

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

D31504
W/hu

_____AD3d_____

Argued - May 13, 2011

JOSEPH COVELLO, J.P.
RANDALL T. ENG
JOHN M. LEVENTHAL
JEFFREY A. COHEN, JJ.

2010-07373

DECISION & ORDER

In the Matter of Maria Daniella R. (Anonymous).
Commissioner of Administration for Children's
Services of City of New York, respondent; Maria
A. (Anonymous), appellant.
(Proceeding No. 1)

In the Matter of Maria Mercedes R. (Anonymous).
Commissioner of Administration for Children's
Services of City of New York, respondent; Maria
A. (Anonymous), appellant.
(Proceeding No. 2)

In the Matter of Maria Andrea R. (Anonymous).
Commissioner of Administration for Children's
Services of City of New York, respondent; Maria
A. (Anonymous), appellant.
(Proceeding No. 3)

(Docket Nos. N-720-10, N-721-10, N-722-10)

Christopher J. Robles, Brooklyn, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Kristin M. Helmers and
Deborah A. Brenner of counsel), for respondent.

May 31, 2011

Page 1.

MATTER OF R. (ANONYMOUS), MARIA DANIELLA
MATTER OF R. (ANONYMOUS), MARIA MERCEDES
MATTER OF R. (ANONYMOUS), MARIA ANDREA

Steven Banks, New York, N.Y. (Tamara A. Steckler and Marcia Egger of counsel), attorney for the children.

In three related child protective proceedings pursuant to Family Court Act article 10, the mother appeals from a fact-finding order of the Family Court, Richmond County (Wolff, J.), dated July 13, 2010, which, after a hearing, found that she neglected the subject children.

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

The mother's repeated use of marijuana provided a basis for a finding of neglect (*see* Family Ct Act § 1046[a][iii]). The mother's claim that the children's out-of-court statements were not reliable is without merit. The out-of-court statements made to the caseworker by the two oldest daughters served to cross-corroborate each other, and those statements were further corroborated by the testimony of the caseworker that the mother admitted to smoking marijuana (*see Matter of Nicole V.*, 71 NY2d 112; *Matter of Andrew W. [Randolph A. W.]*, 83 AD3d 727; *Matter of Dave D. [Jean D.]*, 71 AD3d 673). That evidence, together with a negative inference drawn from the mother's failure to testify, was sufficient to support the Family Court's finding of neglect (*see Matter of Charlie S. [Rong S.]*, 82 AD3d 1248).

COVELLO, J.P., ENG, LEVENTHAL and COHEN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court