

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

Matter of K.V. v. M.K.V.

2026 NY Slip Op 02726 · No. Docket Nos. N-15659/24, N-15600/24, N-15601/24; Appeal Nos. 6490-6491;
Case Nos. 2025-02067, 2025-02068 · Decided April 30, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed Family Court orders finding that the respondent mother neglected her eldest child through excessive corporal punishment and domestic violence, and derivatively neglected her two other children. The court held that the child’s out-of-court statements were sufficiently corroborated and that the evidence supported the findings by a preponderance of the evidence.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Kennedy, J.P.; Gesmer, J.; González, J.; Rosado, J.; Chan, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	April 30, 2026
DOCKET	Docket Nos. N-15659/24, N-15600/24, N-15601/24; Appeal Nos. 6490-6491; Case Nos. 2025-02067, 2025-02068
DISPOSITION	affirmed
PROCEDURAL POSTURE	Respondent mother appealed from Family Court orders of disposition that, insofar as relevant, brought up for review a fact-finding order determining that she neglected her eldest child and derivatively neglected her two other children.
STANDARD OF REVIEW	Whether the neglect findings were supported by a preponderance of the evidence; Family Court’s credibility determinations were reviewed with deference and would not be disturbed absent a basis in the record.
PRECEDENTIAL VALUE	Published appellate decision

PARTIES

M.K., respondent-appellant v. Administration for Children's Services of the City of New York, petitioner-respondent, Commissioner of Administration for Children's Services of the City of New York, petitioner-respondent

TOPICS

family law procedure

parental rights

domestic violence

evidence

hearsay

PRACTICE AREAS

Family law

child neglect

juvenile and child welfare law

evidence

QUESTIONS PRESENTED

1. Whether the evidence established that the mother neglected her eldest child by inflicting excessive corporal punishment.
2. Whether the child's out-of-court statement concerning the source of the injuries was properly admitted after corroboration by the caseworker's observations and photographs.
3. Whether the mother's domestic violence against the child's father during the incident supported a neglect finding based on imminent danger to the child's emotional and mental well-being.
4. Whether the evidence of the mother's conduct toward the eldest child supported derivative neglect findings as to the other children.

HOLDINGS

1. A preponderance of the evidence supported the finding that the mother neglected the eldest child by choking the child and pulling and ripping the child's shirt, thereby inflicting excessive corporal punishment. The fact that the injuries resulted from a single incident did not preclude the finding.
2. The child's out-of-court statement identifying the mother as the cause of the scratches was properly admitted because it was corroborated by the caseworker's observation of the injuries and photographs taken the day after the incident.
3. The mother's acts of domestic violence against the eldest child's father supported a neglect finding because the acts posed an imminent danger to the child's emotional and mental well-being while the child was present and crying.
4. The evidence of excessive corporal punishment against the eldest child supported findings of derivative neglect as to the two other children because the mother's conduct demonstrated impaired parental judgment creating a substantial risk of harm to any child in her care.

KEY QUOTATIONS

"The evidence shows that the mother's acts posed imminent danger to the child's emotional and mental wellbeing." ([*1])

“The evidence of the mother's use of excessive corporal punishment against the eldest child supports the finding of derivative neglect as to the two other children because the mother's behavior demonstrated such an impaired level of parental judgment as to create a substantial risk of harm for any child in her care” ([*1])

FACTUAL BACKGROUND

During a single incident, the mother choked her eldest child and pulled and ripped the child's shirt, causing scratches to the child's neck and stomach. A caseworker observed the scratches the following day and photographed the injuries. During the same incident, the mother committed acts of domestic violence against the eldest child's father while the eldest child was present and crying; the other children were also home and witnessed part of the incident.

PROCEDURAL HISTORY

Family Court, Bronx County, entered a fact-finding order on or about February 18, 2025, finding that the mother neglected her eldest child and derivatively neglected her two other children. The court entered orders of disposition on or about March 12, 2025. The Appellate Division, First Department, unanimously affirmed without costs.

DISPOSITION

affirmed

CASES CITED

- Matter of Ameena C. [Wykisha C.], 83 AD3d 606, 607 [1st Dept 2011]
- Matter of Ivahly M. [Jennifer L.], 159 AD3d 423, 424 [1st Dept 2018]
- Matter of EJ W. [Leroy E.W.], 212 AD3d 568, 568 [1st Dept 2023]
- Matter of Allyerra E. [Alando E.], 132 AD3d 472, 473 [1st Dept 2015], lv denied 26 NY3d 913 [2015]
- Matter of J.A.W. [Lance W.], 216 AD3d 480, 481 [1st Dept 2023]
- Matter of Empress B. [Henrietta L.], 204 AD3d 562, 563 [1st Dept 2022]
- Matter of Tyson T. [Latoyer T.], 146 AD3d 669, 670 [1st Dept 2017]

OPINION

Matter of K.V. v. M.K.V. 2026 NY Slip Op 02726

PER CURIAM.

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State Law Reporting Bureau pursuant to Judiciary Law § 431.</p> <p>This decision is
uncorrected and subject to revision before publication in the Official Reports.</p> </div> <div>
<p>In the Matter of K.V., and Another, Children Under Eighteen Years of Age, etc.,
Administration for Children's Services of the City of New York, Petitioner-Respondent,</p>
<p>v</p> <p>M.K., Respondent-Appellant.</p> <p>In the Matter of M.R., A Child Under
Eighteen Years of Age, etc., Commissioner of Administration for Children's Services of the City of
New York, Petitioner-Respondent,</p> <p>M.K., Respondent-Appellant.</p> </div>
<p>Decided and Entered: April 30, 2026</p> <p>Docket No. N-15659/24, N-15600/24, N-
15601/24|Appeal No. 6490-6491|Case No. 2025-02067, 2025-02068|</p> <p>Before: Kennedy,
J.P., Gesmer, González, Rosado, Chan, JJ. </p> <div> <p>Steven N. Feinman, White Plains, for
appellant.</p> <p>Steven Banks, Corporation Counsel, New York (Eva L. Jerome of counsel), for
respondent.</p> <p>Donna C. Chin, New York, attorney for the child, M.R.</p> <p>Marion C.
Perry, New York, attorney for the children, K.V and K.M.</p> </div> [*1]
<p>Orders of disposition, Family Court, Bronx County (Pamela B. Scheininger, J.), entered on or
about March 12, 2025, to the extent they bring up for review a fact-finding order, same court (E.
Grace Park, J.), entered on or about February 18, 2025, which found that respondent mother
neglected her eldest child and derivatively neglected her two other children, unanimously
affirmed, without costs.</p> <p>A preponderance of the evidence supports the finding that the
mother, in choking her eldest child and pulling and ripping the child's shirt, neglected the child by
inflicting excessive corporal punishment on the child (<i>see</i> Family Ct Act §§ 1012[f][i][B];
1046[b][i]). The child's out-of-court statement that the mother caused the scratches to the neck and
stomach during the incident were properly admitted because that statement was corroborated by a
caseworker's observation of the scratches on the child and the photographs of the injuries, which
the caseworker took the day after they were inflicted (<i>see Matter of Ameena C. [Wykisha C.]
</i>, 83 AD3d 606, 607 [1st Dept 2011]).</p> <p>Family Court, in its discretion and in light of
the credible evidence, properly rejected the mother's denial of excessive corporal punishment, and
we find no basis to disturb the court's credibility determinations on appeal (<i>see Matter of
Ivahly M. [Jennifer L.]</i>, 159 AD3d 423, 424 [1st Dept 2018]). That the eldest child's injuries
were the result of a single incident does not preclude a finding of excessive corporal punishment
(<i>see Matter of EJ W. [Leroy E.W.]</i>, 212 AD3d 568, 568 [1st Dept 2023]).</p> <p>The
finding of neglect is also supported by a preponderance of the evidence establishing that the
mother committed acts of domestic violence against the eldest child's father during the same
incident (<i>see</i> <i>Matter of Allyerra E. [Alando E.]</i>, 132 AD3d 472, 473 [1st Dept
2015], <i>lv denied</i> 26 NY3d 913 [2015]). The evidence shows that the mother's acts posed
imminent danger to the child's emotional and mental wellbeing. The mother's own fact-finding

testimony establishes that the child was in the room and crying during the incident (*see* Matter of J.A.W. [Lance W.], 216 AD3d 480, 481 [1st Dept 2023]). The evidence of the mother's use of excessive corporal punishment against the eldest child supports the finding of derivative neglect as to the two other children because the mother's behavior demonstrated such an impaired level of parental judgment as to create a substantial risk of harm for any child in her care (*see* Family Ct Act § 1046[a][i]; *Matter of Empress B.* [Henrietta L.], 204 AD3d 562, 563 [1st Dept 2022]). The fact-finding testimony establishes that the other children were home during the incident and witnessed part of it (*see id.*; *Matter of Tyson T.* [Latoyer T.], 146 AD3d 669, 670 [1st Dept 2017]).

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

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PER CURIAM.

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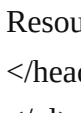
other children, unanimously affirmed, without costs. A preponderance of the evidence supports the finding that the mother, in choking her eldest child and pulling and ripping the child's shirt, neglected the child by inflicting excessive corporal punishment on the child (see Family Ct Act §§ 1012[f][i][B]; 1046[b][i]). The child's out-of-court statement that the mother caused the scratches to the neck and stomach during the incident were properly admitted because that statement was corroborated by a caseworker's observation of the scratches on the child and the photographs of the injuries, which the caseworker took the day after they were inflicted (see Matter of Ameena C. [Wykisha C.] , 83 AD3d 606, 607 [1st Dept 2011]). Family Court, in its discretion and in light of the credible evidence, properly rejected the mother's denial of excessive corporal punishment, and we find no basis to disturb the court's credibility determinations on appeal (see Matter of Ivahly M. [Jennifer L.] , 159 AD3d 423 , 424 [1st Dept 2018]). That the eldest child's injuries were the result of a single incident does not preclude a finding of excessive corporal punishment (see Matter of EJ W. [Leroy E.W.] , 212 AD3d 568, 568 [1st Dept 2023]). The finding of neglect is also supported by a preponderance of the evidence establishing that the mother committed acts of domestic violence against the eldest child's father during the same incident (see Matter of Allyerra E. [Alando E.] , 132 AD3d 472, 473 [1st Dept 2015], lv denied 26 NY3d 913 [2015]). The evidence shows that the mother's acts posed imminent danger to the child's emotional and mental wellbeing. The mother's own fact-finding testimony establishes that the child was in the room and crying during the incident (see Matter of J.A.W. [Lance W.] , 216 AD3d 480 , 481 [1st Dept 2023]). The evidence of the mother's use of excessive corporal punishment against the eldest child supports the finding of derivative neglect as to the two other children because the mother's behavior demonstrated such an impaired level of parental judgment as to create a substantial risk of harm for any child in her care (see Family Ct Act § 1046[a][i]; Matter of Empress B. [Henrietta L.] , 204 AD3d 562, 563 [1st Dept 2022]). The fact-finding testimony establishes that the other children were home during the incident and witnessed part of it (see id. ; Matter of Tyson T. [Latoyer T.] , 146 AD3d 669, 670 [1st Dept 2017]). THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: April 30, 2026 Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.

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