

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

Matter of Brittany W. v. Miles-Gustave

2026 NY Slip Op 00831 (App. Div. 1st Dep't 2026) · No. Index No. 453039/23; Appeal No. 5630; Case No. 2024-04963 · Decided February 17, 2026

SUMMARY

The Appellate Division, First Department, confirmed OCFS's determination that petitioner maltreated her infant child by removing the child from a secure domestic-violence shelter and exposing the child to the known abusive father and an ensuing violent confrontation. The court held that substantial evidence supported the determination, while noting that the indicated report was not relevant or reasonably related to employment in childcare, adoption, or foster care; Justice Kapnick dissented.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Kern, J.P.; Scarpulla, J.; Kapnick, J.; Shulman, J.; Hagler, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	February 17, 2026
DOCKET	Index No. 453039/23; Appeal No. 5630; Case No. 2024-04963
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner commenced a CPLR article 78 proceeding challenging OCFS's determination denying her request to amend and seal as unfounded an indicated child-maltreatment report. Supreme Court, New York County, transferred the proceeding to the Appellate Division, which reviewed the determination for substantial evidence.
STANDARD OF REVIEW	Substantial evidence review under CPLR 7803(4); the court may not substitute its judgment for that of OCFS when a reasonable and plausible inference supports the determination, or reweigh evidence and reassess credibility.
PRECEDENTIAL VALUE	published
PARTIES	Brittany W. v. Suzanne Miles-Gustave, etc., New York State Office of Children and Family Services, City respondent, State respondent

TOPICS

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QUESTIONS PRESENTED

1. Whether substantial evidence supported OCFS's determination that petitioner maltreated her infant by failing to exercise a minimum degree of care.
2. Whether petitioner's conduct in removing the infant from a safe placement and taking the child to the home of the child's known abusive father exposed the child to an imminent risk of serious harm.
3. Whether hearsay and documentary evidence admitted at the administrative hearing could constitute substantial evidence supporting the maltreatment determination.
4. Whether OCFS properly concluded that the maltreatment finding was not relevant or reasonably related to employment in childcare, adoption, or foster care and therefore should not be disclosed to agencies during petitioner's application process.

HOLDINGS

1. Substantial evidence supported OCFS's determination that petitioner maltreated her infant child by failing to exercise a minimum degree of care.
2. A maltreatment finding does not require proof that the child was physically injured or was in direct contact with the violence; imminent risk may be established when a parent's actions foreseeably place the child in a volatile and dangerous environment.
3. Hearsay is admissible in administrative proceedings and may constitute substantial evidence when relevant and probative; the administrative factfinder may credit documentary evidence under those circumstances.
4. Because OCFS determined that the maltreatment finding was not relevant or reasonably related to employment in childcare, adoption, or foster care, the indicated report could not be disclosed to agencies during petitioner's application process in those fields.

KEY QUOTATIONS

“Substantial evidence is a minimal standard . . . and requires only that a given inference is reasonable and plausible. Where substantial evidence exists, the reviewing court may not substitute its judgment for that of [OCFS], even if the court would have decided the matter differently”

“A maltreated child includes one whose physical, mental, or emotional condition has been impaired or placed in imminent danger of impairment because of a parent's failure to exercise a minimum degree of care”

“a finding of maltreatment does not require proof that the child was physically injured or in direct contact with the violence”

FACTUAL BACKGROUND

Petitioner, a survivor of prolonged and severe domestic violence, had been living with her infant in a confidential domestic-violence shelter while the infant stayed with a maternal aunt. In September 2017, petitioner retrieved the infant and went with the infant's abusive father to a relative's home, where the father violently assaulted petitioner and was arrested. OCFS relied primarily on documentary records, including an oral transmittal report stating that petitioner was holding the infant during the altercation, and determined that petitioner had maltreated the child by exposing her to an imminent risk of serious harm.

PROCEDURAL HISTORY

OCFS held a hearing and, on July 28, 2023, denied petitioner's request to amend and seal the September 8, 2017 indicated report. Supreme Court, New York County, transferred the CPLR article 78 proceeding to the First Department by order entered July 26, 2024. The First Department confirmed the determination, denied the petition, and dismissed the proceeding.

DISPOSITION

dismissed

CASES CITED

- Matter of Jeter v Poole, 43 NY3d 241, 253-254 (2024)
- Matter of Anonymous v Poole, 162 AD3d 598, 598-599 (1st Dept 2018)
- Matter of Jasmine A. (Albert G.), 120 AD3d 1125, 1125 (1st Dept 2014)
- Matter of Diamond Tyneshia B. (Aisha K.), 109 AD3d 740, 741 (1st Dept 2013), lv denied 22 NY3d 855 (2013), cert denied 574 US 845 (2014)
- Matter of Melanie J.A. (Ramon J.), 221 AD3d 421, 421-422 (1st Dept 2023)
- Nicholson v Scopetta, 3 NY3d 357 (2004)
- Matter of Berenhaus v Ward, 70 NY2d 436, 444 (1987)
- Matter of Riel v State of N.Y. Off. of Children & Family Servs., 175 AD3d 1166, 1167 (1st Dept 2019)
- Matter of R.B. v New York State Off. of Children & Family Servs., 199 AD3d 429, 430-431 (1st Dept 2021)
- Matter of Veronica C. v Carrión, 55 AD3d 411, 412 (1st Dept 2008)
- Matter of Charles v Poole, 164 AD3d 1148, 1149 (1st Dept 2018)
- Matter of Parker v Carrión, 80 AD3d 458, 459 (1st Dept 2011)
- Matter of McGillicuddy's Tap House, Ltd. v New York State Liq. Auth., 57 AD3d 1052, 1054 (3d Dept 2008)
- Matter of Gerald HH. v Carrión, 130 AD3d 1174, 1176 (3d Dept 2015)
- Matter of Poole, 164 AD3d 1148, 1149 (1st Dept 2018)
- Matter of Afton C. (James C.), 17 NY3d 1, 10 (2011)
- Matter of Eustace B. (Shondella M.), 76 AD3d 428, 429 (1st Dept 2010)
- Matter of Elizabeth B. v New York State Off. of Children & Family Servs., 149 AD3d 8, 12 (3d Dept 2017)
- Matter of Chaim R. (Keturah Ponce R.), 94 AD3d 1127, 1130 (2d Dept 2012)

- Matter of Ilona H. (Elton H.), 93 AD3d 1165, 1166-1167 (4th Dept 2012)
- Matter of Ravern H., 15 AD3d 991, 992 (4th Dept 2005), lv denied 4 NY3d 709 (2005)
- Matter of R.C. (D.C.—R.R.), 240 AD3d 33, 35 n.2 (1st Dept 2025)
- Matter of Hofbauer, 47 NY2d 648, 656 (1979)

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