

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
THIRD DEPARTMENT

Matter of Emily GG. v. India HH.

2026 NY Slip Op 02181 · No. CV-24-1691 · Decided April 9, 2026

SUMMARY

The Appellate Division, Third Department, affirmed a Family Court order awarding a cousin sole legal and physical custody of a child and limiting the father's parenting time. The court held that certified police records were admissible as business records, rejected or found unpreserved the father's other evidentiary and procedural claims, and concluded that the parenting-time limitation had a sound and substantial basis in the record. The decision emphasized the child's exposure to domestic violence and the stability provided by the cousin's care.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Corcoran, J.; Clark, J.P.; Reynolds Fitzgerald, J.; Ceresia, J.; Powers, J.
JURISDICTION	New York Supreme Court, Appellate Division, Third Department
DECIDED	April 9, 2026
DOCKET	CV-24-1691
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a Family Court order awarding a cousin sole legal and physical custody of a child and granting the father four hours of biweekly parenting time in a third-party custody proceeding under Family Court Act article 6.
STANDARD OF REVIEW	Evidentiary rulings and trial-management decisions are reviewed for proper exercise of discretion, unpreserved errors are not reviewable absent an exception, and a parenting-time determination is entitled to deference when supported by a sound and substantial basis in the record and is guided by the child's best interests.
PRECEDENTIAL VALUE	Published
PARTIES	Travis II. v. Emily GG., India HH.

TOPICS

child custody visitation domestic violence evidence appellate procedure

PRACTICE AREAS

family law evidence appellate procedure

QUESTIONS PRESENTED

1. Whether certified police records produced pursuant to a judicial subpoena were admissible without testimony from a records custodian or other police department employee.
2. Whether statements in the police records, including officers' observations, the father's statements, and statements attributed to the mother, were admissible or their admission was harmless.
3. Whether Family Court denied the father a fair hearing by refusing to entertain a new custody petition immediately before the fact-finding hearing.
4. Whether the father's challenge to uncorroborated hearsay concerning inappropriate touching of the child was preserved for appellate review.
5. Whether Family Court improperly limited the father's recross-examination of the mother.
6. Whether the limitation of the father's parenting time to four hours biweekly lacked a sound and substantial basis in the record.

HOLDINGS

1. Police records produced in response to a judicial subpoena and accompanied by a certification satisfying CPLR 3122-a are admissible as certified business records under CPLR 4518(a) without testimony from a records custodian or other police department employee.
2. Police incident-report entries reflecting responding officers' own observations and conduct, and the father's recorded statements to police, were admissible; any error in admitting statements attributable to the mother was harmless.
3. Family Court properly exercised its authority to manage the proceedings by refusing to entertain a new custody petition immediately before the fact-finding hearing.
4. The father's challenge to the admission of uncorroborated hearsay that he touched the child inappropriately was unpreserved because he failed to object during the fact-finding hearing.
5. Family Court did not improperly limit the father's recross-examination of the mother because he had a full and fair opportunity to cross-examine her and identified no new matter on redirect warranting further questioning.
6. The four-hour biweekly parenting-time limitation was properly upheld because it was guided by the child's best interests and supported by a sound and substantial basis in the record.

KEY QUOTATIONS

*“Records produced in response to a judicial subpoena are admissible when accompanied by a certification pursuant to CPLR 3122-a stating that the records were made in the regular course of business, at or near the time of the events recorded, and that it was the regular course of business to make such records” (*1)*

*“Trial courts "must have broad discretion in controlling their calendars and the progress of a trial"” (*3)*

*“Family Court's determination of the father's parenting time is guided by the child's best interests and is entitled to deference where, as here, it is supported by a sound and substantial basis in the record” (*3)*

FACTUAL BACKGROUND

The child, born in 2018, was exposed to a lengthy pattern of violent and threatening conduct by the father toward the mother. In March 2023, the father attempted to harm himself in the family residence while the child was present, struck the mother after she intervened, and was later hospitalized for psychiatric evaluation. With the mother's consent, the child's cousin assumed primary caregiving responsibilities while the mother sought stable housing. The child reportedly experienced emotional dysregulation associated with contact with the father but thrived in the cousin's stable care.

PROCEDURAL HISTORY

The cousin commenced a third-party custody proceeding in May 2023, alleging extraordinary circumstances. After a fact-finding hearing, Family Court of Madison County found extraordinary circumstances, awarded the cousin sole legal and physical custody, and limited the father's parenting time. The father appealed, challenging evidentiary rulings, the handling of his proposed custody petition, the limitation of recross-examination, and the parenting-time determination; the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Cherokee C. [Matthew C.], 173 AD3d 1573, 1574 (3d Dept 2019)
- Oropallo v Bank of Am. Home Loans, LP, 162 AD3d 1420, 1423 (3d Dept 2018)
- Matter of Aiden XX. [Jesse XX.], 104 AD3d 1094, 1096 (3d Dept 2013)
- People v Patterson, 28 NY3d 544, 550-551 (2016)
- Matter of M.G. [Marquise G.], 234 AD3d 575, 576 (1st Dept 2025)
- Matter of Amara C. [Wanda C.], 206 AD3d 424, 424-425 (1st Dept 2022)
- People v Finch, 160 AD3d 1212, 1214 (3d Dept 2018)
- Matter of Leon RR., 48 NY2d 117, 122-123 (1979)
- Matter of Zaiden P. [Ashley Q.], 211 AD3d 1348, 1355 n 5 (3d Dept 2022), lv denied 39 NY3d 911 (2023)
- Matter of Carmela H. [Danielle F.], 185 AD3d 1460, 1461 (4th Dept 2020), lv denied 35 NY3d 915 (2020)
- Matter of Nicholas R. [Jason S.], 82 AD3d 1526, 1528 n (3d Dept 2011), lv denied 17 NY3d 706 (2011)
- Matter of Imani O. [Marcus O.], 91 AD3d 466, 467 (1st Dept 2012)

- Matter of Angelica CC. v Ronald DD., 214 AD3d 1091, 1096 (3d Dept 2023), lv denied 39 NY3d 915 (2023)
- Matter of Tibor I. [Tibor H.], 239 AD3d 1074, 1076 n 2 (3d Dept 2025)
- Suchow v Suchow, 200 AD3d 1359, 1361 (3d Dept 2021)
- Vickie F. v Joseph G., 195 AD3d 1064, 1066 (3d Dept 2021)
- Matter of Gary JJ. v Barbara KK., 244 AD3d 1620, 1622 (3d Dept 2025)
- Matter of Sherab X. v Michelle Y., 244 AD3d 1532, 1533 (3d Dept 2025)
- Benjamin V. v Shantika W., 207 AD3d 1017, 1018-1019 (3d Dept 2022)
- Matter of Mackenzie OO. v Ian NN., 242 AD3d 1345, 1350 (3d Dept 2025)
- Matter of Gabrielle Q. v James R., 233 AD3d 1407, 1409-1410 (3d Dept 2024)
- Matter of Robert C. v Katlyn D., 230 AD3d 1392, 1394-1395 (3d Dept 2024)
- Matter of Jaime T. v Ryan U., 238 AD3d 1257, 1259 n 2 (3d Dept 2025)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/new-york-supreme-court-appellate-division-third-department-supreme-court-of-the-state-of-new-york-ap/2026/matter-of-emily-gg-v-india-hh-1zfx710c>