

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
THIRD DEPARTMENT

Matter of Liam DD. (Jamie CC.)

2025 NY Slip Op 07253 · No. CV-24-0896 · Decided December 24, 2025

SUMMARY

The Appellate Division, Third Department affirmed a Family Court order adjudicating a child neglected by the mother and father. The court declined to consider the father's challenges because he failed to file a notice of appeal, and held that the evidence of the mother's methamphetamine use, violation of a safety plan, and failure to provide necessities supported the neglect finding.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Corcoran, J.; Garry, P.J.; Aarons, J.; Pritzker, J.; Powers, J.
JURISDICTION	New York Supreme Court, Appellate Division, Third Department
DECIDED	December 24, 2025
DOCKET	CV-24-0896
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jamie CC. appealed from a corrected Family Court order adjudicating the child to be neglected by both parents in two proceedings under Family Court Act article 10. Bryan DD. did not file a notice of appeal but submitted a brief challenging the neglect finding against him.
STANDARD OF REVIEW	The Appellate Division accords great deference to Family Court's factual findings and credibility determinations and will not disturb them when supported by a sound and substantial basis in the record.
PRECEDENTIAL VALUE	published
PARTIES	Jamie CC. v. Schuyler County Department of Social Services

TOPICS

- family law procedure family law appellate jurisdiction evidence standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the father's challenges to the neglect finding were properly before the Appellate Division when he failed to file a notice of appeal.
2. Whether the mother's repeated drug use, violation of the safety plan, and failure to provide necessities established neglect under Family Court Act § 1046.
3. Whether Family Court's neglect finding was supported by a sound and substantial basis in the record.
4. Whether the statutory presumption of neglect arising from qualifying repeated drug misuse was rebutted by the mother's evidence.

HOLDINGS

1. The father's challenges to the order were not properly before the court because filing a notice of appeal is a nonwaivable jurisdictional prerequisite, and the court could grant the mother full relief without granting affirmative relief to the nonappealing father.
2. The mother's admitted and repeated methamphetamine use, positive drug test, violation of the safety plan, and failure to provide stable shelter and basic necessities constituted neglect.
3. Family Court's finding that the mother neglected the child was supported by a sound and substantial basis in the record and would not be disturbed.

KEY QUOTATIONS

*“The filing of a notice of appeal is nonwaivable and jurisdictional” (*1)*

*“A finding of neglect requires only an imminent threat of injury or impairment, not actual injury or impairment, and such threat may be established through a single incident or circumstance” (*2)*

*“the presumption of neglect that arises under Family Ct Act § 1046 (a) (iii) cannot be rebutted by evidence that the child[] [was] well cared for and not in danger” (*4)*

*“actual injury or impairment, so long as the danger is near or impending, not merely possible” (*5)*

FACTUAL BACKGROUND

The child, born in 2020, primarily stayed with his father while the parents lived apart. The mother admitted using methamphetamine on December 21-22, 2022, tested positive for methamphetamine and amphetamine on December 27, and was found with numerous drug-related items in her vehicle. After DSS implemented a safety plan requiring the child to reside with the father and limiting the mother's contact to supervised visits until she obtained appropriate drug-screen results and engaged in treatment, the mother retrieved the child and kept him unsupervised for approximately three hours in violation of the plan. The mother also temporarily lacked stable housing and basic necessities for the child.

PROCEDURAL HISTORY

The Schuyler County Department of Social Services filed separate neglect petitions against the mother and father in January 2023. After a fact-finding hearing, Family Court adjudicated the child neglected by each parent and entered a corrected order on February 1, 2024. The mother appealed; the father did not file a notice of appeal. The Appellate Division affirmed the order without costs and declined to consider the father's challenges.

DISPOSITION

affirmed

CASES CITED

- Ogborn v Hilts, 262 AD2d 857, 858 [3d Dept 1999]
- Matter of Haverstraw Park v Runcible Props. Corp., 33 NY2d 637, 637 [1973]
- Matter of Skylar P.J. [Kerry M.T.], 204 AD3d 1001, 1002-1003 [2d Dept 2022]
- Matter of Ricardo T., Jr. [Ricardo T., Sr.], 172 AD3d 732, 733 [2d Dept 2019]
- Hecht v City of New York, 60 NY2d 57, 60 [1983]
- Matter of Susan UU. v Scott VV., 119 AD3d 1117, 1119 n 4 [3d Dept 2014]
- McGovern v McGovern, 218 AD3d 1067, 1070 n 1 [3d Dept 2023]
- Matter of 61 Crown St., LLC v City of Kingston Common Council, 217 AD3d 1144, 1145 [3d Dept 2023]
- Finch v Erie Ins. Co., 211 AD3d 1152, 1155 [3d Dept 2022]
- Matter of Rutland v O'Brien, 143 AD3d 1060, 1061 n 2 [3d Dept 2016]
- Matter of N'Thai N. [Mali N.], 242 AD3d 1313, 1317-1318 [3d Dept 2025]
- Matter of Emmanuel J. [Maximus L.], 149 AD3d 1292, 1294 [3d Dept 2017]
- Matter of Thomas XX. [Thomas YY.], 180 AD3d 1175, 1176 [3d Dept 2020]
- Matter of Joseph GG. [Chrystal FF.], 227 AD3d 1238, 1239 [3d Dept 2024]
- Matter of Hazelee DD. [Nicholas EE.], 222 AD3d 1223, 1225 [3d Dept 2023]
- Matter of Kylee R. [David R.], 154 AD3d 1089, 1091-1092 [3d Dept 2017], lv denied 30 NY3d 911 [2018]
- Matter of Jonathan E. [John E.], 149 AD3d 1197, 1199-1200 [3d Dept 2017]
- Matter of Rosalie HH. [Samantha HH.], 221 AD3d 1299, 1300 [3d Dept 2023]
- Matter of Kingston V. [Javon V.], 234 AD3d 1056, 1057 [3d Dept 2025], lv dismissed 43 NY3d 951 [2025]
- Matter of Carter B. [Logan D.], 154 AD3d 1323, 1325 [4th Dept 2017], lv denied 30 NY3d 910 [2018]
- Matter of Messiah RR. [Christina RR.], 190 AD3d 1055, 1057 [3d Dept 2021]
- Matter of Parker J. [Beth F.], 2025 NY Slip Op 06533, *3