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

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CAF 16-00952

PRESENT: WHALEN, P.J., CENTRA, LINDLEY, CURRAN, AND TROUTMAN, JJ.

IN THE MATTER OF JASON B., LAURA B., SARA B.,
AND MIRANDA B.

YATES COUNTY DEPARTMENT OF SOCIAL SERVICES, MEMORANDUM AND ORDER
PETITIONER-RESPONDENT;

GERALD B., RESPONDENT,
AND PHYLLIS B., RESPONDENT-APPELLANT.

D.J. & J.A. CIRANDO, ESQS., SYRACUSE (ELIZABETH deV. MOELLER OF COUNSEL), FOR RESPONDENT-APPELLANT.

TYSON BLUE, MACEDON, FOR PETITIONER-RESPONDENT.

JOSEPH S. DRESSNER, CANANDAIGUA, ATTORNEY FOR THE CHILDREN.

MARYBETH D. BARNET, CANANDAIGUA, ATTORNEY FOR THE CHILD.

Appeal from an order of the Family Court, Yates County (W. Patrick Falvey, J.), entered May 18, 2016 in a proceeding pursuant to Social Services Law § 384-b. The order terminated the parental rights of respondents.

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

Memorandum: Respondent mother appeals from an order that, inter alia, terminated her parental rights on the ground of mental illness. We affirm.

We note at the outset that the mother contends that Family Court committed reversible error in relying on the testimony of the psychologist who examined her because his opinion was based in part on inadmissible hearsay. The mother failed to object to the testimony of that psychologist on that ground, however, and thus failed to preserve her contention for our review (*see Matter of Isobella A. [Anna W.]*, 136 AD3d 1317, 1319 [4th Dept 2016]). Contrary to the mother's further contention, we conclude that petitioner established "by clear and convincing evidence that [the mother], by reason of mental illness, is presently and for the foreseeable future unable to provide proper and adequate care for her children" (*Matter of Jarred R.*, 236 AD2d 888, 888 [4th Dept 1997]; *see* Social Services Law § 384-b [3] [g] [i]; [4] [c]). The psychologist who examined the mother testified that the mother suffered from personality disorder that rendered her

unable to parent the children effectively, and that the children would be in danger of being neglected if they were returned to her care at the present time or in the foreseeable future (*see Matter of Jason B. [Gerald B.]*, 155 AD3d 1575, 1575 [4th Dept 2017], *lv denied* 31 NY3d 901 [2018]).

Entered: April 27, 2018

Mark W. Bennett
Clerk of the Court