

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

1590

**CAF 08-02593**

PRESENT: HURLBUTT, J.P., SMITH, FAHEY, AND CARNI, JJ.

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IN THE MATTER OF GIOVANNI K.

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ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES,  
PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

DAWN K., RESPONDENT-APPELLANT.

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PAUL A. NORTON, CLINTON, FOR RESPONDENT-APPELLANT.

JOHN A. HERBOWY, UTICA, FOR PETITIONER-RESPONDENT.

WILLIAM L. KOSLOSKY, LAW GUARDIAN, UTICA, FOR GIOVANNI K.

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Appeal from an order of the Family Court, Oneida County (Randal B. Caldwell, J.), entered December 10, 2008 in a proceeding pursuant to Social Services Law § 384-b. The order, among other things, terminated respondent's parental rights.

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

Memorandum: Respondent mother appeals from an order revoking a suspended judgment pursuant to Family Court Act § 633 and terminating her parental rights with respect to her son who is the subject of this proceeding. Contrary to the mother's contention, petitioner established by a preponderance of the evidence that the mother violated the terms and conditions of the suspended judgment (*see Matter of Dennis A.*, 64 AD3d 1191, 1192), and that termination of her parental rights was in the child's best interests (*see Matter of Aaron S.*, 15 AD3d 585; *Matter of Jillian D.*, 307 AD2d 311, 312, *lv denied* 1 NY3d 505). "More than mere participation in the programs offered by petitioner is required. Rather, [a]t a minimum, a parent is required to address and overcome the specific personal and familial problems which initially endangered or proved harmful to the child[ ], and which may in the future endanger or possibly harm the child[ ]" (*Matter of Bert M.*, 50 AD3d 1509, 1510, *lv denied* 11 NY3d 704 [internal quotation marks omitted]). "Although the mother participated in the services offered by petitioner, she did not successfully address or gain insight into the problems that led to the removal of the child and continued to prevent the child's safe return" (*Matter of Giovanni K.*, 62 AD3d 1242, 1243, *lv denied* 12 NY3d 715). The remaining contentions of the mother, i.e., that petitioner failed to provide services as required under the suspended judgment and that her due process rights were violated, are unreserved for our review

and in any event are without merit (see *Bert M.*, 50 AD3d at 1510; *Matter of Paige v Paige*, 50 AD3d 1542; *Matter of Jessica J.*, 44 AD3d 1132, 1134; *Matter of Adams H.*, 28 AD3d 213, 214).

Entered: December 30, 2009

Patricia L. Morgan  
Clerk of the Court