

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

Matter of Daisy N. (Mario M.)

2025 NY Slip Op 06863 (Appellate Division of the Supreme Court of the State of New York Second Judicial Department 2025) · No. 2024-10652 · Decided December 10, 2025

SUMMARY

The Appellate Division, Second Department, reversed an order dismissing a petition alleging that a father derivatively abused and neglected his son based on the father's sexual abuse of his stepdaughter. The court reinstated the petition, made a finding of derivative abuse and neglect, and remitted the matter for a dispositional hearing.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Second Judicial Department
WRITING FOR THE COURT	Cheryl E. Chambers, J.P.; Paul Wooten, J.; Lourdes M. Ventura, J.; Elena Goldberg Velazquez, J.
JURISDICTION	New York Supreme Court, Appellate Division, Second Judicial Department
DECIDED	December 10, 2025
DOCKET	2024-10652
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Administration for Children's Services appealed from an order of the Family Court, Queens County, entered after a fact-finding hearing, that dismissed the petition alleging derivative abuse and neglect of Jacob M. based on the father's sexual abuse of Daisy N.
STANDARD OF REVIEW	The order was reviewed on the law and the facts. The derivative abuse and neglect finding was required upon proof by a preponderance of the evidence.
PRECEDENTIAL VALUE	Published
PARTIES	Administration for Children's Services v. Mario M.

TOPICS

family law procedure

parental rights

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standard of review

PRACTICE AREAS

family law

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QUESTIONS PRESENTED

1. Whether the father's sexual abuse of Daisy N. established that he derivatively abused and neglected Jacob M.
2. Whether derivative abuse and neglect may be found when the child who is the subject of the derivative petition was not yet born and therefore could not have been aware of the abuse.
3. Whether the petition concerning Jacob M. should be reinstated and the matter remitted for a dispositional hearing.

HOLDINGS

1. Although abuse of one child does not, by itself, establish derivative abuse or neglect of other children, derivative abuse and neglect is warranted when the parent's conduct demonstrates a fundamental defect in the parent's understanding of parental duties or impaired parental judgment creating a substantial risk of harm to any child in the parent's care. The father's sexual abuse of Daisy N. met that standard as to Jacob M.

KEY QUOTATIONS

“Where a person's conduct toward one child demonstrates a fundamental defect in the parent's understanding of the duties of parenthood, or demonstrates such an impaired level of parental judgment as to create a substantial risk of harm for any child in his or her care, an adjudication of derivative neglect with respect to the other children is warranted” (2025 NY Slip Op 06863 at [*2])

“conduct which evinces a 'fundamental defect' in the respondent's 'understanding of his [or her] parental duties relating to the care of children' and impaired parental judgment is sufficient to support a finding of derivative abuse” (2025 NY Slip Op 06863 at [*2])

FACTUAL BACKGROUND

The father sexually abused his stepdaughter, Daisy N., on multiple occasions. The Family Court found Daisy's testimony credible but dismissed the derivative abuse and neglect petition concerning her younger brother, Jacob M., because Jacob was not aware of the abuse and had not yet been born when it occurred. The Appellate Division concluded that the father's conduct demonstrated a fundamental defect in his understanding of parental duties and impaired parental judgment creating a substantial risk to any child in his care.

PROCEDURAL HISTORY

ACS commenced related Family Court Act article 10 proceedings concerning Daisy N. and Jacob M. After a fact-finding hearing, the Family Court found Daisy's testimony regarding multiple instances of sexual abuse credible but dismissed the petition as to Jacob, concluding that ACS had not established a nexus because Jacob

was unaware of the abuse and had not yet been born when it occurred. The Appellate Division reversed, reinstated the petition, made a finding of derivative abuse and neglect, and remitted for a dispositional hearing and further determination.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The petition as to Jacob M. is reinstated. The Family Court, Queens County, must conduct a dispositional hearing and make a determination thereafter.

CASES CITED

- Matter of David P. [Elisa P.], 130 AD3d 739
- Matter of Harmony M.E. [Andre C.], 121 AD3d 677
- Matter of Leah S. [Barnett V.], 228 AD3d 667, 669
- Matter of Marjorie P. [Gerardo M.P.], 221 AD3d 818, 821
- Matter of Angelica M. [Nugene A.], 107 AD3d 803, 804-805
- Matter of Davena A. [Christopher A.], 232 AD3d 595, 597
- Matter of Kylani R. [Kyreem B.], 93 AD3d 556
- Matter of Karime R. [Robin P.], 147 AD3d 439
- Matter of Aryelle F. [Esperanza F.], 148 AD3d 1014

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