

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

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CAF 08-01219, CAF 08-00964

PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND LINDLEY, JJ.

IN THE MATTER OF RACHAEL N.

ONTARIO COUNTY DEPARTMENT OF SOCIAL SERVICES,
PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

CHRISTINE N. AND DOUGLAS M.,
RESPONDENTS-APPELLANTS.

TYSON BLUE, CANANDAIGUA, FOR RESPONDENT-APPELLANT CHRISTINE N.

VICTORIA L. KING, CANANDAIGUA, FOR RESPONDENT-APPELLANT DOUGLAS M.

JOHN W. PARK, COUNTY ATTORNEY, CANANDAIGUA (HOLLY A. ADAMS OF
COUNSEL), FOR PETITIONER-RESPONDENT.

MICHAEL BALLMAN, LAW GUARDIAN, CANANDAIGUA, FOR RACHAEL N.

Appeals from an order of the Family Court, Ontario County (Craig J. Doran, J.), entered April 22, 2008 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 parents appeal from an order terminating their parental rights pursuant to Social Services Law § 384-b on the ground of permanent neglect. We affirm. Petitioner met its initial burden of establishing by clear and convincing evidence that it made the requisite diligent efforts to encourage and strengthen the parents' relationship with the child (see § 384-b [7] [a]; *Matter of Geoffrey N.*, 16 AD3d 1167; see generally *Matter of Star Leslie W.*, 63 NY2d 136, 142). The parents thereafter failed to establish that they had "a meaningful plan for the child['s] future, including that [they have] addressed the problems that caused the removal" of the child (*Matter of Kaitlyn R.*, 279 AD2d 912, 914).

Contrary to the contention of respondent mother, the evidence at the hearing establishes that she was unable to plan for the future of the child inasmuch as she failed to correct the conditions that led to removal of the child. Further, although respondent father had made some progress with his mental health, anger and substance abuse issues after the filing of the petition, the record of the dispositional hearing establishes that he was still abusing drugs, drinking alcohol,

had anger issues, and refused to visit with the child because he objected to the visitation procedures. "While continually finding fault with or no need for various programs and personnel, [the parents] 'gained no insight into their own behavior which had been so physically and emotionally damaging to the child[] and had required [her] removal' " (*Matter of Nathaniel T.*, 67 NY2d 838, 842).