

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

D33935
C/nl

_____AD3d_____

Submitted - January 23, 2012

PETER B. SKELOS, J.P.
JOHN M. LEVENTHAL
PLUMMER E. LOTT
ROBERT J. MILLER, JJ.

2011-05132

DECISION & ORDER

In the Matter of Alanna S. (Anonymous).
Administration for Children's Services, appellant;
Regina A. (Anonymous), et al., respondents.
(Proceeding No. 1)

In the Matter of Alissa A. (Anonymous).
Administration for Children's Services, appellant;
Regina A. (Anonymous), et al., respondents.
(Proceeding No. 2)

In the Matter of Ashanti A. (Anonymous).
Administration for Children's Services, appellant;
Regina A. (Anonymous), et al., respondents.
(Proceeding No. 3)

In the Matter of Ashley A. (Anonymous).
Administration for Children's Services, appellant;
Regina A. (Anonymous), et al., respondents.
(Proceeding No. 4)

In the Matter of Justin N. (Anonymous).
Administration for Children's Services, appellant;
Regina A. (Anonymous), et al., respondents.
(Proceeding No. 5)

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MATTER OF S. (ANONYMOUS), ALANNA
MATTER OF A. (ANONYMOUS), ALISSA
MATTER OF A. (ANONYMOUS), ASHANTI
MATTER OF A. (ANONYMOUS), ASHLEY
MATTER OF N. (ANONYMOUS), JUSTIN
MATTER OF M. (ANONYMOUS), PATRICK

In the Matter of Patrick M. (Anonymous).
Administration for Children's Services,
appellant; Regina A. (Anonymous), et al., respondents.
(Proceeding No. 6)

(Docket Nos. NN-5595/08, NN-5596/08, NN-5597/08,
NN-5598/08, NN-5599/08, NN-1650/11)

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Larry A. Sonnenshein
and Marta Ross of counsel), for appellant.

Catherine S. Bridge, Staten Island, N.Y., for respondent Regina A.

Mitchell P. Newman, Staten Island, N.Y., for respondent Christopher S.

Marc A. Berk, Staten Island, N.Y., attorney for the children.

In six related child protective proceedings pursuant to Family Court Act article 10,
the Administration for Children's Services appeals from an order of fact-finding and disposition (one
paper) of the Family Court, Richmond County (Wolff, J.), dated June 1, 2011, which, after a hearing,
dismissed the petitions.

ORDERED that the order of fact-finding and disposition is reversed, on the facts,
without costs or disbursements, the petitions are reinstated, it is found that the respondents neglected
the subject children, and the matter is remitted to the Family Court, Richmond County, for a
dispositional hearing followed by a disposition.

The petitioner showed by a preponderance of the evidence that the respondent
Christopher S. neglected the child Alissa A. by inflicting excessive corporal punishment on her,
specifically by hitting her with a broom, which injured and scarred her leg, and by pinching Alissa
A. on her back hard enough to leave a raised mark (*see Matter of Rachel H.*, 60 AD3d 1060, 1061;
Matter of Aaliyah Q., 55 AD3d 969, 970). The petitioner also showed by a preponderance of the
evidence that the respondent mother, Regina A., neglected all of the subject children because she
knew or should have known that Christopher S., who was frequently in the children's presence as
their babysitter, verbally abused her in the presence of the children and inflicted excessive corporal
punishment on Alissa A., and because she failed to prevent further contact between Christopher S.
and Alissa A. once she became or should have become aware that Christopher S. had inflicted
excessive corporal punishment on Alissa A. (*see Family Ct Act* § 1012[f][i][B]; *Matter of Aliciya*

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R., 56 AD3d 784; *Matter of Cantina B.*, 26 AD3d 327, 328; *Matter of Kanika M.*, 270 AD2d 490; *Matter of Maxwell B.*, 269 AD2d 444, 445; *Matter of Commissioner of Social Servs. of City of N.Y. v Edyth W.*, 210 AD2d 328, 329). Moreover, in light of the mother's failure to exercise a minimum degree of care in providing Alissa A. with proper supervision or guardianship, the petitioner also proved by a preponderance of the evidence that the mother derivatively neglected all of the subject children, who were also frequently in the presence of Christopher S. (see *Matter of Aliciya R.*, 56 AD3d 784; *Matter of Jose I.*, 13 AD3d 446, 447; *Matter of Amanda RR.*, 293 AD2d 779, 781).

Accordingly, we reverse the order of fact-finding and disposition, reinstate the petition, and remit the matter to the Family Court, Richmond County, for a dispositional hearing, and a new disposition thereafter.

SKELOS, J.P., LEVENTHAL, LOTT and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

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