

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

D28684  
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Submitted - October 4, 2010

REINALDO E. RIVERA, J.P.  
DANIEL D. ANGIOLILLO  
CHERYL E. CHAMBERS  
LEONARD B. AUSTIN, JJ.

2009-08614

DECISION & ORDER

In the Matter of Elijah O. (Anonymous).  
Administration for Children's Services, respondent;  
Marilyn O. (Anonymous), appellant.

(Docket No. N-2966-08)

Robert Hausner, Mineola, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Larry A. Sonnenshein  
and Sharyn Rootenberg of counsel; Amol Sinha on the brief), for respondent.

Alan S. Cabelly, Jamaica, N.Y., attorney for the child.

In a child protective proceeding pursuant to Family Court Act article 10, the mother appeals from an order of the Family Court, Queens County (McGowan, J.), dated August 5, 2009, which denied her application pursuant to Family Court Act § 1028(a) for the return of her son Elijah O. to her custody.

ORDERED that the order is affirmed, without costs or disbursements.

Contrary to the mother's contention, the Family Court properly denied her application pursuant to Family Court Act § 1028(a) to return the subject child to her custody. The evidence adduced at the hearing established that returning the child to the mother would present an imminent risk to his emotional, mental, and physical health (*see* Family Ct Act § 1028[a]; *Matter of Amber Gold J.*, 59 AD3d 719; *Matter of Gabriel James M.*, 59 AD3d 448).

October 19, 2010

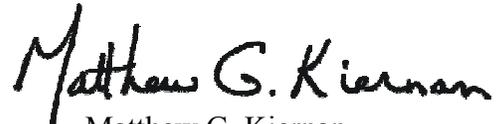
MATTER OF O. (ANONYMOUS), ELIJAH

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The parties' remaining contentions are without merit.

RIVERA, J.P., ANGIOLILLO, CHAMBERS and AUSTIN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court