

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

D28677
G/ct

_____AD3d_____

Submitted - September 28, 2010

STEVEN W. FISHER, J.P.
MARK C. DILLON
ANITA R. FLORIO
PLUMMER E. LOTT, JJ.

2008-05222
2008-05224
2008-05225
2008-05230
2008-05231

DECISION & ORDER

In the Matter of Daniel Marcus Y. (Anonymous),
also known as Daniel Y. (Anonymous).
SCO Family of Services, et al., petitioners-
respondents; Marilyn Y. (Anonymous), also known
as Marilyn J. Y. (Anonymous), also known as
Marilyn Jo Y. (Anonymous), appellant.
(Proceeding No. 1)

In the Matter of Keith Wayne B. Y. (Anonymous),
also known as Keith B. Y. (Anonymous), also
known as Keith B. (Anonymous), also known
as Keith Y. (Anonymous).
SCO Family of Services, et al., petitioners-respondents;
Marilyn Y. (Anonymous), also known as Marilyn

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MATTER OF Y. (ANONYMOUS), DANIEL MARCUS, also known as
Y. (ANONYMOUS), DANIEL

MATTER OF Y. (ANONYMOUS), KEITH WAYNE B., also known as
Y. (ANONYMOUS), KEITH B., also known as B. (ANONYMOUS), KEITH,
also known as Y. (ANONYMOUS), KEITH

MATTER OF B. (ANONYMOUS), KEISHA NICOLE Y., also known as
B. (ANONYMOUS), KEISHA Y., also known as Y. (ANONYMOUS), KEISHA,
also known as B.(ANONYMOUS), KEISHA

MATTER OF B. (ANONYMOUS), KERRY JAMAL Y., also known as
B. (ANONYMOUS), KERRY Y., also known as Y. (ANONYMOUS), KERRY,
also known as B. (ANONYMOUS), KERRY

MATTER OF B. (ANONYMOUS), KIA KIANNA, also known as
B. (ANONYMOUS), KIA, also known as B. (ANONYMOUS), KIANNA

J. Y. (Anonymous), also known as Marilyn Jo
Y. (Anonymous), appellant.
(Proceeding No. 2)

In the Matter of Keisha Nicole Y. B. (Anonymous),
also known as Keisha Y. B. (Anonymous), also
known as Keisha Y. (Anonymous), also known
as Keisha B. (Anonymous).
SCO Family of Services, et al., petitioners-respondents;
Marilyn Y. (Anonymous), also known as Marilyn
J. Y. (Anonymous), also known as Marilyn Jo
Y. (Anonymous), appellant.
(Proceeding No. 3)

In the Matter of Kerry Jamal Y. B.(Anonymous),
also known as Kerry Y. B. (Anonymous), also known
as Kerry Y. (Anonymous), also known as
Kerry B. (Anonymous).
SCO Family of Services, et al., petitioners-respondents;
Marilyn Y. (Anonymous), also known as Marilyn
J. Y. (Anonymous), also known as Marilyn Jo
Y. (Anonymous), appellant.
(Proceeding No. 4)

In the Matter of Kia Kianna B. (Anonymous),
also known as Kia B. (Anonymous), also known
as Kianna B. (Anonymous).
SCO Family of Services, et al., petitioners-respondents;
Marilyn Y. (Anonymous), also known as Marilyn
J. Y. (Anonymous), also known as Marilyn Jo
Y. (Anonymous), appellant, et al., respondent.
(Proceeding No. 5)

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MATTER OF Y. (ANONYMOUS), DANIEL MARCUS, also known as
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MATTER OF Y. (ANONYMOUS), KEITH WAYNE B., also known as
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MATTER OF B. (ANONYMOUS), KIA KIANNA, also known as
B. (ANONYMOUS), KIA, also known as B. (ANONYMOUS), KIANNA

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

Carrieri & Carrieri, P.C., Mineola, N.Y. (Ralph A. Carrieri of counsel), for petitioner-respondent SCO Family of Services.

Larry S. Bachner, Jamaica, N.Y., attorney for the children Daniel Marcus Y., also known as Daniel Y., and Kerry Jamal Y. B., also known as Kerry Y. B., also known as Kerry B.

Gary E. Eisenberg, New City, N.Y., attorney for the child Keith Wayne B. Y., also known as Keith B. Y., also known as Keith B., also known as Keith Y.

Kenneth M. Tuccillo, Hastings on Hudson, N.Y., attorney for the child Keisha Nicole Y. B., also known as Keisha Y. B., also known as Keisha Y., also known as Keisha B.

Todd D. Kadish, Brooklyn, N.Y., attorney for the child Kia Kianna B., also known as Kia B., also known as Kianna B.

In five related proceedings to terminate parental rights pursuant to Social Services Law § 384-b on the ground of permanent neglect, the mother appeals from five orders (one as to each child) of the Family Court, Queens County (McGowan, J.), all dated May 5, 2008, which denied those branches of her motion which were to vacate five orders (one as to each child) of fact-finding and disposition of the same court (Freidman, J.), dated November 9, 2007, which, upon her default in appearing at the fact-finding and dispositional hearings, terminated her parental rights and transferred guardianship and custody of the children to the Commissioner of Social Services of the City of New York and the petitioner SCO Family of Services, for the purpose of adoption.

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

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A parent seeking to vacate an order entered upon his or her default in a termination of parental rights proceeding must establish that there was a reasonable excuse for the default and a potentially meritorious defense to the relief sought in the petition (*see* CPLR 5015[a][1]; *Matter of David John D.*, 38 AD3d 661; *Matter of Miguel M.-R.B.*, 36 AD3d 613). The determination of whether to relieve a party of a default is within the sound discretion of the Family Court (*see Matter of Princess M.*, 58 AD3d 854; *Matter of Capri Alexis R.*, 48 AD3d 821). Here, the mother failed to present a reasonable excuse for her default and failed to set forth a potentially meritorious defense. Accordingly, the Family Court providently exercised its discretion in denying her motion to vacate the orders of fact-finding and disposition entered upon her default.

FISHER, J.P., DILLON, FLORIO and LOTT, JJ., concur.

ENTER:



Matthew G. Kiernan
Clerk of the Court

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