

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

D33041
H/nl

_____AD3d_____

Submitted - November 7, 2011

REINALDO E. RIVERA, J.P.
JOHN M. LEVENTHAL
ARIEL E. BELEN
SHERI S. ROMAN, JJ.

2011-00959

DECISION & ORDER

In the Matter of Nicholas M. (Anonymous).
Suffolk County Department of Social Services,
respondent; Santino T. (Anonymous), appellant.

(Docket No. N-17819-10)

Arza Feldman, Uniondale, N.Y. (Steven A. Feldman of counsel), for appellant.

Christine Malafi, County Attorney, Central Islip, N.Y. (James G. Bernet of counsel),
for respondent.

Jeanne R. Burton, Central Islip, N.Y., attorney for the child.

In a child protective proceeding pursuant to Family Court Act article 10, Santino T. appeals from an order of fact-finding and disposition of the Family Court, Suffolk County (Freundlich, J.), dated January 10, 2011, which, after fact-finding and dispositional hearings, *inter alia*, found that he had neglected the subject child and directed him to comply with an order of protection of the same court, also dated January 10, 2011.

ORDERED that the order of fact-finding and disposition is affirmed, without costs or disbursements.

The finding of neglect is supported by a preponderance of the evidence (*see* Family Ct Act § 1012[f]). The evidence adduced at the hearing established that the appellant left the child alone with the child's mother while she was intoxicated. In fact, on one of those occasions, the appellant permitted the child's mother to push the child in a stroller at night while she was

November 29, 2011

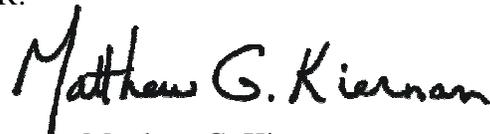
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intoxicated, and in an area without any sidewalks (*see Matter of Tylasia B.*, 72 AD3d 1074, 1075; *Matter of Arthur C.*, 260 AD2d 478, 479). Further, the evidence showed that the appellant neglected the child by engaging in acts of domestic violence against the mother in the child's presence, thereby creating an imminent risk of impairing the child's physical, mental, or emotional condition (*see Matter of Hannah A.*, 84 AD3d 951, 952).

RIVERA, J.P., LEVENTHAL, BELEN and ROMAN, 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