

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

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CAF 19-00998

PRESENT: SMITH, J.P., NEMOYER, CURRAN, TROUTMAN, AND DEJOSEPH, JJ.

IN THE MATTER OF CAMERON M., TATIANA P.,
AND BRIELLE P.

MEMORANDUM AND ORDER

MONROE COUNTY DEPARTMENT OF HUMAN SERVICES,
PETITIONER-RESPONDENT;

KEIRA P., RESPONDENT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JAMES A. HOBBS OF
COUNSEL), FOR RESPONDENT-APPELLANT.

JOHN P. BRINGEWATT, COUNTY ATTORNEY, ROCHESTER (CAROL L. EISENMAN OF
COUNSEL), FOR PETITIONER-RESPONDENT.

PAUL B. WATKINS, FAIRPORT, ATTORNEY FOR THE CHILDREN.

Appeal from an order of the Family Court, Monroe County (Stacey
Romeo, J.), entered May 1, 2019 in a proceeding pursuant to Family
Court Act article 10. The order, inter alia, adjudged that respondent
had neglected the subject children.

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

Memorandum: In this proceeding pursuant to Family Court Act
article 10, respondent mother appeals from an order that, inter alia,
adjudged that she neglected the subject children. We affirm. We
reject the mother's contention that the children's out-of-court
statements were not sufficiently corroborated. The statements of each
child to petitioner's caseworker "provided sufficient
cross-corroboration inasmuch as they 'tend to support the statements
of the others and, viewed together, give sufficient indicia of
reliability to each [child's] out-of-court statements' " (*Matter of
Timothy B. [Paul K.]*, 138 AD3d 1460, 1461 [4th Dept 2016], lv denied
28 NY3d 908 [2016]; see *Matter of Ricky A. [Barry A.]*, 162 AD3d 1747,
1748 [4th Dept 2018]).

Contrary to the mother's further contention, the finding of
neglect is supported by a preponderance of the evidence. As relevant
here, a neglected child is one "whose physical, mental, or emotional
condition has been impaired or is imminent danger of becoming impaired
as a result of the failure of his [or her] parent . . . to exercise a
minimum degree of care . . . in providing the child with proper
supervision or guardianship" (Family Ct Act § 1012 [f] [i] [B]).

Although “[p]roof of mental illness alone will not support a finding of neglect,” such evidence will support a finding of neglect if it establishes “a causal connection between the parent’s condition, and actual or potential harm to the child[]” (*Matter of Lyndon S. [Hillary S.]*, 163 AD3d 1432, 1433 [4th Dept 2018] [internal quotation marks omitted]; *cf. Matter of Lacey-Sophia T.-R. [Ariela (T.)W.]*, 125 AD3d 1442, 1445 [4th Dept 2015]). Here, the testimony of petitioner’s caseworkers established that the mother behaved erratically while shopping with her 10-year-old daughter and, on the trip home, began driving in such a dangerous manner that the daughter exited the vehicle and walked the rest of the way home. When the mother arrived outside the home, she told her 13-year-old son that she had to wash herself, whereupon she removed her clothes in the yard and began to spray herself with a hose. When the daughter arrived home on foot, she discovered her mother washing herself in that manner. The next day, the children informed the caseworkers that the mother, who was diagnosed with bipolar disorder and psychosis, had not taken her medication in over 20 days. That same day, according to the testimony of the maternal grandmother, the mother struck the son with a closed fist. We conclude that the evidence is sufficient to establish a causal connection between the mother’s failure to treat her mental illness and actual or potential harm to the children (see *Lyndon S.*, 163 AD3d at 1434).

Entered: October 2, 2020

Mark W. Bennett
Clerk of the Court