

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

D15046  
Y/gts

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - April 10, 2007

ROBERT A. SPOLZINO, J.P.  
STEVEN W. FISHER  
JOSEPH COVELLO  
WILLIAM E. McCARTHY, JJ.

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2006-04022

DECISION & ORDER

In the Matter of Joshua Noel A. (Anonymous).  
St. Dominic's Home, et al., respondents;  
Osuardo H. (Anonymous), appellant.  
(Proceeding No. 1)

In the Matter of Andre Hasson A. (Anonymous).  
St. Dominic's Home, et al., respondents;  
Osuardo H. (Anonymous), appellant.  
(Proceeding No. 2)

(Docket Nos. B-4513-01, B-23514-02)

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Zvi Ostrin, New York, N.Y., for appellant.

Warren & Warren, P.C., Brooklyn, N.Y. (Ira L. Eras of counsel), for respondent.

David A. Freed, New York, N.Y., Law Guardian for Joshua Noel A.

Kristen Kimmel, New York, N.Y., Law Guardian for Andre Hasson A.

In two related proceedings pursuant to Social Services Law § 384-b to terminate parental rights, the former foster care parent of the subject children appeals, by permission, as limited by his brief, from so much of an order of the Family Court, Kings County (Yellen, R.), dated March 27, 2006, as, in the course of a permanency hearing, directed that the subject children immediately be moved to a new foster home pending completion of the hearing.

May 8, 2007

Page 1.

MATTER OF A. (ANONYMOUS), JOSHUA NOEL  
MATTER OF A. (ANONYMOUS), ANDRE HASSON

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

Under the circumstances presented, the Family Court providently exercised its discretion in directing that the subject children immediately be moved to a new foster home. Although the record reveals that both children had closely bonded with the appellant (*see James v Hickey*, 6 AD3d 536), the evidence also showed that the appellant lacked insight into the medical condition of one of the children, who displayed psychotic behavior which, if not properly treated, manifested in outbursts of physical violence. The evidence adduced at the permanency hearing supports the referee's finding that the appellant consistently failed to properly administer that child's prescription medication, and that, under the totality of the circumstances, temporarily moving both siblings to a new foster home pending completion of the permanency hearing would be in their best interests (*see Eschbach v Eschbach*, 56 NY2d 167, 172-173; *Friederwitzer v Friederwitzer*, 55 NY2d 89, 95-96; *cf. Brauch v Johnson*, 19 AD3d 799; *Banks-Nelson v Bane*, 214 AD2d 338).

The parties' remaining contentions are without merit.

SPOLZINO, J.P., FISHER, COVELLO and McCARTHY, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court