

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

D55559  
G/htr

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Argued - May 11, 2018

WILLIAM F. MASTRO, J.P.  
SHERI S. ROMAN  
COLLEEN D. DUFFY  
VALERIE BRATHWAITE NELSON, JJ.

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2017-04835  
2017-04909  
2017-04910

DECISION & ORDER

In the Matter of Nino C. (Anonymous), Jr.  
Administration for Children's Services, respondent;  
Nino C. (Anonymous), et al., appellants.  
(Proceeding No. 1)

In the Matter of Giavanna C. (Anonymous).  
Administration for Children's Services, respondent;  
Nino C. (Anonymous), et al., appellants.  
(Proceeding No. 2)

In the Matter of Jonathan D. (Anonymous).  
Administration for Children's Services, respondent;  
Nino C. (Anonymous), et al., appellants.  
(Proceeding No. 3)

In the Matter of Amanda H. (Anonymous).  
Administration for Children's Services, respondent;  
Nino C. (Anonymous), et al., appellants.  
(Proceeding No. 4)

(Docket Nos. N-1704-14, N-1705-14, N-1706-14,  
N-1707-14)

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MATTER OF C. (ANONYMOUS), NINO, JR.  
MATTER OF C. (ANONYMOUS), GIAVANNA  
MATTER OF D. (ANONYMOUS), JONATHAN  
MATTER OF H. (ANONYMOUS), AMANDA

Salvatore C. Adamo, New York, NY, for appellant Nino C.

Catherine S. Bridge, Staten Island, NY, for appellant Annmarie D.

Zachary W. Carter, Corporation Counsel, New York, NY (Claude S. Platton and Jessica Miller of counsel), for respondent.

Scott M. Schwartz, Staten Island, NY, attorney for the children Nino C., Jr., and Giavanna C.

Seymour W. James, Jr., New York, NY (Dawne A. Mitchell and Sara H. Reisberg of counsel), attorney for the children Jonathan D. and Amanda H.

In related proceedings pursuant to Family Court Act article 10, Nino C. appeals from (1) an order of fact-finding of the Family Court, Richmond County (Karen B. Wolff, J.), dated April 3, 2017, and (2) an order of disposition of the same court, also dated April 3, 2017. Separate appeals by Annmarie D. from (1) the order of fact-finding dated April 3, 2017, and (2) a second order of disposition of the same court, also dated April 3, 2017. The order of fact-finding dated April 3, 2017, upon a decision dated November 29, 2016, after a hearing, found that Nino C. and Annmarie D. neglected the subject children Amanda H. and Jonathan D. and derivatively neglected the subject children Nino C., Jr., and Giavanna C. The first order of disposition dated April 3, 2017, after a dispositional hearing, released the subject children Nino C., Jr., and Giavanna C. to the custody of Nino C. and Annmarie D. under the supervision of the Administration for Children's Services for a period of one month. The second order of disposition dated April 3, 2017, after a dispositional hearing, placed the subject child Amanda H. in the custody of the Commissioner of Social Services of the City of New York until the completion of the next permanency hearing.

ORDERED that the appeals from the order of fact-finding are dismissed, without costs or disbursements, as that order was superseded by the orders of disposition and is brought up for review on the appeals from the orders of disposition; and it is further,

ORDERED that the appeal from so much of the first order of disposition as released the subject children Nino C., Jr., and Giavanna C. to the custody of Nino C. and Annmarie D. under the supervision of the Administration for Children's Services for a period of one month is dismissed, without costs or disbursements, as the period of supervision set forth in that order has expired; and it is further,

ORDERED that the appeal from so much of the second order of disposition as placed the subject child Amanda H. in the custody of the Commissioner of Social Services of the City of New York until the completion of the next permanency hearing is dismissed as academic, without costs or disbursements, as the period of such placement set forth in that order has expired; and it is further,

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MATTER OF C. (ANONYMOUS), NINO, JR.  
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ORDERED that the orders of disposition are affirmed insofar as reviewed, without costs or disbursements.

The petitioner commenced these related proceedings pursuant to Family Court Act article 10 alleging that Nino C. and Annmarie D. neglected the subject children. Following a fact-finding hearing, the Family Court found that Nino C. and Annmarie D. neglected the subject children Amanda H. and Jonathan D. and derivatively neglected the subject children Nino C., Jr., and Giavanna C. An order of fact-finding dated April 3, 2017, was issued. Thereafter, orders of disposition were entered regarding the subject children Amanda H. , Nino C., Jr., and Giavanna C. No order of disposition regarding Jonathan D. was issued, as the court found that Jonathan is over age 18 and that, with respect to him, the aid of the court was no longer necessary.

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 (*see* Family Ct Act § 1046[b][i]; *Matter of Ena S.Y. [Martha R.Y.-Antonio S.]*, 140 AD3d 778, 780). In reviewing such a determination, the Family Court's assessment of the credibility of witnesses is entitled to considerable deference (*see Matter of Mohammed J. [Mohammed Z.]*, 121 AD3d 994, 994; *Matter of Joseph O.*, 28 AD3d 562, 563). Based upon our review of the record, the Family Court's determination that Nino C. and Annmarie D. neglected the subject children Amanda H. and Jonathan D. is supported by a preponderance of the evidence (*see Matter of Ishaq B. [Lea B.]*, 121 AD3d 889, 890; *Matter of Amerriah S. [Kadiatou Y.]*, 100 AD3d 1006, 1006-1007; *Matter of Deanna R.G. [Rajkumare B.]*, 83 AD3d 1064; *Matter of Sheneika V.*, 20 AD3d 541, 542; *Matter of Nicole H.*, 12 AD3d 182, 183; *Matter of Felicia D.*, 263 AD2d 399, 399-400). The record also supports the finding of derivative neglect with respect to the subject children Nino C., Jr., and Giavanna C. (*see* Family Ct Act § 1046[a][i]; *Matter of David H. [Octavia P.]*, 127 AD3d 1084, 1086).

MASTRO, J.P., ROMAN, DUFFY and BRATHWAITE NELSON, JJ., concur.

ENTER:



Aprilanne Agostino  
Clerk of the Court