

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

Matter of Jayceon H. (Aniya M.)

2026 NY Slip Op 02405 (Supreme Court of the State of New York Appellate Division Second Department 2026)
· No. 2024-04215, 2024-04282 · Decided April 22, 2026

SUMMARY

The Appellate Division, Second Department, upheld summary judgment finding that the mother abused and neglected the child based on the collateral estoppel effect of her criminal convictions arising from the same conduct. The court modified the disposition by holding that the Family Court improperly delegated to ACS the authority to determine therapeutic supervised parental access, and remitted the matter for the Family Court to decide whether such access should be allowed and to set any schedule.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Department
WRITING FOR THE COURT	Lara J. Genovesi, J.P.; Linda Christopher, J.; Lillian Wan, J.; Donna-Marie E. Golia, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	April 22, 2026
DOCKET	2024-04215, 2024-04282
DISPOSITION	other
PROCEDURAL POSTURE	The mother appealed from a Family Court order of fact-finding granting ACS summary judgment on abuse and neglect allegations and from a subsequent order of disposition issuing an order of protection and granting ACS discretion over therapeutic supervised parental access.
STANDARD OF REVIEW	The court reviewed the legal propriety of summary judgment and the dispositional order; it reviewed the Family Court's determination concerning parental access for a sound and substantial basis in the record and held that delegation of the authority to determine access was impermissible as a matter of law.

PRECEDENTIAL VALUE	Published opinion of the Appellate Division, Second Department; precedential under New York law.
PARTIES	Aniya M. (Anonymous), mother v. Administration for Children's Services

TOPICS

family law procedure parental rights visitation appellate procedure evidence

PRACTICE AREAS

family law child welfare appellate procedure evidence

QUESTIONS PRESENTED

1. Whether the Family Court properly granted ACS summary judgment on the abuse and neglect allegations based on the mother's criminal convictions under the doctrine of collateral estoppel.
2. Whether a Family Court may delegate to a child-protective agency its authority to determine a parent's therapeutic supervised parental access.
3. Whether the appeal from the fact-finding order was properly before the Appellate Division after entry of the dispositional order.

HOLDINGS

1. The Family Court properly granted ACS summary judgment because the mother's criminal convictions resolved identical issues arising from the same acts, and she failed to raise a triable issue concerning either identity of issues or a full and fair opportunity to litigate.
2. A Family Court may not delegate to an agency its authority to determine whether and on what schedule a parent shall have therapeutic supervised parental access in an article 10 proceeding.
3. The appeal from the fact-finding order was dismissed because that order was superseded by the dispositional order and was reviewable on the appeal from the dispositional order.

KEY QUOTATIONS

"A criminal conviction may be given collateral estoppel effect in a Family Court proceeding where (1) the identical issue has been resolved, and (2) the defendant in the criminal action had a full and fair opportunity to litigate the issue of his or her criminal conduct" ([*2])

"The determination of visitation is entrusted to the court based upon the best interests of the children" ([*2])

FACTUAL BACKGROUND

ACS alleged that the mother abused and neglected the subject child by shooting the father during a physical altercation in the child's presence. The mother was arrested and indicted for attempted murder in the second

degree, assault in the first degree, and criminal possession of a weapon in the second degree, and pleaded guilty to each count. The Family Court relied on those convictions in granting ACS summary judgment and later issued an order of protection while allowing ACS to determine the mother's therapeutic supervised parental access.

PROCEDURAL HISTORY

ACS commenced a Family Court Act article 10 proceeding in 2019. The Family Court granted ACS summary judgment based on the mother's criminal convictions, then, after a dispositional hearing, issued a final order of protection and delegated to ACS the authority to determine therapeutic supervised parental access. The Appellate Division dismissed the appeal from the fact-finding order as superseded, modified the dispositional order by deleting the delegation, affirmed it as modified, and remitted for the Family Court to determine access and establish a schedule if appropriate.

DISPOSITION

other

REMAND INSTRUCTIONS

The matter is remitted to the Family Court, Kings County, to determine whether the mother shall have therapeutic supervised parental access with the subject child and, if so, to set forth a schedule for that access.

CASES CITED

- Matter of Jadeliz M.Q. [Steven Q.], 209 AD3d 655, 656-657
- Matter of Brittani A. [Soily A.-S.], 188 AD3d 876, 877-878
- Matter of Tereza R. [Jose A.], 199 AD3d 921, 922
- Matter of Suffolk County Dept. of Social Servs. v James M., 83 NY2d 178, 182-183
- Zuckerman v City of New York, 49 NY2d 557, 563
- Matter of Victoria P. (Victor P.), 121 AD3d 1006, 1007
- Matter of Leva v Sokol, 240 AD3d 496, 498
- Matter of Lopez v Neira, 237 AD3d 1097, 1099-1100
- Matter of Cornielle v Rosado, 231 AD3d 824, 827
- Matter of Clezidor v Lexune, 192 AD3d 792, 794
- Matter of Acosta v Melendez, 179 AD3d 912, 914
- Matter of Mondschein v Mondschein, 175 AD3d 686, 687-688
- Matter of Juliane M., 23 AD3d 473, 473

OPINION

Matter of Jayceon H. (Aniya M.) 2026 NY Slip Op 02405

PER CURIAM.

<div>Matter of Jayceon H. (Aniya M.) - 2026 NY Slip Op 02405 <div> skip to main content

</div> <div> <p>It appears you are using Adblock. Please disable Adblock to best experience our website.</p> </div> <div> <header> <div> </div> <div> Law Reporting

Bureau Thomas J.K. Smith, State Reporter <nav>
Court Decisions Resources About </nav> </div> <div> </div> </header> </div> <nav> Home All Court Decisions
Decisions </nav> <div> <div> <h1>Matter of Jayceon H. (Aniya M.)</h1>
<p>2026 NY Slip Op 02405</p> <p>April 22, 2026</p> <p>Appellate Division, Second
Department</p> <p>Published by New York 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 Jayceon H. (Anonymous). Administration
for Children's Services, respondent; Aniya M. (Anonymous), appellant.</p> </div> <p>Supreme
Court of the State of New York, Appellate Division, Second Judicial Department</p> <p>Decided
on April 22, 2026</p> <p>2024-04215, 2024-04282, (Docket No. N-25392-19)</p> <p>Lara J.
Genovesi, J.P.</p> <p>Linda Christopher</p> <p>Lillian Wan</p> <p>Donna-Marie E. Golia, JJ.
</p> <div> <p>Helene Chowes, New York, NY, for appellant.</p> <p>Steven Banks, Corporation
Counsel, New York, NY (Melanie T. West and Elizabeth I. Freedman of counsel), for respondent.
</p> <p>Twyla Carter, New York, NY (Dawne A. Mitchell and Claire V. Merkin of counsel),
attorney for the child.</p> </div> [*1] <p>DECISION & ORDER</p> <p>In
a proceeding pursuant to Family Court Act article 10, the mother appeals from (1) an order of fact-
finding of the Family Court, Kings County (Linda M. Capitti, J.), dated February 6, 2023, and (2)
an order of disposition of the same court dated April 13, 2024. The order of fact-finding granted
the petitioner's motion for summary judgment on the issues of whether the mother abused and
neglected the subject child. The order of disposition, insofar as appealed from, upon the order of
fact-finding, and after a dispositional hearing, directed the issuance of a final order of protection in
favor of the subject child and against the mother directing the mother to stay away from the
subject child and granted the petitioner discretion to determine the mother's therapeutic supervised
parental access with the subject child.</p> <p>ORDERED that the appeal from the order of fact-
finding is dismissed, without costs or disbursements, as the order of fact-finding was superseded
by the order of disposition and is brought up for review on the appeal from the order of
disposition; and it is further,</p> <p>ORDERED that the order of disposition is modified, on the
law, by deleting the provision thereof granting the petitioner discretion to determine the mother's
therapeutic supervised parental access with the subject child; as so modified, the order of
disposition is affirmed insofar as appealed from, without costs or disbursements, and the matter is
remitted to the Family Court, Kings County, for a determination of whether the mother shall have
therapeutic supervised parental access with the subject child, and, if so, to set forth a schedule for
such parental access.</p> <p>In September 2019, the Administration for Children's Services
(hereinafter ACS) commenced this proceeding pursuant to Family Court Act article 10, alleging

that the mother abused and neglected the subject child by shooting the father during a physical altercation in the child's presence. The mother was arrested and indicted for attempted murder in the second degree, assault in the first degree, and criminal possession of a weapon in the second degree. The mother was *convicted, upon her plea of guilty, of each count of the indictment.

Based upon the mother's convictions, ACS moved for summary judgment on the issues of whether the mother abused and neglected the child. In an order of fact-finding dated February 6, 2023, the Family Court granted the motion.

After a dispositional hearing, in an order of disposition dated April 13, 2024, the Family Court, inter alia, directed the issuance of a final order of protection in favor of the child and against the mother directing the mother to stay away from the child and granted ACS discretion to determine the mother's therapeutic supervised parental access with the child. The mother appeals.

The Family Court properly granted ACS's motion for summary judgment on the issues of whether the mother abused and neglected the child. ACS met its prima facie burden of demonstrating that the doctrine of collateral estoppel is applicable (*see* *Matter of Jadeliz M.Q. [Steven Q.]*, 209 AD3d 655, 656-657; *Matter of Brittani A. [Soily A.-S.]*, 188 AD3d 876, 877-878). "A criminal conviction may be given collateral estoppel effect in a Family Court proceeding where (1) the identical issue has been resolved, and (2) the defendant in the criminal action had a full and fair opportunity to litigate the issue of his or her criminal conduct" (*Matter of Tereza R. [Jose A.]*, 199 AD3d 921, 922 [internal quotation marks omitted]; *see* *Matter of Suffolk County Dept. of Social Servs. v James M.*, 83 NY2d 178, 182-183). The counts in the indictment to which the mother pleaded guilty were based upon the same acts alleged in this proceeding. In opposition, the mother failed to raise a triable issue of fact as to whether the identical issues had been resolved in the criminal action or whether she had a full and fair opportunity to litigate the issues in the criminal action (*see* *Zuckerman v City of New York*, 49 NY2d 557, 563; *Matter of Tereza R. [Jose A.]*, 199 AD3d at 922).

Eleven years ago, in a proceeding pursuant to Family Court Act article 10, this Court, in *Matter of Victoria P. (Victor P.)* (121 AD3d 1006, 1007), held that a determination of the Family Court to limit the father to supervised parental access with the subject children at the discretion of the petitioning agency had a sound and substantial basis in the record. This holding seemingly indicated that a court may delegate its authority to set parental access to an agency in a proceeding pursuant to Family Court Act article 10. However, since that appeal was decided, this Court has made clear, in numerous other appeals, that a court may not delegate its authority in such a way as to permit a determination of parental access to be made by either a therapist, a parent, or by the subject children (*see* *Matter of Leva v Sokol*, 240 AD3d 496, 498; *Matter of Lopez v Neira*, 237 AD3d 1097, 1099-1100; *Matter of Cornielle v Rosado*, 231 AD3d 824, 827; *Matter of Clezidor v Lexune*, 192 AD3d 792, 794; *Matter of Acosta v Melendez*, 179 AD3d 912, 914; *Matter of Mondschein v Mondschein*, 175 AD3d 686, 687-688). Considering the foregoing, and that "[t]he determination of visitation is entrusted to the court based upon the best

interests of the children" (*Matter of Juliane M.*, 23 AD3d 473, 473), to the extent that *Matter of Victoria P. (Victor P.)*, stands for the proposition that a court in a proceeding pursuant to Family Court Act article 10 may delegate its authority to determine issues of parental access to an agency, that case should no longer be followed. Thus, here, the Family Court erred by delegating to ACS the authority to determine the mother's therapeutic supervised parental access with the child (*see* *Matter of Lopez v Neira*, 237 AD3d at 1099-1100; *Matter of Clezidor v Lexune*, 192 AD3d at 794; *Matter of Acosta v Melendez*, 179 AD3d at 914).

Accordingly, we modify the order of disposition and remit the matter to the Family Court, Kings County, for a determination of whether the mother shall have therapeutic supervised parental access with the child, and, if so, to set forth a schedule for such parental access (*see* *Matter of Lopez v Neira*, 237 AD3d at 1100).

GENOVESI, J.P., CHRISTOPHER, WAN and GOLIA, JJ., concur.

ENTER:

Darrell M. Joseph

Clerk of the Court

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.