

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

D25056
G/kmg

_____AD3d_____

Submitted - October 30, 2009

PETER B. SKELOS, J.P.
RANDALL T. ENG
LEONARD B. AUSTIN
SHERI S. ROMAN, JJ.

2008-11037

DECISION & ORDER

In the Matter of Grant W. (Anonymous).
Administration for Children's Services,
respondent; Raphael A. (Anonymous), appellant.
(Proceeding No. 1)

In the Matter of Lyneve A. (Anonymous).
Administration for Children's Services,
respondent; Raphael A. (Anonymous), appellant.
(Proceeding No. 2)

(Docket Nos. N-01610-07, N-01611-07)

Edward E. Caesar, Brooklyn, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Edward F.X. Hart and
Drake A. Colley of counsel), for respondent.

Matthew J. Kazansky, Brooklyn, N.Y., attorney for the child Grant W. (no brief filed).

Steven Banks, New York, N.Y. (Tamara A. Steckler and John Newberry of counsel),
attorney for the child Lyneve A.

In two related child protective proceedings pursuant to Family Court Act article 10,
the father appeals, as limited by his brief, from so much of an order of fact-finding and disposition of
the Family Court, Kings County (Hamill, J.), dated July 11, 2008, as, after a hearing, found that he
sexually abused the child Lyneve A., and derivatively neglected the child Grant W.

November 17, 2009

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MATTER OF W. (ANONYMOUS), GRANT
MATTER OF A. (ANONYMOUS), LYNEVE

ORDERED that the order of fact-finding and disposition is affirmed insofar as appealed from, without costs or disbursements.

Based upon our review of the record and deferring to the Family Court's resolution of credibility issues (*see Matter of Irene O.*, 38 NY2d 776, 777; *Matter of Liza O.*, 47 AD3d 632; *Matter of Barbara S.*, 244 AD2d 556, 557), we conclude that the Family Court's determination that the father sexually abused the child Lyneve A. is supported by a preponderance of the evidence (*see* Family Ct Act § 1046[b][i]; *Matter of Jasmine A.*, 18 AD3d 546, 548-549; *Matter of Nathaniel TT.*, 265 AD2d 611, 613-614).

Additionally, while a finding of sexual abuse of one child does not, by itself, establish that other children in the household have been derivatively neglected, here, the father's abuse of his daughter evinced a flawed understanding of his duties as a parent and impaired parental judgment sufficient to support the Family Court's finding of derivative neglect of the child Grant W. (*see Matter of Brian I.*, 51 AD3d 792, 793; *Matter of Abigail S.*, 21 AD3d 380, 381; *Matter of Raymond M.*, 13 AD3d 377, 377-378).

SKELOS, J.P., ENG, AUSTIN and ROMAN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court