

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

D34627  
O/mv

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - March 16, 2012

RUTH C. BALKIN, J.P.  
JOHN M. LEVENTHAL  
SHERI S. ROMAN  
SANDRA L. SGROI, JJ.

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2011-05253

DECISION & ORDER

In the Matter of Bianca P. (Anonymous).  
Suffolk County Department of Social Services, respondent;  
Theodore A. P. (Anonymous), Jr., appellant.  
(Proceeding No. 1)

In the Matter of Theodore P. (Anonymous), III.  
Suffolk County Department of Social Services, respondent;  
Theodore A. P. (Anonymous), Jr., appellant.  
(Proceeding No. 2)

(Docket Nos. N-2968-11, N-2969-11)

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John T. Powers, Jr., P.C., Deer Park, N.Y. (Jennifer S. Lippman of counsel), for appellant.

Dennis M. Cohen, County Attorney, Central Islip, N.Y. (Karin A. Bohrer of counsel), for respondent.

Diane B. Groom, Central Islip, N.Y., attorney for the children.

In two related child protective proceedings pursuant to Family Court Act article 10, the father appeals from a fact-finding order of the Family Court, Suffolk County (Freundlich, J.), dated May 4, 2011, which, after a hearing, found that he neglected the subject children.

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

April 24, 2012

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MATTER OF P. (ANONYMOUS), BIANCA  
MATTER OF P. (ANONYMOUS), THEODORE III

The Family Court's determination regarding the credibility of witnesses is entitled to great weight on appeal unless clearly unsupported by the record (*see Matter of Creighton v Whitmore*, 71 AD3d 1141). Here, contrary to the father's contention, the Family Court's finding of neglect as to the child Bianca based on his use of alcohol while driving a car in which she was a passenger and failing to put her into a child seat or restraint, is supported by a preponderance of the evidence (*see* Family Ct Act § 1012[f][i][B]; § 1046[b][i]; *Matter of Raima W.*, 59 AD3d 633, 634; *Matter of Heather D.*, 17 AD3d 1087; *Matter of Pedro C. [Josephine B.]*, 1 AD3d 267, 268). The evidence also supports a finding of neglect with respect to the child Theodore based on the father's allowing Theodore to ride in a car driven by a friend when he knew or should have known that the friend was intoxicated (*see Matter of Nicholas M.*, 89 AD3d 1087; *Matter of Tylasia B. [Wayne B.]*, 72 AD3d 1074, 1075).

BALKIN, J.P., LEVENTHAL, ROMAN and SGROI, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court