

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

Matter of Kadri K. (Anonymous)

2026 NY Slip Op 01063 (Supreme Court of the State of New York Appellate Division Second Judicial
Department 2026) · No. 2024-11755 · Decided February 25, 2026

SUMMARY

The Appellate Division, Second Department affirmed a Family Court order finding that Kevin K. sexually abused his fiancée's daughter and derivatively abused his son in related Family Court Act article 10 proceedings. The court held that the daughter's testimony and the surrounding circumstances supported the findings by a preponderance of the evidence, and that inconsistencies in her prior statements did not make her testimony unworthy of belief.

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	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	February 25, 2026
DOCKET	2024-11755
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of fact-finding entered after a Family Court fact-finding hearing in related Family Court Act article 10 proceedings.
STANDARD OF REVIEW	The Appellate Division gave great deference and great weight to the Family Court's credibility determinations and factual findings where conflicting testimony made the matter turn on witness credibility, and reviewed whether the abuse finding was supported by a preponderance of the evidence.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Kevin K. (Anonymous) v. Administration for Children's Services

TOPICS

family law procedure

parental rights

evidence

burden of proof

appellate procedure

PRACTICE AREAS

family law

child abuse and neglect

evidence

QUESTIONS PRESENTED

1. Whether the evidence established by a preponderance of the evidence that Kevin K. sexually abused the daughter within the meaning of Family Court Act § 1012(e)(iii)(A).
2. Whether the Family Court properly credited the daughter's testimony despite minor inconsistencies with her prior statements.
3. Whether the evidence supported the finding that Kevin K. derivatively abused his son.

HOLDINGS

1. The Family Court's findings that Kevin K. sexually abused the daughter and derivatively abused the son were supported by a preponderance of the evidence.
2. Minor inconsistencies between the daughter's hearing testimony and her prior statements did not render her testimony unworthy of belief.

KEY QUOTATIONS

"Great deference is given to the Family Court's credibility determinations, as it is in the best position to assess the credibility of the witnesses having had the opportunity to view the witnesses, hear the testimony, and observe their demeanor" ([*2])

"Where, as here, there is conflicting testimony and the matter turns upon the assessment of the credibility of witnesses, the factual findings of the hearing court must be accorded great weight" ([*2])

FACTUAL BACKGROUND

The Administration for Children's Services alleged that Kevin K., who was legally responsible for his fiancée's daughter, sexually abused her and derivatively abused his son. At the fact-finding hearing, the daughter testified about the sexual abuse, although her testimony differed in some respects from prior statements to the New York City Police Department and ACS. The Family Court credited the testimony and found sexual abuse of the daughter and derivative abuse of the son.

PROCEDURAL HISTORY

The Administration for Children's Services filed petitions alleging that Kevin K. sexually abused his fiancée's daughter and derivatively abused his son. After a fact-finding hearing, the Family Court, Queens County, found that Kevin K. was a person legally responsible for the daughter, sexually abused her, and derivatively abused the son. Kevin K. appealed, and the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Ashlyn M. [Robert J.], 228 AD3d 939, 941
- Matter of Vered L. [Yoshi S.], 205 AD3d 1028, 1029-1030
- Matter of Shaquan A. [Fan Fan A.], 137 AD3d 1119, 1120
- Matter of Naima E. [Daryl M.], 227 AD3d 901, 902-903
- Matter of M.W. [Mohammad W.], 172 AD3d 879, 881
- Matter of Jaretzy F. [Jesus F.—F.], 240 AD3d 892, 894

OPINION

Matter of Kadri K. (Anonymous) 2026 NY Slip Op 01063

PER CURIAM.

Matter of Kadri K. (Anonymous) (2026 NY Slip Op 01063) Matter of Kadri K. (Anonymous) 2026 NY Slip Op 01063 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. 2024-11755

(Docket Nos. N-9930-22, N-9931-22) [*1]In the Matter of Kadri K. (Anonymous). Administration for Children's Services, petitioner-respondent; Kevin K. (Anonymous), appellant, et al., respondent. (Proceeding No. 1) In the Matter of Shanta S. (Anonymous). Administration for Children's Services, petitioner-respondent; Kevin K. (Anonymous), appellant, et al., respondent. (Proceeding No. 2) Carol L. Kahn, New York, NY, for appellant. Steven Banks, Corporation Counsel, New York, NY (Ingrid R. Gustafson and Ian M. Sinclair of counsel), for petitioner-respondent. Robert E. Silverberg, Forest Hills, NY, attorney for the child Kadri K. Twyla Carter, New York, NY (Dawne A. Mitchell and Polixene Petrakopoulos of counsel), attorney for the child Shanta S. DECISION & ORDER In related proceedings pursuant to Family Court Act article 10, Kevin K. appeals from an order of fact-finding of the Family Court, Queens County (Elenor Reid-Cherry, J.), dated October 2, 2024. The order of fact-finding, after a fact-finding hearing, found that Kevin K. sexually abused the child S. S. and derivatively abused the child K. K. ORDERED that the order of fact-finding is affirmed, without costs or disbursements. The Administration for Children's Services (hereinafter ACS) filed petitions alleging, inter alia, that

Kevin K. (hereinafter the appellant) sexually abused his fiancée's daughter, the child S. S., and derivatively abused the child K. K., the appellant's son. Following a fact-finding hearing, the Family Court, in an order of fact-finding dated October 2, 2024, found that the appellant was a person legally responsible for the daughter, that the appellant sexually abused the daughter, and that the appellant derivatively abused the son. This appeal ensued. The Family Court Act defines an abused child as, inter alia, "a child . . . whose parent or other person legally responsible for his [or her] care . . . commits . . . an offense against such child defined in article one hundred thirty of the penal law" (Family Ct Act § 1012[e][iii][A]; see Matter [*2]of Ashlyn M. [Robert J.] , 228 AD3d 939 , 941; Matter of Vered L. [Yoshi S.] , 205 AD3d 1028, 1029). "Sexual contact" is defined as "any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party" (Penal Law § 130.00[3]). "The intent to receive sexual gratification 'may be inferred from the nature of the acts committed and the circumstances in which they occurred'" (Matter of Vered L. [Yoshi S.] , 205 AD3d at 1030 , quoting Matter of Shaquan A. [Fan Fan A.] , 137 AD3d 1119, 1120). At a fact-finding hearing in a proceeding pursuant to Family Court Act article 10, "the petitioner has the burden of establishing, by a preponderance of the evidence, that the subject child has been abused or neglected" (Matter of Vered L. [Yoshi S.] , 205 AD3d at 1029 ; see Family Ct Act § 1046[b][i]). "Great deference is given to the Family Court's credibility determinations, as it is in the best position to assess the credibility of the witnesses having had the opportunity to view the witnesses, hear the testimony, and observe their demeanor" (Matter of Ashlyn M. [Robert J.] , 228 AD3d at 941 [internal quotation marks omitted]). "Where, as here, there is conflicting testimony and the matter turns upon the assessment of the credibility of witnesses, the factual findings of the hearing court must be accorded great weight" (id. [internal quotation marks omitted]; see Matter of Naima E. [Daryl M.] , 227 AD3d 901 , 902). Here, the Family Court's finding that the appellant sexually abused the daughter and derivatively abused the son is supported by a preponderance of the evidence (see Matter of Ashlyn M. [Robert J.] , 228 AD3d at 941; Matter of M.W. [Mohammad W.] , 172 AD3d 879 , 881). The daughter's hearing testimony established that the appellant sexually abused her within the meaning of Family Court Act § 1012(e)(iii)(A) (see Matter of Ashlyn M. [Robert J.] , 228 AD3d at 941; Matter of Naima E. [Daryl M.] , 227 AD3d at 903). Contrary to the appellant's contention, the daughter's testimony, which differed in some respects from prior statements she made to representatives of the New York City Police Department and ACS, constituted "minor inconsistencies" that did not render her "testimony unworthy of belief" (Matter of Jaretzy F. [Jesus F.—F.] , 240 AD3d 892 , 894 [internal quotation marks omitted]). Based on the totality of the circumstances, the court appropriately inferred that the appellant intended to gain sexual gratification from his conduct (see Matter of Ashlyn M. [Robert J.] , 228 AD3d at 941; Matter of M.W. [Mohammad W.] , 172 AD3d at 881). The appellant's remaining contention is unpreserved for appellate review. DUFFY, J.P., WOOTEN, TAYLOR and HOM, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

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