

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

D19949
C/prt

_____AD3d_____

Submitted - June 6, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. LIFSON
JOSEPH COVELLO
RUTH C. BALKIN, JJ.

2007-07010

DECISION & JUDGMENT

In the Matter of Tommy Gonzalez, appellant,
v Suffolk County Department of Social Services
Child Protective Services, et al., respondents.

(Index No. 18550/06)

Mitchell Dranow, Mineola, N.Y., for appellant.

Christine Malafi, County Attorney, Hauppauge, N.Y. (Leonard G. Kapsalis of counsel), for respondent Suffolk County Department of Social Services Child Protective Services.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Michael S. Belohlavek and David Lawrence III of counsel), for respondents New York State Office of Children and Family Services and New York State Central Register of Child Abuse and Maltreatment.

Proceeding pursuant to CPLR article 78 to review a determination of the respondent New York State Office of Children and Family Services dated July 12, 2006, which, after a hearing, denied the petitioner's request to amend a report maintained by the respondent New York State Central Register of Child Abuse and Maltreatment as unfounded or to have his name expunged from the respondent New York State Central Register of Child Abuse and Maltreatment.

ADJUDGED that the determination is confirmed, the petition is denied, and the proceeding is dismissed on the merits, with one bill of costs to the respondents appearing separately and filing separate briefs.

August 5, 2008

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DEPARTMENT OF SOCIAL SERVICES CHILD PROTECTIVE SERVICES

The record contains substantial evidence to support the determination by the respondent New York State Office of Children and Family Services that the petitioner committed acts of sexual abuse and maltreatment (*see Matter of Steward v Mulligan*, 47 AD3d 822, 823; *Matter of Patterson v State of N.Y. Off. of Children & Family Servs.*, 34 AD3d 684; *Matter of Sheomber v New York State Off. of Children & Family Servs.*, 22 AD3d 761, 762). While the bulk of the proof submitted by the respondent Suffolk County Department of Social Services Child Protective Services constituted hearsay, it was sufficient to serve as the basis for the determination that the petitioner committed acts of sexual abuse and maltreatment (*see Matter of Steward v Mulligan*, 47 AD3d at 823).

The petitioner's remaining contentions are either unpreserved for appellate review or without merit.

RIVERA, J.P., LIFSON, COVELLO and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court