

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

D36799  
C/hu

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

Submitted - November 26, 2012

PETER B. SKELOS, J.P.  
RUTH C. BALKIN  
CHERYL E. CHAMBERS  
ROBERT J. MILLER, JJ.

2011-11827  
2011-11828

DECISION & ORDER

In the Matter of Josue M. (Anonymous).  
Administration for Children's Services, petitioner-  
respondent; Pascaul A. (Anonymous), appellant,  
et al., respondent.  
(Proceeding No. 1)

In the Matter of Raquel M. (Anonymous).  
Administration for Children's Services, petitioner-  
respondent; Pascaul A. (Anonymous), appellant,  
et al., respondent.  
(Proceeding No. 2)

In the Matter of Jennifer A. (Anonymous).  
Administration for Children's Services, petitioner-  
respondent; Pascaul A. (Anonymous), appellant,  
et al., respondent.  
(Proceeding No. 3)

In the Matter of Rosse C. (Anonymous).  
Administration for Children's Services, petitioner-  
respondent; Pascaul A. (Anonymous), appellant,  
et al., respondent.  
(Proceeding No. 4)

(Docket Nos. N-13255/10, N-13256/10, N-13257/10,

December 19, 2012

Page 1.

MATTER OF M. (ANONYMOUS), JOSUE  
MATTER OF M. (ANONYMOUS), RAQUEL  
MATTER OF A. (ANONYMOUS), JENNIFER  
MATTER OF C. (ANONYMOUS), ROSSE

Placidus Aguwa, Jamaica, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Larry A. Sonnenshein and Kathy H. Chang of counsel), for petitioner-respondent.

Steven Banks, New York, N.Y. (Tamara A. Steckler and Diane Pazar of counsel), attorney for the child Raquel M.

In four related child protective proceedings pursuant to Family Court Act article 10, Pascual A. appeals from (1) a decision of the Family Court, Queens County (McGowan, J.), entered September 8, 2011, and (2) an order of disposition of the same court dated November 29, 2011, which, after fact-finding and dispositional hearings, and upon a finding that he had abused the child Raquel M., and had derivatively abused the other three subject children, inter alia, directed that he not have contact with three of the children until their 18th birthdays, that he only have supervised visits with one of the subject children, and that he complete a sex offender program.

ORDERED that the appeal from the decision is dismissed, without costs or disbursements, as no appeal lies from a decision (*see Schicchi v J.A. Green Constr. Corp.*, 100 AD2d 509); and it is further,

ORDERED that the order of disposition is affirmed, without costs or disbursements.

“At a fact-finding hearing in a child protective proceeding pursuant to Family Court Act article 10, the petitioner has the burden of establishing, by a preponderance of the evidence, that the subject child has been abused or neglected” (*Matter of Kassandra V [Sylvia L.]*, 90 AD3d 940, 941; *see* Family Ct Act § 1046[b][i]; *Matter of Ndeye D. [Benjamin D.]*, 85 AD3d 1026, 1027). Contrary to the appellant’s contention, the Family Court’s determination that he sexually abused the child Raquel M. is supported by a preponderance of the evidence (*see* Family Ct Act § 1012[e][iii]; Penal Law § 130.55; *Matter of Lindsay B. [Carlton B.]*, 80 AD3d 763, 764). The Family Court has considerable discretion in deciding whether a child’s out-of-court statements describing incidents of abuse have been reliably corroborated and whether the record as a whole supports such a finding (*see Matter of Christina F.*, 74 NY2d 532, 536; *Matter of Alexander M. [Benjamin M.]*, 88 AD3d 794, 795). Here, Raquel M.’s sworn in-court testimony sufficiently corroborated her out-of-court description of the abuse (*see Matter of Christina F.*, 74 NY2d at 536-537; *Matter of Bianca M.*, 282 AD2d 536, 536).

The appellant's remaining contention is unpreserved for appellate review and, in any event, without merit.

SKELOS, J.P., BALKIN, CHAMBERS and MILLER, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court