

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

Matter of J.S. (S.A.)

2026 NY Slip Op 01326 · No. Docket No. NA-27963/23, NA-27964/23; Appeal No. 6030-6030A; Case No. 2025-00502 · Decided March 10, 2026

SUMMARY

The Appellate Division, First Department, affirmed a Family Court fact-finding order that the respondent mother medically neglected her older child and derivatively neglected her younger child. The court held that the evidence supported the neglect findings, that certain agency records were properly admitted under the business records exception, and that the appeal from the dispositional order was from a nonappealable paper.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Renwick, P.J.; Kennedy, J.; Friedman, J.; Mendez, J.; Hagler, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	March 10, 2026
DOCKET	Docket No. NA-27963/23, NA-27964/23; Appeal No. 6030-6030A; Case No. 2025-00502
DISPOSITION	affirmed
PROCEDURAL POSTURE	Respondent mother appealed a Family Court order of fact-finding that determined she medically neglected her older child and derivatively neglected her younger child. She also appealed a subsequent order of disposition entered upon her default.
STANDARD OF REVIEW	The court applied a preponderance-of-the-evidence standard to the neglect finding and deferred to Family Court's credibility determinations.
PRECEDENTIAL VALUE	Published
PARTIES	S.A., Respondent-Appellant v. Administration for Children's Services, Petitioner-Respondent

TOPICS

family law procedure

evidence

hearsay

appellate procedure

PRACTICE AREAS

family law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether a preponderance of the evidence supported the finding that the mother medically neglected her older child.
2. Whether the mother's conduct supported a finding that she derivatively neglected her younger child.
3. Whether Family Court properly admitted petitioner's progress notes and oral report transmittals under the business-records exception to the hearsay rule.
4. Whether the appeal from the order of disposition entered upon the mother's default was taken from an appealable paper.

HOLDINGS

1. A preponderance of the evidence supported Family Court's finding that the mother medically neglected her older child because, by withholding or delaying consent to emergency treatment, she caused an impairment or risk of impairment to the child's condition.
2. Family Court's credibility determinations were entitled to deference.
3. Family Court properly admitted petitioner's progress notes and oral report transmittals under the business-records exception to the hearsay rule, while excluding the hearsay portions of the admitted oral report transmittal.
4. The finding that the mother derivatively neglected her younger child was proper.
5. The appeal from the order of disposition entered upon the mother's default was dismissed because it was taken from a nonappealable paper.

FACTUAL BACKGROUND

The mother refused to allow her older child to receive emergency medical treatment and then failed to answer hospital staff's telephone calls for approximately two hours. She knew the child had a blockage in his lungs, was coughing up blood, was having difficulty breathing, and might require surgery. The child's certified medical records and the mother's fact-finding testimony supported the medical-neglect finding, while the mother's medical neglect supported a derivative-neglect finding regarding the younger child.

PROCEDURAL HISTORY

Family Court, Bronx County, entered an order of fact-finding on or about September 6, 2024, and an order of disposition on or about October 28, 2024. The Appellate Division unanimously affirmed the fact-finding order without costs and dismissed the appeal from the order of disposition as taken from a nonappealable paper.

DISPOSITION

affirmed

CASES CITED

- Matter of Cemi A. [Rayna A.], 189 AD3d 526, 527 [1st Dept 2020]
- Matter of Nivek A.S. [Juanita S.], 148 AD3d 459, 459 [1st Dept 2017]
- Matter of M.H. [Ricardo D.], 239 AD3d 411, 412 [1st Dept 2025]
- Matter of K.M. [O.M.], 228 AD3d 406, 407 [1st Dept 2024]
- Matter of Adonis H. [Enerfry H.], 198 AD3d 478, 479 [1st Dept 2021]
- Matter of Cohen D. [Chantal D.], 157 AD3d 472, 473 [1st Dept 2018], lv denied 31 NY3d 904 [2018]

OPINION

Matter of J.S. (S.A.) 2026 NY Slip Op 01326

PER CURIAM.

Matter of J.S. (S.A.) (2026 NY Slip Op 01326) Matter of J.S. (S.A.) 2026 NY Slip Op 01326
Decided on March 10, 2026 Appellate Division, First 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 and Entered: March 10, 2026 Before:
Renwick, P.J., Kennedy, Friedman, Mendez, Hagler, JJ. Docket No. NA-27963/23, NA-
27964/23|Appeal No. 6030-6030A|Case No. 2025-00502| [*1]In the Matter of J.S. And Another,
Children Under Eighteen Years of Age, etc., S.A., Respondent-Appellant, Administration for
Children's Services, Petitioner-Respondent. Law Offices of Randall S. Carmel, Jericho (Randall S.
Carmel of counsel), for appellant. Muriel Goode-Trufant, Corporation Counsel, New York
(Amanda Abata of counsel), for respondent. Dawne A. Mitchell, The Legal Aid Society, New York
(Judith Stern of counsel), attorney for the child J.S. Anne Reiniger, New York, attorney for the
child J.A. Order of fact-finding, Family Court, Bronx County (Karen M.C. Cortes, J.), entered on
or about September 6, 2024, which found that respondent mother medically neglected her older
child and derivatively neglected her younger child, unanimously affirmed, without costs. Appeal
from order of disposition, same court and Judge, entered on or about October 28, 2024, upon
respondent mother's default, unanimously dismissed, without costs, as taken from a nonappealable
paper. A preponderance of the evidence supports Family Court's finding that the mother medically
neglected her older son and derivatively neglected her younger child (see Family Ct Act §§
1012[f][1][A]; 1046[b][i]). The child's certified medical records from Jacobi Hospital and the
mother's fact-finding testimony establish that by withholding or delaying consent, the mother
caused an impairment or the risk of impairment to the child's condition (see Matter of Cemi A.
[Rayna A.] , 189 AD3d 526 , 527 [1st Dept 2020]). The record shows that the mother refused to
allow the child emergency medical treatment, then failed to answer subsequent telephone calls
from hospital staff for about two hours, despite being aware that there was a blockage in the child's

lungs, he was coughing up blood, having difficulty breathing, and might need surgery. Family Court's credibility determinations are entitled to deference (see Matter of Nivek A.S. [Juanita S.] , 148 AD3d 459, 459 [1st Dept 2017]). Family Court providently admitted petitioner's progress notes and oral report transmittals into evidence under the business records exception to the hearsay rule (see CPLR 4518[a]). Petitioner's supervisor assigned to the family testified that she was familiar with petitioner's record-keeping practices; how the oral report transmittals and the progress notes were created, maintained, and kept in petitioner's regular course of business; and that their entries were made proximate in time to the events or occurrences described (see Matter of M.H. [Ricardo D.] , 239 AD3d 411 , 412 [1st Dept 2025]; Matter of K.M. [O.M.] , 228 AD3d 406 , 407 [1st Dept 2024]; Matter of Adonis H. [Enerfry H.] , 198 AD3d 478 , 479 [1st Dept 2021]). The record further establishes that when Family Court entered the oral report transmittal into evidence as Petitioner's 6, the court excluded the hearsay portions of that document. The finding that the mother derivatively neglected the younger child was proper. The mother's medical neglect of the older child demonstrates so flawed an understanding of the responsibilities and duties of parenthood as to support the finding of derivative neglect (see Matter of Cohen D. [Chantal D.] , 157 AD3d 472 , 473 [1st Dept 2018], lv denied 31 NY3d 904 [2018]). THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: March 10, 2026