

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

116

CAF 11-02363

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, SCONIERS, AND WHALEN, JJ.

IN THE MATTER OF K'QUAMERE R. AND SYRIA W.

ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES,
PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

LATASHA B., RESPONDENT-APPELLANT.

ALAN BIRNHOLZ, EAST AMHERST, FOR RESPONDENT-APPELLANT.

KIMBERLY S. CONIDI, BUFFALO, FOR PETITIONER-RESPONDENT.

JEFFREY M. HARRINGTON, ATTORNEY FOR THE CHILDREN, WEST SENECA, FOR
K'QUAMERE R. AND SYRIA W.

Appeal from an order of the Family Court, Erie County (Patricia A. Maxwell, J.), entered April 13, 2011 pursuant to Social Services Law § 384-b. The order, among other things, transferred guardianship and custody of the subject children to petitioner.

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

Memorandum: On appeal from an order that, inter alia, terminated her parental rights with respect to the subject children on the ground of mental illness (see Social Services Law § 384-b [4] [c]), respondent mother contends that Family Court erred in denying her request for an adjournment to present psychological evidence pursuant to Social Services Law § 384-b (6) (e). We reject that contention. The record establishes that the court had already adjourned the proceedings for three months to permit the mother to call her own expert, and she failed to do so within that time. Also, the mother did not demonstrate that the testimony of her expert would be material and favorable to her (see generally *Matter of Kaseem J.*, 52 AD3d 1321, 1322). Consequently, the court "providently exercised its discretion in denying [the mother's] request for an adjournment" (*Matter of Alexander James R.*, 48 AD3d 820, 821; see generally *Matter of Anthony M.*, 63 NY2d 270, 283-284).

Entered: May 3, 2013

Frances E. Cafarell
Clerk of the Court