

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

D25799
O/kmg

_____AD3d_____

Submitted - December 15, 2009

STEVEN W. FISHER, J.P.
HOWARD MILLER
RANDALL T. ENG
L. PRISCILLA HALL, JJ.

2009-03095
2009-03097

DECISION & ORDER

In the Matter of Tyquon I. (Anonymous).
Administration for Children's Services,
respondent; Linda J. (Anonymous), appellant.

(Docket No. N-22968-06)

Matthew M. Lupoli, Flushing, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Tahirih Sadrieh of
counsel; Joshua Gajer on the brief), for respondent.

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

In a child protective proceeding pursuant to Family Court Act article 10, the mother appeals from (1) a fact-finding order of the Family Court, Kings County (Hamill, J.), dated August 13, 2008, which, after a hearing, determined that she neglected the subject child within the meaning of Family Court Act § 1012(f)(i)(B), and (2) an order of disposition of the Family Court, Kings County (Olshansky, J.), dated March 4, 2009, which, upon the fact-finding order, and after a hearing, inter alia, released the child to the custody of the mother under the supervision of the Administration for Children's Services for a period of six months.

ORDERED that the appeal from the fact-finding order is dismissed, without costs or disbursements, as the fact-finding order was superseded by the order of disposition and is brought up for review on the appeal from the order of disposition; and it is further,

ORDERED that the appeal from so much of the order of disposition as released the child to the custody of the mother under the supervision of the Administration for Children's Services for a period of six months is dismissed as academic (*see Matter of Derek P.*, 43 AD3d 938), without costs or disbursements; and it is further,

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

Contrary to the mother's contention, the Family Court's finding that she neglected the child by inflicting excessive corporal punishment is supported by a preponderance of the evidence (*see* Family Court Act § 1046[b][i]; § 1012[f][i][B]; *Matter of Isaiah S.*, 63 AD3d 948; *Matter of Daniel W.*, 56 AD3d 483; *Matter of Fred Darryl B.*, 41 AD3d 276).

The mother's remaining contentions are without merit.

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

ENTER:



James Edward Pelzer
Clerk of the Court