

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

D25142  
W/prt

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

Submitted - October 20, 2009

REINALDO E. RIVERA, J.P.  
ANITA R. FLORIO  
HOWARD MILLER  
L. PRISCILLA HALL, JJ.

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2008-07644

DECISION & ORDER

In the Matter of Carmen C. (Anonymous).  
Orange County Department of Social Services,  
petitioner-respondent; Margarita N. (Anonymous),  
appellant, et al., respondents.  
(Proceeding No. 1)

In the Matter of Ida R. (Anonymous).  
Orange County Department of Social Services,  
petitioner-respondent; Margarita N. (Anonymous),  
appellant, et al., respondents.  
(Proceeding No. 2)

In the Matter of Juan R. (Anonymous).  
Orange County Department of Social Services,  
petitioner-respondent; Margarita N. (Anonymous),  
appellant, et al., respondents.  
(Proceeding No. 3)

In the Matter of Miguel R. (Anonymous).  
Orange County Department of Social Services,  
petitioner-respondent; Margarita N. (Anonymous),  
appellant, et al., respondents.  
(Proceeding No. 4)

(Docket Nos. NA-5197/07, NA-5198/07, NA-5199/07,  
NA-5200/07)

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MATTER OF C. (ANONYMOUS), CARMEN  
MATTER OF R. (ANONYMOUS), IDA  
MATTER OF R. (ANONYMOUS), JUAN  
MATTER OF R. (ANONYMOUS), MIGUEL

John F. McGlynn, Rockville Centre, N.Y., for appellant.

David Darwin, County Attorney, Goshen, N.Y. (Peter R. Schwarz of counsel), for petitioner-respondent.

Carrieri & Carrieri, Mineola, N.Y. (Ralph R. Carrieri of counsel), attorney for the children.

In four related abuse and neglect proceedings pursuant to Family Court Act article 10, the mother appeals, as limited by her brief, from so much of an order of fact-finding of the Family Court, Orange County (Bivona, J.), entered July 10, 2008, as, after a fact-finding hearing, found that she had neglected the children Carmen C. and Ida R., and derivatively neglected the children Juan R. and Miguel R.

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

The petitioner alleged that the mother of the subject children left the children unsupervised with their grandfather, knowing that the grandfather had a propensity for sexually abusing children, as he had sexually abused the mother when she was a child. As a result, Carmen C. and Ida R. were abused by their grandfather. Thus, the mother failed to provide proper supervision and guardianship, which resulted in actual harm to the children, Carmen C. and Ida R. (*see* Family Ct Act § 1012[f][i][B]; *Matter of Brice L.*, 29 AD3d 910).

Based upon our review of the record, and deferring to the Family Court's resolution of credibility issues (*see Matter of Candace S.*, 38 AD3d 786, 787), we conclude that the Family Court's determination that the mother neglected Carmen C. and Ida R. is supported by a preponderance of the evidence (*see* Family Ct Act § 1046[b][i]; *Matter of Mia P.*, 63 AD3d 1160). Proof of the mother's neglect of Carmen C. and Ida R. was sufficient to establish that she derivatively neglected the children's siblings, Juan R. and Miguel R. (*see Matter of Tristan R.*, 63 AD3d 1075, 1076).

RIVERA, J.P., FLORIO, MILLER and HALL, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

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