



In re Nicole A.

305 A.D.2d 1039 (2003) | Cited 0 times | New York Supreme Court | May 2, 2003

This opinion is uncorrected and subject to revision before publication in the Official Reports.
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MEMORANDUM AND ORDER

Appeal from an order of Family Court, Oneida County (Griffith, J.), entered October 3, 2001, which, inter alia, adjudicated respondent's child to be neglected.

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

Memorandum: Respondent appeals from an order that adjudicated her daughter to be neglected based on a finding of educational neglect. "Proof that a minor child is not attending a public or parochial school in the district where the parents reside makes out a prima facie case of educational neglect" (Matter of Christa H., 127 AD2d 997, 997; see Matter of Chad V., 265 AD2d 607, 608, lv denied 94 NY2d 757, 758). The contention of respondent that her daughter was too ill to attend school is not supported by the record. Moreover, respondent refused to communicate with the Rome City School District after February 2000 to arrange an adequate alternative education for her daughter. We conclude that petitioner met its burden of establishing educational neglect by a preponderance of the evidence (see Chad V., 265 AD2d 608). Under the circumstances of this case, we further conclude that Family Court did not abuse its discretion in permitting respondent to appear pro se at the fact-finding hearing and in denying respondent's request for an adjournment for the appointment of new assigned counsel to be available in the courtroom to assist respondent (see Matter of Petkovsek v Snyder, 251 AD2d 1088, 1089, lv (*2)denied 92 NY2d 942).

