

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

D25057
C/kmg

_____AD3d_____

Argued - October 29, 2009

REINALDO E. RIVERA, J.P.
THOMAS A. DICKERSON
L. PRISCILLA HALL
PLUMMER E. LOTT, JJ.

2008-09528

DECISION & JUDGMENT

In the Matter of Richard R. (Anonymous), petitioner,
v Gladys Carrion, etc., et al., respondents.

(Index No. 22940/07)

Steinberg & Boyle, LLP, East Islip, N.Y. (Robert G. Steinberg of counsel), for petitioner.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Michael S. Belohlavek and Oren L. Zeve of counsel; Allison Wuertz on the brief), for respondents.

Proceeding pursuant to CPLR article 78 to review a determination of the Commissioner of the New York State Office of Children and Family Services dated August 28, 2007, which, after a hearing, denied the petitioner's application, inter alia, to amend and seal a report maintained by the New York State Central Register of Child Abuse and Maltreatment.

ADJUDGED that the determination is confirmed, the petition is denied, and the proceeding is dismissed on the merits, without costs or disbursements.

Our review of the determination of the Commissioner of the New York State Office of Children and Family Services that the petitioner maltreated the subject child is limited to whether the determination was supported by substantial evidence (*see Matter of Steward v Mulligan*, 47 AD3d 822; *Matter of Lynnann P. v Suffolk County Dept. of Social Servs.*, 28 AD3d 484, 485). Substantial evidence "means such relevant proof as a reasonable mind may accept as adequate to support a conclusion or ultimate fact" (*300 Gramatan Ave. Assoc. v State Div. of Human Rights*, 45 NY2d 176, 180; *see Matter of Joseph v Johnson*, 27 AD3d 563).

November 17, 2009

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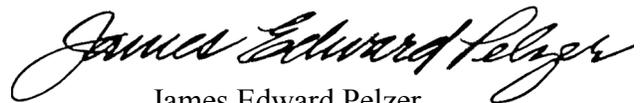
MATTER OF R. (ANONYMOUS) v CARRION

Contrary to the petitioner's contention, the determination that he maltreated the subject child by failing to provide proper supervision or guardianship was supported by substantial evidence (*see* Family Ct Act § 1012[f][i][B]; *Matter of Blythe v Carrion*, 63 AD3d 1059, 1059-1060; *Matter of Joseph O.*, 28 AD3d 562, 563; *Matter of Sheomber v New York State Off. of Children & Family Servs.*, 22 AD3d 761, 762; *Matter of Solivan v Johnson*, 9 AD3d 467).

As the determination that the petitioner's maltreatment of the child was relevant and reasonably related to the petitioner's employment in child care was likewise supported by substantial evidence (*see* Social Services Law § 422[8][c][ii]; *Matter of Solivan v Johnson*, 9 AD3d 467), the determination must be confirmed, the petition denied, and the proceeding dismissed on the merits.

RIVERA, J.P., DICKERSON, HALL and LOTT, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court