

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

1130

CAF 15-01651

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, DEJOSEPH, AND WINSLOW, JJ.

IN THE MATTER OF IREISHA P. AND JORDAN P.

ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES,
PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

SHONITA M., RESPONDENT-APPELLANT.
(APPEAL NO. 1.)

CHARLES J. GREENBERG, AMHERST, FOR RESPONDENT-APPELLANT.

ELISABETH M. COLUCCI, BUFFALO, FOR PETITIONER-RESPONDENT.

BERNADETTE M. HOPPE, ATTORNEY FOR THE CHILDREN, BUFFALO.

Appeal from an order of the Family Court, Erie County (Margaret O. Szczur, J.), entered September 3, 2015 in a proceeding pursuant to Social Services Law § 384-b. The order, among other things, revoked the suspended judgment issued on behalf of Shonita M. and terminated her parental rights with respect to the subject children.

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

Memorandum: In appeal No. 1, respondent mother appeals from an order entered on September 3, 2015 that revoked a suspended judgment entered upon her admission of permanent neglect and terminated her parental rights with respect to the two subject children. We note at the outset that, inasmuch as the corrected order and order in appeal Nos. 2 and 3 contain no material or substantive change from the order in appeal No. 1, the appeals from those orders must be dismissed (see *Matter of Kolasz v Levitt*, 63 AD2d 777, 779).

It is well established that, if Family Court "determines by a preponderance of the evidence that there has been noncompliance with any of the terms of [a] suspended judgment, the court may revoke the suspended judgment and terminate parental rights" (*Matter of Amanda M. [George M.]*, 140 AD3d 1677, 1677; see *Matter of Ronald O.*, 43 AD3d 1351, 1352). Here, the mother acknowledged that she failed to comply with the terms of the suspended judgment, and that such failure included repeated positive tests for cocaine (see *Matter of Carmen C. [Margarita N.]*, 95 AD3d 1006, 1008; *Matter of Erie County Dept. of Social Servs. v Anthony P.*, 45 AD3d 1384, 1384). We conclude that there is a sound and substantial basis in the record to support the court's determination that it is in the children's best interests to

terminate the mother's parental rights (see *Amanda M.*, 140 AD3d at 1677; *Matter of Brian C.*, 32 AD3d 1224, 1225-1226, lv denied 7 NY3d 717).

Entered: October 6, 2017

Mark W. Bennett
Clerk of the Court