

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

Matter of Manno v. Werley

2026 NY Slip Op 01966 · No. 2022-03329 · Decided April 1, 2026

SUMMARY

The Appellate Division, Second Department, reversed a Family Court order concerning petitions to modify custody and parental access. The court remitted the matter for an expedited hearing and a new determination, while directing the parties to continue complying with the existing order pending further determination.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Angela G. Iannacci, J.P.; Deborah A. Dowling, J.; Carl J. Landicino, J.; Laurence L. Love, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	April 1, 2026
DOCKET	2022-03329
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The mother appealed from a Family Court order that denied her petition to modify a prior Virginia custody order and granted the father's petition to modify that order to award him sole legal and physical custody, subject to the mother's parental access.
STANDARD OF REVIEW	The court reviewed the custody determination in light of new developments, on the facts and in the exercise of discretion, to determine whether the record remained sufficient to review the child's best interests.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Maria Lynn Manno v. Steven Eric Werley

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether new developments rendered the appellate record insufficient to determine whether the Family Court's custody determination remained in the best interests of the child.
2. Whether the Family Court custody order should be reversed and the parties' modification petitions remitted for an expedited hearing and new determination.

HOLDINGS

1. New developments rendered the record insufficient to determine whether the Family Court's custody determination remained in the child's best interests.
2. The court declined to express an opinion on the appropriate custody determination and remitted both petitions for an expedited hearing and a new determination.

KEY QUOTATIONS

“New developments since the issuance of the order dated April 25, 2022, as amended April 5, 2024, have been brought to this Court's attention that render the record on appeal insufficient to review whether the Family Court's determination is still in the best interests of the parties' child” ([*1])

“We express no opinion as to the appropriate determination” ([*1])

FACTUAL BACKGROUND

The parties are the parents of a child and were subject to a March 8, 2018 custody order issued by a Virginia juvenile and domestic relations district court. The mother sought modification to award the father certain parental access, while the father sought sole legal and physical custody subject to the mother's parental access. After the Family Court ruled on the petitions, new developments were brought to the Appellate Division's attention that affected whether the existing determination remained in the child's best interests.

PROCEDURAL HISTORY

The parties' custody dispute originated with an order of the City of Danville Juvenile and Domestic Relations District Court in Virginia dated March 8, 2018. After a hearing, the Family Court, Suffolk County, denied the mother's modification petition and granted the father's petition for sole legal and physical custody. The Appellate Division reversed and remitted the matter to the Family Court, Kings County, for an expedited hearing and a new determination of both petitions.

DISPOSITION

REMAND INSTRUCTIONS

The matter is remitted to the Family Court, Kings County, for an expedited hearing and a new determination of the mother's petition and the father's petition thereafter. Pending that determination or further order of the Family Court, Kings County, the parties must continue complying with the terms of the April 25, 2022 order, as amended April 5, 2024.

CASES CITED

- Matter of Michael B., 80 NY2d 299, 318
- Haddad v Sassoon, 237 AD3d 673
- Matter of Martynchuk v Vasylovskaya, 223 AD3d 819, 820
- Matter of Magana v Delph, 195 AD3d 720, 721-722
- Matter of Baker v James, 210 AD3d 676, 678
- Matter of Baptiste v Gregoire, 140 AD3d 746, 748

OPINION

PER CURIAM.

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April 1, 2026

Appellate Division, Second Department

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This decision is uncorrected and subject to revision before publication in the Official Reports.

In the Matter of Maria Lynn Manno, appellant,

v

Steven Eric Werley, respondent.

Supreme Court of the State of New York, Appellate Division, Second Judicial Department

Decided on April 1, 2026

2022-03329, (Docket Nos. V-6136-20/20A, V-06136-20/20B)

Angela G. Iannacci, J.P.

Deborah A. Dowling

Carl J. Landicino

Laurence L. Love, JJ.

Nick Bologna & Associates, P.C., Wantagh, NY, for appellant.

Horn & Horn, Hauppauge, NY (Jeffrey S. Horn of counsel), for respondent.

Laurette D. Mulry, Central Islip, NY (John B. Belmonte of counsel), attorney for the child.

[*1]

 <p>DECISION & ORDER</p> <p>In related proceedings pursuant to Family Court Act article 6, the mother appeals from an order of the Family Court, Suffolk County (Heather P.S.

James, Ct. Atty. Ref.), dated April 25, 2022, as amended April 5, 2024. The order, after a hearing, denied the mother's petition to modify a prior order of the City of Danville Juvenile and Domestic Relations District Court, Commonwealth of Virginia, dated March 8, 2018, so as to award the father certain parental access with the parties' child, and granted the father's petition to modify the order dated March 8, 2018, so as to award him sole legal and physical custody of the child, subject to the mother's parental access.</p> <p>ORDERED that the order dated April 25, 2022, as amended April 5, 2024, is reversed, on the facts and in the exercise of discretion, without costs or disbursements, and the matter is remitted to the Family Court, Kings County, for an expedited hearing and a new determination of the mother's petition and the father's petition thereafter; and it is further,</p> <p>ORDERED that pending determination of the parties' petitions, or further order of the Family Court, Kings County, the parties shall continue to comply with the terms of the order dated April 25, 2022, as amended April 5, 2024.</p> <p>New developments since the issuance of the order dated April 25, 2022, as amended April 5, 2024, have been brought to this Court's attention that render the record on appeal insufficient to review whether the Family Court's determination is still in the best interests of the parties' child (<i>see</i> <i>Matter of Michael B. </i>, 80 NY2d 299, 318; <i>Haddad v Sassoon</i>, 237 AD3d 673; <i>Matter of Martynchuk v Vasylykovska</i>, 223 AD3d 819, 820; <i>Matter of Magana v Delph</i>, 195 AD3d 720, 721-722).

Accordingly, we reverse the order dated April 25, 2022, as amended April 5, 2024, and remit the matter to the Family Court, Kings County, for an expedited hearing and a new determination of the petitions that are the subject of this appeal thereafter. Pending determination of the parties' petitions, or further order of the Family Court, the parties shall continue to comply with the terms of the order dated April 25, 2022, as amended April 5, 2024.

We express no opinion as to the appropriate determination (<i>see</i> <i>Matter of Baker v James</i>, 210 AD3d 676, 678; <i>Matter of Baptiste v Gregoire</i>, 140 AD3d 746, 748).</p> <p>IANNACCI, J.P., DOWLING, LANDICINO and LOVE, JJ., concur.</p> <p>ENTER:</p> <p>Darrell M. Joseph</p> <p>Clerk of the Court</p> </div> <div> <footer> <div> <p>Court Decisions</p> All Court Decisions Official Reports Service Bound Volumes Decision Search </div> <div> <p>Resources</p> RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index </div> <div> <p>About</p> About the Law Reporting Bureau About our Operations Contact Us Twitter </div> <div> <p>Quick Contact Info</p> <p>17 Lodge Street</p> <p>Albany, NY 12207</p> <p>Phone: (518) 453-6900</p> </div> </footer> </div> <div> <p>Links to or from other sites do not signify endorsement or relationship with them.</p> </div> </div>

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