

State appellate court upholds permanent neglect by incarcerated father

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Albany—An upstate appellate court has upheld a Tompkins County Family Court ruling that terminated the parental rights of a convicted felon and freed his children for adoption.

In a decision released Thursday (November 29, 2012), the Supreme Court's Appellate Division held that the Tompkins County Department of Social Services ("DSS) had made "diligent efforts to encourage and strengthen [the father's] relationship with his children," and affirmed the decision of the Family Court that held the father had permanently neglected his children.

According to the decision, the father is in state prison for "attempted assault in the first degree," and will not be eligible for parole until October 2013. In January 2010, the decision notes, the children (born in 2002 and 2003) were removed from their mother's home on neglect allegations and placed in DSS custody.

After the children were placed, the court held, the children's caseworker provided the father with permanency reports and information about his rights and responsibilities, facilitated written correspondence between him and the children, and sent him photographs and

sought his recommendations for a home for the children while he was in jail. However, the father's recommendations proved unsuitable, the court said.

"[W]hen his relatives were rejected, the only alternative he was able to propose was his homeless girlfriend, who apparently had no relationship with the children," the court wrote.

In addition, the court rejected the father's argument that the DSS should have brought the children to his prison for visits, given their ages, emotional concerns, and the distance between the prison and their foster homes.

DSS "proved by clear and convincing evidence that it made affirmative, repeated and meaningful efforts" on behalf of the father and the children, the court ruled. Therefore, it upheld the Family Court's ruling.

The real names of the father and the children were not released in the court order, to protect their privacy.

The father was represented in the appeal by Ithaca attorney Pamela Bleiwas. The DSS was represented by Joseph Cassidy. Ovid attorney Steven Getman was attorney for the children.

The complete court decision can be found here: <http://tinyurl.com/cs3ly3p>

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