

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Matter of Manuel G. (Anonymous), Jr.

2026 NY Slip Op 01061 · No. 2024-10779 · Decided February 25, 2026

SUMMARY

The Appellate Division, Second Department reversed an order dismissing neglect petitions against a father in related Family Court Act article 10 proceedings. The court found that a preponderance of the evidence established that the father committed domestic violence against the children's mother in their presence, reinstated the petitions, and remitted the matter for a dispositional hearing.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Colleen D. Duffy, J.P.; Paul Wooten, J.; Janice A. Taylor, J.; Phillip Hom, J.
JURISDICTION	New York Supreme Court, Appellate Division, Second Department
DECIDED	February 25, 2026
DOCKET	2024-10779
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Administration for Children's Services appealed from a Family Court order entered after a fact-finding hearing that dismissed neglect petitions.
STANDARD OF REVIEW	The Appellate Division reviewed whether the Family Court's finding that the children were not neglected was supported by the record and reversed on the facts where the evidence established neglect by a preponderance of the evidence.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Administration for Children's Services v. Manuel G. (Anonymous)

TOPICS

- family law procedure
- domestic violence
- parental rights
- evidence
- appellate procedure

PRACTICE AREAS

Family law

Child protective proceedings

Domestic violence

Evidence

QUESTIONS PRESENTED

1. Whether the evidence established by a preponderance of the evidence that the father committed domestic violence against the children's mother in the children's presence or proximity.
2. Whether the children's physical, mental, or emotional conditions were impaired or in imminent danger of impairment as a result of the domestic violence.
3. Whether the father's failure to testify supported a negative inference against him.

HOLDINGS

1. A preponderance of the credible evidence established that the father's commission of domestic violence against the mother impaired or placed in imminent danger of impairment the children's physical, mental, or emotional conditions, thereby establishing neglect under Family Court Act § 1012(f).
2. The father's failure to testify at the fact-finding hearing warranted a negative inference against him.

KEY QUOTATIONS

*“Furthermore, impairment or imminent danger of physical impairment should also be inferred from the subject children's proximity to violence directed against a family member, even absent evidence that they were aware of or emotionally impacted by the violence” (*2)*

FACTUAL BACKGROUND

The father allegedly committed an act of domestic violence against the children's mother by cutting her with a knife while the children were present or nearby. At the fact-finding hearing, ACS introduced the mother's 911 call, certified medical records, investigative records, and statements by the children. Although the mother initially told the 911 operator that she did not know who cut her, the Appellate Division found that the collective evidence sufficiently established that the father committed the act and that the children were impaired or in imminent danger of impairment.

PROCEDURAL HISTORY

ACS commenced three related Family Court Act article 10 proceedings alleging that the father neglected the children by committing domestic violence against their mother in the children's presence. After a fact-finding hearing, the Family Court, Kings County, found that ACS had not established neglect and dismissed the petitions. The Appellate Division reversed, reinstated the petitions, made a finding of neglect, and remitted for a dispositional hearing and further determinations.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The petitions are reinstated, a finding is made that the father neglected the subject children, and the matter is remitted to the Family Court, Kings County, for a dispositional hearing and determinations thereafter.

CASES CITED

- Matter of Kyng T.B. [Theodore B.], 234 AD3d 682, 683
- Matter of Nina P. [Giga P.], 180 AD3d 1047, 1047
- Matter of Xierra N. [Lewis N.], 226 AD3d 790, 790-791
- Matter of Najaie C. [Niger C.], 173 AD3d 1011, 1012
- Matter of Joseph M.H. [Frederick H.], 227 AD3d 996, 996-997
- Matter of Legend C.-F.F. [Demetri H.], 231 AD3d 1022, 1023
- Matter of Asani J. [Assata A.], 2026 NY Slip Op 00130, *1

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