

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1230

CAF 09-01387

PRESENT: SMITH, J.P., LINDLEY, SCONIERS, PINE, AND GORSKI, JJ.

IN THE MATTER OF ALSTON C.

CATTARAUGUS COUNTY DEPARTMENT OF SOCIAL
SERVICES, PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

FREDERICK C., RESPONDENT-APPELLANT.

SCHAVON R. MORGAN, MACHIAS, FOR RESPONDENT-APPELLANT.

STEPHEN J. RILEY, OLEAN, FOR PETITIONER-RESPONDENT.

MICHAEL J. SULLIVAN, ATTORNEY FOR THE CHILD, FREDONIA, FOR ALSTON C.

Appeal from an order of the Family Court, Cattaraugus County (Michael L. Nenno, J.), entered June 15, 2009 in a proceeding pursuant to Family Court Act article 10. The order, among other things, adjudged that the subject child was abused and placed the child in the custody of petitioner until the completion of the next permanency hearing.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Respondent father contends on appeal that Family Court erred in relying upon his child's unsworn out-of-court statements in granting the petition seeking, inter alia, an adjudication that his child is abused, inasmuch as those statements were not corroborated. We reject that contention. "Any other evidence tending to support the reliability of the [child's] previous statements . . . shall be sufficient corroboration" (Family Ct Act § 1046 [a] [vi]; see generally *Matter of Nicole V.*, 71 NY2d 112, 117-118). Here, there was ample corroboration of the child's statements, i.e., statements made by the father to an investigator employed by the New York State Police as well as the testimony of a psychologist who determined that the contextual details of the child's statements were consistent with a description of actual events. The record does not support the further contentions of the father that he did not receive effective assistance of counsel (see generally *Matter of Howard v McLoughlin*, 64 AD3d 1147, 1148), and that the determination is not supported by the requisite preponderance of the evidence (see § 1046 [b] [i]; *Matter of Tammie Z.*, 66 NY2d 1, 3). We

have reviewed the father's remaining contentions and conclude that they are without merit.

Entered: November 19, 2010

Patricia L. Morgan
Clerk of the Court