

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

D32380
H/kmb

_____AD3d_____

Argued - September 13, 2011

MARK C. DILLON, J.P.
RANDALL T. ENG
SANDRA L. SGROI
ROBERT J. MILLER, JJ.

2010-04498
2010-04502
2010-04504

DECISION & ORDER

In the Matter of Howard A. W. (Anonymous),
respondent, v Nyah Vernell J. (Anonymous), appellant.
(Proceeding No. 1)

In the Matter of Wayne Devine P. (Anonymous),
petitioner-respondent, v ACS-Kings, respondent,
Nyah Vernell J. (Anonymous), appellant.
(Proceeding No. 2)

In the Matter of K'Mora W. (Anonymous).
Administration for Children's Services,
petitioner-respondent; Nyah J. (Anonymous),
appellant; Howard A. W. (Anonymous), nonparty-respondent.
(Proceeding No. 3)

In the Matter of Quam P. (Anonymous).
Administration for Children's Services,
petitioner-respondent; Nyah J. (Anonymous),
appellant; Wayne Devine P. (Anonymous), nonparty-respondent.
(Proceeding No. 4)

(Docket Nos. V-33513-08, V-20466-02, NN-18113-07,
NN-33207-07)

Helene Bernstein, Brooklyn, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Sharyn Rootenberg of

October 4, 2011

Page 1.

MATTER OF W. (ANONYMOUS) v J. (ANONYMOUS)
MATTER OF P. (ANONYMOUS) v ACS-KINGS
MATTER OF W. (ANONYMOUS), K'MORA
MATTER OF P. (ANONYMOUS), QUAM

counsel; Brian Doppelt on the brief), for respondent Administration for Children's Services.

Erwin Weisberg, Brooklyn, N.Y., attorney for the children.

In two related child custody proceedings pursuant to Family Court Act article 6, and two related neglect proceedings pursuant to Family Court Act article 10, the mother appeals (1), as limited by her brief, from so much of an order of disposition of the Family Court, Kings County (Ruiz, J.), dated March 2, 2010, as in Proceeding No. 3 placed the child K'Mora W. in the custody of her father, Howard A. W., and in Proceeding No. 4 placed the child Quam P. in the custody of his father, Wayne Devine P., (2) from an order of the same court, also dated March 2, 2010, which granted the petition of the father Wayne Devine P. for custody of the child Quam P. in Proceeding No. 2, and (3) from an order of the same court dated March 4, 2010, which granted the petition of the father Howard A. W. to modify a prior custody order so as to award him custody of the child K'Mora W. in Proceeding No. 1.

ORDERED that the order of disposition dated March 2, 2010, is affirmed insofar as appealed from, without costs or disbursements; and it is further,

ORDERED that the order dated March 2, 2010, granting the petition of the father Wayne Devine P. for custody of the child Quam P. is affirmed, without costs or disbursements; and it is further,

ORDERED that the order dated March 4, 2010, granting the petition of the father Howard A.W. to modify a prior custody order so as to award him custody of the child K'Mora W. is affirmed, without costs or disbursements.

The "essential consideration" in the placement of children in a neglect proceeding and in making an award of custody is the best interests of the children, and the Family Court's exercise of its discretion must have a sound and substantial basis in the record (*Matter of Ramazan U.*, 303 AD2d 516, 517; *see Eschbach v Eschbach*, 56 NY2d 167; *Matter of Reyes v Polanco*, 83 AD3d 849, 850; *Matter of Daniel R. [Lucille R.]*, 70 AD3d 839, 842). Under the totality of the circumstances, releasing the subject children to their respective fathers and granting the fathers custody of their children had a sound and substantial basis in the record and will not be disturbed.

The mother's remaining contentions are without merit.

DILLON, J.P., ENG, SGROI and MILLER, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court

October 4, 2011

Page 2.

MATTER OF W. (ANONYMOUS) v J. (ANONYMOUS)
MATTER OF P. (ANONYMOUS) v ACS-KINGS
MATTER OF W. (ANONYMOUS), K'MORA
MATTER OF P. (ANONYMOUS), QUAM