

## TPRs on Non-Admitting Parents

By Margaret A. Burt, Esq. 3/2010

**Matter of Travis Lee G.**, 169 AD2d 769, 565 NYS 2d 136 (2nd Dept. 1991)

- the landmark case, 2nd Department upholds Dutchess County Family Court order to terminate parental rights of mother to five year old son based on perm neglect - mother went to all therapy sessions and actively participated and visited child regularly but refused to acknowledge the truth of prior court findings of sex abuse regarding siblings of the son (findings in both NYS and other state) and experts testified that without admission no meaningful rehab could occur - failure to plan - note that she was told of need to admit repeatedly

**Matter of Sonia H.**, 177 AD2d 575, 576 NYS 2d 165 (2nd Dept. 1991)

2nd Dept. affirms Queens County perm neglect TPR after child in care over ten years after severe physical abuse - mother made "token compliance" at therapy and counseling but continued to deny culpability or responsibility for injuries - child can not be safely returned - failure to plan

**Matter of Crystal O.**, 173 AD2d 912, 569 NYS 2d 775 (3rd Dept. 1991)

3rd Dept. affirms Chemung County Family Court TPR on both parents after sexual abuse findings - both parents attended counseling and continued to deny abuse - father then recently admitted and mother continued to deny - continual denial by mother and late admission by father render rehab attempts ineffective and children will not be safe - failure to plan on a timely basis

**Matter of Richard DD.**, 175 AD 2d 340, 572 NYS 2d 418 (3rd Dept. 1991)

Otsego County Family Court TPR of both parents who had been found to have used excessive corporal punishment - parents had maintained visits and attended services while children were in foster care for two years but failed to ever acknowledge that they had used excessive and inappropriate corporal punishment - fact that the mental health services had been terminated due to the continued denials did not mean that the agency had provided diligent efforts

**Matter of Tammy B.**, 185 AD2d 881, 587 NYS 2d 377 (2nd Dept. 1992)

2nd Dept. affirms Orange County Family Court finding of perm neglect where father had been adjudicated to have sexually abused daughter - he attended sexual offender treatment but would not admit - refusal to admit is failure to plan

**Matter of Diana Crvstal D.** 200 AD 2d 365, 606 NYS 2d 186 (1st Dept. 1994)

1st Dept. found perm neglect where father continued to deny sex abuse after criminal conviction and due to denial had been dropped from several counseling programs

**Matter of Kayte M.**, 210 AD 2d 835, 608 NYS 2d 711 (3rd Dept. 1994)

3rd Dept. upholds perm neglect TPR based on mother's continual denial of sex abuse - failure to admit caused her to be discharged from a treatment program

**Matter of Beverly K.**, 623 NYS 2d 649 (3rd Dept. 1995)

3rd Dept. upholds Tioga County TPR on perm neglect based on both parents continuing to deny and refusal to attend counseling even though counseling program was willing to offer counseling to deniers and parents knew it

**Matter of DSS v Kenneth D.**, 624 NYS 2d 455 (2d Dept. 1995)

2nd Dept. upholds Dutchess County TPR perm neglect - both parents continue to deny sex abuse - father attended therapy but failed to admit and gained “no insight” - mother failed to attend therapy and missed visits and UCRs

**Matter of John F.**, 634 NYS2d 256 (3rd Dept. 1995)

3rd Dept. upheld Cortland County Family Court TPR where children had been in care two years due to father’s sexual abuse - father continued to deny and had been dropped from several programs - mother had several relationships all with men who had histories of sexual misconduct and was now back residing with denying father

**Matter of Charlene “TT”**, 217 AD2d 274, 634 NYS 2d 807 (3rd Dept. 1995)

-children were in care after a neglect finding - Tompkins County Family Court had dismissed sexual abuse allegations after no corroborative evidence of child’s out of court statements - in dispo order and in service plan parents were ordered to obtain counseling around sexual abuse issues - parents continued to deny any sexual abuse and DSS brought failure to plan TPR - 3rd Dept. reversed the TPR ruling that agency had not provided diligent efforts - since there never had been finding of sexual abuse or a criminal conviction or an admission, failure to admit and receive counseling for a problem which had never been adjudicated was not grounds for TPR

**Matter of Michelle F.**, 635 NYS 2d 709 (3rd Dept. 1995)

3rd Dept. upheld TPR regarding eight children where parents had made some progress but refused to acknowledge the sexual abuse of some of the children - primary reason for placement had not been addressed - court also found that since there had been a finding of sexual abuse originally, agency was not obligated by diligent efforts to offer counseling that would accommodate the continued denial - also fact that agency never told mother that to leave sexually abusive and denying father would increase her chances of children returning to her was immaterial given that she refused to acknowledge the sexual abuse

**Matter of Jesus JJ.**, 636 NYS2d 507 (3rd Dept. 1996)

3rd Dept. upheld dismissal of TPR against mother where children were in care due to sex abuse finding but there had been no finding that either parent had committed the abuse, only that the parents had no adequate explanation for the physical evidence of sexual abuse - court found that mother had not been offered adequate opportunity to acknowledge that child had been abused due to counseling program which court found ineffective - concurring opinion would have found that as there had been no determination of who was responsible for the sexual abuse - TPR of mom for failure to admit was not appropriate (see father’s case below)

**Matter of Tasha LL.**, 642 NYS2d 447 (3rd Dept. 1996)

3rd Dept. upheld TPR on mother for failure to plan as she intended to have father, who was criminally convicted of rape of one of four children, move back in with her when released from

prison - mother's involvement in counseling was minimal and poor and she vacillated and refused to acknowledge long history of sexual abuse of child

**Matter of Jesus JJ.**, 649 NYS2d 61 (3rd Dept. 1996)

3rd Dept. upheld the TPR of father after children placed in foster care after finding of sexual abuse based on parent's inability to explain physical evidence with no finding as to actual perpetrator - here as opposed to mother's case (see above) the county did not ask father to "admit" the sexual abuse but to "acknowledge" that it had happened and that he had not kept child safe - father continued to deny physical proof and court finding and claimed conspiracy between agency, docs and court - failure to plan

**Custody and Guardianship of Joe Alex F.**, 655 NYS2d 518 (1st Dept. 1997)

1st Dept. upheld TPR on mother whose young children came into foster care with unexplainable broken bones - mother continued to deny any physical abuse or offer any explanation - she also failed to complete psychotherapy and failed to separate from a violent paramour and gave birth to a third child in another state who was also the removed with a broken leg

**Matter of Heather "E"**, 656 NYS2d 410 (3rd Dept. 1997)

3rd Dept. upheld TPR re mother's four children after findings of neglect and sexual abuse and criminal convictions of sexual abuse on both parents - mother continued to deny sexual abuse and although her IQ was 58, continued to deny that she should be involved in programs for sexual abusive or mentally limited parents - not failure of diligent efforts for DSS to offer these programs

**Matter of Cheyenne "Q"**, 657 NYS2d 224 (3rd Dept. 1997)

3rd Dept. Upheld perm neglect - various issues including that mother refused to discuss or address sexual abuse issue

**Matter of Jeannie "KK."** 657 NYS2d 231 (3rd Dept. 1997)

Even though no finding of sexual abuse, 3rd Dept. Upheld TPR based partially on mother's refusal to acknowledge that child believed that she had been sexually abused and work with her in counseling on this issue

**Matter of Harlem Dowling o/b/o Kimberly Jean R.**, 660 NYS2d (2nd Dept. 1997)

Father had been found to have sexually abused child and continued to deny and failed to complete counseling

**Matter of Billie Jean II.**, 662 NYS2d 637 (3rd Dept. 1997)

Father continued to deny that he needed services for substance abuse and domestic violence – defense was that agency had not offered help with child's reluctance to visit - 3rd Dept. Said no point in reviewing the defense given his ongoing denial of the problems that had caused the placement

**Matter of Sadie K.**, 671 NYS2d 175 (3rd Dept. 1998)

3rd Dept. upheld Albany County TPR on sex abusing dad who continued to deny responsibility - was terminated from sex abuse program - court found that agency was not obligated to locate a sex abuser program that would accommodate his continued denial

**Matter of Jesus II.**, 672 NYS2d 485 (3rd Dept. 1998)

Tompkins County TPR upheld where agency had created a service plan for a “passive sexual offender” - the mother - who continued to deny that her husband had sexually abused the children, continued to live with him and deny he was a risk to the children and had even become pregnant by him again

**Matter of Ashley M.**, 683 NYS2d 304 (3rd Dept. 1998)

Chemung County willful violation of dispo order in a sex abuse was upheld even though father argued that he had been kicked out of sex abuse program because he failed to admit - claimed he had 5th amendment right to refuse to make statements regarding sexual abuse - 3rd Dept. Claimed no fifth amendment privilege in this context

**Matter of Jeremy “KK”.**, 674 NYS2d 842 (3rd Dept. 1998)

TPR where father continued to deny drug problem

**Matter of Jennifer “WW”.**, 687 NYS2d 487 (3rd Dept. 1999)

3rd Dept. affirmed an extension of placement where sex abusing father would admit to a “grave mistake” but not that his behavior with the children was sexual

**Matter of Ester II.**, 681 NYS2d 876 (3rd Dept. 1998)

TPR of parent’s third child after findings of sexual abuse on older child and loss of two older children to TPR on denial, continued to deny and now TPRed on this subsequently born child

**Matter of Michael W.**, 697 NYS2d 898 (4th Dept. 1999)

TPR appropriate as father continued to deny his domestic violence and anger control problems

**Matter of Ashley “E”.**, 706 NYS2d 223 (3rd Dept. 2000)

TPR of mother in part due to her denial of mental health and anger control problems

**Matter of Lisa “Z”.**, 717 NYS2d 730 (3rd Dept. 2000)

TPR of father appropriate where continued to deny after court finding of sexual abuse, county DSS not responsible to find him a sexual offenders or violence prevention program willing to accommodate “deniers”; limited mother placed in non offending parent treatment also grounds to TPR as she fails to clearly admit what father did, fails to acknowledge damage to child, fails to be able to identify signs of sexual abuse (mother granted suspended judgement due to relationship with child)

**Matter of Kaitlyn “R”.**, 278 AD2D 881, 719 NYS2d 760 (3rd Dept. 2001)

TPR of mother where she would not admit sex abuse - mother had attended all programs she was sent to - did fully attend sex abuse treatment but would not acknowledge sex abuse; agency not

required to find a program that will accommodate ‘denial’

**Matter of Elijah ‘F’.**, 280 AD2D 720, 720 NYS2d 246 (3rd Dept. 2001)

TPR of mentally ill mother who refused to acknowledge her mental illness along with her failure to get treatment and create emergency plans for the child with relatives at times when mental illness is exacerbated

**Matter of Edward ‘T’.**, 721 NYS2d 412 (3rd Dept. 2001)

TPR of mother who had been criminally convicted of homicide regarding one child and misdemeanor burning of another child - mother continues to deny her responsibility for these acts, did not avail herself of services

**Matter of Cassandra ‘JJ’.**, 284 AD2d 619, 725 NYS2d 467 (3rd Dept. 2001)

Mother would not admit her boyfriend had sexually abused children, resistant to counseling, tried to have child interviewed by private detective during visitation to try to prove sex abuse had not occurred - TPR granted

**In Re Joseph Emmanuel N.**, 292 AD2d 295, 740 NYS2d 300 (1<sup>st</sup> Dept. 2002)

TPR where mother would not acknowledge that boyfriend’s (she continues to live with) - behavior caused children to be placed - agency not required to formulate another plan that to accommodate her denial - suspended judgment not appropriate where she will not acknowledge problem or leave boyfriend

**In Re Venus Melody RW.**, 4 AD3d 182, 771 NYS2d 650 (1<sup>st</sup> Dept. 2004)

Mother would not acknowledge abuse and sex abuse and so no effective treatment - TPR

**Matter of Rena Elaine M.**, 22 AD3d 493, 803 NYS2d 657 (2<sup>nd</sup> Dept. 2005)

TPR where mother will not acknowledge bf’s sex abuse of child

**In Re Iris Shawntelle Marie C.**, 22 AD3d 328, 804 NYS2d 299 (1<sup>st</sup> Dept. 2005)

Agency need not offer a denier treatment that accommodates denial

**Matter of Vivian OO** 34 AD3d 1084 (3<sup>rd</sup> Dept. 2006)

Mother would not acknowledge injury or sex abuse of child by father – TPR

**Matter of Kimberly C.**, 37 AD3d 192, 829 NYS2d 84 (1<sup>st</sup> Dept. 2007)

Parents repeatedly denied that they had a DV problem and needed counseling - failed to gain insight although attended counseling, would not accept responsibility - also denied substance abuse – TPR of both

**Matter of Amy B.**, 37 AD3d 600, 830 NYS2d 294 (2<sup>nd</sup> Dept. 2007)

Father and mother denied sex abuse – cannot simply deny all culpability or responsibility for conduct that the court had concluded happened – TPR on both

**Matter of James X.**, 37 AD3d 1003, 830 NYS2d 608 (3<sup>rd</sup> Dept. 2007)

Father denied sex abuse, would not go into treatment, refuses to accept responsibility, TPR

**Matter of Arelis Jasmin L.**, 39 AD3d 433, 835 NYS2d 108 (1<sup>st</sup> Dept. 2007)

Mother refuses to believe children were sexually abused by uncle and refuses to accept responsibility - TPR

**Matter of Gloria Melanie S.**, 1/10/08 (1<sup>st</sup> Dept. 2008)

Father refused to acknowledge sex abuse; agency not required to find a program that would accommodate his denial