

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

942

CAF 09-00874

PRESENT: MARTOCHE, J.P., CENTRA, CARNI, LINDLEY, AND GREEN, JJ.

IN THE MATTER OF ALEXANDRA J., DANIEL J.,
AND PARKER J.

MEMORANDUM AND ORDER

ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES,
PETITIONER-RESPONDENT;

PAULETTE C., RESPONDENT-APPELLANT.

WILLIAM D. BRODERICK, JR., ELMA, FOR RESPONDENT-APPELLANT.

JOSEPH T. JARZEMBEK, BUFFALO, FOR PETITIONER-RESPONDENT.

MINDY L. MARRANCA, ATTORNEY FOR THE CHILDREN, BUFFALO, FOR ALEXANDRA
J., DANIEL J., AND PARKER J.

Appeal from an order of the Family Court, Erie County (Patricia A. Maxwell, J.), entered March 19, 2009 in a proceeding pursuant to Family Court Act article 10. The order adjudicated the subject children to be neglected children.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: In this proceeding pursuant to Family Court Act article 10, respondent mother appeals from an order adjudicating the three children at issue to be neglected children. Contrary to the mother's contention, the finding of neglect is supported by a preponderance of the evidence (see § 1046 [b] [i]). The evidence presented at the fact-finding hearing demonstrated that the mother attempted to commit suicide by overdosing on prescription medication, causing her to lose consciousness for a prolonged period of time. The mother was not conscious when the children returned to her house following weekend visitation with their father, and the children were unable to wake her the next morning when they needed a ride to school. The mother eventually awoke later that morning but did not drive the children to school because she was physically unable to operate a motor vehicle. School officials subsequently came to the house to transport the children to school, and the mother was admitted that day to the psychiatric ward of a local hospital, where she stayed for five days. We conclude that, because of her voluntarily-induced drug stupor, the mother failed to provide the children with "proper supervision or guardianship" (§ 1012 [f] [i] [B]; see e.g. *Matter of Stephon Elijah G.*, 63 AD3d 640; *Matter of Ifeiye O.*, 53 AD3d 501) and, as a result, the children's physical, mental and emotional condition

was in imminent danger of becoming impaired (*see* § 1012 [f] [i]).

Entered: October 1, 2010

Patricia L. Morgan
Clerk of the Court