

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

D35284
C/kmb

_____AD3d_____

Argued - May 15, 2012

MARK C. DILLON, J.P.
THOMAS A. DICKERSON
LEONARD B. AUSTIN
ROBERT J. MILLER, JJ.

2011-05784

DECISION & ORDER

In the Matter of Anissa A. P. (Anonymous).
Administration for Children's Services, respondent;
Gasmelba B. (Anonymous), appellant.

(Docket No. N-13481/09)

David Laniado, Cedarhurst, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Sharyn Rootenberg of counsel; Fontini Karamboulis on the brief), for respondent.

Steven Banks, New York, N.Y. (Tamara A. Steckler and Elana Roffman of counsel), attorney for the child.

In a child neglect proceeding pursuant to Family Court Act article 10, the mother appeals from an order of fact-finding of the Family Court, Queens County (Arias, J.), dated May 25, 2011, which, after a fact-finding hearing, found that she neglected the subject child.

ORDERED that the order of fact-finding is reversed, on the facts, without costs or disbursements, the petition is denied, and the proceeding is dismissed.

A finding that a child is abused or neglected must be based on a preponderance of the evidence (*see* Family Ct Act § 1046[b][i]; *Matter of Adelia V. [Braun]*, 91 AD3d 659, 660). Here, the petitioner failed to establish by a preponderance of the evidence that the mother neglected the child.

On this record, we find that the child's unsworn, out-of-court statements of the

mother's neglectful conduct were not sufficiently corroborated as required by Family Court Act § 1046(a)(vi) (see *Matter of Jashaun R. [Ean R.]*, 85 AD3d 798; *Matter of Peter G.*, 6 AD3d 201).

As a result of our determination, the mother's remaining contentions have been rendered academic.

DILLON, J.P., DICKERSON, AUSTIN and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court