

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

D23069
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_____AD3d_____

Argued - March 17, 2009

PETER B. SKELOS, J.P.
STEVEN W. FISHER
HOWARD MILLER
RANDALL T. ENG, JJ.

2008-02726

DECISION & ORDER

In the Matter of Domyne F. (Anonymous).
Administration for Children's Services, petitioner-
appellant; Sean C. (Anonymous), respondent; Steven
Banks, nonparty-appellant.
(Proceeding No. 1)

In the Matter of Deyon C. (Anonymous).
Administration for Children's Services, petitioner-
appellant; Sean C. (Anonymous), respondent.
(Proceeding No. 2)

In the Matter of Jordon C. (Anonymous).
Administration for Children's Services, petitioner-
appellant; Sean C. (Anonymous), respondent.
(Proceeding No. 3)

(Docket Nos. N-8190-04, N-8191-04, N-8192-04)

Steven Banks, New York, N.Y. (Tamara A. Steckler and Claire V. Merkin of
counsel), attorney for the child Domyne F., named here as Domyne F.,
appellant.

May 5, 2009

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MATTER OF F. (ANONYMOUS), DOMYNQUE
MATTER OF C. (ANONYMOUS), DEYON
MATTER OF C. (ANONYMOUS), JORDON

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Kristin M. Helmers and Suan B. Eisner of counsel), for the petitioner-appellant.

Toba Beth Stutz, Jamaica, N.Y., for respondent.

Dean Kusakabe, Forest Hills, N.Y., attorney for the children Deyon C. and Jordon C.

In three related child protective proceedings pursuant to Family Court Act article 10, the petitioner appeals from an order of the Family Court, Queens County (Friedman, J.), dated March 21, 2008, which, after a fact-finding hearing, dismissed the petitions, and the attorney for the child Domynque F., named here as Domynque F., separately appeals, as limited by his brief, from so much the same order as dismissed the petition asserted on that child's behalf.

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

Family Court Act § 1046(b)(i) requires a finding of abuse or neglect of a child to be supported by a preponderance of the evidence (*see Matter of Philip M.*, 82 NY2d 238, 243-244; *Matter of Tammie Z.*, 66 NY2d 1, 3; *Matter of Commissioner of Social Servs. v Lorenzo M.*, 239 AD2d 498, 498). Deference should be accorded to the Family Court's assessments of the credibility of witnesses, although an appellate court is free to make its own credibility assessments. Under the circumstances of this case, we cannot say that the Family Court's findings were not supported by a preponderance of the evidence.

SKELOS, J.P., FISHER, MILLER and ENG, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court