

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

D30475  
O/kmb

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Submitted - February 28, 2011

JOSEPH COVELLO, J.P.  
THOMAS A. DICKERSON  
RANDALL T. ENG  
SANDRA L. SGROI, JJ.

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2009-09369

DECISION & ORDER

In the Matter of Tyler C. (Anonymous).  
Suffolk County Department of Social Services,  
petitioner-respondent; Andrea G. (Anonymous),  
appellant, et al., respondent.  
(Proceeding No. 1)

In the Matter of Matthew M. (Anonymous).  
Suffolk County Department of Social Services,  
petitioner-respondent; Andrea G. (Anonymous),  
appellant, et al., respondent.  
(Proceeding No. 2)

(Docket Nos. NN-3101-09, NN-3102-09, NN-3104-09,  
NN-3105-09)

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Edward J. Grossman, Smithtown, N.Y., for appellant.

Christine Malafi, County Attorney, Central Islip, N.Y. (James G. Bernet of counsel),  
for petitioner-respondent.

Heather A. Fig, Bayport, N.Y., attorney for the children.

In two related child protective proceedings pursuant to Family Court Act article 10,  
the mother appeals from so much of an order of disposition of the Family Court, Suffolk County  
(Tarantino, Jr., J.), dated September 10, 2009, as, upon a fact-finding order of the same court dated  
August 6, 2009, made after a hearing, finding that she had neglected the subject children, placed Tyler  
C. in the custody of the child's natural father and Matthew M. in the custody of his maternal

March 22, 2011

Page 1.

MATTER OF C. (ANONYMOUS), TYLER  
MATTER OF M. (ANONYMOUS), MATTHEW

grandparents under the supervision of the Suffolk County Department of Social Services until the completion of the next permanency hearing. The appeal from the order of disposition brings up for review the fact-finding order dated August 6, 2009.

ORDERED that the appeal from so much of the order of disposition as placed Tyler C. in the custody of the child's natural father and Matthew M. in the custody of his maternal grandparents under the supervision of the Suffolk County Department of Social Services until the completion of the next permanency hearing is dismissed as academic, without costs or disbursements; and it is further,

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

The appeal from so much of the order of disposition as placed Tyler C. in the custody of the child's natural father and Matthew M. in the custody of his maternal grandparents under the supervision of the Suffolk County Department of Social Services until the completion of the next permanency hearing is dismissed as academic since, subsequent to the order appealed from, the Family Court issued an order granting the petition of Tyler C.'s natural father seeking custody of both children pursuant to Family Court Act article 6. Therefore, any corrective measures which the Family Court might have taken with respect to that part of the order appealed from would have no practical effect (*see Matter of Lateesha J.*, 252 AD2d 503; *Matter of Commissioner of Social Servs. v Anne F.*, 225 AD2d 620; *Matter of Catherine W. v Donald W.*, 166 AD2d 651). The adjudication of neglect, however, constitutes a permanent and significant stigma which might indirectly affect the mother's status in any future proceedings (*see Matter of Daniel W.*, 56 AD3d 483, 484; *Matter of Sal D.*, 307 AD2d 261, 262; *Matter of H. Children*, 276 AD2d 485, 486). Therefore, the appeal from so much of the order of disposition as brings up for review the determination that the mother neglected her children is not academic (*see Matter of Daniel W.*, 56 AD3d at 484; *Matter of Sal D.*, 307 AD2d at 262; *Matter of H. Children*, 276 AD2d at 486).

The petitioner established, by a preponderance of the evidence (*see Family Ct Act § 1046[b][i]*), that the mother's course of conduct impaired the subject children's physical, mental, or emotional well-being, or placed them in imminent danger of such impairment (*see Family Ct Act § 1012[f]*; *Matter of Amelia W. [Gloria D.W.]*, 77 AD3d 841; *Matter of Devontay M.*, 56 AD3d 561; *Matter of Susan B.*, 264 AD2d 478; *see also Nicholson v Scoppetta*, 3 NY3d 357; *Matter of Angelique L.*, 42 AD3d 569; *Matter of Christopher B.*, 26 AD3d 431). Accordingly, the Family Court properly found that she had neglected the subject children.

COVELLO, J.P., DICKERSON, ENG and SGROI, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court

March 22, 2011

Page 2.

MATTER OF C. (ANONYMOUS), TYLER  
MATTER OF M. (ANONYMOUS), MATTHEW