

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

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_____AD3d_____

Submitted - September 30, 2010

WILLIAM F. MASTRO, J.P.
JOSEPH COVELLO
THOMAS A. DICKERSON
SHERI S. ROMAN, JJ.

2009-08542

DECISION & ORDER

In the Matter of Elijah J. (Anonymous).
Administration for Children's Services, respondent;
Phillip J. (Anonymous), appellant.
(Proceeding No. 1)

In the Matter of Leah J. (Anonymous).
Administration for Children's Services, respondent;
Phillip J. (Anonymous), appellant.
(Proceeding No. 2)

(Docket Nos. N-18806-08, N-18807-08)

Elliot Green, Brooklyn, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Francis F. Caputo and Elizabeth I. Freedman of counsel; Bethany M. Bates on the brief), for respondent.

Steven Banks, New York, N.Y. (Tamara A. Steckler, Susan Clement, and Maria Chiu of counsel), attorney for the children.

In related child neglect proceedings pursuant to Family Court Act article 10, the father appeals from a fact-finding order of the Family Court, Queens County (Richter, J.), dated August 3, 2009, which, after a hearing, found that he neglected the subject children.

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

October 19, 2010

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MATTER OF J. (ANONYMOUS), ELIJAH
MATTER OF J. (ANONYMOUS), LEAH

Although an isolated incident of domestic violence outside the presence of a child is insufficient to establish neglect (*see Matter of Larry O.*, 13 AD3d 633; *Matter of Davin G.*, 11 AD3d 462), the act of domestic violence in the instant case was neither isolated nor perpetrated outside the presence of the subject children. A pattern of domestic violence was alleged in the petition and supported by the mother's testimony at the fact-finding hearing.

The father's remaining contentions are without merit (*see Matter of Fa'Shon S.*, 40 AD3d 863; *Matter of Tiffany L.*, 294 AD2d 365, 366; *Matter of Raymond Anthony A.*, 192 AD2d 529, 530).

MASTRO, J.P., COVELLO, DICKERSON and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court