

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

850

CAF 22-01107

PRESENT: WHALEN, P.J., LINDLEY, MONTOUR, GREENWOOD, AND NOWAK, JJ.

IN THE MATTER OF LIL' BRIAN J.Z.

ORLEANS COUNTY DEPARTMENT OF SOCIAL SERVICES,
PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

JESSICA J., RESPONDENT-APPELLANT.

LAW OFFICE OF VERONICA REED, SCHENECTADY (VERONICA REED OF COUNSEL),
FOR RESPONDENT-APPELLANT.

DANA A. GRABER, ALBION, FOR PETITIONER-RESPONDENT.

CHARLES PLOVANICH, ROCHESTER, ATTORNEY FOR THE CHILD.

Appeal from an order of the Family Court, Orleans County (Sanford A. Church, J.), entered June 14, 2022, in a proceeding pursuant to Social Services Law § 384-b. The order, inter alia, terminated the parental rights of respondent with respect to the subject child.

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 mother appeals from an order that, inter alia, terminated her parental rights with respect to the subject child on the ground of mental illness. We affirm.

We note at the outset that the mother contends that Family Court erred in relying on the testimony of the forensic psychologist who conducted virtual examinations of her because his opinion "was conclusory and lacked necessary information." The mother failed to object to the testimony of the psychologist on that ground, however, and thus failed to preserve her contention for our review (*see Matter of Aryn C. [Chelsea K.]*, 159 AD3d 1421, 1421 [4th Dept 2018], *lv denied* 31 NY3d 911 [2018]; *Matter of Jamiah Sharang C. [Kamila N.]*, 85 AD3d 453, 453 [1st Dept 2011], *lv denied* 17 NY3d 709 [2011]; *see also Matter of Nadya S. [Brauna S.]*, 133 AD3d 1243, 1244 [4th Dept 2015], *lv denied* 26 NY3d 919 [2016]).

Contrary to the mother's further contention, we conclude that petitioner established " 'by clear and convincing evidence that [the mother], by reason of mental illness, is presently and for the foreseeable future unable to provide proper and adequate care for [the] child[]' " (*Matter of Jason B. [Phyllis B.]*, 160 AD3d 1433,

1434 [4th Dept 2018], *lv denied* 32 NY3d 902 [2018]; see *Matter of Jason B. [Gerald B.]*, 155 AD3d 1575, 1575 [4th Dept 2017], *lv denied* 31 NY3d 901 [2018]). Testimony from the forensic psychologist established that the child "would be in danger of being neglected if [he] were returned to [the mother's] care at the present time or in the foreseeable future" (*Jason B.*, 160 AD3d at 1434).

Finally, with respect to the mother's contention that the court should have granted her a suspended judgment, we note that "[t]here is no statutory provision providing for a suspended judgment when parental rights are terminated based on mental illness" (*Matter of Matilda B. [Gerald B.]*, 187 AD3d 1677, 1679 [4th Dept 2020], *lv denied* 36 NY3d 905 [2021]; see *Matter of Jackalyne WW. [Kevin VV.]*, 195 AD3d 1092, 1096 [3d Dept 2021]; *Matter of Ernesto Thomas A.*, 5 AD3d 380, 381 [2d Dept 2004]).