

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

D14503  
W/cb

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Argued - January 16, 2007

HOWARD MILLER, J.P.  
ROBERT A. SPOLZINO  
ANITA R. FLORIO  
DANIEL D. ANGIOLILLO, JJ.

2006-01192

DECISION & JUDGMENT

In the Matter of Jan V. (Anonymous), et al., petitioners,  
v State of New York Office of Children and Family  
Services, et al., respondents.

(Index No. 14120/05)

Law Office of Peter D. Hoffman, P.C., Katonah, N.Y., for petitioners.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Robert H. Easton and  
Patrick J. Walsh of counsel; Lauren M. Matherne on the brief), for respondents.

Proceeding pursuant to CPLR article 78 to review a determination of David R. Peters, Director of the State Central Register, Division of Development and Prevention Services, State of New York Office of Children and Family Services, dated April 25, 2005, which denied the petitioners' application pursuant to Social Services Law § 422(5)(c) to expunge a sealed, unfounded report maintained by the New York State Central Register of Child Abuse and Maltreatment.

ADJUDGED that the petition is granted, on the law, with costs, the determination is annulled, and the respondents are directed to expunge the sealed, unfounded report maintained by the New York State Central Register of Child Abuse and Maltreatment which is the subject of this proceeding.

Since no administrative hearing was held, the petition does not raise a substantial evidence question pursuant to CPLR 7803(4), and should not have been transferred to this court pursuant to CPLR 7804(g). Nevertheless, this court will retain jurisdiction over the proceeding for

March 27, 2007

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OFFICE OF CHILDREN AND FAMILY SERVICES

reasons of judicial efficiency (*see Matter of Sunrise Manor Ctr. for Nursing & Rehabilitation v Novello*, 19 AD3d 426; *Matter of Frey v O'Reagan*, 216 AD2d 565).

The petitioners submitted clear and convincing proof that their older son's absences from school were justified. Accordingly, the sealed, unfounded report at issue here should have been expunged (*see Social Services Law § 422[5][c]*; *see also* 18 NYCRR 432.9).

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

ENTER:

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

James Edward Pelzer  
Clerk of the Court