

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D54604
C/htr

_____AD3d_____

Submitted - January 22, 2018

SHERI S. ROMAN, J.P.
HECTOR D. LASALLE
FRANCESCA E. CONNOLLY
LINDA CHRISTOPHER, JJ.

2016-09832
2016-09834
2016-09836

DECISION & ORDER

In the Matter of Tyshaun M. M. (Anonymous), etc.
MercyFirst, respondent; Niamih M. (Anonymous),
appellant.
(Proceeding No. 1)

In the Matter of Anastasia R. D. (Anonymous), etc.
MercyFirst, respondent; Niamih M. (Anonymous),
appellant.
(Proceeding No. 2)

In the Matter of Adrian D. D. (Anonymous), etc.
MercyFirst, respondent; Niamih M. (Anonymous),
appellant.
(Proceeding No. 3)

(Docket Nos. B-18264-14, B-18265-14, B-18266-14)

Kenneth M. Tuccillo, Hastings-on-Hudson, NY, for appellant.

Warren & Warren, P.C., Brooklyn, NY (Ira L. Eras of counsel), for respondent.

Ralph R. Carrieri, Mineola, NY, attorney for the children.

Appeals from three orders of fact-finding and disposition of the Family Court, Kings County (Ilana Gruebel, J.) (one as to each child), all dated July 28, 2016. The orders, after fact-finding and dispositional hearings, found that the mother had permanently neglected the subject children and transferred the guardianship and custody of the children to the Commissioner of the

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MATTER OF D. (ANONYMOUS), ADRIAN D.

Administration for Children's Services of the City of New York and MercyFirst for the purpose of adoption.

ORDERED that the orders of fact-finding and disposition are affirmed, without costs or disbursements.

The appellant (hereinafter the mother) is the mother of three children: Tyshaun, born in 2004, and Anastasia and Adrian, born in 2008. All three children were placed with the Commissioner of the Administration for Children's Services (hereinafter the Commissioner) on July 28, 2011, and placed with MercyFirst (hereinafter the petitioner) on the same day for foster care. In 2014, the petitioner filed petitions to terminate the mother's parental rights with respect to each of the children.

The Family Court properly found that the petitioner established by clear and convincing evidence that the mother permanently neglected the children (*see* Social Services Law § 384-b[7][a]). The petitioner presented evidence that it made diligent efforts to encourage and strengthen the parental relationship by, inter alia, providing the mother with referrals to various drug treatment programs (*see Matter of Jemel M.A. [Elizabeth C.B.A.]*, 122 AD3d 622, 623; *Matter of Elijah D.W. [Tamica S.E.]*, 118 AD3d 812, 813; *Matter of Amonte M. [Mary M.]*, 112 AD3d 937, 938). Despite these efforts, the mother failed over several years to address the primary obstacle to her reunification with the children by completing a drug treatment program (*see Matter of Chanel C. [Vanessa N.]*, 118 AD3d 826, 827-828; *Matter of John M. [Raymond K.]*, 82 AD3d 1100, 1100-1101; *Matter of Malen Sansa V. [Nancy J.]*, 70 AD3d 707, 708; *Matter of Jada Ta-Toneyia L.*, 66 AD3d 901, 902; *Matter of Fatima G.*, 64 AD3d 653, 654).

Contrary to the mother's contention, there is no evidence in the record that the Family Court either prejudged the case, or applied incorrect legal standards in rendering its dispositional order. Similarly, the court properly considered the current special needs of Tyshaun, and the lack of feasibility of the alternative placement proposed by the mother. Furthermore, the court properly determined that it was in the best interests of the children to transfer the custody and guardianship of the children to the Commissioner and the petitioner (*see Matter of Clair E.F. [Benjamin F.—Karen M.]*, 122 AD3d 847, 847; *Matter of Darryl A.H. [Olga Z.]*, 109 AD3d 824, 825; *Matter of W.J. [B.J.]*, 99 AD3d 711, 712; *Matter of Kyshawn F. [Nellie M.-F.]*, 95 AD3d 883, 885; *Matter of Anthony R. [Juliann A.]*, 90 AD3d 1055, 1055).

ROMAN, J.P., LASALLE, CONNOLLY and CHRISTOPHER, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

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