

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

D13761  
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Submitted - January 8, 2007

HOWARD MILLER, J.P.  
ANITA R. FLORIO  
MARK C. DILLON  
DANIEL D. ANGIOLILLO, JJ.

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2006-00809

DECISION & ORDER

In the Matter of Carmen L. (Anonymous).  
Suffolk County Department of Social Services,  
respondent; Eric M. (Anonymous), appellant.  
(Proceeding No. 1)

In the Matter of Efrin M. (Anonymous).  
Suffolk County Department of Social Services,  
respondent; Eric M. (Anonymous), appellant.  
(Proceeding No. 2)

In the Matter of Vanessa M. (Anonymous).  
Suffolk County Department of Social Services,  
respondent; Eric M. (Anonymous), appellant.  
(Proceeding No. 3)

In the Matter of Nathaniel M. (Anonymous).  
Suffolk County Department of Social Services,  
respondent; Eric M. (Anonymous), appellant.  
(Proceeding No. 4)

In the Matter of Victoria M. (Anonymous).  
Suffolk County Department of Social Services,

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MATTER OF L. (ANONYMOUS), CARMEN  
MATTER OF M. (ANONYMOUS), EFRIAN  
MATTER OF M. (ANONYMOUS), VANESSA  
MATTER OF M. (ANONYMOUS), NATHANIEL  
MATTER OF M. (ANONYMOUS), VICTORIA

respondent; Eric M. (Anonymous), appellant.  
(Proceeding No. 5)

(Docket Nos. N-13770-05, N-13775-05,  
N-13776-05, N-13780-05, N-13781-05)

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Richard L. Herzfeld, New York, N.Y., for appellant.

Christine Malafi, County Attorney, Central Islip, N.Y. (Brian B. Mulholland of counsel), for respondent.

Danielle I. Schwager, Centereach, N.Y., Law Guardian for the children.

In five related child protective proceedings pursuant to Family Court Act article 10, the father appeals, as limited by his brief, from so much of an order of fact-finding and disposition of the Family Court, Suffolk County (Freundlich, J.), entered January 3, 2006, as, after fact-finding and dispositional hearings, found that the father sexually abused the children Vanessa M. and Carmen L. and denied his request for supervised visitation with his biological children, Victoria M. and Nathaniel M.

ORDERED that the order of fact-finding and disposition is affirmed insofar as appealed from, without costs or disbursements.

Contrary to the father's contention, the Family Court properly conformed the petition to the proof to address the new allegations of the direct sexual abuse of the child Carmen L. (*see* Family Court Act § 1051[b]; *Matter of Latifah C.*, 34 AD3d 798; *Matter of Shawneece E.*, 110 AD2d 900). The court properly stated that it would give the father time to prepare an answer to the amended allegations, and he did not avail himself of this opportunity.

The Family Court's finding that the father committed direct sexual abuse of the children Vanessa M. and Carmen L. is supported by a preponderance of the evidence (*see Matter of Sylvia J.*, 23 AD3d 560, 562). Where, as here, the Family Court is primarily confronted with issues of credibility, its factual findings must be accorded great weight on appeal (*see Matter of Irene O.*, 38 NY2d 776, 777; *Matter of Sylvia J.*, *supra*).

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The Family Court's denial of the father's request for supervised visitation with his biological children, Victoria M. and Nathaniel M., was proper and in the children's best interests (*see Matter of Alaina E.*, 33 AD3d 1084, 1087; *Matter of Kathleen OO.*, 232 AD2d 784, 786).

MILLER, J.P., FLORIO, DILLON and ANGIOLILLO, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

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