

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

D25981
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_____AD3d_____

Submitted - January 8, 2010

REINALDO E. RIVERA, J.P.
JOHN M. LEVENTHAL
L. PRISCILLA HALL
SANDRA L. SGROI, JJ.

2008-03040
2008-03045

DECISION & ORDER

In the Matter of Joshua N. (Anonymous).
Dutchess County Department of Social Services,
petitioner-respondent, Matthew F. (Anonymous),
appellant; Jennifer F. (Anonymous), nonparty-
respondent.
(Proceeding No. 1)

In the Matter of Janelle S. (Anonymous).
Dutchess County Department of Social Services,
petitioner-respondent, Matthew F. (Anonymous),
appellant; Jennifer F. (Anonymous), nonparty-
respondent.
(Proceeding No. 2)

In the Matter of Ja'Sire F. (Anonymous).
Dutchess County Department of Social Services,
petitioner-respondent, Matthew F. (Anonymous),
appellant; Jennifer F. (Anonymous), nonparty-
respondent.
(Proceeding No. 3)

(Docket Nos. N-2934-06, N-2935-06, N-2936-06,
N-2937-06, N-358-07, N-359-07)

Arza Feldman, Uniondale, N.Y. (Steven Feldman of counsel), for appellant.

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MATTER OF S. (ANONYMOUS), JANELLE
MATTER OF F. (ANONYMOUS), Ja'SIRE

Ronald L. Wozniak, County Attorney, Poughkeepsie, N.Y. (Laura Gail Skojec of counsel), for petitioner-respondent.

Dianne Braun Hanley, P.C., Katonah, N.Y., attorney for the children.

In related child protective proceedings pursuant to Family Court Act article 10, Matthew F. appeals, as limited by his brief, from (1) so much of an order of the Family Court, Dutchess County (Sammarco, J.), dated February 11, 2008, as denied his cross motion to vacate an order of fact-finding and disposition of the same court dated December 11, 2006, which, upon his default in appearing at fact-finding and dispositional hearings, found that he neglected and abused the child Joshua N. and derivatively neglected and abused the child Janelle S., and, inter alia, placed the children in the custody of the Commissioner of Social Services of Dutchess County, and (2) so much of an order of the same court, also dated February 11, 2008, as denied his cross motion to dismiss the neglect/abuse petitions pertaining to the child Ja'Sire F.

ORDERED that the orders dated February 11, 2008, are affirmed insofar as appealed from, without costs or disbursements.

The Family Court providently exercised its discretion in denying Matthew F.'s cross motion to vacate the order of fact-finding and disposition dated December 11, 2006, entered upon his default, pertaining to the children Joshua N. and Janelle S. The court properly concluded that Matthew F. willfully defaulted in failing to appear at the neglect/abuse hearings and that he did not offer a meritorious defense (*see* Family Ct Act § 1042; *see also* CPLR 5015[a][1]; *Matter of Princess M.*, 58 AD3d 854).

The Family Court properly denied Matthew F.'s cross motion to dismiss the neglect/abuse petitions pertaining to the child Ja'Sire F. (*see Matter of Dutchess County Dept. of Social Servs. v Douglas E.*, 191 AD2d 694; *see also Matter of Amber C.*, 38 AD3d 538).

RIVERA, J.P., LEVENTHAL, HALL and SGROI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

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