

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

D29672  
C/kmb

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

Argued - December 14, 2010

WILLIAM F. MASTRO, J.P.  
REINALDO E. RIVERA  
LEONARD B. AUSTIN  
SHERI S. ROMAN, JJ.

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2010-02144

DECISION & ORDER

In the Matter of Arayannah B. (Anonymous).  
Administration for Children's Services, respondent;  
Moshammet R. (Anonymous), appellant.  
(Proceeding No. 1)

In the Matter of Amir R. (Anonymous).  
Administration for Children's Services, respondent;  
Moshammet R. (Anonymous), appellant.  
(Proceeding No. 2)

(Docket Nos. NN-13818-08, NN-13819-08)

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Lauren Shapiro, Brooklyn, N.Y. (Eileen Choi of counsel), Proskauer Rose LLP, New York, N.Y. (Lawrence S. Elbaum and Pauline S. Kim of counsel), and Chris Gottlieb, New York, N.Y., for appellant (one brief filed).

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Leonard Koerner, Michelle Burke, and Edward F.X. Hart of counsel), for respondent.

Steven Banks, New York, N.Y. (Tamara A. Steckler and Claire V. Merkin of counsel), 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, Kings County (Olshansky, J.), dated January 27, 2010, which denied, without a hearing, her motion pursuant to Family Court Act § 1061 to modify an order of disposition of the same court dated July 16, 2009.

January 11, 2011

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MATTER OF B. (ANONYMOUS), ARAYNNAH  
MATTER OF R. (ANONYMOUS), AMIR

ORDERED that the order dated January 27, 2010, is reversed, on the law and in the exercise of discretion, without costs or disbursements, and the matter is remitted to the Family Court, Kings County for further proceedings in accordance herewith.

Under the circumstances of this case, the Family Court should have held a hearing on the mother's motion pursuant to Family Court Act § 1061 to modify the order of disposition (*see Matter of Angelina AA.*, 222 AD2d 967, 969). Accordingly, the matter must be remitted to the Family Court, Kings County, to conduct a hearing. We take no position as to whether the mother's request to modify the dispositional order to an order suspending judgment pursuant to Family Court Act § 1052(a)(i) should be granted.

MASTRO, J.P., RIVERA, AUSTIN and ROMAN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court