

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

OPINION

Matter of Manuel G. (Anonymous), Jr. 2026 NY Slip Op 01061

PER CURIAM.

Matter of Manuel G. (Anonymous), Jr. (2026 NY Slip Op 01061) Matter of Manuel G. (Anonymous), Jr. 2026 NY Slip Op 01061 Decided on February 25, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on February 25, 2026

SUPREME COURT OF THE STATE OF NEW YORK

Appellate Division, Second Judicial Department COLLEEN D. DUFFY, J.P.

PAUL WOOTEN

JANICE A. TAYLOR

PHILLIP HOM, JJ. 2024-10779

(Docket Nos. N-20755-23, N-20756-23, N-20757-23) [*1]In the Matter of Manuel G. (Anonymous), Jr. Administration for Children's Services, appellant; Manuel G. (Anonymous), respondent. (Proceeding No. 1) In the Matter of Marianna G. (Anonymous). Administration for Children's Services, appellant; Manuel G. (Anonymous), respondent. (Proceeding No. 2) In the Matter of Cleopatra G. (Anonymous). Administration for Children's Services, appellant; Manuel G. (Anonymous), respondent. (Proceeding No. 3) Steven Banks, Corporation Counsel, New York, NY (Jamison Davies and Amanda Abata of counsel), for appellant. Brooklyn Defender Services, Brooklyn, NY (Brian Holbrook of counsel), for respondent. Twyla Carter, New York, NY (Dawne A. Mitchell and Daniel Abdul-Malak of counsel), attorney for the children. DECISION & ORDER In related proceedings pursuant to Family Court Act article 10, the Administration for Children's Services appeals from an order of the Family Court, Kings County (Melody Glover, J.), dated October 17, 2024. The order, after a fact-finding hearing, and upon a finding that the

petitioner failed to establish that the father neglected the subject children, dismissed the petitions. ORDERED that the order is reversed, on the facts, without costs or disbursements, 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. The Administration for Children's Services (hereinafter ACS) commenced these related proceedings pursuant to Family Court Act article 10, alleging that the father neglected the subject children by committing an act of domestic violence against the children's mother in their presence. At a fact-finding hearing, ACS admitted a recording of the mother's 911 call related to the alleged act of domestic violence, the mother's certified medical records, and ACS's investigation [*2]records, which included various statements made by the children related to the alleged act of domestic violence. In an order dated October 17, 2024, made after the fact-finding hearing, the Family Court, upon a finding that ACS failed to establish that the father neglected the children, dismissed the petitions. ACS appeals. "A finding of neglect is proper where a preponderance of the evidence establishes that the child's physical, mental, or emotional condition was impaired or was in danger of becoming impaired by the parent's commission of an act, or acts, of domestic violence in the child's presence" (Matter of Kyng T.B. [Theodore B.] , 234 AD3d 682 , 683 [internal quotation marks omitted]; see Family Ct Act § 1012[f]). "Even a single act of domestic violence, either in the presence of a child or within the hearing of a child, may be sufficient for a neglect finding" (Matter of Nina P. [Giga P.] , 180 AD3d 1047, 1047 ; see Matter of Xierra N. [Lewis N.] , 226 AD3d 790 , 790). "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" (Matter of Najaie C. [Niger C.] , 173 AD3d 1011 , 1012 [internal quotation marks omitted]; see Matter of Xierra N. [Lewis N.] , 226 AD3d at 790-791). Here, a preponderance of the credible evidence presented at the fact-finding hearing supported a finding that the children's physical, mental, or emotional conditions were impaired or in imminent danger of impairment by the father's commission of an act of domestic violence against the mother (see Matter of Joseph M.H. [Frederick H.] , 227 AD3d 996 , 996-997). The Family Court erred in concluding that the evidence did not sufficiently demonstrate that it was the father who cut the mother with a knife during the incident. Although the mother initially reported to a 911 operator that she did not know who had cut her, the medical records, the children's statements, and the other evidence presented at the fact-finding hearing were sufficient to meet ACS's burden of proof. Moreover, as the court properly determined, the father's failure to testify at the fact-finding hearing warranted a negative inference against him (see Matter of Legend C.-F.F. [Demetri H.] , 231 AD3d 1022 , 1023). Under these circumstances, the court's finding that the children were not neglected by the father is not supported by the record (see Matter of Asani J. [Assata A.] , ____ AD3d ____, 2026 NY Slip Op 00130, *1 ; Matter of Najaie C. [Niger C.] , 173 AD3d at 1012). In light of the foregoing, we need not reach ACS's remaining contention. Accordingly, we reverse the order, reinstate the petitions,

find that the children are neglected within the meaning of Family Court Act § 1012(f), and remit the matter to the Family Court, Kings County, for a dispositional hearing and determinations thereafter. DUFFY, J.P., WOOTEN, TAYLOR and HOM, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/new-york-supreme-court-appellate-division-second-department-supreme-court-of-the-state-of-new-york-a/2026/matter-of-manuel-g-anonymous-jr-2rybmdwz>