Mc. (Anonymous).  
Catholic Guardian Society and Home Bureau, et al,  
petitioners-respondents; Jacqueline Mc. (Anonymous),  
appellant; et al, respondent.

(Docket Nos. B-20381-05, B-20382-05)

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Helene Bernstein, Brooklyn, N.Y., for appellant.

Magovern & Sclafani, New York, N.Y. (Joanna M. Roberson and Frederick J. Magovern of counsel), for petitioner-respondent Catholic Guardian Society and Home Bureau.

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

In two related proceedings pursuant to Social Services Law § 384-b and Family Court Act article 6 to terminate parental rights on the ground of permanent neglect, the mother appeals from two orders of fact-finding and disposition (one as to each child) of the Family Court, Kings County

December 22, 2009

Page 1.

MATTER OF Mc. (ANONYMOUS), BROOKES  
MATTER OF Mc. (ANONYMOUS), JAMES

(Hepner, J.), both dated December 4, 2008, which, after a hearing, found that she permanently neglected the two children, terminated her parental rights, and transferred the custody and guardianship of the two children to the Commissioner of Social Services of the City of New York and Catholic Guardian Society and Home Bureau for the purpose of adoption.

ORDERED that the appeal from the order of fact-finding and disposition pertaining to Brookes Mc. is dismissed as academic, without costs or disbursements, as that child has reached the age of 18 (*see Matter of Winston Lloyd D.*, 7 AD3d 706); and it is further

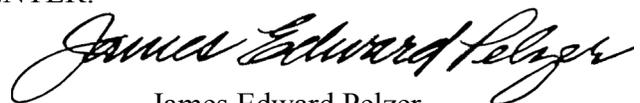
ORDERED that the order of fact-finding and disposition pertaining to James Mc. is affirmed, without costs or disbursements.

Contrary to the mother's contention, the petitioner Catholic Guardian Society and Home Bureau (hereinafter the agency) established at the hearing, by clear and convincing evidence, that it exercised diligent efforts to encourage and strengthen the relationship between the mother and the children. Despite those efforts, for a period of more than 15 out of 22 months following placement of the child James Mc. with an authorized agency, the mother failed to substantially and continuously plan for the future of the child, although physically and financially able to do so, notwithstanding the agency's diligent efforts to encourage and strengthen the parental relationship (*see Matter of Shanell K.M.*, 59 AD3d 201; Social Services Law § 384-b[7][a]). Further, for a period of almost two years following the child's foster care placement, the mother failed to acknowledge or address her drug and alcohol abuse problems despite the agency's counseling and referrals for treatment. The mother also failed to visit consistently with James Mc. despite the agency's encouragement. Accordingly, the Family Court properly found that the mother permanently neglected James Mc. (*see Matter of Noelia T.*, 61 AD3d 983; *Matter of Shanell K.M.*, 59 AD3d 201; *Matter of Kayshawn Raheim E.*, 56 AD3d 471).

Moreover, the Family Court properly determined that the best interests of James Mc. would be served by terminating the mother's parental rights and freeing him for adoption. The hearing testimony established that the child had been in foster care for at least seven years and that the child had bonded with the foster mother, who has nurtured and cared for him for most of his life (*see Matter of Noelia T.*, 61 AD3d 983; *Matter of Shanell K.M.*, 59 AD3d 201; *Matter of Antwone Lee S.*, 49 AD3d 276; *Matter of Wesley F.*, 190 AD2d 576; *Matter of Gregory Michael M.*, 167 AD2d 469, 470-471; *Matter of June Y.*, 128 AD2d 538).

DILLON, J.P., SANTUCCI, FLORIO and HALL, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court