

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

1522

**CAF 08-02195**

PRESENT: SCUDDER, P.J., FAHEY, CARNI, AND GORSKI, JJ.

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IN THE MATTER OF NESTOR H.O.

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ONONDAGA COUNTY DEPARTMENT OF SOCIAL SERVICES,  
PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

DAIRYN O., RESPONDENT,  
AND NESTOR H., RESPONDENT-APPELLANT.  
(APPEAL NO. 2.)

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FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (ROBERT P. RICKERT OF  
COUNSEL), FOR RESPONDENT-APPELLANT.

GORDON J. CUFFY, COUNTY ATTORNEY, SYRACUSE (SARA J. LANGAN OF  
COUNSEL), FOR PETITIONER-RESPONDENT.

KELLY M. CORBETT, LAW GUARDIAN, FAYETTEVILLE, FOR NESTOR H.O.

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Appeal from an order of the Family Court, Onondaga County (Martha E. Mulroy, J.), entered October 8, 2008 in a proceeding pursuant to Social Services Law § 384-b. The order, insofar as appealed from, terminated the parental rights of respondent Nestor H. on the ground of permanent neglect and freed his son for adoption.

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

Memorandum: Respondent father appeals from an order terminating his parental rights pursuant to Social Services Law § 384-b on the ground of permanent neglect and freeing his son for adoption. By virtue of the father's admission of permanent neglect, petitioner, Onondaga County Department of Social Services, was not required to establish that it made diligent efforts to reunite the father with his son (*see Matter of Aidan D.*, 58 AD3d 906, 908). Further, once permanent neglect has been established, "[a]n order of disposition shall be made . . . solely on the basis of the best interests of the child, and there shall be no presumption that such interests will be promoted by any particular disposition" (Family Ct Act § 631). Thus, contrary to the father's contention, "[a] blood relative does not take precedence over a prospective adoptive parent selected by the authorized agency" (*Matter of Deborah F. v Matika G.*, 50 AD3d 1213, 1215). Finally, the further contention of the father that Family Court erred in failing to issue a suspended judgment is unreserved for our review, inasmuch as he failed to request that the court issue such a judgment (*see Matter of Shadazia W.*, 48 AD3d 1058; *Matter of*

*Charles B.*, 46 AD3d 1430, 1431, *lv denied* 10 NY3d 705).

Entered: December 30, 2009

Patricia L. Morgan  
Clerk of the Court