

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

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CAF 10-00959

PRESENT: CENTRA, J.P., FAHEY, CARNI, SCONIERS, AND GREEN, JJ.

IN THE MATTER OF SHAWN A., JR., SHANE A.,
ZACHARY A., AND LENA A.

MEMORANDUM AND ORDER

ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES,
PETITIONER-RESPONDENT;

MILISA C.B., RESPONDENT-APPELLANT.

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

JOSEPH T. JARZEMBEK, BUFFALO, FOR PETITIONER-RESPONDENT.

KENNETH W. GIBBONS, ATTORNEY FOR THE CHILD, BUFFALO, FOR SHAWN A., JR.

DAVID C. SCHOPP, ATTORNEY FOR THE CHILDREN, THE LEGAL AID BUREAU OF
BUFFALO, INC., BUFFALO (CHARLES D. HALVORSEN OF COUNSEL), FOR SHANE
A., ZACHARY A. AND LENA A.

Appeal from an order of the Family Court, Erie County (Patricia A. Maxwell, J.), entered April 8, 2010 in a proceeding pursuant to Social Services Law § 384-b. The order terminated the parental rights of respondent.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: Respondent mother appeals from an order terminating her parental rights and freeing her children for adoption. The mother failed to appear at the dispositional hearing and her attorney, although present, elected not to participate in her absence. "Under those circumstances, we conclude that . . . the mother's unexplained failure to appear constituted a default" (*Matter of Tiara B.* [appeal No. 2], 64 AD3d 1181, 1182; see *Matter of Vanessa M.*, 263 AD2d 542, 543; *Matter of Amy Lee P.*, 245 AD2d 1136). We therefore dismiss this appeal (see CPLR 5511; *Tiara B.*, 64 AD3d at 1182; *Amy Lee P.*, 245 AD2d 1136).

Entered: June 10, 2011

Patricia L. Morgan
Clerk of the Court