

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

D30484
H/kmb

_____AD3d_____

Submitted - January 24, 2011

PETER B. SKELOS, J.P.
THOMAS A. DICKERSON
LEONARD B. AUSTIN
JEFFREY A. COHEN, JJ.

2010-01700

DECISION & ORDER

In the Matter of Janiyah T. (Anonymous).
Administration for Children's Services,
petitioner-respondent; Lateek C. (Anonymous),
appellant, et al., respondent.
(Proceeding No. 1)

In the Matter of Kamiyah C. (Anonymous).
Administration for Children's Services,
petitioner-respondent; Lateek C. (Anonymous),
appellant, et al., respondent.
(Proceeding No. 2)

(Docket Nos. N-616-08, N-617-08)

Yasmin Daley Duncan, Brooklyn, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Fay Ng of counsel;
Alyse P. Fiori on the brief), for petitioner-respondent.

Steven Banks, New York, N.Y. (Tamara Steckler and Judith Stern of counsel),
attorney for the child.

In two related child abuse and neglect proceedings pursuant to Family Court Act article 10, Lateek C. appeals, as limited by his brief, from so much of a fact-finding order of the Family Court, Kings County (Olshansky, J.), dated January 7, 2010, as, after a hearing, found that he neglected Janiyah T. and derivatively neglected Kamiyah C.

March 22, 2011

Page 1.

MATTER OF T. (ANONYMOUS), JANIYAH
MATTER OF C. (ANONYMOUS), KAMIYAH

ORDERED that the fact-finding order is affirmed insofar as appealed from, without costs or disbursements.

The Family Court's determination that Lateek C. (hereinafter the appellant) neglected the child Janiyah T. was supported by a preponderance of the evidence. A "neglected child" is defined by the Family Court Act as one "whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of [the] parent . . . to exercise a minimum degree of care . . . in providing the child with proper supervision or guardianship" (Family Ct Act § 1012[f][i][B]). The petitioner established, by a preponderance of the evidence (*see* Family Ct Act § 1046[b][i]), that the appellant's conduct impaired the mental or emotional well-being of Janiyah T., or placed that child in imminent danger of such impairment (*see* Family Ct Act § 1012[f]; *Nicholson v Scoppetta*, 3 NY3d 357; *Matter of Kevin M.H. [Kenneth H.]*, 76 AD3d 1015). Accordingly, the Family Court properly found that the appellant neglected Janiyah T.

Further, the appellant's neglect of Janiyah T. evinced a flawed understanding of his duties as a parent and demonstrated an impaired level of parental judgment sufficient to support the Family Court's finding of derivative neglect of the child Kamiyah C. (*see Matter of Lauryn H. [William A.]*, 73 AD3d 1175; *Matter of Grant W. [Raphael A.]*, 67 AD3d 922).

In light of our determination, the appellant's remaining contentions need not be addressed.

SKELOS, J.P., DICKERSON, AUSTIN and COHEN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court