

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

D20698  
Y/hu

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Submitted - September 22, 2008

PETER B. SKELOS, J.P.  
STEVEN W. FISHER  
THOMAS A. DICKERSON  
ARIEL E. BELEN, JJ.

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2007-02277

DECISION & ORDER

In the Matter of Derek J. (Anonymous).  
Administration for Children's Services,  
respondent; Dina J. (Anonymous), appellant.  
(Proceeding No. 1)

In the Matter of Devon M. (Anonymous).  
Administration for Children's Services,  
respondent; Dina J. (Anonymous), appellant.  
(Proceeding No. 2)

In the Matter of Devoniqua M. (Anonymous).  
Administration for Children's Services,  
respondent; Dina J. (Anonymous), appellant.  
(Proceeding No. 3)

In the Matter of Devonique M. (Anonymous).  
Administration for Children's Services,  
respondent; Dina J. (Anonymous), appellant.  
(Proceeding No. 4)

(Docket Nos. N-02580-05, N-02581-05,  
N-02582-05, N-02583-05)

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MATTER OF J. (ANONYMOUS), DEREK  
MATTER OF M. (ANONYMOUS), DEVON  
MATTER OF M. (ANONYMOUS), DEVONIQUE  
MATTER OF M. (ANONYMOUS), DEVONIQUE

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

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

Catherine S. Bridge, Staten Island, N.Y., for Derek J.

Steven Banks, New York, N.Y. (Tamara A. Steckler and Susan Clement of counsel), for Devon M., Devoniqua M., and Devonique M.

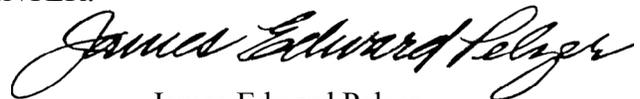
In four related child protective proceedings pursuant to Family Court Act article 10, the mother appeals from so much of an order of fact-finding of the Family Court, Richmond County (McElrath, J.), dated February 1, 2007, as, after a fact-finding hearing, found that she neglected the children Devon M. and Devonique M. and derivatively neglected the children Derek J. and Devoniqua M.

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

Contrary to the mother's contention, the Family Court's finding of neglect as to the children Devon M. and Devonique M. based on her use of excessive corporal punishment is supported by a preponderance of the evidence (*see* Family Ct Act § 1012[f][i][B]; § 1046[b][i]). The out-of-court statements of those children that their mother beat them with a wire or belt were sufficiently corroborated by the caseworker's observations of the injuries and the nurses' reports of the injuries (*see* Family Ct Act § 1046[b][i]; *Matter of Joshua B.*, 28 AD3d 759; *Matter of Joseph O.*, 28 AD3d 562; *Matter of Sheneika V.*, 20 AD3d 541; *Matter of Jonathan W.*, 17 AD3d 374). Furthermore, because the mother's conduct towards Devon M. and Devonique M. demonstrated a fundamental defect in her understanding of parental duties relating to the care of children, there was sufficient evidence to make a finding of derivative neglect as to Derek J. and Devoniqua M. (*see* Family Ct Act § 1046[a][i]; *see also* *Matter of Joshua R.*, 47 AD3d 465; *Matter of Jasmine A.*, 18 AD3d 546; *Matter of Christina Maria C.*, 89 AD2d 855).

SKELOS, J.P., FISHER, DICKERSON and BELEN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

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