

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

D16046
G/gts

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Submitted - June 21, 2007

STEPHEN G. CRANE, J.P.
GLORIA GOLDSTEIN
MARK C. DILLON
EDWARD D. CARNI, JJ.

2006-10106
2006-10107

DECISION & ORDER

In the Matter of Joseph S. (Anonymous).
Suffolk County Department of Social Services,
respondent; Laura S. (Anonymous), appellant.

(Docket Nos. N-18381/06, N-18387/06)

Linda Braunsberg, Staten Island, N.Y., for appellant.

Christine Malafi, County Attorney, Central Islip, N.Y. (Keith R. McHugh of counsel),
for respondent.

Robert C. Mitchell, Central Islip, N.Y. (John B. Belmonte of counsel), Law Guardian
for the child.

In a neglect proceeding pursuant to Family Court Act article 10, the mother appeals (1), as limited by her brief, from so much of an order of the Family Court, Suffolk County (Budd, J.), dated October 19, 2006, as, after a hearing, directed that the subject child be temporarily removed from her physical custody, and (2) from a temporary order of protection of the same court also dated October 19, 2006, which prohibited her from having any contact with the subject child except for visitation supervised by the Suffolk County Department of Social Services, or a person approved by the Suffolk County Department of Social Services, for a period of one year.

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements; and it is further,

August 7, 2007

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MATTER OF S. (ANONYMOUS), JOSEPH

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

The evidence at the hearing provided a sound and substantial basis for the Family Court's determination that removal of the subject child from the physical custody of the mother was necessary to avoid imminent risk to the child's health (*see* Family Ct Act § 1027[a], [b][1]). That evidence included testimony relating to the injury to the child's forehead, the history of the usage of excessive corporal punishment, and the inability of the mother to protect the child from the father. Further, the court properly determined that reasonable efforts had been made by the Suffolk County Department of Social Services (hereinafter DSS) to prevent or eliminate the need for removal of the child from the home, and that continuation in the mother's physical custody would be contrary to the best interests of the child (*see* Family Ct Act § 1027[b][1]).

We perceive no basis upon which to disturb the temporary order of protection prohibiting the mother from having any contact with the subject child except for visitation supervised by the DSS, or a person approved by the DSS, for a period of one year.

CRANE, J.P., GOLDSTEIN, DILLON and CARNI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court