

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

1358

CAF 14-01236

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

IN THE MATTER OF MAKIA S.

WYOMING COUNTY DEPARTMENT OF SOCIAL SERVICES,
PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

CATHERINE S., RESPONDENT-APPELLANT.

ALAN BIRNHOLZ, LAKE WORTH, FLORIDA, FOR RESPONDENT-APPELLANT.

WENDY S. SISSON, GENESEO, FOR PETITIONER-RESPONDENT.

PAMELA THIBODEAU, ATTORNEY FOR THE CHILD, WILLIAMSVILLE.

Appeal from an order of the Family Court, Wyoming County (Michael M. Mohun, J.), entered June 18, 2014 in a proceeding pursuant to Social Services Law § 384-b. The order, among other things, transferred guardianship and custody of the subject child to petitioner.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: Respondent mother appeals from an order terminating her parental rights and freeing her child for adoption. The mother refused to appear at the dispositional hearing and her attorney, although present, elected not to participate in the mother's absence. Under those circumstances, we conclude that the mother's refusal to appear constituted a default, and we therefore dismiss the appeal (see *Matter of Shawn A. [Milisa C.B.]*, 85 AD3d 1598, 1598-1599, lv denied 17 NY3d 713).

Entered: December 23, 2015

Frances E. Cafarell
Clerk of the Court