

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

D34252
Y/prt

_____AD3d_____

Submitted - February 2, 2012

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

2011-04643

DECISION & ORDER

In the Matter of Mindy W. (Anonymous).
Rockland County Department of Social Services,
respondent; Gavriel W. (Anonymous), appellant.
(Proceeding No. 1)

In the Matter of Goldy W. (Anonymous).
Rockland County Department of Social Services,
respondent; Gavriel W. (Anonymous), appellant.
(Proceeding No. 2)

In the Matter of Joseph W. (Anonymous).
Rockland County Department of Social Services,
respondent; Gavriel W. (Anonymous), appellant.
(Proceeding No. 3)

In the Matter of Ari W. (Anonymous).
Rockland County Department of Social Services,
respondent; Gavriel W. (Anonymous), appellant.
(Proceeding No. 4)

In the Matter of Yitzy W. (Anonymous).
Rockland County Department of Social Services,
respondent; Gavriel W. (Anonymous), appellant.
(Proceeding No. 5)

(Docket Nos. N-404/10, N-405/10, N-984/10,
N-985/10, N-986/10)

March 20, 2012

Page 1.

MATTER OF W. (ANONYMOUS), MINDY
MATTER OF W. (ANONYMOUS), GOLDY
MATTER OF W. (ANONYMOUS), JOSEPH
MATTER OF W. (ANONYMOUS), ARI
MATTER OF W. (ANONYMOUS), YITZY

Gribetz & Loewenberg, PLLC, New City, N.Y. (Deborah Wolikow Loewenberg and Richard S. Pakola of counsel), for appellant.

Jeffrey Fortunato, Acting County Attorney, New City, N.Y. (Barbara M. Wilmit of counsel), for respondent.

Jacqueline Sands, New City, N.Y., attorney for the children.

In five related child protective proceedings pursuant to Family Court Act article 10, which were transferred from the Family Court, Rockland County, to the Supreme Court, Rockland County, the father appeals from a fact-finding order of the Supreme Court, Rockland County (Christopher, J.), dated March 24, 2011, which, after a hearing, found that he sexually abused and neglected the child Mindy W., and derivatively neglected the children Goldy W., Joseph W., Ari W., and Yitzy W.

ORDERED that the fact-finding order dated March 24, 2011, is affirmed, without costs or disbursements.

The Supreme Court's determination that the appellant sexually abused and neglected his daughter Mindy W. is supported by a preponderance of the evidence (*see* Family Ct Act § 1046[b][i]; *Matter of Lauryn H. [William A.]*, 73 AD3d 1175); *Matter of Grant W. [Raphael A.]*, 67 AD3d 922; *Matter of Abigail S.*, 21 AD3d 380; *Matter of Heather S.*, 19 AD3d 606).

Additionally, while a finding of sexual abuse of one child does not, by itself, establish that other children in the household have been derivatively neglected, here, the father's sexual abuse of his daughter evinced a flawed understanding of his duties as a parent and impaired parental judgment sufficient to support the Family Court's finding of derivative neglect of Goldy W., Joseph W., Ari W., and Yitzy W. (*see* Family Ct Act § 1046[a][i]; *Matter of Grant W. [Raphael A.]*, 67 AD3d at 922-923; *Matter of Abigail S.*, 21 AD3d at 381).

The father's remaining contentions are without merit.

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

ENTER:



Aprilanne Agostino
Clerk of the Court

March 20, 2012

Page 2.

MATTER OF W. (ANONYMOUS), MINDY
MATTER OF W. (ANONYMOUS), GOLDY
MATTER OF W. (ANONYMOUS), JOSEPH
MATTER OF W. (ANONYMOUS), ARI
MATTER OF W. (ANONYMOUS), YITZY