

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

D12672  
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Submitted - October 6, 2006

FRED T. SANTUCCI, J.P.  
WILLIAM F. MASTRO  
ROBERT A. SPOLZINO  
STEVEN W. FISHER, JJ.

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2005-05138

DECISION, ORDER & JUDGMENT

In the Matter of John Patterson, et al., petitioners,  
v State of New York Office of Children and Family  
Services, et al., respondents.

(Index No. 21508/04)

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Joan B. Scherb, Commack, N.Y., for appellant.

Eliot Spitzer, Attorney-General, New York, N.Y. (Michelle Aronowitz and Patrick  
J. Walsh of counsel), for respondents.

In a proceeding pursuant to CPLR article 78 to review a determination of the State of New York Office of Children and Family Services dated June 2, 2004, which, after a hearing, denied the petitioners' application to amend a report maintained in the New York State Central Register of Child Abuse and Maltreatment, the appeal is from a judgment of the Supreme Court, Suffolk County (Henry, J.), entered June 13, 2005, which, in effect, denied the petition and dismissed the proceeding.

ORDERED that the appeal is dismissed and the judgment is vacated; and it is further,

ADJUDGED that the determination is confirmed, the petition is denied, and the proceeding is dismissed on the merits, with costs.

Since questions of substantial evidence are involved, this proceeding should have been transferred to this court pursuant to CPLR 7804(g). However, this court will treat the matter as one

November 21, 2006

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initially transferred here and will review the administrative determination de novo (*see Matter of Weingarten v Crime Victims Bd.*, 22 AD3d 763; *Matter of Tutuianu v New York State*, 22 AD3d 503; *Matter of Sureway Towing v Martinez*, 8 AD3d 490; *Matter of Kilafofski v Blackburne*, 201 AD2d 564).

Substantial evidence supported the determination. The petitioner's abuse of his stepdaughter having been established, there was a sound basis for the denial of his request to amend a report maintained in the New York State Central Register of Child Abuse and Maltreatment to prevent disclosure of the abuse to potential employers in light of his work as a nurse and drug counselor, which potentially brought him into contact with underage individuals (*see Matter of Castilloux v New York State Off. of Children and Family Servs.*, 16 AD3d 1061; *Matter of Jello v Perales*, 206 AD2d 532; *Matter of Mary Y. v Perales*, 186 AD2d 325; *Matter of Boyd v Perales*, 170 AD2d 245; *Matter of Sellnow v Perales*, 158 AD2d 846).

SANTUCCI, J.P., MASTRO, SPOLZINO and FISHER, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court