

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

1333

**TP 10-01166**

PRESENT: MARTOCHE, J.P., SCONIERS, GREEN, AND PINE, JJ.

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IN THE MATTER OF SHANE M. DRAMAN, PETITIONER,

V

MEMORANDUM AND ORDER

NEW YORK STATE OFFICE OF CHILDREN AND FAMILY  
SERVICES, GLADYS CARRION, COMMISSIONER, ERIE  
COUNTY DEPARTMENT OF SOCIAL SERVICES, CAROL  
DANKERT, COMMISSIONER AND ROBERT DIESZ,  
DIRECTOR, RESPONDENTS.

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JAMES P. RENDA, BUFFALO, FOR PETITIONER.

ANDREW M. CUOMO, ATTORNEY GENERAL, ALBANY (KATHLEEN M. ARNOLD OF  
COUNSEL), FOR RESPONDENTS NEW YORK STATE OFFICE OF CHILDREN AND FAMILY  
SERVICES AND GLADYS CARRION, COMMISSIONER.

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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, Erie County [Patrick H. NeMoyer, J.], entered May 17, 2010) to review a determination of respondent New York State Office of Children and Family Services. The determination denied the application of petitioner to amend an indicated report of child maltreatment.

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 seeking to annul the determination of respondent New York State Office of Children and Family Services denying his request to amend an indicated report of maltreatment to provide instead that the report was unfounded (see Social Services Law § 422 [8] [a] [v]; [c] [ii]). Upon our review of the record, we conclude that there is a rational basis for the agency's determination and that it is supported by substantial evidence (see *Matter of Theresa G. v Johnson*, 26 AD3d 726; *Matter of Danielle G. v Schauseil*, 292 AD2d 853, 854).

Entered: November 12, 2010

Patricia L. Morgan  
Clerk of the Court