

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

1156

CAF 10-00863

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

IN THE MATTER OF HAROLD L.S.

MONROE COUNTY DEPARTMENT OF HUMAN SERVICES,
PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

HAROLD S., RESPONDENT-APPELLANT.

PALOMA A. CAPANNA, PENFIELD, FOR RESPONDENT-APPELLANT.

DAVID VAN VARICK, COUNTY ATTORNEY, ROCHESTER (CAROL L. EISENMAN OF COUNSEL), FOR PETITIONER-RESPONDENT.

LISA J. MASLOW, ATTORNEY FOR THE CHILD, ROCHESTER, FOR HAROLD L.S.

Appeal from an order of the Family Court, Monroe County (John J. Rivoli, 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 said appeal is unanimously dismissed without costs.

Memorandum: Respondent father appeals from an order terminating his parental rights on the ground of abandonment and freeing his child for adoption. The father refused to attend the fact-finding hearing and his attorney, although present, elected not to participate in the father's absence. Under those circumstances, we conclude that the father's refusal to appear constituted a default, and we therefore dismiss the appeal (*see Matter of Shawn A.*, 85 AD3d 1598).

Entered: November 10, 2011

Patricia L. Morgan
Clerk of the Court