

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

D32212
H/prt

_____AD3d_____

Submitted - June 23, 2011

PETER B. SKELOS, J.P.
ARIEL E. BELEN
L. PRISCILLA HALL
SHERI S. ROMAN, JJ.

2010-06730
2010-06987
2010-06988

DECISION & ORDER

In the Matter of Vanisha J. (Anonymous).
Administration for Children's Services, et al.,
respondents; Patricia J. (Anonymous), appellant.
(Proceeding No. 1)

In the Matter of Medina J. (Anonymous).
Administration for Children's Services, et al.,
respondents; Patricia J. (Anonymous), appellant.
(Proceeding No. 2)

(Docket Nos. B-31166-7/03, V-29296-7/05,
V-29465-05, V-129168-05)

Zvi Ostrin, New York, N.Y., for appellant.

Carrieri & Carrieri, P.C., Mineola, N.Y. (Ralph R. Carrieri of counsel), for
respondent Graham-Windham Services to Families and Children.

Steven Banks, New York, N.Y. (Tamara A. 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 of permanent neglect, in which the paternal grandmother, Patricia J., was granted leave to intervene on the issue of custody, Patricia J. appeals, as limited by her brief, from (1) so much of an order of the Family Court, Kings County (Danoff, J.), dated April 27, 2010, as dismissed her petition for an award of custody of the subject children, (2) so much of an order of

August 23, 2011

Page 1.

MATTER OF J. (ANONYMOUS), VANISHA
MATTER OF J. (ANONYMOUS), MEDINA

disposition of the same court dated May 14, 2010, as placed the child Vanisha J. in the custody of the Commissioner of Social Services of the City of New York and Graham-Windham Services to Families and Children for the purpose of adoption, and (3) so much of an order of disposition of the same court dated May 14, 2010, as placed the child Medina J. in the custody of the Commissioner of Social Services of the City of New York and Graham-Windham Services to Families and Children for the purpose of adoption.

ORDERED that the orders are affirmed insofar as appealed from, without costs or disbursements.

The standard to be applied in a change of custody determination is the best interests of the child (*see Matter of Chastity Imani Mc.*, 66 AD3d 782, 783; *Matter of Pryor v Lindsay*, 60 AD3d 859; *Matter of Destiny O.*, 44 AD3d 951, 952). “Social Services Law § 383(3) gives preference for adoption to a foster parent who has cared for a child continuously for a period of 12 months or more, while members of the child’s extended biological family are given no special preference with regard to custody” (*Matter of Chastity Imani Mc.*, 66 AD3d at 783, quoting *Matter of Pryor v Lindsay*, 60 AD3d 859; *see Matter of Takylia B.*, 24 AD3d 759; *Matter of Peter L.*, 59 NY2d 513). Thus, a nonparent relative takes no precedence for custody over the adoptive parents selected by an authorized agency (*see Matter of Peter L.*, 59 NY2d 513; *Matter of Chastity Imani Mc.*, 66 AD3d at 783; *Matter of Pryor v Lindsay*, 60 AD3d 859).

Here, the Family Court considered the totality of the circumstances and all of the evidence submitted over the lengthy dispositional hearing, and properly determined that continuing the subject children’s placement and releasing the children for the purpose of adoption by the foster mother and father, with whom the children had lived for the previous five years and who had already adopted two of the subject children’s siblings, was in the children’s best interests (*see Matter of Chastity Imani Mc.*, 66 AD3d at 783; *Matter of Pryor v Lindsay*, 60 AD3d at 859; *Matter of Destiny O.*, 44 AD3d at 952).

SKELOS, J.P., BELEN, HALL and ROMAN, JJ., concur.

ENTER: 
Matthew G. Kiernan
Clerk of the Court