

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

1042

CAF 10-01603

PRESENT: FAHEY, J.P., PERADOTTO, LINDLEY, SCONIERS, AND GREEN, JJ.

IN THE MATTER OF ELIZABETH J.

ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES,
PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

JOCELYN J., RESPONDENT-APPELLANT.

JOHN T. NASCI, ROME, FOR RESPONDENT-APPELLANT.

JOHN A. HERBOWY, COUNTY ATTORNEY, UTICA (DENISE J. MORGAN OF COUNSEL),
FOR PETITIONER-RESPONDENT.

WILLIAM L. KOSLOSKY, ATTORNEY FOR THE CHILD, UTICA, FOR ELIZABETH J.

Appeal from an order of the Family Court, Oneida County (James R. Griffith, J.), entered March 22, 2010 in a proceeding pursuant to Social Services Law § 384-b. The order terminated the parental rights of respondent.

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

Memorandum: Respondent mother appeals from an order revoking a suspended judgment and terminating her parental rights with respect to her daughter. Contrary to the mother's contention, petitioner established by a preponderance of the evidence that she violated the terms of the suspended judgment (*see Matter of Janasia H.*, 71 AD3d 1524, *lv denied* 15 NY3d 701). In addition, Family Court properly concluded that termination of the mother's parental rights was in the child's best interests inasmuch as the foster family had expressed a desire to adopt the child, the mother was incarcerated and the suspended judgment expired more than two years prior to her earliest release date (*see Matter of Saboor C.*, 303 AD2d 1022). The court also properly determined that the mother failed to establish that it was in the child's best interests to have post-termination visitation with her (*see Matter of Sean H.*, 74 AD3d 1837, *lv denied* 15 NY3d 708).

Entered: September 30, 2011

Patricia L. Morgan
Clerk of the Court