

## FAMILY

### **Article 1 – General powers**

*Matter of Zavion O.*

173 AD3d 28 (1<sup>st</sup> Dept) (5/13/19 DOI).

NYC ACS was not authorized under FCA § 153 to issue warrants for protective arrests of children who broke no law but ran away from foster care.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03554.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03554.htm)

### **Article 3 – Juvenile delinquent**

*Matter of Richard S.*

168 AD3d 749 (2<sup>nd</sup> Dept) (1/11/19 DOI).

JD order reversed due to allocation that failed to elicit sufficient factual basis to support admission. Narrow preservation exception applied. No allocation of foster care case planner.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00130.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00130.htm)

*Matter of Isaiah L.*

169 AD3d 907 (2<sup>nd</sup> Dept) (2/22/19 DOI).

Dismissal based on due process violation was proper based on unreasonable delay in prosecution following arrest.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01215.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01215.htm)

*Matter of Raees T.B.*

172 AD3d 707 (2<sup>nd</sup> Dept) (5/6/19 DOI).

Proof of robbery was legally insufficient.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03331.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03331.htm)

*Matter of Lew v Sobel*

172 AD3d 1208 (2<sup>nd</sup> Dept) (5/28/19 DOI).

Prior order providing for reduced support when older child was emancipated was binding law of case.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03972.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03972.htm)

*Matter of Cheryl P.*

175 AD3d 1298 (2<sup>nd</sup> Dept) (9/16/19 DOI).

JD's admission was improper in not obtaining allocation from parent regarding key matter and allowing mother's appearance by phone.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_06497.htm](http://nycourts.gov/reporter/3dseries/2019/2019_06497.htm)

*Matter of Elijah X.*

176 AD3d 1356 (3<sup>rd</sup> Dept) (10/18/19 DOI).

Family Court contravened statutory requirements as to allocation. Reversal.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_07464.htm](http://nycourts.gov/reporter/3dseries/2019/2019_07464.htm)

*Matter of Kwesi P.*

2019 NY Slip Op 08359 (1<sup>st</sup> Dept) (11/25/19 DOI).

Allocation was faulty, where the respondent's mother was not advised of rights he was waiving and possible dispositional consequences.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_08359.htm](http://nycourts.gov/reporter/3dseries/2019/2019_08359.htm)

## **Article 4 – Child support**

### *Matter of Pecoraro v Ferraro*

168 AD3d 748 (2<sup>nd</sup> Dept) (1/11/19 DOI).

Denial of vacatur motion was error, given 40-minute delay in appearance and absence of prejudice to custodial parent.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00129.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00129.htm)

### *Matter of Schiavone v Mannese*

169 AD3d 1052 (2<sup>nd</sup> Dept) (3/1/19 DOI).

Court lacked authority to vacate consent order on its own motion in willful violation proceedings.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01419.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01419.htm)

### *Matter of Ulster County SCU v Beke*

170 AD3d 1347 (3<sup>rd</sup> Dept) (3/18/19 DOI).

Dissenter would have found no default in willful violation matter and error in Family Court's refusal to allow out-of-state, indigent respondent to appear by phone.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01864.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01864.htm)

### *Matter of Brooks v Brooks*

171 AD3d 1462 (4<sup>th</sup> Dept) (4/29/19 DOI).

Statute trumped agreement as to choice of law. NJ law applied to NY court's modification of NJ divorce judgment.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03164.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03164.htm)

### *Matter of Marotta v Casler*

172 AD3d 1480 (3<sup>rd</sup> Dept) (5/6/19 DOI).

Since father paid arrears in full, Family Court judge erred in ordering jail time in violation proceedings.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03417.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03417.htm)

### *Matter of Rapp v Horbett*

174 AD3d 1315 (4<sup>th</sup> Dept) (7/8/19 DOI).

Shared custody case. Rare case in which mother was entitled to credit for overpayments against arrears.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05447.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05447.htm)

### *Matter of Kanya J. v Christopher K.*

175 AD3d 760 (3<sup>rd</sup> Dept) (8/5/19 DOI).

Suspension of child support based on custodial interference must almost always be prospective, given strong public policy against recoupment.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_06030.htm](http://nycourts.gov/reporter/3dseries/2019/2019_06030.htm)

### *Matter of Michael R. v Amanda R.*

175 AD3d 1134 (1<sup>st</sup> Dept) (9/16/19 DOI).

Family Court erred in so many ways, including in issuing preclusion error, despite disclosure compliance by mother and lack of motion to compel by father. His arrears summary was insufficient evidence to support his claim.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_06454.htm](http://nycourts.gov/reporter/3dseries/2019/2019_06454.htm)

*Matter of Eddy v Eddy*

175 AD3d 1726 (3<sup>rd</sup> Dept) (9/30/19 DOI).

Family Court erred in revoking suspension of jail sentence without providing opportunity to show inability to pay arrears for father who had medical issues, had undergone surgery, and had been unable to sell house to pay support obligation.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_06825.htm](http://nycourts.gov/reporter/3dseries/2019/2019_06825.htm)

*Matter of Gonzalez v Bebee*

2019 NY Slip Op 008027 (4<sup>th</sup> Dept) (11/11/19 DOI).

Attorney should not have been allowed to withdraw from contempt proceeding. New hearing, new counsel.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_08027.htm](http://nycourts.gov/reporter/3dseries/2019/2019_08027.htm)

*Matter of Vetrano v Vetrano*

2019 NY Slip Op 08415 (2<sup>nd</sup> Dept) (11/25/19 DOI).

Family Court failed to consider father's loss of assets and mother's significant increase in income in denying his petition seeking to reduce child support. Remittal.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_08415.htm](http://nycourts.gov/reporter/3dseries/2019/2019_08415.htm)

**Article 5 – Paternity**

***Equitable estoppel***

*Matter of Caroline D. v Travis S.*

168 AD3d 410 (1<sup>st</sup> Dept) (1/4/19 DOI).

No appeal lies from order of filiation, but notice of appeal deemed leave application, and relief granted. Order resolving equitable estoppel claims was beyond scope of Support Magistrate's power. Magistrate improperly gave the respondent instructions to convey to absent counsel. Denial of request for adjournment was abuse of discretion.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00032.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00032.htm)

*Matter of Schenectady Co DSS v Joshua BB.*

168 AD3d 1244 (3<sup>rd</sup> Dept) (1/19/19 DOI).

Appeal from order for tests was not appealable as of right, but leave granted. Reversal. Record lacked salient proof regarding equitable estoppel.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00335.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00335.htm)

*Matter of Onorina C.T. v Ricardo R.E.*

172 AD3d 726 (2<sup>nd</sup> Dept) (5/6/19 DOI).

Equitable estoppel should have been considered to estop paternity claim by husband sex trafficker who played no role in child's life.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03345.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03345.htm)

## **Article 6 – Custody**

### ***Reversals***

#### *Matter of Lintao v Delgado*

168 AD3d 739 (2<sup>nd</sup> Dept) (1/11/19 DOI).

Family Court should have granted mother's custody application, rather than awarding sole custody to the father. Facts were misrepresented. Mother had been primary caregiver. Father had requested 50/50 arrangement.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00125.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00125.htm)

#### *Matter of Olivieri v Olivieri*

170 AD3d 849 (2<sup>nd</sup> Dept) (3/18/19 DOI).

Mother was far more fit than father to serve as physical custodian. Grant of custody to father reversed.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01768.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01768.htm)

#### *Matter of Hassan v Barakat*

171 AD3d 1371 (3<sup>rd</sup> Dept) (4/19/19 DOI).

Mother thwarted father-child relationship and should not have been awarded custody. Reversal.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02933.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02933.htm)

#### *Matter of Richard L. v Kristen M.*

184 AD3d 968 (3<sup>rd</sup> Dept) (7/8/19 DOI).

Reversal of custody order insofar as it changed joint legal custody to sole custody. No proof of acrimony.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05348.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05348.htm)

#### *Matter of Suarez v Suarez*

176 AD3d 830 (2<sup>nd</sup> Dept) (10/15/19 DOI).

Error to issue temporary orders modifying custody, where psychologist did not do forensic evaluation, and parties did not have chance to review social worker's report.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_07263.htm](http://nycourts.gov/reporter/3dseries/2019/2019_07263.htm)

### ***Hearing ordered***

#### *Matter of Cano v Bussey*

170 AD3d 1001 (2<sup>nd</sup> Dept) (3/25/19 DOI).

Error to dismiss custody mod petition. Court should have let mother amend pleadings.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02086.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02086.htm)

#### *Matter of Lopez v Reyes*

171 AD3d 1179 (2<sup>nd</sup> Dept) (4/29/19 DOI).

Remittal court failed to take proof and relied on unsworn affidavits. Hearing reopened.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03049.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03049.htm)

#### *Matter of Delgado v Vega*

171 AD3d 1457 (4<sup>th</sup> Dept) (4/29/19 DOI).

Default custody order error; issues of fact as to whether mother was served with the petition.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03160.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03160.htm)

*Matter of Mauro NN. v Michelle NN.*

172 AD3d 1493 (3<sup>rd</sup> Dept) (5/6/19 DOI).

Sua sponte dismissal of custody petition was plain error, where court deemed dispositive petitioner father's failure to complete counseling and ignored other salient proof.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03423.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03423.htm)

*Matter of Hilton v Hilton*

173 AD3d 1674 (4<sup>th</sup> Dept) (6/10/19 DOI).

Trial court erred in finding default where mother's attorney was at hearing, and in granting physical custody to nonparents. Also, a hearing was needed to determine if extraordinary circumstances existed and then evaluate best interests.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_04572.htm](http://nycourts.gov/reporter/3dseries/2019/2019_04572.htm)

*Matter of DiSisto v Dimitri*

174 AD3d 863 (2<sup>nd</sup> Dept) (6/17/19 DOI).

Error to grant mother custody without hearing, given clear factual issues. New judge on remand.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_04695.htm](http://nycourts.gov/reporter/3dseries/2019/2019_04695.htm)

*Matter of Princetta J.S. v Felix Z.J.*

173 AD3d 637(1<sup>st</sup> Dept) (7/1/19 DOI).

Mother's allegations about father's baseless sex abuse accusation constitute change in circumstances. Mother said child wanted to spend more time. Hearing needed on custody mod petition.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05214.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05214.htm)

*Matter of Sullivan v Sullivan*

173 AD3d 1844 (4<sup>th</sup> Dept) (7/1/19 DOI).

Error to deny mother's request for adjournment, where she had valid reason for not attending hearing.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05289.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05289.htm)

*Matter of Sandra Y. v Jahi J.Y.*

174 AD3d 406 (4<sup>th</sup> Dept) (7/8/19 DOI).

Hearing needed as to application to change temporary custody in absence of emergency.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05324.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05324.htm)

*Matter of Liska J. v Benjamin K.*

174 AD3d 984 (3<sup>rd</sup> Dept) (7/8/19 DOI).

Court erred in failing to consider much of proof offered by father. Reversal in interest of justice.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05355.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05355.htm)

*Matter of Nicole TT. v David UU.*

174 AD3d 1168 (3<sup>rd</sup> Dept) (7/19/19 DOI).

Decision dismissing mother's custody petition was product of unsound reasoning at variance with the record and bias toward the father. Remittal for fact-finding.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05729.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05729.htm)

*Matter of Barry H. v Veronica S.*

175 AD3d 427 (1<sup>st</sup> Dept) (8/23/19 DOI).

Father showed change in circumstances and best interests hearing was needed as to his custody mod petition, where child had poor grades and attendance, dental care issues, and mother's housing was unstable.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_06152.htm](http://nycourts.gov/reporter/3dseries/2019/2019_06152.htm)

*Matter of Charles KK. v Jennifer KK.*

175 AD3d 828 (3<sup>rd</sup> Dept) (8/30/19 DOI).

Summary dismissals were error. Court ignored papers of child's sister and favored father who had had minimal contact with child and may have had substance abuse and violence issues. Husband was not given opportunity to present proof. Different judge to preside over consolidated hearing.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_06433.htm](http://nycourts.gov/reporter/3dseries/2019/2019_06433.htm)

*Matter of Heinsler v Sero*

2019 NY Slip Op 08052 (4<sup>th</sup> Dept) (11/11/19 DOI).

Error to dismiss mother's mod petition, where she amply showed change in circumstances, but remand needed to finish hearing and determine best interests.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_08052.htm](http://nycourts.gov/reporter/3dseries/2019/2019_08052.htm)

*Matter of Johnston v Dickes*

2019 NY Slip Op 09208 (4<sup>th</sup> Dept) (12/23/19 DOI).

Error to dismiss petition without hearing. Wrong standard applied to CPLR 3211 (a) (7) motion.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_09208.htm](http://nycourts.gov/reporter/3dseries/2019/2019_09208.htm)

*Matter of Jamiyla S. J. v Kenneth D.*

2019 NY Slip Op 09358 (1<sup>st</sup> Dept) (12/30/19 DOI).

Error to find no change of circumstances, where respondent did not disclose new drug conviction and treatment. Remittal for "best interests" hearing.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_09358.htm](http://nycourts.gov/reporter/3dseries/2019/2019_09358.htm)

*Matter of Salvi v Salvi*

2019 NY Slip Op 09272 (2<sup>nd</sup> Dept) (12/30/19 DOI).

Evidentiary hearing needed on custody mod petition, given unresolved factual issues.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_09272.htm](http://nycourts.gov/reporter/3dseries/2019/2019_09272.htm)

### ***Modifications***

*Matter of Aree RR. v John SS.*

176 AD3d 1516 (3<sup>rd</sup> Dept) (11/4/19 DOI).

Error to give father power to decide when mother's mental health issue justified suspension of visits and to issue directive as to non-party boyfriend of mother.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_07818.htm](http://nycourts.gov/reporter/3dseries/2019/2019_07818.htm)

*Matter of Johanna Del C.T. v Gregorio A.S.*

2019 NY Slip Op 08622 (1<sup>st</sup> Dept) (12/6/19 DOI).

Mother made children go-betweens with Dad. Family Court directed to include provision requiring mother—who had been made sole legal custodian—to inform father of any major decision she made.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_08622.htm](http://nycourts.gov/reporter/3dseries/2019/2019_08622.htm)

*Matter of Ellen TT. v Parvaz UU.*

2019 NY Slip Op 09328 (3<sup>rd</sup> Dept) (12/30/19 DOI).

In making minor mod to custody order, Third Department chastised AFC for breaching confidentiality of *Lincoln* hearing and misrepresenting what children said.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_09328.htm](http://nycourts.gov/reporter/3dseries/2019/2019_09328.htm)

## ***Affirmances***

### *Matter of Nilesa RR.*

172 AD3d 1793 (3<sup>rd</sup> Dept) (5/28/19 DOI).

Stepmother, not foster parents, was properly awarded custody. Strong bond, practice of Islam, trauma from change.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_04063.htm](http://nycourts.gov/reporter/3dseries/2019/2019_04063.htm)

### *Matter of Kanya J. v Christopher K.*

175 AD3d 760 (3<sup>rd</sup> Dept) (8/5/19 DOI)

Joint legal custody upheld, and AFC brief properly not struck, where AFC properly substituted judgment.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_06030.htm](http://nycourts.gov/reporter/3dseries/2019/2019_06030.htm)

## ***Relocation***

### *Matter of Lionel PP. v Sherry QQ.*

170 AD3d 1460 (3<sup>rd</sup> Dept) (3/29/19 DOI).

Reversal of custody transfer and permission to relocate. Error to make child's school dispositive.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02398.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02398.htm)

### *Matter of Arthur v Galletti*

176 AD3d 412 (1<sup>st</sup> Dept) (10/7/19 DOI).

Relocation decision was fine, but provision about children returning from Italy to NY was not. Custody should not automatically change based on the happening of a specified future event.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_07020.htm](http://nycourts.gov/reporter/3dseries/2019/2019_07020.htm)

### *Matter of David v LoPresti*

176 AD3d 701 (2<sup>nd</sup> Dept) (10/7/19 DOI).

Error to deny custody mod petition seeking permission to temporarily relocate, without ascertaining views of 10-year-old child.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_07066.htm](http://nycourts.gov/reporter/3dseries/2019/2019_07066.htm)

### *Matter of Rebekah R. v Richard R.*

176 AD3d 1430 (3<sup>rd</sup> Dept) (10/18/19 DOI).

Granting relocation was fine, but not defining parameters of parenting time for noncustodial parent left behind was not.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_07457.htm](http://nycourts.gov/reporter/3dseries/2019/2019_07457.htm)

### *Matter of Cox v Cruz*

176 AD3d 1200 (2<sup>nd</sup> Dept) (11/4/19 DOI).

Wishes of 15-year-old among factors listed in reversing order denying motion to modify custody and relocate to North Carolina.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_07777.htm](http://nycourts.gov/reporter/3dseries/2019/2019_07777.htm)

### *Matter of Pinto v Pinto*

2019 NY Slip Op 08195 (2<sup>nd</sup> Dept) (11/18/19 DOI).

Reversal of order granting custody and permission to relocate to mother. Father had no opportunity to present case, and court did not explore impact move would have on sibling relationships.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_08195.htm](http://nycourts.gov/reporter/3dseries/2019/2019_08195.htm)

## ***UCCJEA***

### *Matter of Alger v Jacobs*

169 AD3d 1415 (4<sup>th</sup> Dept) (2/4/19 DOI).

NY had temporary emergency jurisdiction in case involving DV.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00766.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00766.htm)

### *Graves v Huff*

169 AD3d 1476 (4<sup>th</sup> Dept) (2/11/19 DOI).

Supreme Court erred in dismissing custody mod petition, on forum non conveniens grounds, without considering if court of another state court could properly exercise discretion.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01010.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01010.htm)

### *Matter of Goode v Sandoval*

171 AD3d 1059 (2<sup>nd</sup> Dept) (4/19/19 DOI).

NY court with jurisdiction under UCCJEA may decline to exercise it, based on inconvenient forum.

Remittal for consideration of statutory factors.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02872.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02872.htm)

### *Matter of Ralph E.B. v Jovonna K.F.*

173 AD3d 854 (2<sup>nd</sup> Dept) (6/17/19 DOI).

Family Court should have given parties chance to present evidence regarding whether NY had subject matter jurisdiction over matter in which and parent now lived in Florida.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_04689.htm](http://nycourts.gov/reporter/3dseries/2019/2019_04689.htm)

### *Matter of Means v Miller*

175 AD3d 498 (2<sup>nd</sup> Dept) (8/9/19 DOI).

NY court made initial custody determination and had continuing jurisdiction until finding that it was relinquished. Reversal of order dismissing petition.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_06088.htm](http://nycourts.gov/reporter/3dseries/2019/2019_06088.htm)

### *Matter of Cody RR. v Alana SS.*

176 AD3d 1372 (3<sup>rd</sup> Dept) (10/18/19 DOI).

Error to summarily relinquishing jurisdiction to FL without assessing statutory factors as to best forum.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_07471.htm](http://nycourts.gov/reporter/3dseries/2019/2019_07471.htm)

## ***Standing***

### *Matter of Paese v Paese*

175 AD3d 502(2<sup>nd</sup> Dept) (8/9/19 DOI).

Father had standing as to custody of child he helped raise with the mother. Prior appeal resulted in finding that, based on judicial estoppel, he had standing.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_06090.htm](http://nycourts.gov/reporter/3dseries/2019/2019_06090.htm)

## ***Visitation***

### *Matter of Lakeya P. v Ajja M.*

169 AD3d 1409 (4<sup>th</sup> Dept) (2/4/19 DOI).

Error to grant mother only supervised visits custodians deemed proper. Improper delegation. Remittal.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00761.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00761.htm)

*Matter of R.K. v R.G.*

169 AD3d 892 (2<sup>nd</sup> Dept) (2/22/19 DOI).

Error to grant father visitation three weekends per month. Mother needed more quality time. Remittal.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01207.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01207.htm)

*Matter of Parris v Wright*

170 AD3d 731 (2<sup>nd</sup> Dept) (3/11/19 DOI).

Error to deny visits. No showing father's supervised access would be harmful. New hearing.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01602.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01602.htm)

*Matter of Benjamin OO. v Latasha OO.*

170 AD3d 1394 (3<sup>rd</sup> Dept) (3/25/19 DOI).

Majority okayed two visits a year for inmate dad. Dissent opined that four would be more appropriate.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02187.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02187.htm)

*Matter of Giovanni H.B.*

172 AD3d 489 (1<sup>st</sup> Dept) (5/13/19 DOI).

Okay to not allow father, in prison for raping daughter, to have visits with autistic son.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03680.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03680.htm)

*Matter of Nathaniel V. v Kristina W.*

173 AD3d 1308 (3<sup>rd</sup> Dept) (6/10/19 DOI).

Family Court erred in summarily denying inmate Dad's pro se petition seeking visitation or at least info.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_04520.htm](http://nycourts.gov/reporter/3dseries/2019/2019_04520.htm)

*Matter of Catherine L. v Jeffrey S.*

2019 NY Slip Op 08941 (1<sup>st</sup> Dept) (12/13/19 DOI).

Parties couldn't get along. Court erred in thinking they could agree upon new visitation schedule upon father's relocation to Georgia. Remand.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_08941.htm](http://nycourts.gov/reporter/3dseries/2019/2019_08941.htm)

*Matter of Benson v Smith*

2019 NY Slip Op 09175 (4<sup>th</sup> Dept) (12/23/19 DOI).

Error to deny dad any visits. No proof of harm to child. Remittal to set schedule.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_09175.htm](http://nycourts.gov/reporter/3dseries/2019/2019_09175.htm)

*Matter of Heather NN. V Vinnette OO.*

2019 NY Slip Op 09325 (3<sup>rd</sup> Dept) (12/30/19 DOI).

Under *Brooke S.B.*, same-sex parent was parent. Not her fault other parent shut her out of child's life and child did not know of her early significant role. Therapeutic counseling ordered to restart relationship.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_09325.htm](http://nycourts.gov/reporter/3dseries/2019/2019_09325.htm)

### ***Nonparents***

*Matter of William F.G. v Lisa M.B.*

169 AD3d 1428 (4<sup>th</sup> Dept) (2/4/19 DOI).

Reversal of order replacing the capable grandmother as the supervisor of visits between the children and the father who had sexually abused the parties' four-year-old daughter.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00774.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00774.htm)

*Matter of Melissa KK. V Michael LL.*

170 AD3d 1294 (3<sup>rd</sup> Dept) (3/11/19 DOI).

Parents had surrendered children. Thus, grandmother should have sought adoption, not custody.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01690.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01690.htm)

*Matter of Dajah S. v NYC ACS*

171 AD3d 539 (1<sup>st</sup> Dept) (4/16/19 DOI).

Petitioner had no superior right over foster parents to custody of half-brother. In his best interests to stay with foster parents, who knew how to meet his special needs.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02824.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02824.htm)

*Matter of Chimienti v Perperis*

171 AD3d 1037 (2<sup>nd</sup> Dept) (4/19/19 DOI).

Former same-sex, nonbiological, nonadoptive partner of biological parents can establish standing for custody based on equitable estoppel.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02866.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02866.htm)

*Matter of Garcia v Santana*

171 AD3d 1058 (2<sup>nd</sup> Dept) (4/19/19 DOI).

Grandmother's video chats with child in Colorado should not have been limited to five-month period.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02871.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02871.htm)

*Matter of Haimes v Lehmann*

171 AD3d 1176 (2<sup>nd</sup> Dept) (4/29/19 DOI).

Aunt showed extraordinary circumstances. Father was long-time alcoholic. Right to give her physical custody, but she should have been awarded sole legal custody too, given antagonism between the two adults.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03048.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03048.htm)

*Accomando v Kirschner-Melendez*

2019 NY Slip Op 09015 (2<sup>nd</sup> Dept) (12/23/19 DOI).

Grandmother should not have been granted visitation where she was in denial about bio parents flaws, had conspiracy delusions, and allowed father to see kids in violation of protective order.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_09015.htm](http://nycourts.gov/reporter/3dseries/2019/2019_09015.htm)

### ***Contempt***

*Matter of Shelley H. v Melvin Jermaine R.*

172 AD3d 638 (1<sup>st</sup> Dept) (5/28/19 DOI).

No contempt where mother's right to visitation was not prejudiced by father's wrongful conduct, since parties entered stipulation, which was so-ordered, giving her make-up time for missed visits.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_04278.htm](http://nycourts.gov/reporter/3dseries/2019/2019_04278.htm)

### ***Right to counsel***

*Matter of Aaron OO. v Amber PP.*

170 AD3d 1436 (3<sup>rd</sup> Dept) (3/29/19 DOI).

Inmate father received ineffective assistance on his visitation petition. Remittal.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02390.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02390.htm)

*Matter of Saunders v Scott*

172 AD3d 724 (2<sup>nd</sup> Dept) (5/6/19 DOI).

Proper waiver of right to counsel by father in custody matter.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03344.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03344.htm)

*Matter of Means v Miller*

175 AD3d 498 (2<sup>nd</sup> Dept) (8/9/19 DOI).

Mother did not knowingly waive right to counsel, where court did not do searching inquiry and explain down side of going pro se.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_06088.htm](http://nycourts.gov/reporter/3dseries/2019/2019_06088.htm)

***Probation/resettlement***

*Joan HH. v Maria II.*

174 AD3d 1189 (3<sup>rd</sup> Dept) (7/19/19 DOI).

Court erred in issuing resettled order regarding a probation provision on consent, in the context of a custody case. Resettlement was meant to correct errors as to form, not make substantive changes.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05737.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05737.htm)

***No appeal***

*Matter of Nicole TT. v Rickie UU.*

174 AD3d 1070 (3<sup>rd</sup> Dept) (7/12/19 DOI).

Mother could not directly appeal default order in custody matter. She had to move to vacate under CPLR 5015 (a), and if that was denied, appeal from the order of denial.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05599.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05599.htm)

**Article 8 – Family offenses**

***No family offense***

*Matter of Vanessa R. v Christopher A.E.*

173 AD3d 412 (1<sup>st</sup> Dept) (6/10/19 DOI).

Assault was not proven where the respondent was a cad, but there was no proof he meant to cause serious physical injury when “play fighting” with the petitioner.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_04331.htm](http://nycourts.gov/reporter/3dseries/2019/2019_04331.htm)

*Matter of Irena K. v Francesco S.*

173 AD3d 570 (1<sup>st</sup> Dept) (7/1/19 DOI).

Evidence did not support finding as to assault in 2<sup>nd</sup> degree or criminal obstruction of breathing. OP vacated.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05066.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05066.htm)

***Intimate relationship***

*Matter of Rizzo v Pravato*

170 AD3d 860 (2<sup>nd</sup> Dept) (3/18/19 DOI).

Hearing was needed to resolve issue of intimate relationship.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01776.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01776.htm)

*Matter of Hamrahi v Brock*

176 AD3d 1208 (2<sup>nd</sup> Dept) (11/4/19 DOI).

In light of the parties' conflicting allegations, hearing needed on whether intimate relationship existed.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_07781.htm](http://nycourts.gov/reporter/3dseries/2019/2019_07781.htm)

***Other issues***

*Matter of Janczewski v Janczewski*

169 AD3d 773 (2<sup>nd</sup> Dept) (2/15/19 DOI).

In family offense proceeding, court erred in denying wife's application to disqualify husband's counsel and his law firm, where firm associated previously represented her in the pending divorce.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01062.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01062.htm)

*Matter of Karla FF. v Robert FF.*

170 AD3d 1476 (3<sup>rd</sup> Dept) (3/29/19 DOI).

No appeal as of right from order denying motion to dismiss family offense petition. Appeal dismissed.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02404.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02404.htm)

*Matter of Ferratella v Thomas*

173 AD3d 1834 (4<sup>th</sup> Dept) (7/1/19 DOI).

Error to find willful violation of OP based on conduct not alleged in violation petition.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05282.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05282.htm)

**Article 10 – Abuse and neglect**

***Jurisdiction, discovery, subpoenas***

*Matter of Dupree M.*

171 AD3d 752 (2<sup>nd</sup> Dept) (4/8/19 DOI).

Jurisdiction was properly transferred to Unkechaug Indian Nation, a tribe not recognized by the federal government but by NYS.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02523.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02523.htm)

*Matter of Aliyah N.*

171 AD3d 563 (1<sup>st</sup> Dept) (4/19/19 DOI).

Error to deny respondent's motion to compel EBT of ACS medical expert.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02959.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02959.htm)

*Matter of Grover S.*

176 AD3d 828 (2<sup>nd</sup> Dept) (10/15/19 DOI).

Error to quash subpoenas as to nonparty witnesses. Disclosure was mandated under CPLR Art. 31.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_07262.htm](http://nycourts.gov/reporter/3dseries/2019/2019_07262.htm)

***“Person legally responsible”***

*Matter of Jennifer P.*

172 AD3d 1377 (2<sup>nd</sup> Dept) (5/28/19 DOI).

ACS established prima facie case that respondent, who lived in household with mother and child and acted as parent, was legally responsible for allegedly abused child. Error to grant motion to dismiss.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_04171.htm](http://nycourts.gov/reporter/3dseries/2019/2019_04171.htm)

*Matter of Zulena G.*

175 AD3d 678 (2<sup>nd</sup> Dept) (8/30/19 DOI).

The respondent was not personally legally responsible for care of children, where he was a cousin who lived with them for a while.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_06392.htm](http://nycourts.gov/reporter/3dseries/2019/2019_06392.htm)

***1027/1028 hearings***

*Matter of Aracelis L.*

170 AD3d 1019 (2<sup>nd</sup> Dept) (3/25/19 DOI).

Proper to deny 1027 application to remove child. No imminent risk shown.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02097.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02097.htm)

*Matter of Cameron L.*

2019 NY Slip Op 09268 (1<sup>st</sup> Dept) (12/30/19 DOI).

Removal of child was error after 1027 hearing. Concern that mother might not keep in touch with agency or return to court did not constitute requisite imminent risk of harm to child.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_09268.htm](http://nycourts.gov/reporter/3dseries/2019/2019_09268.htm)

***No abuse and/or neglect proven***

*Matter of Seleno O.*

168 AD3d 590 (1<sup>st</sup> Dept) (2/4/19 DOI).

Finding of neglect was in part based on past deficiencies. Reversal.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00546.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00546.htm)

*Matter of Zahir W.*

169 AD3d 909 (2<sup>nd</sup> Dept) (2/22/19 DOI).

Reversal of neglect finding. No evidence children harmed or at risk.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01216.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01216.htm)

*Matter of Jordin B.*

170 AD3d 996 (2<sup>nd</sup> Dept) (3/20/19 DOI).

Family Court properly found no neglect.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02083.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02083.htm)

*Matter of Jahzir Barbee M.*

171 AD3d 1181 (2<sup>nd</sup> Dept) (4/29/19 DOI).

No educational neglect where mother did not consent to IEP or follow up on certain testing.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03050.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03050.htm)

*Matter of Elijah M.*

174 AD3d 423 (1<sup>st</sup> Dept) (7/12/19 DOI).

Respondents should have been given chance to present evidence about why they could not care for violent teenage son, and how they expressed a willingness to meet with agency.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05471.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05471.htm)

*Matter of Jordyn WW.*

176 AD3d 1348 (3<sup>rd</sup> Dept) (10/18/19 DOI).

Discharge of firearm in home was poor form, but not neglect, where child wasn't there.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_07460.htm](http://nycourts.gov/reporter/3dseries/2019/2019_07460.htm)

### ***Abuse and/or neglect proven***

#### *Matter of Jaylyn Z.*

170 AD3d 516 (1<sup>st</sup> Dept) (3/18/19 DOI).

Testimony of child, stricken at 1028 hearing, was properly used at fact-finding.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01846.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01846.htm)

#### *Matter of Jaylhon C.*

170 AD3d 999 (2<sup>nd</sup> Dept) (3/25/19 DOI).

Grant of summary judgment was proper.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02085.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02085.htm)

#### *Matter of Louise L.V.*

176 AD3d 1081 (2<sup>nd</sup> Dept) (10/25/19 DOI).

Error to rely on transcripts of 1028 hearing to find neglect based on excessive corporal punishment.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_07592.htm](http://nycourts.gov/reporter/3dseries/2019/2019_07592.htm)

### ***Derivative abuse***

#### *Matter of Ja'Dore G.*

169 AD3d 544 (1<sup>st</sup> Dept) (2/22/19 DOI).

Finding of derivative abuse finding was error, given absence of corroboration regarding out-of-court statement about purported events several years earlier.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01305.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01305.htm)

### ***Section 1042***

#### *Matter of Avery M.*

169 AD3d 684 (2<sup>nd</sup> Dept) (2/11/19 DOI).

Error to deny motion to vacate Article 10 order, where mother was not served with notice of inquest and may have had a viable defense. Remittal for new fact-finding hearing.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00878.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00878.htm)

### ***Section 1061***

#### *Matter of Alisah H.*

168 AD3d 842 (2<sup>nd</sup> Dept) (1/19/19 DOI).

Error to grant father's FCA § 1061 motion to modify order of disposition. He failed to show good cause for such relief and vacatur of neglect finding. His misconduct was grave. No remorse.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00274.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00274.htm)

### ***Visits***

#### *Matter of Mia C. (Misael C.)*

168 AD3d 836 (2<sup>nd</sup> Dept) (1/19/19 DOI).

Children appealed order denying suspension of supervised visits with dad. Appellate court reversed, based on therapists' testimony about children's PTSD following dad's abuse against mother and siblings.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00270.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00270.htm)

*Matter of Christopher M.S.*

174 AD3d 535 (2<sup>nd</sup> Dept) (7/8/19 DOI).

Proper to grant access to grandmother following 1028 hearing as to mother.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05407.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05407.htm)

### ***Order of protection***

*Matter of Carmine GG.*

174 AD3d 999 (3<sup>rd</sup> Dept) (7/8/19 DOI).

Temporary order of protection had conditions that made no sense.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05360.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05360.htm)

### ***ICPC***

*Matter of Emmanuel B.*

175 AD3d 49 (1<sup>st</sup> Dept) (7/19/19 DOI).

ICPC does not apply to out-of-state non-custodial parents. Mootness exception applied.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05640.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05640.htm)

### **SIJS**

#### ***Reversals***

*Matter of Agustin E.*, 168 AD3d 840 (2<sup>nd</sup> Dept) (1/19/19 DOI).

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00273.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00273.htm)

*Matter of Jose S.J.*, 168 AD3d 844 (2<sup>nd</sup> Dept) (1/19/19 DOI).

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00275.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00275.htm)

*Matter of Lucas F. V.*, 169 AD3d 802 (2<sup>nd</sup> Dept) (2/15/19 DOI).

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01079.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01079.htm)

*Matter of Norma U. v Herman T. R. F.*,

169 AD3d 1055 (2<sup>nd</sup> Dept) (3/1/19 DOI).

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01421.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01421.htm)

*Matter of Rina M. G. C.*, 169 AD3d 1031 (2<sup>nd</sup> Dept) (3/1/19 DOI).

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01407.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01407.htm)

*Mater of Vasquez v Mejia*, 170 AD3d 868 (2<sup>nd</sup> Dept) (3/18/19 DOI).

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_01780.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_01780.htm)

### **Article 10-A – Permanency**

*Matter of Damani B.*

174 AD3d 524 (2<sup>nd</sup> Dept) (7/8/19 DOI).

In case affirming change in permanency goal, helpful discussion regarding permanency hearings.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05399.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05399.htm)

*Matter of Joseph PP.*

2019 NY Slip Op 09347 (3<sup>rd</sup> Dept) (12/30/19 DOI).

Thought not raised by parties, Third Department held that Family Court erred in contradictory order, changing permanency goal to placement for adoption, but not directing filing of petition to terminate parental rights.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_09347.htm](http://nycourts.gov/reporter/3dseries/2019/2019_09347.htm)

## **Termination**

### ***Reversals***

*Matter of Ricardo T.*

172 AD3d 732 (2<sup>nd</sup> Dept) (5/6/19 DOI).

Father's right to effective assistance violated by counsel's failure to file timely notice of appeal.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03347.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03347.htm)

*Matter of Markel C.*

172 AD3d 709 (2<sup>nd</sup> Dept) (5/6/19 DOI).

Mother did not comply with conditions of suspended judgment, but she did many things right, and parental rights should not have been terminated. Remittal for dispositional hearing on best interests.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03332.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03332.htm)

*Matter of Nahlaya MM.*

172 AD3d 1482 (3<sup>rd</sup> Dept) (5/6/19 DOI).

Mother was making real progress, and parental rights should not have been terminated based largely on pre-suspended-judgment conduct.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_03418.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_03418.htm)

*Matter of Jarrett P. v Jeremy P.*

173 AD3d 1692 (4<sup>th</sup> Dept) (6/10/19 DOI).

Reversal where agency did not show that father abandoned child. He called the caseworker and sent letters to the child. Hollow victory. Permanent neglect and thus termination of rights upheld.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_04609.htm](http://nycourts.gov/reporter/3dseries/2019/2019_04609.htm)

*Matter of Do'Naisha L.E.B.*

176 AD3d 804 (2<sup>nd</sup> Dept) (10/15/19 DOI).

Agency did not prove permanent neglect, where proof consisted of mother's favorable, credible testimony and orders from proceedings involving subject child's siblings.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_07248.htm](http://nycourts.gov/reporter/3dseries/2019/2019_07248.htm)

### ***Affirmances***

*Matter of Jahvani Z.*

168 AD3d 1146 (3<sup>rd</sup> Dept) (1/3/19 DOI).

No appeal as of right lies from a fact-finding termination order. But appeal from dispositional order brought up for review fact-finding order. By statute, great uncle with custody of child had standing to initiate termination proceeding. Order terminating parental rights affirmed.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00008.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00008.htm)

*Matter of V.A.J.C.*

168 AD3d 599 (1<sup>st</sup> Dept) (2/4/19 DOI).

A suspended judgment was proper. The services organization supporting the family endorsed such disposition. The mother had complied with her service plan.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_00556.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_00556.htm)

*Matter of Micah T.*

171 AD3d 546 (1<sup>st</sup> Dept) (4/19/19 DOI).

Parental rights properly terminated. Mother had six attorneys and was warned about going pro se.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02832.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02832.htm)

*Matter of Sade J. v Schenectady Do. DSS*

172 AD3d 1831 (3<sup>rd</sup> Dept) (5/28/19 DOI).

Rights terminated due to abandonment. No appeal, four years, then FCA § 635 application to restore rights. AFC advised court adoption was finalized. So appeal was moot and was dismissed.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_04240.htm](http://nycourts.gov/reporter/3dseries/2019/2019_04240.htm)

## **Divorce**

### ***Agreements***

*Gandham v Gandham*

170 AD3d 964 (2<sup>nd</sup> Dept) (3/25/19 DOI).

Hearing needed on possible coercion to sign stipulation of settlement.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02069.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02069.htm)

*J.A.H. v E.G.M.*

171 AD3d 710 (2<sup>nd</sup> Dept) (4/8/19 DOI).

Improper mod of support terms in agreement, where unreasonable, unanticipated change not shown.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02505.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02505.htm)

*Walter v Walter*

2019 NY Slip Op 09056 (2<sup>nd</sup> Dept) (12/23/19 DOI).

Hearing needed, given factual disputes about whether there was change warranting modification of court-approved custody stipulation. AFC needed for child.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_09056.htm](http://nycourts.gov/reporter/3dseries/2019/2019_09056.htm)

### ***Child support***

*Matter of Fortgang v Fortgang*

170 AD3d 963 (2<sup>nd</sup> Dept) (3/25/19 DOI).

Reversing order to reimburse father for overpaid child support. Recoupment against public policy.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02068.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02068.htm)

### ***Other***

*Verfenstein v Verfenstein*

171 AD3d 841 (2<sup>nd</sup> Dept) (4/8/19 DOI).

A diverse academic environment was desirable for biracial child. But record did not show child was denied his biracial identify at current school. Challenged order denying school change upheld.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02583.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02583.htm)

*Petrosino v Petrosino*

171 AD3d 960 (2<sup>nd</sup> Dept) (4/15/19 DOI).

Wife was entitled to evidentiary hearing on fraud claim as to matrimonial action.

[http://www.nycourts.gov/reporter/3dseries/2019/2019\\_02733.htm](http://www.nycourts.gov/reporter/3dseries/2019/2019_02733.htm)

**Adoption**

*Matter of John (Joseph G.)*

174 AD3d 89 (2<sup>nd</sup> Dept) (7/1/19 DOI).

Bio dad whose child was conceived with anonymous egg donor was statutorily authorized to adopt.

[http://nycourts.gov/reporter/3dseries/2019/2019\\_05132.htm](http://nycourts.gov/reporter/3dseries/2019/2019_05132.htm)