

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

D17474
Y/kmg

_____AD3d_____

Submitted - November 27, 2007

DAVID S. RITTER, J.P.
ANITA R. FLORIO
WILLIAM E. McCARTHY
THOMAS A. DICKERSON, JJ.

2005-11015

DECISION & ORDER

In the Matter of James C. (Anonymous).
Administration for Children's Services, respondent;
Gary C. (Anonymous), appellant.

(Docket No. N-111/03)

David Laniado, Brooklyn, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Pamela Seider Dolgow and Suzanne K. Colt of counsel), for respondent.

Steven Banks, New York, N.Y. (Tamara A. Steckler and Amy Hausknecht of counsel), for appellant.

In a child protective proceeding pursuant to Family Court Act article 10, the father appeals from an order of fact-finding of the Family Court, Richmond County (McElrath, J.), dated June 22, 2004, which, after a fact-finding hearing, found that he neglected the subject child.

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

The Family Court properly found that the petitioner sufficiently established, by a preponderance of the evidence (*see* Family Ct Act § 1046[b][i]), that the father neglected the subject child. The credible evidence adduced at the fact-finding hearing demonstrated that the father placed the subject child at imminent risk of harm by permitting the child's biological mother to have overnight visits with the child despite his awareness of the mother's history of drug and alcohol abuse.

January 15, 2008

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Moreover, the evidence demonstrated that the father had been admonished by the petitioner that the mother was not a proper caretaker for the subject child (*see Matter of Rakim W.*, 17 AD3d 376, 377) and the father was aware that a prior order of custody and visitation limited the mother, inter alia, to only five consecutive hours of supervised visitation with the child. Viewing the record as a whole, and according great weight to the hearing court's credibility determinations (*see Matter of Jedidah A.*, 39 AD3d 742, 743; *Matter of Joseph O.*, 28 AD3d 562, 563), we discern no basis to disturb the Family Court's finding of neglect.

The father's remaining contention is not properly before this Court on this appeal.

RITTER, J.P., FLORIO, McCARTHY and DICKERSON, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court