

KEY APPELLATE CASE LAW CITES ON SEX ABUSE 1/16

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No Reasonable Efforts

Matter of Marino S., 100 NY2d 361, 763 NYS2d 796 (2003) – key Court of Appeals case re sex abuse being severe abuse and derivative severe abuse re sibs and therefore FCA § 1039-b NRE ordered on all kids

NOTE: Few sex abuse cases seem to be pled as severe abuse even when behavior fits definition

Culpability of Parent who “allows”

Matter of Michael B., 130 AD3d 619 (2nd Dept. 2015) – mother failed to protect 7 year old son from being sexually abused by 13 year old brother

Matter of Imani G., 130 AD3d 456 (1st Dept. 2015) – grandmother did nothing when child reported to her what father had done

Matter of Destiny C., 127 AD3d 1510 (3rd Dept. 2015) – mother allowed and watched

Matter of Milagros C., 121 AD3d 481 (1st Dept. 2014) – child’s multiple, consistent out of court statements corroborated by plea in criminal court by brother who had abused – mother walked in on sexual abuse by brother and mother did not protect

Matter of Dayanara V., 101 AD3d 411 (1st Dept. 2012) – mother only neglectful not abusive as sex abuse did stop after mother saw it but did not report or make him leave

Matter of Kyanna T., 99 AD3d 1011 (2nd Dept. 2012)

Matter of Kassandra V., 90 AD3d 440 (2nd Dept. 2011)

Matter of Tashia QQ, 27 AD3d 849 (3rd Dept. 2006)

Matter of Ivette R., 282 AD2d 751 (2nd Dept. 2001)

Matter of Anita J., 701 NYS2d 557 (4th Dept. 1999)

Matter of Jennifer G., 687 NYS2d 844 (4th Dept. 1999)

Matter of Elizabeth G., 680 NYS2d 32 (4th Dept. 1998)

Matter of Maryann NN., 665 NYS2d 710 (3rd Dept. 1997)

Matter of Jessica DD., 651 NYS2d 673 (3rd Dept. 1996)

Matter of Rhiannon B., 654 NYS2d 537 (4th Dept. 1997)

Matter of Eric J., 636 NYS2d 762 (1st Dept. 1996)

Matter of Jaquay O., 232 AD2d 422 (1st Dept. 1995)

Matter of Nina M., 189 AD2d 1010 (3rd Dept. 1993)

Matter of Anna Marie A., 194 AD2D 608 (2nd Dept. 1993)

Matter of Nicole B., 175 AD2d 205 (2nd Dept. 1993)

Matter of Scott X., 184 AD2D 866 (3rd Dept. 1992)

Matter of Alan G., 185 AD2D 319 (2nd Dept. 1992)

Matter of Kasey C., 182 AD2D 1117 (2nd Dept. 1992)

Matter of Jose Y., 177 AD2d 580 (2nd Dept. 1991)

Matter of Tania J., 147 AD2D 252 (1st Dept. 1989)
Matter of Daniel DD., 142 AD2D 750 (3rd Dept. 1988)
Matter of Faith AA., 139 AD2D 22 (3rd Dept. 1988)

Derivative Findings

Matter of Irvanna I., 132 AD3d 1096 (3rd Dept. 2015) – two newborns were derivatively severely abused based on adjudication of sexual abuse of child that had occurred 4 and 5 years earlier respectively, still had not completed treatments and continued to deny sexual abuse

Matter of Honni 119 AD3d 997 (3rd Dept. 2014) – summary judgment derivative finding on newborn, 4 years after sex abuse adjudication re respondent’s girlfriends’ child

Matter of Adriel R. 117 AD3d 744 (2nd Dept. 2014) - derivative abuse finding upon a motion for summary judgment in Queens County Family Court. The father had previously been criminally convicted of attempted sexual misconduct and endangering the welfare of a child concerning two of his daughters. He had been found by Family Court to have sexually abused one of his daughters, neglected the other and derivatively neglected two of his other children. His impulse control was so defective that he was a substantial risk to any child in his care.

Matter of Tiffany H., 117 AD3d 419 (1st Dept. 2014) - The First Department affirmed a sex abuse finding regarding a Bronx respondent but reversed the lower court’s dismissal of the derivative neglect petition on respondent’s own daughter. The lower court had found as to the daughter, the aid of the court was not necessary. The lower court improperly dismissed the derivative petition on the biological child – that child was derivatively neglected by his actions. Contrary to the lower courts determination, the aid of the court was necessary as his has continued contact with the daughter.

Matter of Trenasia J., 107 AD3d 992 (2nd Dept. 2013)- sexual abuse of niece he was PLR for supports derivative on his children (note: upheld by Court of Appeals)

Matter of Monica C.M., 107 AD3d 996 (2nd Dept. 2013) – attempted sex abuse of stepdaughter is derivative re own child at home at the time but NOT for child born 4 years later as event was “limited” in duration and in “nature”

Matter of Ashley M.V. 106 AD3d 659 (1st Dept. 2013)

Matter of Raygen D., 100 AD3d 1413 (4th Dept. 2012)

Matter of Amoya S., 100 AD3d 641 (2nd Dept. 2012) – not derivate of sibs but does not say why not!

Matter of Christina G., 100 AD3d 454 (1st Dept. 2012) – derivative **abuse** of sibs – one watched

Matter of Kyanna T., 99 AD3d 1011 (2nd Dept. 2012)

Matter of Miranda F. 91 AD3d 1303 (4th Dept. 2012) – summary judgment re criminal conviction as to victim child but not derivative as to siblings unless pled with specifics in motion

Matter of Kennedie M., 89 AD3d 1544 (4th Dept. 2011) – adult stepdaughter testifies as to her sexual abuse when a child – derivative on children currently in the home

Matter of Rebecca FF., 81 AD3d 1119 (3rd Dept. 2011) – adult adoptive stepdaughter testifies as to her sexual abuse when a child – derivative on children currently in the home

Matter of Daniel W 37 AD3d 842 (2nd Dept. 2007) – reversed lower court for dismissing derivatives

Matter of AR 309 AD2d 1153 (4th Dept. 2003) – good language on derivative reversing lower court who dismissed derivative

Matter of Shaun X 300 AD2d 772 (3rd Dept. 2002) – “beyond dispute”

Matter of Melissa “L”, 714 NYS2d 154 (3rd Dept. 2000)

Matter of Falcon “EE”, 703 NYS2d 569 (3rd Dept. 2000)

Matter of Ashley “D”, 702 NYS2d 209 (3rd Dept. 2000)

Matter of Lauren B. 200 AD2d 740 (2nd Dept. 1994)

Matter of Amanda LL. 195 AD2d 708 (3rd Dept. 1993)

Matter of Douglas EE. 191 AD2d 694 (2nd Dept. 1993) – the key case

Matter of Jeremy H. 193 AD2d 799 (2nd Dept. 1993)

Matter of Kelly M. 196 AD2d 538 (3rd Dept. 1993)

Matter of Rachel G. 185 AD2d 704 (3rd Dept. 1993)

Matter of Lynelle W. 177 AD2d 1008 (4th Dept. 1993)

Sexual Gratification

Matter of Daniela R. 118 AD3d 637 (1st Dept. 2014) - father failed to offer any innocent explanation for his inappropriate touching of the girls. That his purpose was sexual gratification can be inferred from the totality of the circumstances.

Matter of Jani Faith B. 104 AD3d 508 (1st Dept. 2013) – stepfather kissing child with tongue is sexual contact

Matter of Karina L. 106 AD3d 439 (1st Dept. 2013) – touching child’s breasts and kissing on mouth – purpose can be inferred from the conduct

Matter of Daniel R. 70 AD3d 839 (2nd Dept. 2010) – can be inferred due to repetitious touching

Matter of Jelani B. 54 AD3d 1032 (2nd Dept. 2008) – not proven where put hands on buttocks

Matter of Raymond M 13 AD3d 377 (2nd Dept. 2004) – can be inferred from circumstances

In re Keisha McL. 691 NYS2d 428 (1st Dept. 1999) - can be inferred if no innocent explanation is offered for touching

Matter of AG 686 NYS2d 396 (1st Dept. 1999)

Matter of Karen BB. 628 NYS2d 431 (3rd Dept. 1995)

Matter of Sandra S. 195 AD2d 1070 (4th Dept. 1993)

Matter of Olivia YY. 209 AD2d 892 (3rd Dept. 1994)

Res Ipsa

Matter of Amoya S. 100 AD3d 641 (2nd Dept. 2012)

Matter of Shade B. 99 AD3d 1001 (2nd Dept. 2012) – gonorrhea in a 4 year old

Matter of Loraida R., 97 AD3d 925 (3rd Dept. 2012) – bleeding, trauma to genital area, thighs
Matter of Aliyah G., 95 AD3d 885 (2nd Dept. 2012) – unexplained gonorrhea in 3 year old is res ipsa

In Re Anthony S. 280AD2D 302 (1st Dept. 2001)

In re Magnolia A., 707 NYS2d 176 (1st Dept. 2000)

Matter of Yazalin P., 680 NYS2d 530 (1st Dept. 1998)

Matter of Tyeasia. 641 NYS2d 673 (1st Dept. 1996)

Matter of Lauren B., 200 AD2D 740 (2nd Dept. 1994)

Matter of Phillip M., 82 NY2d 238 (1993) - key case from Court of Appeals re sexually transmitted disease and failure of parents to offer explanation or behave as concerned prudent parents

Matter of Heith S., 189 AD2D 875 (2nd Dept. 1993)

Matter of Tania J., 147 AD2D 252 (1st Dept. 1989)

Corroboration of Child's Out of Court Statements

Matter of Dorlis B., 132 AD3d 578 (1st Dept. 2015) – detailed out of court statements corroborated by expert testimony of child's depression and suicide attempts that was consistent behavior with sexual abuse and no other explanation

Matter of Sha-Naya M.S.C., 130 AD3d 719 (2nd Dept. 2015) – 9 year olds out of court statements corroborated by testimony of adult sister who was sexually abused by father in same manner years earlier

Matter of Ishanellys O., 129 AD3d 1450 (4th Dept. 2015) – out of court statements corroborated by expert witness who opined that consistent and details accounts were reliable and consistent with sex abuse victimization

Matter of Joshua J.P., 127 AD3d 1200 (2nd Dept. 2015) – out of court statements corroborated by “child sexual abuse expert” who said child “exhibited behavior indicative of sexual abuse”

Matter of Aleria K.K., 127 AD3d 1525 (3rd Dept. 2015) – one child testified in court and corroborated the out of court statements of the other two

Matter of Destiny C., 127 AD3d 1510 (3rd Dept. 2015) – 3 oldest children cross corroborated each other's out of court statements, also saw the other children being abused, 7 year old girl had scarring in vagina and rectum opening consistent with anal penetration

Matter of Tiarra D., 124 AD3d 973 (3rd Dept. 2015) – child's out of court statements corroborated with drawings and demonstrations with dolls and scar on her vaginal opening

Matter of I-Conscious R., 121 AD3d 566 (1st Dept. 2014) – 6 year old girl with genital herpes, visible lesions, pain and itching and disclosed to doctor and caseworker

Matter of Victoria P., 121 AD3d 1006 (2nd Dept. 2014) – child's out of court statements corroborated by child sexual abuse expert who said child displayed behaviors of sexually abused children

Matter of Milagros C., 121 AD3d 481 (1st Dept. 2014) – child's multiple, consistent out of court statements corroborated by plea in criminal court by brother who had abused

Matter of Melody H., 121 AD3d 686 (2nd Dept. 2014) – 10 year olds explicit, consistent, detailed court of court statements corroborated by sexual abuse of another child in the past

Matter of Sinclair P., 119 AD3d 587 (2nd Dept. 2014) – target child’s out of court statements corroborated by out of court statements of another child that father had previously sexually abused

Matter of David L. Jr., 118 AD3d 468 (1st Dept. 2014) - two victim children’s out of court statements as to the sexual abuse cross collaborated each other. Further the daughter’s statements were corroborated by medical evidence as well as testimony of the child’s counselor.

Matter of Jada A., 116 AD3d 769 (2nd Dept. 2014) - 10 year old and 3 year old have independent and consistent out of court statements to several persons - children’s out of court statements corroborated each other and were also corroborated by the mother’s testimony.

Matter of Chaim T., 116 AD3d 704 (2nd Dept. 2014) - two children provided out of court statements which cross corroborated each other. There also were adverse changes in the behavior of the son - father admitted examining the daughter’s vagina and to “arranging” the son’s penis

Matter of Alexis S., 115 AD3d 866 (2nd Dept. 2014) - child’s prior out of court statements corroborated by expert testimony which validated her statements.

Matter of Estefania S., 114 AD3d 453 (2nd Dept. 2014) - child’s out of court statement corroborated by the testimony of her psychotherapist that the child suffered from PTSD, nightmares and has thoughts of suicide – symptoms consistent with sexual abuse. The child’s sister’s out of court statements also corroborated the allegations.

Matter of Leah R., 104 AD3d 774 (2nd Dept. 2013) – out of court statements and testimony of other related children that he had done same to them years earlier

Matter of Nyrie W., 111 AD3d 402 (1st Dept. 2013) – out of court statements plus medical records and sib’s statements

Matter of Raygen D., 100 AD3d 1413 (4th Dept. 2012) – out of court plus expert opinion and video tape of caseworker interview

Matter of Joanne II., 100 AD3d 1204 (3rd Dept. 2012) – out of court statements plus dramatic and disturbing personality changes and behaviors, dolls validator opinion , drew pictures

Matter of Ramsey H., 99 AD3d 1040 (3rd Dept. 2012) – out of court plus in court and medical

Matter of Kyanna T., 99 AD3d 1001 (2nd Dept. 2012)- out of court statements plus in court testimony, out of court statements by child who witnessed, validator

Matter of Shade B., 99 AD3d 1001 (2nd Dept. 2012) – vague out of court statements plus gonorrhea in a 4 year old

Matter of Olivia C., 97 AD3d 910 (3rd Dept. 2012) – out of court statements plus respondents criminal conviction for sex abuse of daughter in another state

Matter of Leeann S., 94 AD3d 1455 (4th Dept. 2012) – out of court statement plus validator

Matter of Janiece B., 93 AD3d 1335 (4th Dept. 2012) – out of court statements plus cross corroboration by sibs, inappropriate sexual knowledge

Matter of Kassandra V., 90 AD3d 940 (2nd Dept. 2011) – out of court statements plus two validators

Matter of Branden P., 90 AD3d 1186 (3rd Dept. 2011) – out of court statements plus

demonstration of position, sibs statements, child's behavior, respondents failure to testify
Matter of Chelsey B., 89 AD3d 1499 (4th Dept. 2011) – out of court statements, medical proof, validator
Matter of Lydia C., 89 AD3d 1434 (4th Dept. 2011) – out of court statements, 2 validators, in court unsworn but cross examined testimony
Matter of Kimberly Z., 88 AD3d 1181 (3rd Dept. 2011) – out of court statements, sib who saw respondent go into the bedroom, bruise on child, child's immediate behavior in seeking help, statements by respondent
Matter of Nicholas J.R., 83 AD3d 1490 (4th Dept. 2011) – out of court statement videotaped plus validator
Matter of Andrew W., 83 AD3d 727 (2nd Dept. 2011) – out of court statements plus other child's out of court statements that he had seen contact, validator, failure of respondent to testify
Matter of Selena R., 81 AD3d 449 (1st Dept. 2011) – out of court statements plus inappropriate knowledge of ejaculation, sexual acting out, drawings, aggressive outbursts
Matter of Alston C., 78 AD3d 1660 (4th Dept. 2010) – out of court statement of child and validator and statements by respondent
Matter of Shardanae T.L., 78 AD3d 1631 (4th Dept. 2010) – out of court statement plus validator
Matter of Destiny UU., 72 AD3d 1407 (3rd Dept. 2010) – out of court statements, validation, child's unsworn in camera
Matter of Brooke KK., 69 AD3d 1059 (3rd Dept. 2010) – out of court statements and medical and partial admissions by father
Matter of Aaliyah B., 68 AD3d 1483 (3rd Dept. 2009) – out of court statement with sworn in camera testimony
Matter of Isaiah F., 68 AD3d 627 (1st Dept. 2009) – child's out of court statement plus validation, doll play with expert, sibs out of court statements
Matter of Anahys V., 68 AD3d 485 (1st Dept. 2009) – children cross corroborated each other and validation
Matter of Breanna R., 61 AD3d 1338 (4th Dept. 2009) – 2 children's out of court statements plus validation testimony
Matter of Briana A., 50 AD3d 1560 (4th Dept. 2008) – child's out of court statements plus child's inappropriate knowledge of sexual activity
Matter of Liza O., 47 AD3d 632 (2nd Dept. 2008) – child's out of court statements plus medical that was not conclusive but consistent and child's behavior had deteriorated
Matter of Alexis Marie P., 45 AD3d 458 (3rd Dept. 2007) – child's out of court statements and medical records admitted into evidence
Matter of Karen Patricia G., 44 AD3d 658 (2nd Dept. 2007) – child's out of court statements plus medical evidence and failure of respondent to testify
Matter of Astrid C., 841 NYS2d 356 (2nd Dept. 2007) – child's out of court statements plus out of court statements of a sib who had been freed for adoption
Matter of Amber B., 832 NYS2d 449 (2nd Dept. 2007) – child's out of court statement plus validator

Matter of Kalifa K., 829 NYS2d 794 (4th Dept. 2007) – child repeating out of court statement to several people not enough

Matter of Teonia B., 37 AD3d 1101 (4th Dept. 2007) – child’s out of court statement plus medical evidence

Matter of Sylvia J., 804 NYS2d 783 (2nd Dept. 2005) – child’s out of court statement plus unsworn but cross examined in camera testimony

Matter of Addie F., 22 AD3d 986 (3rd Dept. 2005) – repeated and consistent out of court statements plus child behaviors, age inappropriate knowledge, pattern of progressively intrusive perp behavior, respondent’s bizarre theory of a stranger crawling in the child’s window

Matter of Nathaniel II, 795 NYS2d 780 (3rd Dept. 2005) – child’s out of court statements plus age inappropriate sexual knowledge, acting out of the activity, drawings, other children’s statements, father’s obviously false statements

Matter of Besthani M, 13 AD3d 452 92nd Dept. 2004) – child’s out of court plus her unsworn, cross examined testimony in camera

Matter of Raymond M, 13 AD3d 377 (2nd Dept. 2004) – child’s out of court cross corroborated by other child, father’s statements to police and then failed to testify

Matter of Nyomi AD, 10 AD3d 684 (2nd Dept. 2004) – child’s out of court corroborated by otherwise unexplained medical findings

Matter of Sabrina M, 6 AD3d 759 (3rd Dept. 2004) – child’s out of court corroborated by another child’s out of court, child’s unsworn but cross examined in camera

Matter of Dylan Y, 4 AD3d 643 (3rd Dept. 2004) – child’s out of court plus validator and in camera by child

Matter of Yorimar K, 309 AD2d 1148 (4th Dept. 2003) – out of court statements plus validator’s opinion on behavior, doll play, age in appropriate knowledge

Matter of Brittany K, 308 AD2d 585 (2nd Dept. 2003) – child’s out of court statements plus older brother’s out of court statements, medical evidence, validation opinion on child’s “classic” behavior, father’s failure to explain child’s injuries

In Re Nicole B, 308 AD2d 412 (1st Dept. 2003) – child’s out of court plus validator opinion plus preliminary medical findings

Matter of Evan Y, 307 AD2d 399 (3rd Dept. 2003) – child’s out of court and two validator opinions on behavior, lack of testimony by father

Matter of Arielle “LL”, 294 AD2D 676 (3rd Dept. 2002) – child out of court statement corroborated by father’s “admission” that he could not remember as he was so drunk but he could have believed that 8 year old was his girlfriend and so did it by mistake, also child testified in camera

Matter of Cecilia “PP”, 290 AD2d 836 (3rd Dept. 2002) – out of court statements plus regressive behavior, changed behavior after removal (severe abuse and no reasonable efforts finding also)

Matter of Joshua “QQ”, 290 AD2D 842 (3rd Dept. 2002) – multiple, consistent out of court statements plus age inappropriate sexual knowledge, father’s sworn confession to police

Matter of Martha “Z”, 288 AD2d 706 (3rd Dept. 2001) – out of court corroborated by in court testimony, change in child’s behavior

Matter of Zachary “Y” 287 AD2d 811 (3rd Dept. 2001) – corroboration of child’s out of court by behavior while telling, validator describing behaviors – court also not impressed by father’s expert saying he did not fit the offender profile

Matter of Akia “KK” 724 NYS2d 207 (3rd Dept. 2001)- 3 children cross corroborated each other’s out of court statement and oldest testified in court

Matter of Elizabeth “MM”. 715 NYS2d 99 (3rd Dept. 2000) - spontaneous disclosure, demeanor during exam, demonstrated touching, older sister testified to her own abuse

Matter of Rosemary F., 6/18/00 (4th Dept. 2000) - validation, doll play and drawings within the validation

Matter of Rebecca S., 703 NYS2d 626 (4th Dept. 2000) - cross- corroboration, medical, validator, consistency of statements

Matter of Ashley “D”. 702 NYS2d 209 (3rd Dept. 2000) - medical proof and perp removed child from school in middle of day for no reason

Matter of Kaitlyn “R”. 700 NYS2d 533 (3rd Dept. 1999)- validator based solely on behaviors and no disclosure to validator

Matter of Anita J., 701 NYS2d 557 (4th Dept. 1999) - eyewitness of sister, validator

Matter of Lisa “Z”. 699 NYS2d 810 (3rd Dept. 1999) - validator re child’s behaviors, rapid attachment to foster parents, sex play with dolls, sexual knowledge, violent aggressive behavior, changes in demeanor during interviews

Matter of Shawn P., 697 NYS2d 901 (4th Dept. 1999) - validator who told of child’s demeanor while disclosing, inappropriate sexual behavior, recanted only upon mother’s encouragement

In re Nathaniel “TT”. 696 NYS2d 274 (3rd Dept. 1999)- child’s in camera, although defense attorney not present to cross, did submit questions, child’s behavior improved after contact ended

In re Keisha McL., 691 NYS2d 428 (1st Dept. 1999) - expert evidence that the children did not appear to be coached, age inappropriate sexual knowledge, behavior common to sexually abused children

Matter of Sueann B., 685 NYS2d 357 (4th Dept. 1999) - validation, children’s out of court statements as to each other

Matter of Roseanne G., 681 NYS2d 262 (1st Dept. 1998) - medical, children’s out of court statements as to each other

Matter of Victoria H., 680 NYS2d 577 (2nd Dept. 1998)- doll play, medical, precocious knowledge

Matter of Elizabeth G., 680 NYS2d 32 (4th Dept. 1998) - children’s out of court statements as to each other, expert’s opinion

Matter of Tanya T., 675 NYS2d 237 (3rd Dept. 1998) - children’s out of court statements as to each other, sex play with dolls, medical

Matter of Ashley M., 653 NYS2d 163 (3rd Dept. 1997) - validator, acting out sex with dolls, sexual behavior with other children

Matter of Heather P., 649 NYS2d 551 (4th Dept. 1996) - acting out sex, validator

Matter of Jessica G., 200 AD2d 906 (3rd Dept. 1994) - expert opinion, precocious knowledge, in camera of child unsworn

Matter of Brandon UU., 597 NYS2d 525 (3rd Dept. 1993) - doll play, acting out the sex, expert

opinion

Matter of Jamie D., 199 AD2d 688 (3rd Dept. 1993) - precocious knowledge, medical

Matter of Abbey Gail E., 191 AD2d 696 (2nd Dept. 1993) - medical, expert opinion

Matter of Michelle I., 189 AD2d 998 (3rd Dept. 1993) - doll play, medical, other children's out of court statements

Matter of Sharrell B., 190 AD2d 1993 (1st Dept. 1993) doll play, acting out the sex, precocious knowledge

Matter of Nicole G., 187 AD2d 650 (2nd Dept. 1992) - medical, expert opinion

Matter of Davina C., 186 AD2d 422 (1st Dept. 1992) - medical, expert opinion

Matter of Margaret F., 186 AD2d 254 (2nd Dept. 1992) - out of court statements, previous acts by parent, doll play, validator

Matter of Lisa S., 187 AD2d 435 (2nd Dept. 1992) - medical, expert opinion

Matter of Anthony R., 175 AD2d 284 (2nd Dept. 1991) - precocious knowledge, expert opinion, medical, in camera of children

Matter of Chianti FF., 163 AD2d 688 (3rd Dept. 1990) - doll play, expert opinion

Matter of Erick R., 166 AD2d 161 (3rd Dept. 1990) - medical, expert opinion, precocious knowledge, doll play

Matter of Shaune L., 150 AD2d 689 (2nd Dept. 1989) - child's in camera, expert opinion

Matter of Erin G., 139 AD2d 737 (2nd Dept. 1988) - child's sworn in camera

Matter of Nicole V., 71 NY2d 112 (1987) - landmark validation case by Court of Appeals re validation

Validations

Matter of Dayannie I.M., ___AD3d___ dec'd 4/6/16 (2nd Dept. 2016)

Matter of Anthony M.C., 119AD781 (2nd Dept. 2014) – validator took into account the child's developmental disabilities

Matter of Emani, 107 AD3d 815 (2nd Dept. 2013) – “expert in clinical and forensic psychology with a specialization in child abuse” who can talk about child's behaviors

Matter of Amber C., 104 AD3d 845 (2nd Dept. 2013) – expert in clinical and forensic psychology with a specialization in sexual abuse describing behaviors of sexually abused children

Matter of Arianna M., 105 AD3d 1401 (4th Dept. 2013) – cannot admit the written report of the assessment when expert has already testified – just bolstering

Matter of Bethany F., 85 AD3d 1588 (4th Dept. 2011) – discusses Sgroi method and says Frye test not needed

Matter of Miranda HH., 80 AD3d 896 (3rd Dept. 2011) – very good recent case on use of validators and the Yuille stepwise method

Matter of Nikita W., 77 AD3d 1209 (3rd Dept 2010)

Matter of Caitlyn U., 46 AD3d 1144 (3rd Dept. 2007)

Matter of DM., 29 Misc3d 1220A (Bronx County Family Court 2010) – poor validation

Matter of Kaitlyn “R”. 700 NYS2d 533 (3rd Dept. 1999)
Matter of Elizabeth G., 680 NYS2d 32 (4th Dept. 1998)
Matter of Randy A., 670 NYS2d 225 (3rd Dept. 1998)
Matter of Katje YY., 650 NYS2d 363 (3rd Dept. 1996)
Matter of Thomas N., 645 NYS2d 573 (3rd Dept. 1996)
Matter of Jessica DD., 651 NYS2d 673 (3rd Dept. 1996)
Matter of Jaclyn P., **86 NY2d 875 (1995) - Court of Appeals reaffirms use of validators**
Matter of Keala XX., 629 NYS2d 331 (3rd Dept. 1995)
Matter of Michael J., 211 AD2d 155 (3rd Dept. 1995)
Matter of Dawn H., 633 NYS2d 782 (1st Dept. 1995)
Matter of Kelly F., 206 AD2d 277 (3rd Dept. 1994)
Matter of Vincent I., 613 NYS2d 488 (3rd Dept. 1994)
Matter of Carol Ann D., 195 AD2d 460 (2nd Dept. 1993)
Matter of Brandon UU 193 AD2d 835 (3rd Dept. 1993)
Matter of Paul P., 185 AD2D 981 (2nd Dept. 1992)
Matter of Latisha V., 175 AD2D 839 (2nd Dept. 1991)
Matter of Nicole V., **71 NY2d 112 (1987) -landmark validation case by Court of Appeals re use of validation proof in Art. 10 cases**

Recanting need not require dismissal

Matter of Destiny C., 127 AD3d 1510 (3rd Dept. 2015) –
Matter of Tiarra D., 124 AD3d 973 (3rd Dept. 2015)
Matter of Melody H., 121 AD3d 686 (2nd Dept. 2014)
Matter of Tristan R., 63 AD3d 1075 (2nd Dept. 2009)
Matter of Frantrae W., 45 AD3d 412 (1st Dept. 2007)
Matter of Caitlyn U., 46 AD3d 1144 (3rd Dept. 2007)
Matter of Allison B., 41 AD3d 842 (2nd Dept. 2007)

Medical Proof

Matter of April WW., 133 AD3d 1113 (3rd Dept. 2015) – battle of the experts, DSS experts not credible as lacking in experience and no other proof
Matter of Destiny C., 127 AD3d 1510 (3rd Dept. 2015) – 3 oldest children cross corroborated each other’s out of court statements, also saw the other children being abused, 7 year old girl had scarring in vagina and rectum opening consistent with anal penetration
Matter of Tiarra D., 124 AD3d 973 (3rd Dept. 2015) – child’s out of court statements corroborated with drawings and demonstrations with dolls and scar on her vaginal opening
Matter of I-Conscious R., 121 AD3d 566 (1st Dept. 2014) – 6 year old girl with genital herpes,

visible lesions, pain and itching and disclosed to doctor and caseworker

Matter of Ashley M.V., 106 AD3d 659 (1st Dept. 2013) – fact that child does not have physical injury does not mean dismissal – also see **Matter of Diana C.**, 129 AD3d 487 (1st Dept. 2015) and also **Matter of Alijah S.**, 133 AD3d 555 (1st Dept. 2015)

Matter of Amelia V.M.B., 107 AD3d 980 (2nd Dept. 2013) – torn hymen and out of court statements

Matter of Ramsey H., 99 AD3d 1040 (3rd Dept. 2012) –10 year old child did not express discomfort when pediatrician inserted index finger in vagina - ‘should have cried out in pain’

Matter of Shade B., 99 AD3d 1001 (2nd Dept. 2012) – gonorrhea in a 4 year old

Matter of Loraida R., 97 AD3d 925 (3rd Dept. 2012) – bleeding, trauma genital area, thighs

Matter of Alivah G., 95 AD3d 885 (2nd Dept. 2012) – gonorrhea in a 3 year old is res ipsa

Matter of Falcon “EE”., 703 NYS2d 569 (3rd Dept. 2000)

Matter of Ashley “D”., 702 NYS2d 209 (3rd Dept. 2000)

Matter of Melissa I., 681 NYS2d 372 (3rd Dept. 1998)

Matter of Yazalin P., 680 NYS2d 530 (1st Dept. 1998)

Matter of Dora F., 675 NYS2d 655 (1st Dept. 1997)

Matter of Jessica N., 652 NYS2d 177 (4th Dept. 1996)

Matter of Najam M., 648 NYS2d 559 (1st Dept. 1996)

Matter of Julissa II., 213 AD2d 18 (3rd Dept. 1995)

Matter of Tveasia., 641 NYS2d 673 (1st Dept. 1996)

Matter of Lauren B., 200 AD2D 740 (2nd Dept. 1994)

Matter of Lisa S., 187 AD2d 435 (2nd Dept. 1992)

Matter of Katrina W., 171 AD2d 250 (2nd Dept. 1991)

Matter of Sheikara C., 163 AD2D 69 (1st Dept. 1990)

Respondent Evaluations of Child

Matter of Sylvia J., 804 NYS2d 783 (2nd Dept. 2005)

Matter of Ashley B, 2 AD3d 1402 (4th Dept. 2003)

Matter of Keith “JJ”, 295 AD2d 644 (3rd Dept. 2002) – good wording on denying the respondent’s request for a eval of child

Matter of Megan G., 698 NYS2d 375 (4th Dept. 1999)

Matter of Melissa K., 678 NYS2d (4th Dept. 1998)

Matter of Dawn H., 633 NYS2d 782 (1st Dept. 1995)

Matter of Diana D., 630 NYS2d 382 (2nd Dept. 1995)

Matter of Delores W., 190 AD2d 611 (1st Dept. 1993)

Matter of Skye B., 185 AD2d 880 (2nd Dept. 1992)

Matter of Danielle “YY”., 188 AD2d 894 (3rd Dept. 1992)

Matter of Jessica R., 78 NY2d 1031 (1991) -key case from Court of Appeals

Matter of Erick R., 166 AD2D 161 (3rd Dept. 1990)

Matter of Michele A., 140 AD2d 604 (2nd Dept. 1988)

Evaluating and Format of Child's In Court Testimony

Matter of Diana C., 129 AD3d 487(1st Dept. 2015) – credible in court testimony need not be corroborated – see also **Matter of Imani G.**, 130 AD3d 456 (1st Dept. 2015) and **Matter of Alijah S.**, 133 AD3d 555(1st Dept, 2015)

Matter of Penny Y. 129 AD3d 1117_(3rd Dept. 2015) – minor inconsistency in testimony with out of court statements ok

Matter of Aleria KK., 127 AD3d 1525 (3rd Dept. 2015) – teen allowed to testify with respondent out of the courtroom and all counsel present, balanced respondent's interests against impact on child's emotional and well being, ok that child was not able to give exact dates and times of abuse

Matter of Lylly M.G., 121 AD3d 1586 (4th Dept. 2014) – child was allowed to testify in chambers under oath but with cross by defense attorney as would suffer emotional trauma if made to testify in front of stepfather respondent – no affidavit from an expert but court knew of child's age, the allegations, the fact that child testified via close circuit in the criminal trial, child was in therapy

Matter of Amparo B.T., 118 AD3d 809 (2nd Dept. 2014) - child was allowed to testify outside of the presence of her father but subject to cross examination by the father's counsel. This was proper as the court had determined that there would have been a negative impact on the child's mental and emotional well being if she had to testify in front of her father.

Matter of Jocelyn L., 113 AD3d 484 (1st Dept. 2014) - child was allowed to testify via closed circuit TV as the social worker opined that the child's well being could be severely compromised if she was made to testify in their presence.

Matter of Michael U. 110 AD3d 821 (2nd Dept. 2013) – 2 way closed circuit used, child would have been traumatized

Matter of Alesha P., 110 AD3d 1461 (4th Dept. 2013) – respondent leaves when children testify as would suffer emotional trauma and be compromised in ability to testify clearly and accurately

Matter of Kyanna T., 99 AD3d 1011 (2nd Dept. 2012) – excluding respondents during testimony ok

Matter of Gloria M. 96 AD3d 1060 (2nd Dept. 2012) – closing the court room, outside of father's presence

Matter of Alaysha E., 94 AD3d 988 (2nd Dept. 2012)

Matter of Kylani R., 93 AD3d 556 (1st Dept. 2012)

Matter of Miranda HH., 80 AD3d 896 (3rd Dept. 2011)- case with child in chambers and statements made there discussed by experts

Matter of Justin CC., 77 AD3d 207 (3rd Dept. 2010) and 77 AD3d 1056 (3rd Dept. 2010) – good discussion of types of testimony

Matter of Lauryn H., 73 AD3d 1175 (2nd Dept. 2010)

Matter of Arlenya B., 70 AD3d 598 (1st Sept. 2010) – two way video testimony

Matter of Aaliyah B., 68 AD3d 1483 (3rd Dept. 2009)

Matter of Blaize F., 50 AD3d 1182 (3rd Dept. 2008)
Matter of Brandi U., 849 NYS2d 710 (3rd Dept. 2008)
Matter of Katherine S., 705 NYS2d 670 (2nd Dept. 2000)
Matter of Kaitlyn “R”., 700 NYS2d 533 (3rd Dept. 1999)
Matter of Jennifer G., 687 NYS2d 844 (4th Dept. 1999)
Matter of Rhianna R., 684 NYS2d 389 (4th Dept. 1998)
Matter of Robert H., 681 NYS2d 887 (3rd Dept. 1998)
Matter of Randy A., 670 NYS2d 225 (3rd Dept. 1998)
Matter of Jamie EE., 670 NYS2d 931 (3rd Dept. 1998)
Matter of Erinn G., 672 NYS2d 445 (3rd Dept. 1998)
Matter of Randy A., 670 NYS2d 225 (3rd Dept. 1998)
Matter of Darnell Mc., 645 NYS2d 881 (2nd Dept. 1996)
Matter of Leslie C., 637 NYS2d 560 (4th Dept. 1996)
Matter of Karrie B., 207 AD2d 1002 (4th Dept. 1994)
Matter of Woodley B., 207 AD2d 885 (2nd Dept. 1994)
Matter of Lynelle W., 177 AD2d 1008 (4th Dept. 1993)
Matter of Christina F., 74 NY2d 532 (1989) - key case re child’s unsworn by cross examined testimony in camera can corroborate out of court statements

AFC’s Role

Matter of Colleen CC., 232 AD2d 787 (3rd Dept. 1996)
Matter of Jamie TT., 191 AD2d 132 (3rd Dept. 1993)
Matter of Amber A., 108 AD3d 664 (2nd Dept. 2013) – AFC brings petition and wins

Criminal Convictions/Summary Judgment

Matter of Angelica M., 107 AD3d 803 (2nd Dept. 2013)- summary judgment were criminally convicted of same acts
Matter of Idhailia P., 95 AD3d 1333 (2nd Dept. 2012)
Matter of Miranda F., 91 AD3d 1303 (4th Dept. 2012)
Matter of Aaron H., 72 AD3d 1602 (4th Dept. 2010) – Alford plea in criminal court after a dismissal in Family Court, allowed DSS to vacate dismissal
Matter of Ajay P., 60 AD3d 681 (2nd Dept. 2009)
Matter of Kathya V., 16 Misc3d 1132A (Family Court, Queens County 2007) – conviction on rape of two foster children, summary judgment derivative sex abuse on own children
Matter of Rebecca KK., 834 NYS2d 732 (3rd Dept. 2007) – plea to attempted sodomy is summary judgment on sex abuse

Matter of Denise GG., 678 NYS2d 821 (3rd Dept. 1998)

Matter of Michael V., 83 NY2d 178 (1994) - **key case re criminal conviction is summary judgment for same act in family court**

Matter of Sarah L., 617 NYS2d 71 (4th Dept. 1994)

Dispositions

Matter of Fay G.G., 97 AD3d 918 (3rd Dept. 2012) – even though child now over 18 by time of dispo, youth wanted to stay in care and court can issue requirements for respondent father in order to be involved with youth

Matter of Kristi “AA”, 742 NYS2d 920 (3rd Dept. 2002) – not a violation of respondent’s 5th amendment rights for Family Court to require him, after he consented to a finding, to sign the service providers contact for sexual offender treatment where he had to admit that he had sexually abused child

Matter of Jennifer “WW”., 710 NYS2d 733 (3rd Dept. 2000)

Matter of Ashley M., 683 NYS2d 304 (3rd Dept. 1998)

Matter of Sharon E., 676 NYS2d 601 (2nd Dept. 1998)

Matter of Victoria H., 680 NYS2d 577 (2nd Dept. 1998)

Matter of Sharon E., 676 NYS2d 601 (2nd Dept. 1998)

Matter of Tanya T., 675 NYS2d 237 (3rd Dept. 1998)

Matter of Esther CC., 194 AD2d 949 (3rd Dept. 1993)

Matter of Nina G., 594 NYS2d 305 (2nd Dept. 1993)

Matter of Sharrell B., 190 AD2d 1993 (1st Dept. 1993)

Matter of Sheikara C., 163 AD2d 69 (1st Dept. 1990)