

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

Matter of Saint B. (Lakisha B.)

2026 NY Slip Op 01784 · No. 2025-01399 · Decided March 25, 2026

SUMMARY

The Appellate Division, Second Department reversed a Family Court order denying the Administration for Children's Services' application to remove a child from the mother's custody under Family Court Act § 1027. The court held that the record established an imminent risk to the child's life or health because the mother had prior neglect adjudications and had not benefited from services, and granted continued placement of the child in the agency's custody pending the proceeding.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Hector D. LaSalle, P.J.; Francesca E. Connolly, J.; Janice A. Taylor, J.; Elena Goldberg Velazquez, J.
JURISDICTION	New York Supreme Court, Appellate Division, Second Department
DECIDED	March 25, 2026
DOCKET	2025-01399
DISPOSITION	reversed
PROCEDURAL POSTURE	The Administration for Children's Services appealed from a Family Court, Kings County, order denying its Family Court Act § 1027 application to remove the subject child from the mother's custody and continue the child's placement in petitioner's custody pending the outcome of an article 10 neglect proceeding.
STANDARD OF REVIEW	A Family Court determination on a temporary-removal application will not be disturbed unless it lacks a sound and substantial basis in the record.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Administration for Children's Services v. Lakisha B.

TOPICS

family law procedure

child custody

parental rights

appellate procedure

standard of review

PRACTICE AREAS

family law

child protective proceedings

appellate practice

QUESTIONS PRESENTED

1. Whether the Family Court properly denied the Administration for Children's Services' application under Family Court Act § 1027 to temporarily remove the subject child from the mother's custody and continue the child's placement in petitioner's custody pending the neglect proceeding.
2. Whether the Family Court's determination had a sound and substantial basis in the record.

HOLDINGS

1. After a hearing on a child protective petition, temporary removal is authorized only when necessary to avoid an imminent risk to the child's life or health, and the court must weigh whether reasonable efforts can mitigate the risk, balance the risk against the harm of removal, and determine which course is in the child's best interests.
2. The Family Court's denial of the petitioner's § 1027 application lacked a sound and substantial basis in the record because the evidence of the mother's repeated neglect adjudications, excessive corporal punishment, continuing out-of-home placements, and failure to benefit from services warranted temporary removal.

KEY QUOTATIONS

"court must weigh, in the factual setting before it, whether the imminent risk to the child can be mitigated by reasonable efforts to avoid removal," and it must "balance that risk against the harm removal might bring, and . . . determine . . . which course is in the child's best interests" ([*2])

FACTUAL BACKGROUND

The mother had prior neglect adjudications involving her other children in separate proceedings commenced in 2020 and 2024, including adjudications based in part on excessive corporal punishment. Her four children involved in the 2024 proceedings remained in foster care, and her oldest child remained placed with the child's paternal grandmother. Although the mother completed certain court-directed services, including anger management, the evidence showed that she had not benefited from those services or gained insight into the issues underlying the prior neglect adjudications.

PROCEDURAL HISTORY

The petitioner commenced a Family Court Act article 10 proceeding alleging that the mother neglected the subject child based in part on prior neglect adjudications involving her other children and her failure to benefit from services. After a hearing, the Family Court denied the petitioner's § 1027 removal application. The Appellate Division stayed enforcement of that order and continued the child's placement in petitioner's custody pending appeal, then reversed and granted the application.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The petitioner's application pursuant to Family Court Act § 1027 to remove the subject child from the mother's custody and continue the child's placement in petitioner's custody pending the outcome of the proceeding is granted.

CASES CITED

- Matter of Elizabeth C. [Omar C.], 156 AD3d 193, 204
- Matter of Brycyn W. [Alexis W.], 230 AD3d 589, 589-590
- Nicholson v Scopetta, 3 NY3d 357, 376, 378
- Matter of Jorge T. [Christine S.], 157 AD3d 800, 800-801
- Matter of Audrey L. [Marina L.], 147 AD3d 838, 840
- Matter of Tatih E. [Keisha T.], 168 AD3d at 936

OPINION

PER CURIAM.

Matter of Saint B. (Lakisha B.) (2026 NY Slip Op 01784) Matter of Saint B. (Lakisha B.) 2026 NY Slip Op 01784 Decided on March 25, 2026 Appellate Division, Second 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 on March 25, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department HECTOR D. LASALLE, P.J. FRANCESCA E. CONNOLLY JANICE A. TAYLOR ELENA GOLDBERG VELAZQUEZ, JJ. 2025-01399 (Docket No. N-1849-25) [*1]In the Matter of Saint B. (Anonymous).

Administration for Children's Services, appellant; Lakisha B. (Anonymous), respondent. Steven Banks, Corporation Counsel, New York, NY (Deborah A. Brenner and Eva L. Jerome of counsel), for appellant. Brian Holbrook, Brooklyn, NY, for respondent. Twyla Carter, New York, NY (Dawne A. Mitchell and Amy Hausknecht of counsel), attorney for the child. DECISION & ORDER In a proceeding pursuant to Family Court Act article 10, the petitioner appeals from an order of the Family Court, Kings County (Jacqueline B. Deane, J.), dated February 5, 2025.

The order, after a hearing, denied the petitioner's application pursuant to Family Court Act § 1027 to remove the subject child from the custody of the mother and continue the subject child's placement in the petitioner's custody pending the outcome of the proceeding. By decision and order on motion dated March 14, 2025, this Court, inter alia, stayed enforcement of the order and

continued the subject child's placement in the petitioner's custody, pending hearing and determination of the appeal.

ORDERED that order is reversed, on the facts and in the exercise of discretion, without costs or disbursements, and the petitioner's application pursuant to Family Court Act § 1027 to remove the subject child from the custody of the mother and continue the subject child's placement in the petitioner's custody pending the outcome of the proceeding is granted.

The petitioner commenced this proceeding pursuant to Family Court Act article 10 against the mother, alleging, inter alia, that the subject child was a neglected child based on the mother's previous adjudications of neglect of her other children and the mother's failure to benefit from services provided to her in those prior proceedings.

The petitioner made an application pursuant to Family Court Act § 1027 to remove the subject child from the custody of the mother and continue the child's placement in the petitioner's custody pending the outcome of the proceeding.

In an order dated February 5, 2025, after a hearing, the Family Court denied the petitioner's application. The petitioner appeals. By decision and order on motion dated March 14, 2025, this Court, inter alia, stayed enforcement of the order and continued the child's placement in the petitioner's custody, pending hearing and determination of the appeal. "[O]nce a child protective petition has been filed, Family Court Act § 1027(a)(iii) authorizes the court to conduct a hearing to determine whether the child's interests require protection, including whether the child should be removed from his or her parent" (Matter of Elizabeth C. [Omar C.], 156 AD3d 193, 204 [internal quotation marks omitted]; see Matter of Brycyn W. [Alexis W.], 230 AD3d 589, 589).

Following such a hearing, temporary removal is [*2]authorized only where the court finds it necessary "to avoid imminent risk to the child's life or health" (Nicholson v Scoppetta, 3 NY3d 357, 376; see Family Ct Act § 1027[b][i]).

In determining a temporary removal application, the "court must weigh, in the factual setting before it, whether the imminent risk to the child can be mitigated by reasonable efforts to avoid removal," and it must "balance that risk against the harm removal might bring, and... determine... which course is in the child's best interests" (Nicholson v Scoppetta, 3 NY3d at 378; see Matter of Brycyn W. [Alexis W.], 230 AD3d at 590; Matter of Jorge T. [Christine S.], 157 AD3d 800, 800-801).

The court's determination will not be disturbed unless it lacks a sound and substantial basis in the record (see Matter of Brycyn W. [Alexis W.], 230 AD3d at 590; Matter of Jorge T. [Christine S.], 157 AD3d at 801).

The Family Court's determination denying the petitioner's application lacked a sound and substantial basis in the record (see Matter of Audrey L. [Marina L.], 147 AD3d 838, 840). The petitioner presented evidence of the mother's previous adjudications of neglect of her other children, involving separate proceedings commenced in 2020 and 2024. Those adjudications were all based, in part, on excessive corporal punishment.

Her four children who were the subject of the proceedings commenced in 2024 remained in foster care, and her oldest child was directly placed with that child's paternal grandmother in the proceedings commenced in 2020, where she remained. While the mother did complete certain services that the court directed her to complete in the proceedings commenced in 2024, including an anger management course, the evidence established that the mother failed to benefit from those services or gain insight into the issues underlying her previous adjudications of neglect (see Matter of Tatih E. [Keisha T.], 168 AD3d at 936; Matter of Audrey L. [Marina L.], 147 AD3d at 840).

Accordingly, the Family Court should have granted the petitioner's application pursuant to Family Court Act § 1027 to remove the subject child from the custody of the mother and continued the child's placement in the petitioner's custody pending the outcome of the proceeding. LASALLE, P.J., CONNOLLY, TAYLOR and GOLDBERG VELAZQUEZ, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court