

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

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Argued - October 15, 2012

WILLIAM F. MASTRO, J.P.  
PETER B. SKELOS  
ANITA R. FLORIO  
THOMAS A. DICKERSON, JJ.

2011-09849

DECISION & ORDER

In the Matter of Niaja A. W. (Anonymous).  
Administration for Children's Services, et al.,  
petitioners-respondents; Paulette G. (Anonymous),  
appellant, et al., respondent.

(Docket No. B-38016-10)

Carol Kahn, New York, N.Y., for appellant.

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

Steven Banks, New York, N.Y. (Tamara A. Steckler and Susan Clement of counsel), attorney for the child.

In a proceeding pursuant to Social Services Law § 384-b to terminate parental rights, the mother appeals from an order of the Family Court, Kings County (Danoff, J.), dated October 11, 2011, which denied her motion, in effect, to vacate her default in appearing at the fact-finding hearing and dispositional hearing.

ORDERED that the order is affirmed, without costs or disbursements.

A parent seeking to vacate a default in a proceeding for the termination of parental rights must establish a reasonable excuse for the default, as well as a potentially meritorious defense (*see* CPLR 5015[a][1]; *Matter of Kenneth S. v Bethzaida P.*, 95 AD3d 1022, 1023; *Matter of Joseph N.*, 45 AD3d 849; *Matter of Michael William O.*, 16 AD3d 511). The determination whether to relieve a party of a default is a matter left to the sound discretion of the Family Court (*see Matter of*

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MATTER OF W. (ANONYMOUS), NIAJA A.

*Kenneth S. v Bethzaida P.*, 95 AD3d at 1023; *Matter of Capri Alexis R.*, 48 AD3d 821, 822). Here, the mother presented neither a potentially meritorious defense to the termination petition nor a reasonable excuse for her failure to appear at the fact-finding hearing (see *Matter of Kenneth S. v Bethzaida P.*, 95 AD3d at 1023; *Matter of Capri Alexis R.*, 48 AD3d at 822; *Matter of Joseph N.*, 45 AD3d 849). Accordingly, the Family Court properly denied the motion to vacate her default.

The mother's remaining contention is without merit.

MASTRO, J.P., SKELOS, FLORIO and DICKERSON, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court