

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

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Submitted - September 6, 2011

PETER B. SKELOS, J.P.  
RANDALL T. ENG  
LEONARD B. AUSTIN  
ROBERT J. MILLER, JJ.

2010-09552

DECISION & ORDER

In the Matter of Nyia L. (Anonymous).  
Administration for Children's Services, respondent;  
Egipcia E. C. (Anonymous), appellant.

(Docket No. N-7877-09)

Michael A. Fiechter, Bellmore, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Mordecai Newman of counsel; Samir Defer-Sen on the brief), for respondent.

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

In a child neglect proceeding pursuant to Family Court Act article 10, the mother appeals from an order of disposition of the Family Court, Kings County (Beckoff, J.), dated August 25, 2010, which, upon a fact-finding order of the same court dated May 6, 2010, made after a hearing, finding that she neglected the subject child by failing to provide adequate guardianship, among other things, placed the subject child in the custody of the Commissioner of Social Services until the completion of the next permanency hearing. The notice of appeal from the fact-finding order dated May 6, 2010, is deemed to be a notice of appeal from the order of disposition dated August 25, 2010 (*see* CPLR 5512[a]). The appeal brings up for review the fact-finding order dated May 6, 2010.

ORDERED that the appeal from so much of the order of disposition as placed the child in the custody of the Commissioner of Social Services until the completion of the next permanency hearing is dismissed as academic, without costs or disbursements; and it is further,

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

The appeal from so much of the order of disposition as placed the child in the custody of the Commissioner of Social Services until the completion of the next permanency hearing must be dismissed as academic, as the period of placement has already expired (*see Matter of Ifeiyi O. v Elizabeth O.*, 53 AD3d 501). However, the adjudication of neglect constitutes a permanent and significant stigma which might indirectly affect the appellant's status in future proceedings. Therefore, the appeal from the portion of the order of disposition which brings up for review the finding of neglect is not academic (*id.*).

A “[n]eglected 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 [the] 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” (Family Ct Act § 1012[f][i][B]). Here, a preponderance of the evidence presented at the fact-finding hearing demonstrated that the mother of the subject child had taken her to Woodhull Hospital for a mental health evaluation, but that when the child was discharged from the hospital, the mother refused to take her home. The petitioner offered services to the mother, including respite care, but she refused the services and also refused to visit or contact the child. The mother indicated that she was unwilling to take the child home and did not want to have anything to do with the child, and that adopting the child was the “biggest mistake” she ever made. Thus, by refusing to take the child back into her home, and by indicating her desire to have no contact with, or responsibility for, the child, the mother neglected her (*see Matter of Jalil McC. [Denise C.]*, 84 AD3d 1089, 1090; *Matter of Janice G. [Linda H.]*, 70 AD3d 1210, 1211; *Matter of Chantel ZZ.*, 279 AD2d 669, 670-672; *Matter of Heidi CC.*, 270 AD2d 528, 530-531). Accordingly, the Family Court properly found that the mother neglected the child.

SKELOS, J.P., ENG, AUSTIN and MILLER, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court