

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

D32853
W/kmb

_____AD3d_____

Submitted - October 18, 2011

REINALDO E. RIVERA, J.P.
RANDALL T. ENG
ARIEL E. BELEN
LEONARD B. AUSTIN, JJ.

2010-09528

DECISION & ORDER

In the Matter of Megan L. G.H. (Anonymous).
Administration for Children's Services, respondent;
Theresa G. (Anonymous), appellant.

(Docket No. N-13213-06)

Gail Jacobs, Great Neck, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Larry A. Sonnenshein
and Andrew S. Wellin of counsel), for respondent.

Catherine A. Sheridan, Carle Place, N.Y., attorney for the child.

In a child protective proceeding pursuant to Family Court Act article 10, the mother appeals, as limited by her brief, from so much of a fact-finding order of the Family Court, Queens County (Salinitro, J.), dated August 23, 2010, as, after a hearing, found that she neglected the subject child.

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

The Family Court's determination that the mother neglected the child was supported by a preponderance of the evidence. A "[n]eglected child" is defined by the Family Court Act 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 . . . to exercise a minimum degree of care . . . in providing the child with proper supervision or guardianship" (Family Ct Act § 1012[f][i][B]). The petitioner established, by a preponderance of the evidence (*see* Family Ct Act § 1046[b][i]), that

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the mother's conduct, which included being intoxicated and in possession of a knife and marijuana, placed the child in imminent danger of impairment of her physical condition (see Family Ct Act § 1012[f]; *Nicholson v Scoppetta*, 3 NY3d 357; *Matter of Kevin M.H. [Kenneth H.]*, 76 AD3d 1015). Accordingly, the Family Court properly found that the mother neglected the child.

RIVERA, J.P., ENG, BELEN and AUSTIN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court