

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

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CAF 17-02141

PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, TROUTMAN, AND WINSLOW, JJ.

IN THE MATTER OF ABIGAIL H. AND BREANNA D.

ONONDAGA COUNTY DEPARTMENT OF CHILDREN AND
FAMILY SERVICES, PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

DANIEL D., RESPONDENT-APPELLANT.

D.J. & J.A. CIRANDO, PLLC, SYRACUSE (REBECCA L. KONST OF COUNSEL), FOR
RESPONDENT-APPELLANT.

ROBERT A. DURR, COUNTY ATTORNEY, SYRACUSE (MAGGIE SEIKALY OF COUNSEL),
FOR PETITIONER-RESPONDENT.

COURTNEY S. RADICK, OSWEGO, ATTORNEY FOR THE CHILDREN.

Appeal from an order of the Family Court, Onondaga County
(Michael L. Hanuszczak, J.), entered November 9, 2017 in a proceeding
pursuant to Social Services Law § 384-b. The order terminated the
parental rights of respondent with respect to the subject children.

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

Memorandum: In this proceeding pursuant to Social Services Law
§ 384-b, respondent father appeals from an order that, following his
admission of permanent neglect, adjudged the subject children
permanently neglected and, after a dispositional hearing, terminated
his parental rights. We affirm. Preliminarily, we note that the
portion of the order finding permanent neglect was entered on the
admission and consent of the father, and the father never moved to
vacate that finding or to withdraw his admission or consent. Thus,
the father's contention that his admission was not knowing or
voluntary, which is raised for the first time on appeal, is not
properly before us (*see Matter of Kh'Niayah D. [Niani J.]*, 155 AD3d
1649, 1650 [4th Dept 2017], *lv denied* 31 NY3d 901 [2018]; *Matter of*
Xavier O.V. [Sabino V.], 117 AD3d 1567, 1567 [4th Dept 2014], *lv*
denied 24 NY3d 903 [2014]; *see also Matter of Dah'Marii G. [Cassandra*
G.], 156 AD3d 1479, 1480 [4th Dept 2017]; *Matter of Martha S. [Linda*
M.S.], 126 AD3d 1496, 1497 [4th Dept 2015], *lv dismissed in part and*
denied in part 26 NY3d 941 [2015]).

Furthermore, the father's contention concerning the audio
recordings of the proceedings is not properly before us inasmuch as it
is raised for the first time on appeal (*see generally Ciesinski v Town*

of Aurora, 202 AD2d 984, 985 [4th Dept 1994]). In any event, that contention lacks merit inasmuch as the few gaps in the transcripts attributable to inaudible portions of the recordings are not significant and do not preclude meaningful appellate review (see *Matter of Haly S.W.*, 141 AD3d 1106, 1107 [4th Dept 2016]; *Matter of Devre S. [Carlee C.]*, 74 AD3d 1848, 1849 [4th Dept 2010]; *Matter of Savage v Cota*, 66 AD3d 1491, 1492 [4th Dept 2009]).

Entered: May 3, 2019

Mark W. Bennett
Clerk of the Court