

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

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Submitted - December 10, 2009

REINALDO E. RIVERA, J.P.  
JOHN M. LEVENTHAL  
ARIEL E. BELEN  
LEONARD B. AUSTIN, JJ.

2009-00378  
2009-00578

DECISION & ORDER

In the Matter of Mercedes W. R. (Anonymous).  
Ellen C. (Anonymous), appellant.  
St. Vincent's Services, Inc., et al., respondents.  
(Proceeding No. 1)

In the Matter of Colleen E. R. (Anonymous).  
Ellen C. (Anonymous), appellant.  
St. Vincent's Services, Inc., et al., respondents,  
(Proceeding No. 2)

(Docket Nos. B-13091-06, B-13090-06)

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Tennille M. Tatum-Evans, New York, N.Y., for appellant.

Magovern & Sclafani, New York, N.Y., for respondent St. Vincent's Services, Inc.

Steven Banks, New York, N.Y. (Tamara Steckler and Diane Pazar of counsel),  
attorney for the children.

In two related proceedings pursuant to Social Services Law § 384-b to terminate parental rights on the ground, inter alia, of mental retardation, the mother appeals from two orders of fact-finding and disposition (one as to each child) of the Family Court, Queens County (Richroath, J.), both dated December 3, 2008, which, after a fact-finding hearing, found that she is presently and

January 5, 2010

Page 1.

MATTER OF R. (ANONYMOUS), MERCEDES W.  
MATTER OF R. (ANONYMOUS), COLLEEN E.

for the foreseeable future unable, by reason of mental retardation, to provide proper and adequate care for the subject children, terminated her parental rights, and transferred guardianship and custody of the children jointly to the Commissioner of Social Services of the City of New York and St. Vincent's Services, Inc., for the purpose of adoption.

ORDERED that the orders are affirmed, without costs or disbursements.

Contrary to the mother's contention, the Family Court properly found that the petitioner established, by clear and convincing evidence, that she is presently and for the foreseeable future unable, by reason of mental retardation, to provide proper and adequate care for the subject children (*see* Social Services Law § 384-b[3][g], [4][c]; *Matter of Justin Ja-Cquan G.*, 41 AD3d 716; *Matter of Jason Brian B.*, 33 AD3d 996; *Matter of Lisa Marie S.*, 304 AD2d 762; *Matter of Karan Ann B.*, 293 AD2d 673; *Matter of Shaneeka Tysheeka J.*, 281 AD2d 626). The uncontroverted testimony of the Mental Health Services psychologist revealed that the mother had significantly impaired adaptive functions, sub-average intellectual functioning, limited understanding of child rearing and child development, and required supervision, and that because of her mental retardation, the subject children would be in danger of becoming neglected if they were returned to her care (*see* Social Services Law § 384-b[6][b]; *Matter of Justin Ja-Cquan G.*, 41 AD3d 716; *Matter of Samantha R.*, 306 AD2d 487).

Further, the Family Court properly credited the opinion of the Mental Health Services psychologist over that of the mother's friend (*see Matter of Amanda Ann B.*, 38 AD3d 537). The Family Court's determination regarding the credibility of witnesses is entitled to great weight on appeal (*see Matter of Nelson-Waller v Waller*, 60 AD3d 1068, 1068-1069; *Matter of Ford v Pitts*, 30 AD3d 419).

RIVERA, J.P., LEVENTHAL, BELEN and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court