

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

D31380  
W/nl

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Submitted - April 29, 2011

WILLIAM F. MASTRO, J.P.  
L. PRISCILLA HALL  
PLUMMER E. LOTT  
JEFFREY A. COHEN, JJ.

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2010-06536

DECISION & ORDER

In the Matter of Amoreih S. (Anonymous).  
Suffolk County Department of Social Services,  
respondent; Nicole S. (Anonymous), appellant.  
(Proceeding No. 1)

In the Matter of Autumn S. (Anonymous).  
Suffolk County Department of Social Services,  
respondent; Nicole S. (Anonymous), appellant.  
(Proceeding No. 2)

In the Matter of Jordan S. (Anonymous).  
Suffolk County Department of Social Services,  
respondent; Nicole S. (Anonymous), appellant.  
(Proceeding No. 3)

In the Matter of Amoreih S. (Anonymous).  
Suffolk County Department of Social Services,  
petitioner; Steven S. (Anonymous), respondent.  
(Proceeding No. 4)

In the Matter of Autumn S. (Anonymous).  
Suffolk County Department of Social Services,  
petitioner; Steven S. (Anonymous), respondent.  
(Proceeding No. 5)

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MATTER OF S. (ANONYMOUS), AMOREIH  
MATTER OF S. (ANONYMOUS), AUTUMN  
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MATTER OF S. (ANONYMOUS), AUTUMN  
MATTER OF S. (ANONYMOUS), JORDAN

In the Matter of Jordan S. (Anonymous).  
Suffolk County Department of Social Services,  
petitioner; Steven S. (Anonymous), respondent.  
(Proceeding No. 6)

(Docket Nos. NA-4590-09, NA-4591-09, NA-4592-09,  
NA-4597-09, NA-4598-09, NA-4599-09)

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Steven Flaumenhaft, West Sayville, N.Y., for appellant.

Christine Malafi, County Attorney, Central Islip, N.Y. (James G. Bernet of counsel),  
for respondent in Proceeding Nos. 1, 2, and 3.

Robert C. Mitchell, Central Islip, N.Y. (Arshia Baseer of counsel), attorney for the  
children.

In six related neglect proceedings pursuant to Family Court Act article 10, the mother  
appeals, as limited by her brief, from so much of an order of fact-finding and disposition (one paper)  
of the Family Court, Suffolk County (Hoffmann, J.), dated November 20, 2009, as, after a fact-  
finding and dispositional hearing, found that she neglected her son Jordan and derivatively neglected  
her daughters Amoreih and Autumn, and imposed certain conditions on her continued custody of the  
children.

ORDERED that the order of fact-finding and disposition is reversed insofar as  
appealed from, on the law and the facts, without costs or disbursements, and the petitions in  
Proceeding Nos. 1, 2, and 3 are dismissed.

A “neglected child” is defined 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 his  
parent or other person legally responsible for his care to exercise a minimum degree of care . . . in  
providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing  
to be inflicted harm, or a substantial risk thereof” (Family Ct Act § 1012[f][i][B]).

As the mother correctly contends, the Family Court’s finding of neglect against her  
was not supported by a preponderance of the evidence. The evidence presented at the fact-finding  
hearing established that the mother and the father were arguing while the father was carrying their  
son Jordan in a baby carrier. During the argument, a friend of the mother attempted to grab the baby  
and the baby fell out of the carrier. There was no evidence that the mother and father engaged in a  
physical altercation. While a single incident may suffice to sustain a finding of neglect (*see Matter*

of *Lester M.*, 44 AD3d 944, 945), the record here does not support such a finding.

Further, since the finding of derivative neglect regarding the mother's two daughters was based on the neglect determination with respect to her son, that finding, too, is unsupported by the evidence (see *Matter of Iyanah D.*, 65 AD3d 927, 928).

MASTRO, J.P., HALL, LOTT and COHEN, 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

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