

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

128

CAF 11-00271

PRESENT: SMITH, J.P., FAHEY, CARNI, SCONIERS, AND GORSKI, JJ.

IN THE MATTER OF CLAUDINA E.P.

ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES,
PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

STEPHANIE M., RESPONDENT-APPELLANT,
AND JOHNNY N., RESPONDENT.
(APPEAL NO. 1.)

ALAN BIRNHOLZ, EAST AMHERST, FOR RESPONDENT-APPELLANT.

JOSEPH T. JARZEMBEK, BUFFALO, FOR PETITIONER-RESPONDENT.

DAVID C. SCHOPP, ATTORNEY FOR THE CHILD, THE LEGAL AID BUREAU OF
BUFFALO, INC., BUFFALO (CHARLES D. HALVORSEN OF COUNSEL), FOR CLAUDINA
E.P.

Appeal from an order of the Family Court, Erie County (Margaret O. Szczur, J.), entered January 26, 2011 in a proceeding pursuant to Family Court Act article 10. The order, among other things, placed respondent Stephanie M. under the supervision of petitioner.

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

Memorandum: Respondent mother appeals from three orders, each of which adjudicated one of her three children to be neglected and placed the mother under the supervision of petitioner. The findings of neglect were based on, inter alia, the mother's violation of an order of protection requiring respondent father to stay away from the mother and her home and prohibiting him from visiting the children unless a court order was entered authorizing such visitation. We reject the contention of the mother in each appeal that the evidence at the fact-finding hearing was insufficient to support the adjudications of neglect (see generally Family Ct Act § 1051 [a]). The record establishes that the mother left at least one of the subject children at her home in the care of the father, despite her awareness of his violent tendencies and in knowing violation of the order of protection. We therefore conclude "that there is a sound and substantial basis to support Family Court's finding that the child[ren were] in imminent danger of impairment as a result of [the mother's] failure to exercise a minimum degree of care" (*Matter of Paul U.*, 12 AD3d 969, 971; see § 1012 [f] [i]; *Matter of Angelina W.*, 43 AD3d

1370).

Entered: January 31, 2012

Frances E. Cafarell
Clerk of the Court