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

D18851
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_____AD3d_____ Submitted - March 18, 2008

STEVEN W. FISHER, J.P.
HOWARD MILLER
EDWARD D. CARNI
THOMAS A. DICKERSON, JJ.

2007-07197 DECISION & ORDER

In the Matter of Iouke H. (Anonymous).
Administration for Children's Services,
respondent; Terrence H. (Anonymous), appellant.
(Proceeding No. 1)

In the Matter of Jacoqua H. (Anonymous).
Administration for Children's Services,
respondent; Terrence H. (Anonymous), appellant.
(Proceeding No. 2)

In the Matter of Mahaadai H. (Anonymous).
Administration for Children's Services,
respondent; Terrence H. (Anonymous), appellant.
(Proceeding No. 3)

In the Matter of Naihaem H. (Anonymous).
Administration for Children's Services,
respondent; Terrence H. (Anonymous), appellant.
(Proceeding No. 4)

In the Matter of Marhosheda H. (Anonymous).
Administration for Children's Services,
respondent; Terrence H. (Anonymous), appellant.
(Proceeding No. 5)

In the Matter of Ahsunaiya H. (Anonymous).
Administration for Children's Services,
respondent; Terrence H. (Anonymous), appellant.
(Proceeding No. 6)

(Docket Nos. N-181-07, N-182-07, N-183-07,
N-184-07, N-185-07, N-186-07)

Lewis S. Calderon, Jamaica, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Francis F. Caputo and Elizabeth I. Freedman of counsel), for respondent.

Larry S. Bachner, Jamaica, N.Y., attorney for the children Iouke H., Mahaadai H., and Jacoqua H.

In six related child neglect proceedings pursuant to Family Court Act article 10, the father appeals from an order of the Family Court, Queens County (Richardson, J.), dated June 29, 2007, which, after a hearing pursuant to Family Court Act § 1028, denied his application to return the subject children to his custody.

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

Contrary to the father's contention, the Family Court providently exercised its discretion in denying his application pursuant to Family Court Act § 1028 to return the subject children to his custody at this juncture. There was sufficient evidence presented at the hearing, held pursuant to Family Court Act § 1028, that the children's emotional, mental, and physical health would be at imminent risk if they were returned to live with their father (*see* Family Ct Act § 1028).

In light of the foregoing and the father's failure to comply with prior directives of the Family Court to have the children evaluated by the Child Advocacy Center, we agree with the Family

Court's determination that the safer course is to not return the children to their father's custody pending a full fact-finding hearing (*see Matter of Robert H.,* 307 AD2d 293; *Matter of Marcos O.,* 270 AD2d 270).

FISHER, J.P., MILLER, CARNI and DICKERSON, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court