

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

684

CAF 11-01814

PRESENT: SMITH, J.P., FAHEY, PERADOTTO, SCONIERS, AND MARTOCHE, JJ.

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IN THE MATTER OF ANASTASHIA S.

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CHAUTAUQUA COUNTY DEPARTMENT OF SOCIAL  
SERVICES, PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

TONYA R., RESPONDENT-APPELLANT.

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ERICKSON WEBB SCOLTON & HAJDU, LAKEWOOD (PAUL V. WEBB, III, OF  
COUNSEL), FOR RESPONDENT-APPELLANT.

JANE E. LOVE, MAYVILLE, FOR PETITIONER-RESPONDENT.

MICHAEL J. SULLIVAN, ATTORNEY FOR THE CHILD, FREDONIA, FOR ANASTASHIA  
S.

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Appeal from an order of the Family Court, Chautauqua County  
(Judith S. Claire, J.), entered May 10, 2011 in a proceeding pursuant  
to Social Services Law § 384-b. The order denied the motion of  
respondent to vacate a default judgment.

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

Memorandum: Contrary to the contention of respondent mother,  
Family Court did not abuse its discretion in denying her motion to  
vacate a judgment entered upon her default in this permanent neglect  
proceeding. The mother's contention that she had a reasonable excuse  
for her failure to appear based upon her lack of knowledge of the  
fact-finding hearing and upon her incarceration at the time of that  
hearing is not preserved for our review, inasmuch as she did not seek  
vacatur on those grounds (*see Matter of Derrick T.*, 261 AD2d 108,  
109). In any event, we conclude that the mother failed to establish a  
reasonable excuse for her failure to appear (*see Matter of Raymond  
Anthony A.*, 192 AD2d 529, *lv dismissed* 82 NY2d 706; *cf. Matter of  
Danner-Nepage v Nepage*, 60 AD3d 1495, 1495-1496). In addition, the  
mother's unsubstantiated and conclusory assertion of partial  
compliance with the prior dispositional order is insufficient to  
establish a meritorious defense to the petition (*see Matter of Gloria  
Marie S.*, 55 AD3d 320, 321, *lv dismissed* 11 NY3d 909; *see also Matter  
of Kenneth L.*, 92 AD3d 1245, 1247; *Matter of Alexis C.R.*, 71 AD3d  
1511, *lv dismissed* 14 NY3d 922).

Entered: June 8, 2012

Frances E. Cafarell  
Clerk of the Court