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

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CAF 13-00315

PRESENT: SMITH, J.P., PERADOTTO, CARNI, SCONIERS, AND VALENTINO, JJ.

IN THE MATTER OF CORNELIUS L.N., JR. AND LOYATIE L.L.N.

MONROE COUNTY DEPARTMENT OF HUMAN SERVICES, PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

CORNELIUS N., SR., RESPONDENT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JANE I. YOON OF COUNSEL), FOR RESPONDENT-APPELLANT.

MERIDETH H. SMITH, COUNTY ATTORNEY, ROCHESTER (PETER A. ESSLEY OF COUNSEL), FOR PETITIONER-RESPONDENT.

STEVEN B. LEVITSKY, ATTORNEY FOR THE CHILDREN, ROCHESTER.

Appeal from an order of the Family Court, Monroe County (Dandrea L. Ruhlmann, J.), entered January 30, 2013 in a proceeding pursuant to Social Services Law § 384-b. The order terminated the parental rights of respondent.

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

Memorandum: Respondent father appeals from an order that terminated his parental rights with respect to the subject children. The father does not dispute that he violated the terms and conditions of the suspended judgment, but he contends that Family Court should have extended the suspended judgment for another year. However, the father "failed to demonstrate that 'exceptional circumstances' required extension of the suspended judgment" (Matter of Demario J., 61 AD3d 1437, 1438, quoting Family Ct Act § 633 [b]; see Matter of Lestariyah A. [Demetrious L.], 89 AD3d 1420, 1420-1421). Thus, the court did not abuse its discretion in refusing to extend the suspended judgment (see Lestariyah A., 89 AD3d at 1420-1421; Matter of Jonathan J., 47 AD3d 992, 993, lv denied 10 NY3d 706).

The father's contention that petitioner did not make significant efforts to reunite him with the children is not properly before us inasmuch as "it was conclusively determined in the prior proceedings to terminate [the father's] parental rights" (Matter of Ronald O., 43 AD3d 1351, 1351). We note in any event that the father admitted to the permanent neglect of the children and consented to the entry of the suspended judgment, "and thus no appeal would lie therefrom

because [the father was] not aggrieved, based on [his] consent" (id. at 1352; see Matter of Moniea C., 9 AD3d 888, 888; Matter of Cherilyn P., 192 AD2d 1084, 1084, lv denied 82 NY2d 652).

Entered: May 2, 2014

Frances E. Cafarell Clerk of the Court