

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

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CAF 19-01543

PRESENT: PERADOTTO, J.P., CARNI, NEMOYER, TROUTMAN, AND WINSLOW, JJ.

IN THE MATTER OF ANDREW G. AND JONATHON P.

ONONDAGA COUNTY DEPARTMENT OF CHILDREN
AND FAMILY SERVICES, PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

ELIZABETH G., RESPONDENT,
AND JEFFERSON P., RESPONDENT-APPELLANT.

THEODORE W. STENUF, MINOA, FOR RESPONDENT-APPELLANT.

ROBERT A. DURR, COUNTY ATTORNEY, SYRACUSE (YVETTE VELASCO OF COUNSEL),
FOR PETITIONER-RESPONDENT.

MICHAEL J. KERWIN, SYRACUSE, ATTORNEY FOR THE CHILDREN.

Appeal from an order of the Family Court, Onondaga County (Julie A. Cecile, J.), entered July 15, 2019 in a proceeding pursuant to Family Court Act article 10. The order, among other things, determined that respondent Jefferson P. neglected one of the subject children and derivatively neglected the other subject child.

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

Memorandum: In this Family Court Act article 10 proceeding, respondent father appeals from an order that, inter alia, determined that he neglected the older subject child and derivatively neglected the younger subject child. We affirm. Family Court's determination is supported by the requisite preponderance of the evidence (see *Matter of Bryan O. [Zabiullah O.]*, 153 AD3d 1641, 1642 [4th Dept 2017]). Contrary to the father's contention, the older child's out-of-court statements were sufficiently corroborated (see *id.*). Contrary to the father's further contention, the court properly drew a negative inference from his failure to testify, notwithstanding the factually related criminal charges pending against him (see *Matter of Karime R. [Robin P.]*, 147 AD3d 439, 441 [1st Dept 2017]; *Matter of Jenny N.*, 262 AD2d 951, 952 [4th Dept 1999]). The father's remaining contentions do not warrant reversal or modification of the order.

Entered: February 11, 2021

Mark W. Bennett
Clerk of the Court