

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

D36226
G/hu

_____AD3d_____

Argued - September 18, 2012

REINALDO E. RIVERA, J.P.
CHERYL E. CHAMBERS
L. PRISCILLA HALL
SHERI S. ROMAN, JJ.

2011-03236
2011-03238

DECISION & ORDER

In the Matter of Mekhi Kahalil G. (Anonymous).
Children's Aid Society, et al., respondents;
Ainsley M. J. (Anonymous), Sr., appellants.
(Proceeding No. 1)

In the Matter of Ainsley M. J. (Anonymous), Jr.
Children's Aid Society, et al., respondents;
Ainsley M. J. (Anonymous), Sr., et al., appellants.
(Proceeding No. 2)

(Docket Nos. B-16902-09, B-16903-09)

Deana Balahtsis, New York, N.Y. (Meghan Buckwalter of counsel), for appellant
Ainsley M. J., Sr.

Jill M. Zuccardy, New York, N.Y., for appellant Ebony C. G.

Rosin Steinhagen Mendel, New York, N.Y. (Douglas H. Reiniger of counsel), for
respondent Children's Aid Society.

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

In related proceedings pursuant to Social Services Law § 384-b to terminate parental rights, the father appeals, as limited by his brief, from so much of two orders of fact-finding and disposition (one as to each child) of the Family Court, Kings County (Lim, J.), each dated February 22, 2011, as, after a fact-finding hearing, determined that he abandoned the subject children, terminated his parental rights, and transferred the custody and guardianship of the subject children jointly to the Children's Aid Society and the Commissioner of the Administration for Children's Services of the City of New York for the purpose of adoption, and the mother separately appeals, as

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MATTER OF G. (ANONYMOUS), MEKHI KAHALIL
MATTER OF J. (ANONYMOUS), AINSLEY M., JR.

limited by her brief, from so much of the same two orders as, after a fact-finding and dispositional hearing, determined that she permanently neglected the subject children, terminated her parental rights, and transferred the custody and guardianship of the subject children jointly to the Children's Aid Society and the Commissioner of the Administration for Children's Services of the City of New York for the purpose of adoption.

ORDERED that the orders of fact-finding and disposition are affirmed insofar as appealed from, without costs or disbursements.

The petitioner Children's Aid Society (hereinafter the petitioner) established by clear and convincing evidence that the father abandoned the subject children by failing to visit or communicate with them or the petitioning agency during the six-month period immediately prior to the date on which the petition was filed (*see* Social Services Law § 384-b[4][b]; 5[a]; *Matter of Donna E.J. [Fatima J.]*, 96 AD3d 746; *Matter of Sabina Jessica S.*, 32 AD3d 857, 858; *Matter of Jeremiah Kwimea T.*, 10 AD3d 691, 692). To the extent that the Family Court did not find credible the father's testimony that he tried to deliver toys, clothing, and other items to the petitioner for the children during the relevant time period, the court's assessment of his credibility must be accorded considerable deference, and we decline to disturb the court's findings (*see Matter of Anthony S.*, 98 AD3d 519; *Matter of Ailayah Shawneque L.*, 40 AD3d 1097, 1098).

Contrary to the father's contention, the Family Court providently exercised its discretion in terminating his parental rights without first conducting a separate dispositional hearing (*see Matter of Antoine T. [April T.]*, 83 AD3d 721, 722). Further, the Family Court properly declined to consider his application for post-termination visitation (*see Matter of Hailey ZZ. [Ricky ZZ.]*, 19 NY3d 422, 426).

The petitioner established by clear and convincing evidence that it made diligent efforts to assist the mother in maintaining contact with the children and planning for the children's future (*see Matter of Hadiyyah J.M. [Fatima D.R.]*, 91 AD3d 874, 874-875; *Matter of Darlene L.*, 38 AD3d 552, 555). These efforts included referrals of the mother to anger management classes, parenting skills classes, and therapy, the monitoring of her progress in those programs, and the scheduling of regular visits between her and the children (*see Matter of Kyshawn F. [Nellie M.-F.]*, 95 AD3d 883, 884-885; *Matter of Hadiyyah J.M. [Fatima D.R.]*, 91 AD3d at 874, 875). Despite these efforts, the mother failed to plan for the children's future (*see Matter of "Female" W.*, 7 AD3d 723, 724).

The parties' remaining contentions are either unpreserved for appellate review, based on matter dehors the record, or without merit.

RIVERA, J.P., CHAMBERS, HALL and ROMAN, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court