

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

D32157  
H/prt

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

Submitted - June 24, 2011

REINALDO E. RIVERA, J.P.  
JOSEPH COVELLO  
ANITA R. FLORIO  
PLUMMER E. LOTT, JJ.

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2010-04694

DECISION & ORDER

In the Matter of Ajay Sumert D. (Anonymous).  
Administration for Children's Services, respondent;  
Vijay Anand D. (Anonymous), appellant.

(Docket No. N-17999-06)

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Salvatore C. Adamo, New York, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Pamela Seider Dolgow and Fay Ng of counsel), for respondent.

Steven Banks, New York, N.Y. (Tamara A. Steckler and Elana Roffman of counsel), attorney for the child.

In a child protective proceeding pursuant to Family Court Act article 10, the father appeals, as limited by his brief, from so much of an order of disposition of the Family Court, Queens County (Richroath, J.), dated April 9, 2010, as, upon a fact-finding order of the same court dated February 2, 2010, made after a hearing, finding that he neglected the subject child, placed the child in the custody of the mother. The appeal from the order of disposition brings up for review the fact-finding order dated February 2, 2010.

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

The subject child's mother testified at the fact-finding hearing that in May 2006, the father hit the mother in the face with such force that she could not move her jaw up and down or

August 16, 2011

MATTER OF D. (ANONYMOUS), AJAY SUMERT

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chew, and that the child, who was then 2½ years old, was present during this incident and began crying. The mother further testified that in June 2006, while she was holding the child, the father punched the mother in the stomach, cursed at her, and threatened to kill her if she did not leave the apartment. Under the circumstances, the evidence supports the Family Court's determination that the father neglected the subject child by engaging in acts of domestic violence against the mother in the child's presence that impaired or created an imminent danger of impairing the child's physical, emotional, or mental condition (*see* Family Ct Act § 1012[f][i][B]; *Matter of Hannah A. [Jibrine A.]*, 84 AD3d 952; *Matter of Jordan E.*, 57 AD3d 539, 540; *Matter of Andrew Y.*, 44 AD3d 1063, 1064; *cf. Nicholson v Scopetta*, 3 NY3d 357, 367-372).

The father's remaining contention is without merit.

RIVERA, J.P., COVELLO, FLORIO and LOTT, 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