

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

D32362
C/prt

_____AD3d_____

Argued - September 8, 2011

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
JOHN M. LEVENTHAL
SHERI S. ROMAN, JJ.

2010-07553

DECISION & ORDER

In the Matter of Luis O. (Anonymous), respondent,
v Jessica S. (Anonymous), appellant.

(Docket Nos. V-02097-08, V02098-08, V-11650-08,
V-11651-08)

Lisa Lewis, Brooklyn, N.Y., for appellant.

Lewis S. Calderon, Jamaica, N.Y., for respondent.

Karen P. Simmons, Brooklyn, N.Y. (Heather L. Kalachman and Barbara H. Dildine
of counsel), attorney for the children.

In related child custody proceedings pursuant to Family Court Act article 6, the mother appeals, as limited by her brief, from so much of an order of the Family Court, Kings County (Ambrosio, J.), dated July 19, 2010, as, without a hearing, awarded custody of the parties' children to the father.

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

The Family Court (Ruiz, J.), entered a finding of child neglect against the mother pursuant to article 10 of the Family Court Act upon the mother's admission, at a fact-finding hearing on September 18, 2008, to allegations that she tested positive for marijuana, obtained Xanax from a neighbor, and used both Xanax and marijuana on a regular basis. Additionally, the Family Court (Ruiz, J.), conducted a dispositional hearing which commenced on December 3, 2008, and concluded

November 1, 2011

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on April 6, 2010. At that hearing, evidence was adduced that supported a finding of the mother's continued drug use, and additional evidence demonstrated the mother's history of mental health issues, inappropriate conduct during visitation, and inappropriate conduct in making, or having her daughter make, false allegations against the father. Further, at the hearing, the caseworker for the Administration for Children's Services (hereinafter ACS) recommended that the children be released to the custody of the father. Moreover, a psychologist, who conducted a mental health examination, opined that the mother was in need of additional services prior to reunification. In an order of disposition dated April 8, 2010, the Family Court (Ruiz, J.), inter alia, released the subject children to the care of the father under the supervision of ACS for a period of six months (*see Matter of O.*, _____AD3d_____ [decided herewith]). Subsequently, the Family Court (Ambrosio, J.), awarded custody to the father pursuant to article 6 of the Family Court Act without conducting a hearing.

Contrary to the mother's contentions, the Family Court possessed adequate relevant information to enable it to make an informed decision as to the best interests of the children without conducting a hearing, and the record supports a finding that it was in the children's best interests for custody to be awarded to the father (*see Matter of Horan v Framolaro*, 46 AD3d 891, 892; *see also Matter of Weinschneider v Weinschneider*, 73 AD3d 1194, 1195; *cf. Matter of Brooks v Brooks*, 31 AD3d 756).

RIVERA, J.P., FLORIO, LEVENTHAL and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court