

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

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_____AD3d_____

Submitted - October 2, 2008

STEVEN W. FISHER, J.P.
JOSEPH COVELLO
WILLIAM E. McCARTHY
JOHN M. LEVENTHAL, JJ.

2007-11656

DECISION & ORDER

In the Matter of Jasmine D. (Anonymous).
Suffolk County Department of Social Services,
respondent; James D. (Anonymous), appellant.

(Docket No. N-16331-07)

Glenn Gucciardo, Northport, N.Y., for appellant.

Christine Malafi, County Attorney, Central Islip, N.Y. (Keith R. McHugh of counsel),
for respondent.

Robert C. Mitchell, Central Islip, N.Y. (Howard Gardos of counsel), for the child.

In a neglect proceeding pursuant to Family Court Act article 10, the father appeals,
from an order of fact-finding and disposition of the Family Court, Suffolk County (Kelly, J.), dated
November 20, 2007, which, after a fact-finding and dispositional hearing, inter alia, found that he
neglected the subject child.

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

In a child protective proceeding, the party seeking to establish neglect must show,
“first, that a child's physical, mental or emotional condition has been impaired or is in imminent danger
of becoming impaired and second, that the actual or threatened harm to the child is a consequence
of the failure of the parent or caretaker to exercise a minimum degree of care in providing the child
with proper supervision or guardianship” (*Nicholson v Scopetta*, 3 NY3d 357, 368; see *Matter of
Tajani B.*, 49 AD3d 876; *Matter of Dimitriy R.*, 39 AD3d 866; Family Ct Act § 1012[f]).

The petitioner proved by a preponderance of the evidence that the subject child was

October 28, 2008

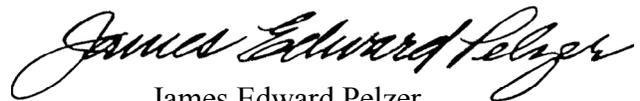
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neglected by the father (*see* Family Ct Act § 1046[b][i]). The evidence presented at the hearing was sufficient to prove that the father, while in a homeless shelter, locked himself in a barricaded room while he shaved the child's head with a razor, and was in a combative state while he threatened a shelter staff member with bodily harm in the presence of the child, thereby creating an imminent danger that the child's physical, mental, and emotional health would be harmed (*see Matter of Nassau County Dept. of Social Servs. v Denise J.*, 87 NY2d 73, 79; *Matter of Aaliyah G.*, 51 AD3d 918; *Matter of Aminat O.*, 20 AD3d 480, 481).

FISHER, J.P., COVELLO, McCARTHY and LEVENTHAL, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court