

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

Matter of Rasool QQ. v. Rotisha PP.

2026 NY Slip Op 02896 · No. CV-23-0880 · Decided May 7, 2026

SUMMARY

The Appellate Division, Third Department affirmed a Family Court order awarding the paternal grandmother sole legal custody and primary physical placement of a child. The court held that the parents’ instability, incarceration, mental-health issues, criminal history, and limited involvement in the child’s care established extraordinary circumstances and that custody with the grandmother was in the child’s best interests. The court also upheld the parenting-time determination and dismissed as moot the challenge to an expired order of protection.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Reynolds Fitzgerald, J.; Aarons, J.P.; Pritzker, J.; Fisher, J.; McShan, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	May 7, 2026
DOCKET	CV-23-0880
DISPOSITION	affirmed
PROCEDURAL POSTURE	Father appealed from a Family Court order that dismissed his custody applications, awarded the paternal grandmother sole legal custody and primary physical placement of the child, granted the father and mother parenting time as mutually agreed upon, and issued orders of protection.
STANDARD OF REVIEW	Custody determinations and parenting-time schedules will not be disturbed when supported by a sound and substantial basis in the record; the appellate court accords deference to Family Court’s factual findings and credibility determinations. Whether an order-of-protection challenge is moot is reviewed based on whether the order expired and whether its underlying findings remain challenged.
PRECEDENTIAL VALUE	published

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QUESTIONS PRESENTED

1. Whether the paternal grandmother established extraordinary circumstances sufficient to overcome the parents' superior custodial claim and obtain standing for a best-interests custody determination.
2. Whether awarding the paternal grandmother sole legal custody and primary physical placement was in the child's best interests.
3. Whether Family Court properly awarded the father parenting time as mutually agreed upon rather than establishing a structured schedule.
4. Whether the father's challenge to the two-year order of protection in favor of the grandmother remained justiciable after the order expired.

HOLDINGS

1. The grandmother established extraordinary circumstances because the mother lacked a stable home, the father had chronic mental illness and a lengthy criminal history, the father failed to provide educationally for the child, and the child had resided with the grandmother for most of his life.
2. Awarding the grandmother sole legal custody and primary physical placement was in the child's best interests.
3. Family Court properly awarded the father parenting time as mutually agreed upon rather than imposing a structured schedule.
4. The challenge to the two-year order of protection was moot because the order expired by its own terms and the father did not challenge the underlying family-offense findings.

KEY QUOTATIONS

*“A parent has a claim of custody to his or her child that is superior to all other persons, unless a nonparent establishes that there has been surrender, abandonment, persistent neglect, unfitness, an extended disruption of custody or other like extraordinary circumstances” ([*2])*

*“A grandparent, in particular, may make the requisite showing of extraordinary circumstances sufficient to confer upon him or her standing to seek custody by establishing that there has been an extended disruption of custody, which is defined, in relevant part, as a prolonged separation of the respondent parent and the child for at least 24 continuous months during which the parent voluntarily relinquished care and control of the child and the child resided in the household of the petitioner grandparent” ([*2]-[*3])*

*“Family Court has broad discretion to develop a parenting time schedule in the best interests of the child, and we will not disturb such determination unless it lacks a sound and substantial basis in the record” ([*5])*

FACTUAL BACKGROUND

The child was born in 2016 and has lived primarily with his paternal grandmother since shortly after birth. The mother had unstable housing and provided little medical, educational, or financial support, while the father was incarcerated for much of the child's early life, had a criminal history and untreated mental-health diagnoses, failed to participate consistently in the child's schooling and visitation, and was convicted of endangering the child's welfare after using corporal punishment. The grandmother provided the child's housing, financial support, medical care, schooling, and day-to-day care. Family Court found extraordinary circumstances and determined that custody with the grandmother served the child's best interests.

PROCEDURAL HISTORY

The father and mother filed custody and family-offense petitions concerning their child. The paternal grandmother later commenced a custody proceeding, and the Department of Social Services filed neglect petitions against both parents. After a multiday fact-finding hearing, Family Court awarded the grandmother sole legal custody and primary physical placement, allowed parenting time for both parents as mutually agreed upon, and issued orders of protection. The father appealed, while the mother and the attorney for the child supported affirmance.

DISPOSITION

affirmed

CASES CITED

- Matter of Jared MM. v. Mark KK., 205 AD3d 1084, 1086-1087 [3d Dept 2022]
- Matter of John XX. v. Cathy YY., 243 AD3d 1152, 1153 [3d Dept 2025]
- Matter of Ronda A. v. Jennifer A., 224 AD3d 1130, 1131-1132 [3d Dept 2024]
- Matter of Karen Q. v. Christina R., 170 AD3d 1446, 1448 [3d Dept 2019]
- Matter of Philip UU. v. Amanda UU., 173 AD3d 1382, 1383-1384, 1385 [3d Dept 2019]
- Matter of Candy II. v. Kandice HH., 236 AD3d 1156, 1158 [3d Dept 2025]
- Matter of Lisa F. v. Thomas E., 211 AD3d 1367, 1368-1369 [3d Dept 2022]
- Matter of Amber B. v. Scott C., 207 AD3d 847, 848 [3d Dept 2022]
- Matter of Tamika B. v. Pamela C., 187 AD3d 1332, 1337 [3d Dept 2020]
- Matter of Renee TT. v. Britney UU., 133 AD3d 1101, 1105 [3d Dept 2015]
- Matter of Henry CC. v. Antoinette DD., 222 AD3d 1231, 1234 [3d Dept 2023]
- Matter of Tina X. v. Thomas Y., 233 AD3d 1272, 1275-1277 [3d Dept 2024]
- Matter of Melissa X. v. Javon Y., 200 AD3d 1451, 1454 [3d Dept 2021]

- Matter of Bonnie AA. v. Kiya DD., 186 AD3d 1784, 1788 [3d Dept 2020], lv dismissed & denied 36 NY3d 933 [2020]
- Matter of Kristine Z. v. Anthony C., 43 AD3d 1284, 1284-1285 [4th Dept 2007], lv denied 10 NY3d 705 [2008]

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