

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

D34107
C/prt

_____AD3d_____

Submitted - February 2, 2012

PETER B. SKELOS, J.P.
THOMAS A. DICKERSON
ARIEL E. BELEN
ROBERT J. MILLER, JJ.

2011-05228
2011-05229

DECISION & ORDER

In the Matter of Quincy K. (Anonymous).
Suffolk County Department of Social Services,
respondent; Herbie W. (Anonymous), appellant.
(Proceeding No. 1)

In the Matter of Jade K. (Anonymous).
Suffolk County Department of Social Services,
respondent; Herbie W. (Anonymous), appellant.
(Proceeding No. 2)

(Docket Nos. N-22098-10, N-22099-10)

Regina G. Russell, Port Jefferson Station, N.Y., for appellant.

Dennis M. Cohen, Acting County Attorney, Central Islip, N.Y. (Jeffrey P. Tavel of
counsel), for respondent.

Steven Flaumenhaft, West Sayville, N.Y., attorney for the children.

In two related child neglect proceedings pursuant to Family Court Act article 10, the
appeals are from (1) an order of fact-finding and disposition of the Family Court, Suffolk County
(Freundlich, J.), dated April 8, 2011, which, after fact-finding and dispositional hearings, inter alia,
found that the father neglected the subject children, and (2) an order of protection of the same court,
also dated April 8, 2011, which directed, among other things, that the father's visits with the subject
children be supervised.

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MATTER OF K. (ANONYMOUS), QUINCY
MATTER OF K. (ANONYMOUS), JADE

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

In a child protective proceeding, the petitioner has the burden of proving neglect by a preponderance of the evidence (*see* Family Ct Act § 1046[b][i]; *Matter of Philip M.*, 82 NY2d 238, 243; *Matter of Tammie Z.*, 66 NY2d 1, 3; *Matter of Besthani M.*, 13 AD3d 452, 452). Here, contrary to the appellant's contention, the Family Court's finding of neglect based on the use of excessive corporal punishment is supported by a preponderance of the evidence (*see* Family Ct Act § 1012[f][i][B]; § 1046[b][i]; *Matter of Chanyae S. [Rena W.]*, 82 AD3d 1247, 1247; *Matter of Isaiah S.*, 63 AD3d 948, 949; *Matter of Joshua B.*, 28 AD3d 759, 760-761; *Matter of Joseph O.*, 28 AD3d 562, 563).

The appellant's remaining contentions are without merit.

SKELOS, J.P., DICKERSON, BELEN and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court