

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

D21487  
C/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - November 20, 2008

WILLIAM F. MASTRO, J.P.  
HOWARD MILLER  
RUTH C. BALKIN  
WILLIAM E. McCARTHY, JJ.

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2007-08471

DECISION & ORDER

In the Matter of Whitney B. (Anonymous).  
Administration for Children's Services, respondent;  
Errol B. (Anonymous), appellant.  
(Proceeding No. 1)

In the Matter of Tatiana B. (Anonymous).  
Administration for Children's Services, respondent;  
Errol B. (Anonymous), appellant.  
(Proceeding No. 2)

(Docket Nos. N-16900-06, N-16901-06)

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Dawn M. Shammas, Jamaica, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Julian L. Kalkstein of counsel; Jorge X. Camacho on the brief), for respondent.

Steven Banks, New York, N.Y. (Tamara A. Steckler and Mitchell Katz of counsel), attorney for the children.

In two related child protective proceedings pursuant to Family Court Act article 10, the father appeals from an order of commitment of the Family Court, Queens County (Richardson-Mendelson, J.), dated May 7, 2007, which, after a hearing, in effect, determined that he had willfully violated the terms of a temporary order of protection of the same court dated March 8, 2007, and committed him to the New York City Department of Corrections for a term of imprisonment not to exceed six months.

December 16, 2008

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MATTER OF B. (ANONYMOUS), WHITNEY  
MATTER OF B. (ANONYMOUS), TATIANA

ORDERED that the appeal from so much of the order of commitment as committed the father to the New York City Department of Corrections for a term of imprisonment not to exceed six months is dismissed as academic, as the period of imprisonment has expired (*see Matter of Greene v Holmes*, 31 AD3d 760; *Matter of Bradley v Beneduce*, 24 AD3d 546); and it is further,

ORDERED that the order of commitment is affirmed insofar as reviewed, without costs or disbursements.

The petitioner established by a fair preponderance of the evidence that the father willfully and without just cause violated the temporary order of protection. The evidence at the hearing established that, after having been apprised by the Family Court that the temporary order of protection, among other things, required that he have no unsupervised contact with the children, the father approached one child after school, put her into a car against her will, and drove around with her for several hours. Accordingly, the Family Court properly determined that the father violated the temporary order of protection (*see Family Ct Act § 1072; Matter of Jazmone S.*, 48 AD3d 823; *Matter of Christine G.*, 36 AD3d 615; *Matter of Department of Social Servs. [Mario Q.]*, 228 AD2d 677, 678).

MASTRO, J.P., MILLER, BALKIN and McCARTHY, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court