

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

Matter of Lopez v. Rodriguez

2026 NY Slip Op 01064 (N.Y. Ct. App. 2026) · No. 2024-11086 · Decided February 25, 2026

SUMMARY

The Appellate Division, Second Department, reversed the Family Court's sua sponte dismissal of the mother's custody petition for failure to submit an acknowledgment of paternity. The court held that the Family Court had authority to determine paternity in the custody proceeding and remitted the matter for a hearing and a new determination on the merits.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Deborah A. Dowling, J.; Janice A. Taylor, J.; James P. McCormack, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	February 25, 2026
DOCKET	2024-11086
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The mother appealed from an order of the Family Court, Orange County, that sua sponte dismissed her Family Court Act article 6 custody petition without a hearing for failure to submit an acknowledgment of paternity.
PRECEDENTIAL VALUE	Published
PARTIES	Elaine Hernandez Lopez v. Michael Rodriguez

TOPICS

child custody paternity family law procedure appellate procedure civil procedure

PRACTICE AREAS

family law appellate procedure civil procedure

QUESTIONS PRESENTED

1. Whether the Family Court lacked authority to determine custody because the mother failed to submit an acknowledgment of paternity.
2. Whether the Family Court improperly dismissed the custody petition sua sponte without conducting a hearing or considering the child's best interests.

HOLDINGS

1. The mother's failure to produce the acknowledgment of paternity did not deprive the Family Court of the power to render a child custody determination. The Family Court had authority to make an order of filiation declaring the child's paternity in the custody proceeding.
2. The Family Court should not have sua sponte dismissed the petition without conducting a hearing or considering the best interests of the child.

KEY QUOTATIONS

“Although on the scheduled inquest date the mother was unable, despite diligent efforts, to produce the acknowledgment of paternity as previously directed by the Family Court, her failure to do so did not deprive the court of the power to render a child custody determination.”

“Under the circumstances, the Family Court should not have, sua sponte, dismissed the petition without conducting a hearing or considering the best interests of the child.”

FACTUAL BACKGROUND

The mother and father, who were never married, have one child, a daughter born in Pennsylvania in 2011. The mother alleged that the father signed an acknowledgment of paternity, and the child's Pennsylvania birth certificate listed the father as the child's father. Both parents appeared in the proceeding, the father did not dispute paternity, and the parties and the attorney for the child favored resolving the custody petition on its merits.

PROCEDURAL HISTORY

The mother commenced a custody proceeding concerning the parties' child and alleged that the father had signed an acknowledgment of paternity, but she did not attach that document to her petition. After the Family Court directed her to produce it before an inquest, she was unable to do so despite diligent efforts. The Family Court then dismissed the petition sua sponte without a hearing, and the Appellate Division reversed, reinstated the petition, and remitted for a hearing and a new determination.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The petition is reinstated, and the matter is remitted to the Family Court, Orange County, for a hearing and a new determination of the petition thereafter.

CASES CITED

- Matter of Comins v. Briggs, 25 A.D.3d 842, 843 (2d Dep't 2006)
- Eschbach v. Eschbach, 56 N.Y.2d 167, 171 (1982)

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