

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D12606  
Y/hu

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Submitted - September 25, 2006

STEPHEN G. CRANE, J.P.  
GABRIEL M. KRAUSMAN  
ROBERT A. SPOLZINO  
PETER B. SKELOS, JJ.

2005-05909

DECISION & ORDER

In the Matter of Debraun M. (Anonymous).  
Administration for Children's Services, respondent;  
Walter C. (Anonymous), appellant.  
(Proceeding No. 1)

In the Matter of Jermaine M. (Anonymous).  
Administration for Children's Services, respondent;  
Walter C. (Anonymous), appellant.  
(Proceeding No. 2)

(Docket Nos. N-3936/04, N-3937/04)

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Salvatore C. Adamo, New York, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Grace Goodman of counsel; Doron P. Kenter on the brief), for respondent.

Steven Banks, New York, N.Y. (Tamara A. Steckler and Judith Stern of counsel),  
Law Guardian for the Children.

In related child protective proceedings pursuant to Family Court Act article 10, the father appeals from a fact-finding order of the Family Court, Richmond County (McElrath, J.), dated May 20, 2005, which, after a hearing, found that he had neglected the subject children.

ORDERED that the order is affirmed, without costs or disbursements.

November 14, 2006

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MATTER OF M. (ANONYMOUS), DEBRAUN  
MATTER OF M. (ANONYMOUS), JERMAINE

The Family Court's findings of neglect based on the father's failure to provide proper supervision and guardianship, and locking out the older child from his home are supported by a preponderance of the evidence. By leaving a then-eight-year-old child unsupervised in a busy airport, and by changing the home locks to prevent the older child from coming home, the father placed the children in imminent risk of harm (*see Matter of Antonio N.N.*, 28 AD3d 826, 827-828; *cf. Nicholson v Scopetta*, 3 NY3d 357, 368). Further, the record amply supports the Family Court's determination that the father's explanation for the eight-year-old child wandering by himself at the airport lacked credibility.

Alternatively, the finding that the father neglected the eight-year-old son was sufficient to support a finding of derivative neglect as to his older son (*see Matter of Christina Maria C.*, 89 AD2d 855).

CRANE, J.P., KRAUSMAN, SPOLZINO and SKELOS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court