

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

D17451
W/kmg

_____AD3d_____

Submitted - November 30, 2007

WILLIAM F. MASTRO, J.P.
ROBERT A. LIFSON
JOSEPH COVELLO
DANIEL D. ANGIOLILLO, JJ.

2006-09542

DECISION & ORDER

In the Matter of Liza O. (Anonymous).
Administration for Children's Services, respondent;
Hector Sanchez, appellant.

(Docket No. NA-06259-04)

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

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Alan Beckoff and Ellen Ravitch of counsel), for respondent.

Steven Banks, New York, N.Y. (Tamara A. Steckler and Judith Stern of counsel),
Law Guardian for the child.

In a child protective proceeding pursuant to Family Court Act article 10, the maternal uncle appeals from an order of disposition of the Family Court, Kings County (Freeman, J.), dated September 28, 2006, which, upon a fact-finding order of the same court dated May 5, 2006, finding that he sexually abused the child Liza O., released the child to the custody of her mother and directed him to comply with an order of protection of the same court also dated September 28, 2006.

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

“[I]n a fact-finding hearing pursuant to Family Court Act article 10 to determine whether a child is abused or neglected, the statute requires that the finding of neglect or abuse be based on a preponderance of the evidence rather than clear and convincing evidence” (*Matter of Linda K.*, 132 AD2d 149, 154-155). Where the Family Court is primarily confronted with issues of

January 8, 2008

Page 1.

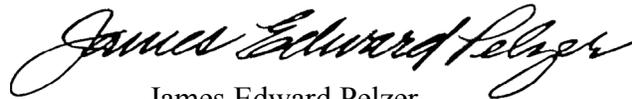
MATTER OF O. (ANONYMOUS), LIZA

credibility, its factual findings based upon such credibility determinations must be accorded great weight on appeal (*see Matter of Irene O.*, 38 NY2d 776, 777; *Matter of F. Children*, 207 AD2d 836, 837). Moreover, in child-protective proceedings, the unsworn hearsay statements of the victim are admissible, and, if corroborated by other evidence tending to support their reliability, will also support a finding of abuse or neglect (*see Commissioner of Social Services of City of New York v Evelyn R.*, 217 AD2d 697).

Here, the physician who treated the subject child testified that she exhibited physical signs which were consistent with, although not conclusive of, sexual abuse. This evidence, along with evidence of adverse changes in the child's behavior, was sufficient to corroborate the child's out-of-court statements regarding the abuse (*see Matter of Casandra C.*, 300 AD2d 303; *Matter of Tanya T.*, 252 AD2d 677, 678-679; *Matter of Darnell Mc.*, 230 AD2d 733, 734; *Matter of Latisha W.*, 221 AD2d 645). Therefore, the Family Court's finding that the appellant sexually abused the child is supported by a preponderance of the evidence.

MASTRO, J.P., LIFSON, COVELLO and ANGIOLILLO, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court