

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

828

CAF 09-01562

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, LINDLEY, AND PINE, JJ.

IN THE MATTER OF MADDISON B., ALSO KNOWN AS
MADISON L.

MEMORANDUM AND ORDER

ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES,
PETITIONER-RESPONDENT;

KELLY L., RESPONDENT-APPELLANT.

DAVID J. PAJAK, ALDEN, FOR RESPONDENT-APPELLANT.

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

DAVID C. SCHOPP, ATTORNEY FOR THE CHILD, THE LEGAL AID BUREAU OF
BUFFALO, INC., BUFFALO (CHARLES D. HALVORSEN OF COUNSEL), FOR MADDISON
B., ALSO KNOWN AS MADISON L.

Appeal from an order of the Family Court, Erie County (Margaret
O. Szczur, J.), entered June 25, 2009 in a proceeding pursuant to
Social Services Law § 384-b. The order, among other things,
terminated respondent's parental rights.

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

Memorandum: Respondent mother appeals from an order terminating
her parental rights with respect to her daughter on the ground of
abandonment and placing the child in petitioner's custody. Contrary
to the contention of the mother, the fact that she visited her
daughter on one occasion and had one telephone conversation with her
in the six months preceding the filing of the petition did not
preclude a finding of abandonment (see Social Services Law § 384-b [5]
[a]). A parent who has had "almost no contact" with his or her child
in the six-month period preceding the filing of the petition evinces
an intent to forego his or her parental rights (*Matter of Dennis K.A.*,
63 AD3d 1638), and "it is by now well established that minimal,
sporadic or insubstantial contacts will not be sufficient to defeat an
otherwise viable claim of abandonment" (*Matter of Nahiem G.*, 241 AD2d
632, 633).

Entered: June 11, 2010

Patricia L. Morgan
Clerk of the Court