

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

1042

CAF 10-01603

PRESENT: FAHEY, J.P., PERADOTTO, LINDLEY, SCONIERS, AND GREEN, JJ.

IN THE MATTER OF ELIZABETH J.

ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES,
PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

JOCELYN J., RESPONDENT-APPELLANT.

JOHN T. NASCI, ROME, FOR RESPONDENT-APPELLANT.

JOHN A. HERBOWY, COUNTY ATTORNEY, UTICA (DENISE J. MORGAN OF COUNSEL),
FOR PETITIONER-RESPONDENT.

WILLIAM L. KOSLOSKY, ATTORNEY FOR THE CHILD, UTICA, FOR ELIZABETH J.

Appeal from an order of the Family Court, Oneida County (James R. Griffith, J.), entered March 22, 2010 in a proceeding pursuant to Social Services Law § 384-b. The order terminated the parental rights of respondent.

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 and terminating her parental rights with respect to her daughter. Contrary to the mother's contention, petitioner established by a preponderance of the evidence that she violated the terms of the suspended judgment (*see Matter of Janasia H.*, 71 AD3d 1524, 1v denied 15 NY3d 701). In addition, Family Court properly concluded that termination of the mother's parental rights was in the child's best interests inasmuch as the foster family had expressed a desire to adopt the child, the mother was incarcerated and the suspended judgment expired more than two years prior to her earliest release date (*see Matter of Saboor C.*, 303 AD2d 1022). The court also properly determined that the mother failed to establish that it was in the child's best interests to have post-termination visitation with her (*see Matter of Sean H.*, 74 AD3d 1837, 1v denied 15 NY3d 708).

Entered: September 30, 2011

Patricia L. Morgan
Clerk of the Court