

**Supreme Court of the State of New York  
Appellate Division: Second Judicial Department**

D57712  
Q/htr

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Argued - November 26, 2018

MARK C. DILLON, J.P.  
JOHN M. LEVENTHAL  
FRANCESCA E. CONNOLLY  
LINDA CHRISTOPHER, JJ.

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2017-09891

DECISION & ORDER

In the Matter of Akilah A. (Anonymous).  
Administration for Children's Services,  
appellant; Bishme A. (Anonymous),  
respondent.  
(Proceeding No. 1)

In the Matter of Jassir R. (Anonymous).  
Administration for Children's Services,  
petitioner-appellant; Jazmyn R. (Anonymous),  
respondent, Bishme A. (Anonymous),  
respondent-respondent.  
(Proceeding No. 2)

(Docket Nos. N-21927-14, N-21928-14)

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Zachary W. Carter, Corporation Counsel, New York, NY (Deborah A. Brenner and  
Daniel Matza-Brown of counsel), for appellant.

Bishme A. (Anonymous), Arverne, NY, respondent pro se in Proceeding No. 1 and  
respondent-respondent pro se in Proceeding No. 2.

Toba Beth Stutz, Jamaica, NY, attorney for the child Akilah A.

In related proceedings pursuant to Family Court Act article 10, the petitioner appeals from an order of the Family Court, Queens County (Anne-Marie Jolly, J.), dated August 9, 2017. The order, insofar as appealed from, after a fact-finding hearing, denied the petition alleging that Bishme A. derivatively abused the child Akilah A., and dismissed that proceeding.

December 26, 2018

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MATTER OF A. (ANONYMOUS), AKILAH  
MATTER OF R. (ANONYMOUS), JASSIR

ORDERED that the order is reversed insofar as appealed from, on the law and the facts, without costs or disbursements, the petition is reinstated, a finding is made that Bishme A. derivatively abused the child Akilah A., and the matter is remitted to the Family Court, Queens County, for a dispositional hearing and the issuance of a dispositional order thereafter.

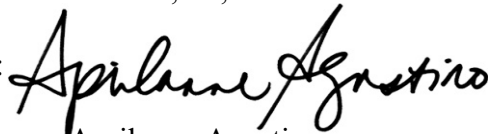
The Administration for Children's Services (hereinafter ACS) commenced two related child protective proceedings pursuant to Family Court Act article 10. One proceeding was against Jazmin R. and Bishme A., alleging that they abused and neglected the child Jassir R. when that child was approximately 14 months of age. The other proceeding was against Bishme A., alleging that he derivatively abused his own daughter, Akilah A., who was several weeks older than Jassir R. In an order dated August 9, 2017, after a fact-finding hearing, the court, inter alia, denied the petition alleging that Bishme A. derivatively abused Akilah A., and dismissed that proceeding. ACS appeals from so much of the order as denied the petition alleging that Bishme A. derivatively abused Akilah A., and dismissed that proceeding.

The Family Court should have found that Bishme A. derivatively abused Akilah A. In a child protective proceeding pursuant to Family Court Act article 10, "proof of the abuse or neglect of one child shall be admissible evidence on the issue of the abuse or neglect of any other child" (Family Ct Act § 1046[a][i]). ACS established that Jassir R. suffered extensive inflicted injuries while in the care of Bishme A. Based on this evidence, ACS established, by a preponderance of the evidence, that Bishme A. derivatively abused Akilah A. (*see* Family Ct Act § 1046[a][i]; *Matter of Marino S.*, 100 NY2d 361, 374). Accordingly, we reinstate the petition, make a finding that Bishme A. derivatively abused Akilah A., and remit the matter to the Family Court, Queens County, for a dispositional hearing and the issuance of a dispositional order thereafter.

We decline Bishme A.'s request to impose sanctions.

DILLON, J.P., LEVENTHAL, CONNOLLY and CHRISTOPHER, JJ., concur.

ENTER:



Aprilanne Agostino  
Clerk of the Court