

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

706

TP 12-02304

PRESENT: SMITH, J.P., FAHEY, CARNI, VALENTINO, AND WHALEN, JJ.

IN THE MATTER OF ERIC FECHTER, PETITIONER,

V

MEMORANDUM AND ORDER

NEW YORK STATE OFFICE OF CHILDREN AND FAMILY
SERVICES AND NIAGARA COUNTY DEPARTMENT OF
SOCIAL SERVICES, RESPONDENTS.

HOGAN & WILLIG, PLLC, AMHERST (KEVIN S. MAHONEY OF COUNSEL), FOR
PETITIONER.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (JONATHAN D. HITSOUS OF
COUNSEL), FOR RESPONDENT NEW YORK STATE OFFICE OF CHILDREN AND FAMILY
SERVICES.

Proceeding pursuant to CPLR article 78 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by order of the Supreme Court, Niagara County [Ralph A. Boniello, III, J.], entered August 13, 2012) to review a determination of respondent New York State Office of Children and Family Services. The determination denied petitioner's request that an indicated report of maltreatment be amended to unfounded.

It is hereby ORDERED that the determination is unanimously confirmed without costs and the petition is dismissed.

Memorandum: Petitioner commenced this CPLR article 78 proceeding to review a determination, made after a fair hearing, denying his request to amend an indicated report of maltreatment with respect to his daughter to an unfounded report, and to seal it (see Social Services Law § 422 [8] [a] [v]; [c] [ii]). "Our review . . . is limited to whether the determination was supported by substantial evidence in the record on the petitioner['s] application for expungement" (*Matter of Mangus v Niagara County Dept. of Social Servs.*, 68 AD3d 1774, 1774, lv denied 15 NY3d 705 [internal quotation marks omitted]). Upon conducting such a review, we conclude that the agency's determination is supported by substantial evidence (see generally *Matter of Draman v New York State Off. of Children & Family Servs.*, 78 AD3d 1603, 1603-1604; *Mangus*, 68 AD3d at 1775; *Matter of Theresa G. v Johnson*, 26 AD3d 726, 726-727).

Entered: June 14, 2013

Frances E. Cafarell
Clerk of the Court