

STATE OF SUNNYDALE

COURT OF APPEALS

=====

WILLOW and ANGEL ROSENBURG,

Appellants,

-against-

Index No.: 2058-5147

**SUNNYDALE DEPARTMENT OF
CHILD PROTECTIVE SERVICES,**

Appellee.

=====

Appeal from the State of Sunnydale
Third Appellate Division

**BRIEF OF PETITIONER - APPELLEE,
SUNNYDALE DEPARTMENT OF CHILD PROTECTIVE SERVICES**

Team #200

QUESTIONS PRESENTED

1. Whether Willow Rosenberg's failure to protect her daughter Buffy Rosenberg from emotional and physical abuse constituted child neglect, as defined by Sunnydale Family Court Act § 3523(f)?
2. Whether Angel Rosenberg was a "person legally responsible" for Buffy Rosenberg because of the nature of his relationship with Buffy as her caretaker, and as such, whether Angel neglected Buffy by using corporal punishment that caused physical and emotional injury to her?

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	ii
TABLE OF CONTENTS.....	iii
TABLE OF AUTHORITIES	v
STATEMENT OF THE CASE	1
SUMMARY OF THE ARGUMENT.....	8
ARGUMENT	9
I. WILLOW ROSENBURG’S FAILURE TO PROTECT HER DAUGHTER BUFFY ROSENBURG FROM EMOTIONAL AND PHYSICAL ABUSE CONSTITUTED CHILD NEGLECT, AS DEFINED BY SUNNYDALE FAMILY COURT ACT § 3523(f)	9
A. Buffy Rosenberg was physically and emotionally impaired.....	10
B. Willow Rosenberg failed to exercise a minimum degree of parental care	13
II. ANGEL ROSENBURG WAS A PERSON LEGALLY RESPONSIBLE FOR BUFFY BECAUSE OF THE NATURE OF HIS RELATIONSHIP WITH BUFFY AS HER CARETAKER AND NEGLECTED BUFFY BY USING PHYSICAL DISCIPLINARY TECHNIQUES THAT CAUSED PHYSICAL AND EMOTIONAL INJURY TO HER.	17
A. Angel was a “person legally responsible” for Buffy’s care because he acted as a functional equivalent of Buffy’s parent by providing daily childcare for her, where he assumed the parental responsibilities of Buffy.....	20

B.	Angel stood in <i>in loco parentis</i> to Buffy by intentionally and voluntarily assuming parental responsibilities of Buffy, therefore making Angel a “person legally responsible” for Buffy’s care.....	23
C.	Angel neglected Buffy by inflicting “excessive corporal punishment” on Buffy which caused Buffy to suffer physical and emotional injury	25
CONCLUSION		29

TABLE OF AUTHORITIES

Page(s)

CASES

<i>Com. v. Gerstner</i> , 656 A.2d 108, 124 (Pa. 1995).....	19
<i>In re Angelique L.</i> , 42 A.D.3d 569, 572, 840 N.Y.S.2d 811, 815 (2007).....	11-12
<i>In re Antonio NN.</i> , 28 A.D.3d 826, 826, (2006)	9, 11-12
<i>In re Raven B.</i> , 115 A.D.3d 1276, 1277 (2014)	10
<i>In re Zackery D.</i> , 129 A.D.3d 1121, 1123, 10 N.Y.S.3d 699, 701 (2015)	13, 15
<i>Matter of Alachi I.</i> , 215 A.D.3d 1014, 1018, 187 N.Y.S.3d 128, 133 (2023).....	14, 16
<i>Matter of Anthony C.</i> , 201 A.D.2d 342, 343–33 (N.Y. App. Div. 1994)	20, 26-27
<i>Matter of Katherine C.</i> , 122 Misc. 471 N.Y.S.2d 216, 221 (Fam. Ct. 1984)	13
<i>Matter of Trenasia J. (Frank J.)</i> , 25 N.Y.3d 1001, 1004 (N.Y. 2015)	18, 20-21, 23
<i>Matter of Vashti M.</i> , 214 A.D.3d 1335, 1336 (N.Y. App. Div. 2023)	17-18, 20, 25-28
<i>Matter of Yolanda D.</i> , 673 N.E.2d 1228, 1228 (N.Y. 1996)	passim
<i>Matter of Zariyasta S.</i> , 158 A.D.2d 45, 48–49, 557 N.Y.S.2d 895, 898 (1990)	14, 16
<i>Nicholson v. Scoppetta</i> , 3 N.Y.3d 357, 369 (2004).....	10
<i>People v. Goddard</i> , 206 A.D.2d 653, 655 (N.Y. App. Div. 1994)	passim
<i>People v. Myers</i> , 201 A.D.2d 855, 856 (N.Y. App. Div. 1994).....	passim
<i>Rutkowski v. Wasko</i> , 286 A.D. 327, 332 (N.Y. App. Div. 1955)	17-19, 23, 25

STATUTES AND RULES

Sunnydale Family Court Act § 3523passim

New York Family Court Act § 10129

STATEMENT OF THE CASE

This Court is being asked to affirm a judgment of the State of Sunnydale Third Appellate Division, reversing the State of Sunnydale Family Court, granting the Petitioner's application, and granting an Order of Protection against Respondent, Angel Rosenberg. Two issues are before this Court: (1) whether Willow Rosenberg's failure to protect her daughter Buffy Rosenberg from emotional and physical abuse constituted child neglect, as defined by Sunnydale Family Court Act § 3523(f), and (2) whether Angel Rosenberg was a person legally responsible for Buffy Rosenberg because of the nature of his relationship with Buffy as her caretaker, and as such, whether Angel neglected Buffy by using corporal punishment that caused physical and emotional injury to her. The factual record is not disputed by either party.

Buffy Rosenberg is the 6-year-old daughter of Respondent, Willow Rosenberg. Willow is a 28-year-old, who has been a single mother since Buffy's birth. Willow works every night of the week, except Sundays, when she finally has a night off to spend with Buffy. Willow works two jobs, one at Sunnydale High School during the weekdays and another at Sunnydale's Waffle House during the evenings, from Tuesday night to Saturday night. Willow's own parents passed away when she was 17 years old, but she has a 32-year-old brother, Respondent Angel Rosenberg, and a sister Kendra, who also recently passed away. Kendra, and now Angel, have always helped take care of Buffy so that Willow could still work her two jobs. Willow's sister, Kendra, passed away in 2022, and Willow states that since then, her financial and childcare situation has gotten more precarious, as Kendra was the main source of Buffy's childcare. Since Kendra passed away, childcare has fallen primarily to Willow's brother, and Buffy's uncle, Angel, so Willow could still maintain her employment at both of her jobs.

Angel was dismissed from his job at an Amazon Warehouse during the COVID-19 pandemic, and subsequently moved into one of his friend's apartments about two years ago in 2021. However, Angel spends a large portion of time at Willow's apartment watching over Buffy. Since losing his Amazon job, Angel has been unemployed. Angel also does not have a driver's license, which has also contributed to his difficulty in locating a new job. As such, Angel is also unable to bring Buffy to activities, like her soccer games for the team she used to be a part of, or friends' houses for play dates. Almost always, Angel walks Buffy to the bus stop near her apartment, which she rides alone to Sunnydale Elementary School, and then Angel walks to pick her up from the bus stop at 3pm when she is done with school. Angel has never been late to dropping off or picking up Buffy from school.

Child Protective Services' Involvement

On May 21, 2023, a mandated reporter from the Sunnydale Elementary School contacted the Sunnydale County Child Protective Services ("the Agency"). This mandated reporter, School Nurse Amy Madison, explained the concerning physical state of Buffy Rosenberg. The Nurse testified that when she saw Buffy, Buffy could barely walk and had stated that she had extreme soreness on her left side. The Nurse lifted Buffy's shirt to check the area of soreness and discovered a yellow, beginning to turn purple, colored bruise that took up all of the left side of Buffy's chest and torso area but was especially prominent towards the left side of her ribs. The Nurse testified that she asked Buffy what happened to her side, and Buffy began crying and said, "Please don't tell my uncle or he's going to get meaner." Within 24 hours of the Nurse's phone call, the Agency initiated an investigation, and determined that there would be an imminent risk of harm to Buffy if she remained in the home with her Mother and Uncle.

Willow was highly upset, but hesitantly consented to Buffy's removal and placement in foster care while the case was investigated. The Agency report was "indicated," through which written notifications from the Agency were given to Willow and Angel to inform them of their rights to appeal the decision of the investigative agency to indicate the report. As Willow had consented to the Agency further removing Buffy until deemed safe to return, Willow also agreed to waive her right to an emergency removal hearing. Soon after, Willow and Angel filed a joint Motion to Dismiss to be heard at the neglect hearing initiated on May 23, 2023.

The Neglect Hearing and Caseworker Findings

At the hearing, a senior Caseworker testified from Child Protective Services, who had visited the apartment and interviewed Buffy. This Caseworker stated that Buffy told her she was 'terrified of the Uncle because he hated her' and thought that 'he would definitely hurt her again if he got the chance, as [her] mother didn't protect her.' The Caseworker testified that while Willow's apartment was well-kept, it was not furnished with anything personalized, like family photos, and there was none of Buffy's artwork or accomplishments displayed. The Caseworker interviewed Willow, and stated that Willow reported 'struggling with mental health issues' and had explained that she 'struggled to properly take care of Buffy when she felt it was hard to even take care of herself.' The Caseworker further testified that she offered Willow a list of referrals for mental health services she could utilize. The Caseworker also confirmed she completed a Sunnydale Family Court Act § 3532 investigation and issued an official report in May 2023. The report described that while the Caseworker found Willow and Angel's home met the minimal standard of care for the safety of the children, the failure of Willow to supervise her own child, and the neglect by Angel, did not meet the minimum standard of care. The Caseworker informed

the court that Buffy once again stated that she felt Willow had failed to protect her and that Willow ‘did not love or care for her.’

The Incidents at Issue

The Caseworker testified that Buffy stated her life had become increasingly more tumultuous without her Aunt, as there was no one in the home who would help her through homework. Buffy also had to give up soccer, as no one was able to transport her to practices and such. Buffy reported feeling ‘very lonely.’ Buffy had also started to experience more severe and angry outbursts after her Aunt died. Buffy saw the school counselor a couple of times, but had a hard time trusting anyone. Further, Buffy told the Caseworker that she had been going through an uncomfortable experience with Angel, and recently, was very scared of him. Buffy told the Caseworker that Angel never offered to help Buffy with homework, played with her, or talked to her much at all. The Caseworker stated that Buffy’s first notable negative encounter with Angel started with cruel remarks after Buffy had misbehaved and had an outburst of anger. Buffy alleged there were other comments from Angel like “no one cares about you” and that “you are just a nuisance to your mom and me. We would be better off without you in our lives.” Buffy told the Caseworker that when her own outbursts of anger got worse at home, Angel would lock her in the hallway closet without the lights on, until Angel stated that she had “learned her lesson.” The longest Buffy was ever locked in the closet was an hour, and out of fear of this happening again, Buffy had urinated on herself in the closet.

Next, Buffy told the Caseworker that Angel’s reactions then became physical. The Caseworker testified to the court that the first time Angel became physical was when Buffy had failed a spelling test. When Angel heard that Buffy had failed, he allegedly began to yell at her, calling her “dumb” and that she “wasn’t trying hard enough.” Buffy stated that after she heard

those words, she started to cry and told Angel that she hated him and wished that he would disappear. Then, Angel hit Buffy in the face for talking back to him. The Caseworker asked Buffy “how” and “where” Angel had hit her, and Buffy made a closed fist, and stated it was on her cheek. The Caseworker asked Buffy if she reported the incident to anyone, but Buffy stated that Angel threatened her that if anyone asked about a possible bruise, she was to tell them that while playing basketball, the ball bounced off of the basket and accidentally hit her in the face. The Caseworker also asked how Angel had threatened her, and Buffy reported that Angel said “he would make it much worse for her next time” if she told anyone the truth. Thus, Buffy told her teacher and Willow the same story about the basketball incident.

The next incident of neglect by Angel was about three weeks later. Buffy told the Caseworker that the next occurrence began when she asked Angel if she could go to a friend’s house for dinner. Buffy stated that she even told Angel that the friend’s mom was willing to drive Buffy to and from their house for dinner. Angel denied Buffy’s outing because she was not listening to him, and he allegedly told Buffy that she had to “stop being such a hassle to other people.” Buffy told the Caseworker that she had regretfully mumbled under her breath that she wished her Aunt and Angel could swap places [implying that she wished Angel had died, and not Kendra.] Then Buffy reported that this enraged Angel and he suddenly pushed Buffy to the ground and kicked her once on her side, resulting in the bruise towards her ribs. Again, Angel told Buffy that she could not tell anyone or let anyone see the bruise. Buffy told the Caseworker that she had trouble walking due to the pain “from her side” and that a teacher noticed and told Buffy to go to the Nurse’s office. The Caseworker and the Nurse testified that once the Nurse examined the injured area, she immediately called the Agency, and this case commenced.

Willow’s Testimony

Willow testified at the hearing that she had had increasing mental health struggles since her sister, Kendra, passed away. Willow explained that she knew Angel had a strict authoritative method to childcare, but that she overlooked the severity of it. Willow testified that she believed Angel's authoritative style could not have been that bad, since Buffy's behavior improved. Willow further testified that Buffy did seem different since Angel started taking care of her, but Willow knew Buffy missed her aunt. Willow explained that she was not in the right mindset to intervene, or even to check-in with Buffy. Willow also testified that with all she has dealt with in her life so far, she could not help but feel extremely depressed and overtired with all the loss she had faced. Willow stated that Angel suggested that she should work on seeing a therapist to discuss her feelings, but Willow could not find the time to start that process with how much she worked. Willow explained that with all of this stress she experienced, work helped distract her in a positive way, which is why she often was open to picking up extra shifts, and appreciated her brother for stepping in to care for Buffy.

Willow testified that her own upbringing with her siblings and parents was very strict and resulted in physical punishment many times. As such, she swore to never personally repeat her parents' punishment on her own child, even though she understood the need for discipline. Willow also testified that she believes Angel would "never seriously hurt Buffy on purpose," and in fact, Buffy's overall behavior "has gotten seriously better since Angel had begun taking care of her." Willow explained that Buffy had undergone sessions with a counselor in school due to the fact that Buffy had been diagnosed with intermittent explosive disorder, where Buffy was prone to having angry outbursts where she would not listen to any authority figure. Willow testified that ever since Angel had cared for Buffy, Buffy had significantly less outbursts.

Angel's Testimony

Angel testified that his own childhood was full of abuse and punishment that could not even compare to what the Agency is presently alleging. Due to this trauma, Angel stated he never wanted to have children of his own. Angel testified that he was not close to Buffy and did not view his relationship with her as one resembling a parent/child relationship. Angel had struggled with similar anger issues to Buffy, and he testified that his anger issues only got worse after Kendra died and the childcare for Buffy fell to him. Angel emphasized that while he loved Buffy as his niece, he also despised the fact that he had to take care of a child full-time, after promising himself he would “never have children, but would do anything do help out his sister, especially with her current emotional and psychological state.” However, Angel felt that Buffy was “turning out to be quite the problem-child,” with never having been told “no” by Willow or Kendra. Angel further explained that he felt it was his responsibility to teach Buffy how to behave better and learn more manners, as he knew no one else would take the time to teach her.

Angel testified that he did not want his relationship with Buffy to resemble his own unhealthy relationship with his parents, so when issues first arose, he specifically used harsh words as discipline. When that did not work, Angel still refrained from physical discipline by temporarily putting Buffy in time-outs in the closet, which he locked so she did not escape. Angel explained that the time-outs only resulted in more outbursts from Buffy, so, on two occasions, even though Angel stated he did not want to, he became physical as a form of discipline. Angel stated he hated disciplining Buffy in this manner, but he found it really was the only method that worked in teaching Buffy to behave and listen to “the adult of the house,” and he “ensured that the discipline wasn’t too inappropriate or excessive.”

SUMMARY OF THE ARGUMENT

In cases such as this one, courts are faced with balancing the paramount interest in protecting a child from the imminent danger of further abuse, while also protecting the interest of the child to remain in a familiar environment with her biological parent(s)/family. Every ad-hoc judgement of a Family Court Judge must answer this important balancing question and consider the totality of the interests of the child. To answer this question here, this Court should find that Willow Rosenberg's failure to protect her daughter Buffy Rosenberg from emotional and physical abuse plainly constituted child neglect, as defined by Sunnydale Family Court Act § 3523(f), and that Angel Rosenberg was a "person legally responsible" for Buffy Rosenberg because of the nature of his relationship with Buffy as her caretaker, and as such, Angel neglected Buffy by corporally punishing her, causing physical and emotional injury to her.

Based on the facts, Buffy Rosenberg was physically and emotionally impaired from the abuse she suffered from her uncle, Angel, and Willow Rosenberg failed to act as a reasonably parent would have acted under the circumstances, resulting in Willow neglecting Buffy. Moreover, Angel Rosenberg assumed parental responsibilities over Buffy, and had a long-standing relationship with Buffy. Alternatively, Angel stood *in loco parentis* by voluntarily and intentionally assuming those responsibilities over Buffy, and the evidence of Buffy's physical and emotionally injuries shows that Angel Rosenberg used excessive corporal punishment on her.

ARGUMENT

I. WILLOW ROSENBURG’S FAILURE TO PROTECT HER DAUGHTER BUFFY ROSENBURG FROM EMOTIONAL AND PHYSICAL ABUSE CONSTITUTED CHILD NEGLECT, AS DEFINED BY SUNNYDALE FAMILY COURT ACT § 3523(f).

By allowing Angel Rosenberg to continuously abuse six-year-old Buffy Rosenberg both emotionally and physically, Willow Rosenberg, as Buffy’s mother and legal guardian, committed child neglect pursuant to Sunnydale state law, Sunnydale Family Court Act § 3523.

Under Sunnydale state law, “a neglected child” is defined as a child under eighteen years old “whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of [the] parent. . . for his/[her] care to exercise a minimum degree of care.” Sunnydale Fam. Ct. Act § 3523(f)(i). The statute defines this neglect as resulting in “unreasonabl[e] infliction *or allowing to be inflicted harm*, or a substantial risk thereof, including *the infliction of excessive corporal punishment*. . . .” Sunnydale Fam. Ct. Act § 3523(f)(i)(B) (emphasis added). Further, the statute states that a child displays evidence of “impairment of emotional health” through “substantially diminished psychological or intellectual functioning in relation to. . . such factors as failure to thrive, *control of aggressive or self-destructive impulse*, ability to think and reason, *or acting out or misbehavior*. . . .” Sunnydale Fam. Ct. Act § 3523(h) (emphasis added).

Under New York case law, the analogous New York statute carries an objective standard. *In re Antonio NN.*, 28 A.D.3d 826, 826, (2006). “The statute establishes a ‘minimum baseline of proper care for children that all parents, regardless of lifestyle or social or economic position, must meet.’” *Id.* at 826-27 (quoting Besharov, Practice Commentaries, McKinney's Cons. Laws of N.Y., Book 29A, Family Ct. Act § 1012, at 326). Under this standard, the behavior of the parent or

guardian is “evaluated objectively” according to how a reasonable and prudent parent would have acted in the same situation. *Id.* at 827.

To meet this burden to establish neglect, the petitioner has to satisfy a two-prong analysis: First, the petitioner must show by a preponderance of credible evidence that there is proof of actual (or imminent danger of) physical, emotional, or mental impairment to the child. *In re Raven B.*, 115 A.D.3d 1276, 1277 (2014). Second, any impairment, actual or imminent, must be a consequence of the parent's failure to exercise a minimum degree of parental care. *Id.* at 1278. Again, this objective analysis examines if the parent behaved in a reasonable and prudent manner or failed to act reasonably and prudently under the circumstances. *Id.*

Willow Rosenberg has neglected her child, Buffy, as the facts in the present case satisfy the above-mentioned two-part analysis. First, Buffy was physically and emotionally impaired from the abuse she suffered from her uncle, Angel Rosenberg, and second, Willow Rosenberg failed to exercise a reasonable level of care regarding the childcare of her daughter.

A. Buffy Rosenberg was Physically and Emotionally Impaired.

There is no real dispute that Buffy was physically and emotionally impaired. Looking to see if a child is impaired is a fact-specific analysis, and there needs to be a “causal connection between the basis for the neglect petition and the circumstances that allegedly produce[d] the ... imminent danger of impairment.” *Nicholson v. Scoppetta*, 3 N.Y.3d 357, 369 (2004). The impairment must be clearly attributable to the unwillingness or inability of the parent to exercise a minimum degree of care toward the child. *Id.* at 370.

The New York Supreme Court found that the direct causal link from a mother’s lack of supervision resulting in physical impairment satisfied the first prong in the neglect analysis.

Antonio at 828. In *Antonio*, a two-year-old girl was tragically struck by an SUV after a mother allowed her two young children to play outside for an extended period without supervision. *Id.* at 826. The child received serious physical injuries, including brain damage. *Id.* The court held that allowing the children to play outside unsupervised for a substantial period of time exposed them to actual and serious imminent harm and impairment. *Id.* at 827-28. The court factored in their analysis that the children had proximity and easy access to the street and that it was a busy city street with regular traffic, facts that should have been known to the mother. *Id.*

New York courts have also found that children exposed to domestic violence in the home establishes that the children were subject to actual or “imminent danger of injury or impairment” of their emotional and mental condition. *In re Angelique L.*, 42 A.D.3d 569, 572 (2007). In *Angelique*, a young child witnessed repeated instances of domestic physical abuse from his mother’s companion against the mother, hitting her in front of the child. *Id.* at 570. The Family Court reported findings of disturbing behavioral effects of the child witnessing the abuse, with the child asking to be removed from the care of his mother and stating he would “beat [the companion] black and blue and kill him” if he hit his mother again. *Id.* The New York Supreme Court found these changes in the child’s behavior established an actual impairment of the child’s emotional and mental condition. *Id.* at 572. The court reasoned this impairment of the child’s emotional health was clearly attributable to the mother’s unwillingness or inability to exercise a minimum degree of care towards the child to protect him from the harmful effects resulting from domestic violence. *Id.* This included the mother’s lack of effort to minimize the effects of the domestic violence, her total lack of awareness of the impact of the violence on the child, and her reluctance to have the companion leave the home. *Id.*

Buffy's situation is analogous to the outcomes in these cases, albeit with differing facts. Similar to *Antonio*, the physical injuries Buffy endured from Angel have a causal connection to Willow's inadequate supervision of Buffy. Willow testified that she knew that Angel had "a strict authoritative method to childcare" but overlooked the severity of it. (R:13). Further, the abuse escalated, as it started with harsh words, then escalated into unreasonable periods of confinement, and finally into physical abuse (R: 11-12). While the physical damage from the abuse did not reach the extreme levels of *Antonio*, the harm still reached levels of physical impairment. After the first instance of physical abuse, Buffy received a bruise on her face after being struck in the face, which went completely unnoticed by Willow. After the second instance, Buffy could barely walk after Angel kicked her in her side and had extreme soreness, to the point that it noticeably affected her posture, first to her teacher and then to the school nurse. (R: 8). If Willow had noticed the escalation of abuse and intervened, Buffy would not have been physically impaired by the abuse.

Furthermore, like *Angelique*, the abuse caused emotional and mental impairment in Buffy, evidenced by her behavioral change. Throughout the record, Buffy exhibited signs of living in a state of fear of her uncle, crying and asking the nurse not to mention the abuse to her uncle or he will "get meaner." (R:8). She also urinated herself while locked in the closet "out of fear of this occurrence happening again," and did not initially tell anyone about either instance of physical abuse out of fear of the repercussions. (R:11-12). Further, the record reflects that Buffy's "outbursts of anger started to get worse at home." (R:11). While Buffy admittedly suffers from "intermittent explosive disorder," her outbursts regardless escalated from their normal rate. Buffy's behavioral change exhibiting constant fear of her uncle and her increasingly worsening anger problems shows that the abuse emotionally and mentally impaired Buffy.

B. Willow Rosenberg Failed to Exercise a Minimum Degree of Parental Care.

Even if the parent is not the one directly administering the abuse, they can still have neglected their child. *Matter of Katherine C.*, 122 Misc. 471 N.Y.S.2d 216, 221 (Fam. Ct. 1984). This occurs when the parent knew, or should have known, that the abuse was occurring, and as a result, has allowed said abuse to continue through inaction. *Id.* at 218. If there is no evidence that the parent actually knew the abuse was occurring, then a separate analysis is done to see if the parent should have known. *Id.* “[P]arental behavior must be evaluated objectively. Thus, the test is whether a reasonable and prudent parent would have so acted (or failed to act) under circumstances then and there existing. *Good faith, good intentions, and even best efforts, are not, per se, defenses to a child protective petition.*” *Id.* (emphasis added). The policy behind this strict objective test is to promote “legislative efforts to prevent avoidable injury to children.” *Id.* at 218-19.

New York courts have found that when a mother leaves her child in the supervision of an individual that she knows or should know will have a higher tendency to abuse the child, they failed to act as a prudent parent. *In re Zackery D.*, 129 A.D.3d 1121, 1123 (2015). In *Zackery*, a mother allowed her boyfriend to supervise her children alone even though the boyfriend was an untreated sex offender with a history of sexually abusing children. *Id.* at 1121. Further, the mother left the children in unsafe conditions of the home, including garbage and insects overrunning the home. *Id.* at 1123.

The court held that the mother had neglected the children. *Id.* The court specifically noted that exposing the children to a previous sex-offender greatly increased the children’s chance of imminent impairment. *Id.* Even without evidence that the boyfriend sexually abused the children, the mother’s knowledge of his past abuse and disregard for the dangers of leaving the children alone with him were enough to be viewed as unreasonable. *See id.*

Moreover, when a parent suffers from mental health issues affecting their ability to properly care for their child, the parent is not automatically exempt from neglecting their child. *Matter of Zariyasta S.*, 158 A.D.2d 45, 48–49 (1990). In *Zariyasta*, the stepfather allegedly sexually abused his ten-year-old stepdaughter on multiple occasions, with medical evidence confirming that abuse took place. *Id.* at 46. The mother showed evidence of suffering from chronic psychosis including grandiose delusions. *Id.* at 48. Specifically, her psychologist wrote “Of utmost concern is the fact that [the mother] has in the past suspected her husband of molesting her daughter but because of her psychosis is unable to admit this now or take necessary measures to protect the child.” *Id.*

The court found that due to her psychosis and her inability to exhibit clear judgment, the Family Court established a prima facie case that the mother neglected the child due to poor supervision and remanded the case for further fact-finding. *Id.* at 49. Importantly, the court noted that testimony from a psychiatrist regarding the parent’s inability to properly supervise due to mental illness is not required in a neglect case. *Id.* at 48. “Where the court is deciding a neglect petition, as in the case at bar, the consequences of the proceedings are temporary rather than permanent, and expert testimony is not required. Thus. . . the absence of a diagnosed condition does not preclude a finding of neglect. . . .” *Id.* Therefore, the court inquires only whether the behavior toward the child required the aid of the court by threatening the child’s well-being.

Alternatively, New York courts have held that when a mother is actively acknowledging the difficulties from her circumstances and seeking proper aid to help with supervision, the mother does not neglect the child even if inadequate supervision occurred. *Matter of Alachi I.*, 215 A.D.3d 1014, 1018 (2023). In *Alachi*, Child Protective Services attempted to charge a mother with neglect after receiving a series of calls on their hotline. *Id.* at 1015. The calls included complaints of the oldest child’s violent outbursts, allowing the children to play outside unsupervised, and failing to

prevent the youngest child from falling out of a baby carriage while the mother cooked dinner in a separate room. *Id.* at 1016. However, the mother testified that she had relocated from Georgia to New York to live with her sister after escaping her abuser, the children's biological father. *Id.* Further, the mother testified she reached out to Child Protective Services for help, enrolled the oldest child in Headstart counseling, engaged in local health clinics and a violence intervention program, and had already completed parenting classes in Georgia. *Id.* at 1016-17.

The court concluded that the mother did not neglect her children despite the numerous complaints. *Id.* at 1019. The court specifically noted the importance of the mother's attempts to overcome her shortcomings in supervision. *Id.* at 1018. "Most critical to our review and determination. . . is the fact that the mother was at all times actively acknowledging the difficulties posed by her circumstances and seeking aid." *Id.* The court also pointed out the mother had reached out to Child Protected Service numerous times for assistance and received no helpful assistance in response. *Id.*

This present case conforms to the main legal principle established in *Zackery*. The facts in this case are not quite analogous to *Zackery*, as fortunately there was no sexual abuse present here. However, Willow Rosenberg should have known that Angel had a higher tendency to abuse Buffy than normal. Angel testified that he was not close with Buffy. (R: 14) He further stated that he never wanted to have kids and raise any himself, and testified that he 'despised the fact' he had to take care of Buffy full time. *Id.* Angel also admitted that he has struggled with anger issues his whole life, and that after his sister died, his anger issues worsened once the childcare fell to him. *Id.* Finally, and most importantly, Angel testified that his own childhood was full of abuse and punishment, and he thought that the punishments he inflicted upon Buffy were reasonable to "teach Buffy and learn more proper manners." *Id.* Angel even diminishes the seriousness of his actions,

referring to the emotional verbal abuse, unreasonable extended periods of confinement, and physical abuse as “harsh words,” “time-outs,” and “disciplining Buffy in a physical manner,” respectively. (R: 14-15).

Given that the two are siblings, Willow knew, or at the very least should have known, these facts and characteristics about Angel. She should have been aware that an individual who suffers from worsening anger issues, despises parental responsibility, feels no close connection to the child they are supervising and believes versions of abuse are appropriate child-rearing measures would not make a viable supervisor. She even testified that she knew the childcare fell primarily to Angel and knew he used a “strict authoritative method to childcare. . . but *overlooked the severity of it*. (R: 13). (emphasis added) Most concerning is even after all the abuse, Willow stands with Angel’s decisions, reasoning, and actions and hopes he continues to take care of Buffy. (R: 14). All of these facts exhibit that Willow knew or should have known that leaving Angel as the sole supervisor of Buffy’s child-rearing led to a heightened likelihood of potential abuse.

This distinguishes Willow’s actions from the mother in *Alachi*. While Buffy had been enrolled in counseling sessions with a counselor for her intermittent explosive disorder, Willow did not seek treatment for herself, regardless of the fact that the Caseworker provided her with a list of resources. Also, after her sister passed away, Willow did not make any efforts to contact Child Protective Services or any other individuals for assistance in supervising Buffy, despite being aware of Angel’s disdain for the role.

Similar to *Zariyasta*, Willow’s mental health issues preventing her from being an engaged parent is not a viable defense to child neglect, especially when Willow did not seek professional help for her mental health issues. Willow admitted that she was not in the right mindset to intervene or even check in with her daughter due to her extreme depression and exhaustion. *Id.* Despite Angel

suggesting that Willow work on seeing a therapist, Willow instead chose to purposely pick up extra work shifts to “distract her” from her mental health problems. *Id.* Substituting professional treatment with these extra shifts as an improper method of coping also took Willow out of her home and away from Buffy even more.

Further, Willow’s distracted mindset made her completely unaware of Buffy’s behavioral changes. Willow testified that she thought Buffy’s behavior had gotten “seriously better since Angel had begun taking care” of Buffy. (R: 13). In contrast, the initial abuse caused Buffy’s anger issues and overall behavior to get worse at home, which in turn caused the abuse to escalate. (R: 11). Willow’s untreated mental health issues and unorthodox coping methods allowed this abuse to persist, resulting in child neglect.

For the arguments stated above, Willow Rosenberg neglected Buffy Rosenberg pursuant to Sunnydale Family Court Act § 3523. Specifically, Willow committed child neglect due to Buffy suffering actual, physical, and emotional impairment as a result of Willow failing to exercise a minimum degree of parental care.

II. ANGEL ROSENBERG WAS A PERSON LEGALLY RESPONSIBLE FOR BUFFY BECAUSE OF THE NATURE OF HIS RELATIONSHIP WITH BUFFY AS HER CARETAKER AND NEGLECTED BUFFY BY USING PHYSICAL DISCIPLINARY TECHNIQUES THAT CAUSED PHYSICAL AND EMOTIONAL INJURY TO HER.

Angel Rosenberg was a “person legally responsible” for Buffy and neglected Buffy by using “excessive corporal punishment” towards her. *See Matter of Yolanda D.*, 673 N.E.2d 1228, 1228 (N.Y. 1996), *Rutkowski v. Wasko*, 286 A.D. 327, 332 (N.Y. App. Div. 1955), *People v. Myers*, 201 A.D.2d 855, 856 (N.Y. App. Div. 1994), *Matter of Vashti M.*, 214 A.D.3d 1335, 1336 (N.Y. App. Div. 2023), Sunnydale Fam. Ct. Act § 3523(g), Sunnydale Fam. Ct. Act § 3523(f)(b), (R: 7–8, 14–15, 23–24). Angel Rosenberg acted as a “functional equivalent of [Buffy’s] parent,” making

him a “person legally responsible” for Buffy’s care. *See Matter of Yolanda D.*, 673 N.E.2d at 1228, Sunnydale Fam. Ct. Act § 3523(g), (R: 7–8, 23–24).

Alternatively, Angel stood *in loco parentis* to Buffy because he intentionally and voluntarily assumed the parental responsibilities of Buffy. *See Rutkowski*, 286 A.D. at 332, *Myers*, 201 A.D.2d at 856, *Goddard*, 206 A.D.2d at 655, Sunnydale Fam. Ct. Act § 3523(g). And, finally, Angel’s physical disciplinary strategy constituted “excessive corporal punishment,” as it resulted in physical and emotional injury to Buffy. *See Matter of Vashti M.*, 214 A.D.3d at 1336, (R: 7–8, 14–15, 23–24). Consequently, Angel was a “person legally responsible” for Buffy and neglected Buffy by using “excessive corporal punishment” towards her. *See Matter of Yolanda D.*, 673 N.E.2d at 1228, *Myers*, 201 A.D.2d at 856, *Matter of Vashti M.*, 214 A.D.3d at 1336, Sunnydale Fam. Ct. Act § 3523(g), Sunnydale Fam. Ct. Act § 3523(f)(b), (R: 7–8, 14–15, 23–24).

An individual need not possess a permanent responsibility to care for a child to be a “person legally responsible” for a child’s care. *Matter of Yolanda D.*, 673 N.E.2d at 1228. A “[p]erson legally responsible includes the child’s custodian, guardian, or any other person responsible for the child’s care at the relevant time.” Sunnydale Fam. Ct. Act § 3523(g). A “person legally responsible” for a child’s care is not limited to a parent or guardian who has a permanent responsibility to care for a child but also includes the “functional equivalent of a parent” who has a temporary responsibility to care for a child. *Matter of Yolanda D.*, 673 N.E.2d at 1228, *Matter of Trenasia J. (Frank J.)*, 25 N.Y.3d 1001, 1004 (N.Y. 2015). In turn, courts weigh several factors against the surrounding circumstances to determine if an individual is a “functional equivalent of a parent,” including, “the frequency and nature” of the respondent’s interactions with the child; “the nature and extent” of the respondent’s control over the child; the amount of time that the respondent had contact with the child; and the relationship between the respondent and the child’s parents. *Id.*

Alternatively, an individual can be “a person legally responsible” for a child’s care if they stand *in loco parentis* to a child. See *Rutkowski*, 286 A.D. at 332, *Myers*, 201 A.D.2d at 856, *People v. Goddard*, 206 A.D.2d 653, 655 (N.Y. App. Div. 1994), Sunnydale Fam. Ct. Act § 3523(g). Importantly, standing *in loco parentis* to a child is different from being a “functional equivalent of a parent.” See *Matter of Yolanda D.*, 673 N.E.2d at 1228, *Com. v. Gerstner*, 656 A.2d 108, 124 (Pa. 1995), Sunnydale Fam. Ct. Act § 3523(g). While a “functional equivalent of a parent” includes a wide variety of relationships between an adult and child, *in loco parentis* is a narrow classification for those who have assumed a permanent parental role and its related responsibilities. See *id.* Still, an individual falling under either category may be “a person legally responsible” for a child’s care. See *Matter of Yolanda D.*, 673 N.E.2d at 1228, Sunnydale Fam. Ct. Act § 3523(g).

An individual is likely to stand *in loco parentis* to a child if they voluntarily assume parental responsibilities over the child. *Myers*, 201 A.D.2d at 856, *Rutkowski*, 286 A.D. at 332. A voluntary assumption of parental responsibilities must be more than undertaking “some part” in caring for the child, but instead, an intent to assume “a ‘full and complete . . . interest in the well-being and general welfare’ of the child,” including the responsibility to “support, educate, and care for the child on an ongoing basis.” *Myers*, 201 A.D.2d at 856 (quoting *Rutkowski v. Wasko*, 286 A.D. 327, 332 (N.Y. App. Div. 1955)). By voluntarily assuming such parental responsibilities, an individual stands *in loco parentis* thereby associating themselves as a lawful parent of a child. *Rutkowski*, 286 A.D. at 332. Additionally, an individual will likely be found to stand *in loco parentis* to a child if they act as “more than a casual babysitter” to the child and have knowledge of the child’s needs. *Goddard*, 206 A.D.2d at 655.

Finally, an individual neglects a child “by unreasonably inflicting . . . excessive corporal punishment” on the child. Sunnydale Fam. Ct. Act § 3523(f)(b). “[E]xcessive corporal

punishment” can be evidenced by physical contact with the child that results in a physical or emotional injury to the child. *Matter of Vashti M.*, 214 A.D.3d at 1336. While parents may use “reasonable disciplinary methods” to discipline a child, a child displaying evidence of physical injury will support a finding that “excessive corporal punishment” was used on the child. *Matter of Anthony C.*, 201 A.D.2d 342, 343–33 (N.Y. App. Div. 1994).

A. Angel was a “person legally responsible” for Buffy’s care because he acted as a functional equivalent of Buffy’s parent by providing daily childcare for her, where he assumed the parental responsibilities of Buffy.

By acting as a “functional equivalent of [Buffy’s] parent,” Angel was a “person legally responsible” for Buffy’s care. *See Matter of Yolanda D.*, 673 N.E.2d at 1228, *Matter of Trenasia J. (Frank J.)*, 25 N.Y.3d at 1004, Sunnydale Fam. Ct. Act § 3523(g), (R: 7–8, 23–24). Specifically, Angel had daily contact with Buffy over a two-year period and exercised control over Buffy’s environment by assuming parental responsibilities over Buffy. (R: 7–8, 23–24). Further, Angel’s contacts with Buffy and Angel’s control over Buffy makes it irrelevant that Angel did not live in Buffy’s household during the time of the alleged abuse. *See Matter of Yolanda D.*, 673 N.E.2d at 1228, (R: 7–8). Accordingly, this Court should find that Angel was the “functional equivalent of [Buffy’s] parent,” thereby making Angel “a person legally responsible” for Buffy’s care. *See Matter of Yolanda D.*, 673 N.E.2d at 1228, *Matter of Trenasia J. (Frank J.)*, 25 N.Y.3d at 1004, Sunnydale Fam. Ct. Act § 3523(g).

Since Angel assumed parental responsibilities over Buffy while providing daily childcare for her, Angel was the “functional equivalent of [Buffy’s] parent and thereby a “person legally responsible” for Buffy’s care. *See Matter of Yolanda D.*, 673 N.E.2d at 1228, *Matter of Trenasia J. (Frank J.)*, 25 N.Y.3d at 1004, Sunnydale Fam. Ct. Act § 3523(g). New York courts have held that an individual will likely be deemed a “functional equivalent of a parent” who is a “person legally

responsible for a child's care" if the individual has a longstanding relationship and consistent contact with the child. *Matter of Trenasia J. (Frank J.)*, 25 N.Y.3d at 1005. In *Matter of Trenasia J.*, an uncle attempted to sexually abuse his niece who had been staying with him for a week before the incident. *Id.* at 1002, 1005. In addition to the niece's week-long stay, the niece visited the uncle's home approximately eight or nine times in the previous year and socialized with the uncle at family gatherings. *Id.* at 1005. Thus, the uncle's longstanding relationship and frequent contact with the child rendered him a "person legally responsible" for the child's care. *Id.* at 1005-06.

Like the uncle and niece in *Matter of Trenasia J.*, Angel and Buffy have a longstanding relationship with frequent contact amongst each other. *Id.*, (R: 23–24). Angel has watched Buffy every day for the past two years, with the only exception being Sunday nights and periods of the day that Buffy is in school. (R: 23). As Buffy's caretaker, Angel had daily interaction with Buffy over a two-year period. (R: 7–8, 23–24). Therefore, "the frequency and nature" of the Angel's interactions with Buffy make Angel a "person legally responsible" for Buffy's care. *See Matter of Trenasia J. (Frank J.)*, 25 N.Y.3d at 1005, *Matter of Yolanda D.*, 673 N.E.2d at 1228, Sunnydale Fam. Ct. Act § 3523(g).

Likewise, an individual is likely to be a "person legally responsible" for a child's care if they exercise control over the child's environment. In *Matter of Yolanda D.*, an uncle sexually abused his niece who was a regular visitor at his home. *Matter of Yolanda D.*, 673 N.E.2d at 1228. This court held that by frequently allowing the niece to stay at his home, the uncle provided his niece with shelter, which is "a traditional parental function." *Id.* And, because the niece often stayed at the uncle's home, the uncle frequently controlled the niece's environment. *Id.* Thus, the uncle was the "functional equivalent of a parent" making him a "person legally responsible" for the child's care. *Id.*

Like the uncle in *Matter of Yolanda D.*, Angel exercised control over Buffy's environment. *See id.*, (R: 23–24). By watching Buffy daily, Angel controlled Buffy's environment by undertaking the parental functions that would otherwise be the responsibility of Buffy's mother. (R: 7–8, 24). Specifically, Angel ensured that Buffy made it to and from school most days and undertook the responsibility of disciplining Buffy by placing her in “time-outs” and using “stern words” to correct her behavior. (R: 8, 24).

And although Angel does not live at Buffy's residence full-time, he can still be a “person legally responsible” for Buffy's care under Sunnydale Fam. Ct. Act § 3523(g) based on Buffy and Angel's extensive contacts with each other and the amount of control that Angel exercised over Buffy when she was in his care. *See Matter of Yolanda D.*, 673 N.E.2d at 1228 (“[L]imiting the scope of ‘custodian’ to embrace only those persons who may be regularly or continuously found in the child's household is unwarranted given the absence of an express directive to construe the statute restrictively.”) (emphasis omitted), (R: 7–8). Nonetheless, Angel was present at Buffy's home on most days and acted as Buffy's parent when he was at her home. (R: 7–8, 23–24). Because Angel exercised an extensive amount of control over Buffy's environment as her caretaker, Angel was a “person legally responsible” for Buffy's care. *See Matter of Yolanda D.*, 673 N.E.2d at 1228, (R: 23–24), Sunnydale Fam. Ct. Act § 3523(g).

Angel watched Buffy daily for two years and undertook parental responsibilities for Buffy. (R: 7–8, 23–24). While undertaking these responsibilities, Angel had frequent contact with Buffy and exercised significant control over Buffy's environment. *See Matter of Yolanda D.*, 673 N.E.2d at 1228. Thus, this Court should find that Angel was the “functional equivalent of [Buffy's] parent,” thereby making Angel “a person legally responsible” for Buffy's care. *See Matter of Yolanda D.*,

673 N.E.2d at 1228, *Matter of Trenasia J. (Frank J.)*, 25 N.Y.3d at 1004, Sunnydale Fam. Ct. Act § 3523(g).

B. Angel stood in *in loco parentis* to Buffy by intentionally and voluntarily assuming parental responsibilities of Buffy, therefore making Angel a person legally responsible for Buffy's care.

By intentionally and voluntarily assuming parental responsibilities of Buffy, Angel stood *in loco parentis* to Buffy. See *Rutkowski*, 286 A.D. at 332, *Myers*, 201 A.D.2d at 856, *Goddard*, 206 A.D.2d at 655, Sunnydale Fam. Ct. Act § 3523(g). Additionally, Angel was more than “a casual babysitter,” and had knowledge of Buffy’s behavior disorder. See *Goddard*, 206 A.D.2d at 655, (R; 13–14). And because Angel stood *in loco parentis* to Buffy, Angel was a “person legally responsible” for Buffy’s care. See *id.*

Angel was a “person legally responsible” for Buffy’s care because he stood *in loco parentis* to Buffy. See *Rutkowski*, 286 A.D. at 332, *Myers*, 201 A.D.2d at 856, *Goddard*, 206 A.D.2d at 655, See *Matter of Yolanda D.*, 673 N.E.2d at 1228, Sunnydale Fam. Ct. Act § 3523(g). An individual stands *in loco parentis* if they have the intent to voluntarily assume the responsibilities of parenthood. See *id.* In *Myers*, the boyfriend of a child’s mother was indicted on charges of manslaughter and endangerment after the child died from dehydration and malnutrition. *Myers*, 201 A.D.2d at 855. The court held that to have a legal responsibility for a child, an individual must show an intent to “[assume] all responsibilities incident to parenthood.” *Id.* at 856.

Moreover, an individual must do more than “[take] some part in meeting the child’s daily needs” to become legally responsible for a child. *Id.* Instead, an individual must show a “full and complete . . . interest” in the child’s welfare, with “the intent to fully assume a parental role,” including the related obligations of educating, supporting, and caring for the child. *Id.* However, because the boyfriend never took responsibility for the child, it could not be shown that the

boyfriend had the intent to assume a parental role that would otherwise cause him to stand *in loco parentis* to the child. *Id.*

Unlike the boyfriend in *Myers*, Angel showed the intent to voluntarily assume parental responsibilities over Buffy. *See id.*, (R: 7–8, 14–15, 23–24). While the boyfriend in *Myers* did not take responsibility for his girlfriend’s child, Angel testified that he decided to become Buffy’s full-time caretaker following the death of his sister. *Myers*, 201 A.D.2d at 856, (R: 14). By admitting that he chose to become Buffy’s full-time caretaker, Angel showed that he voluntarily assumed the parental responsibilities of Buffy. *See id.* Further, Angel’s actions show that he intentionally assumed the related obligations of parenting. *See id.*, (R: 7–8, 14–15, 23–24). For example, Angel educated Buffy by attempting to correct her behavior and teach her proper manners, supported Buffy by providing free childcare so her mother could support Buffy financially, and cared for Buffy by ensuring that she arrived to and from the bus stop safely. *See id.* Since Angel intentionally and voluntarily assumed the parental responsibilities of Buffy, Angel stood *in loco parentis* to Buffy, and therefore Angel was a “person legally responsible” for Buffy’s care.

Also, Angel stood *in loco parentis* to Buffy because he was more than “a casual babysitter” and had knowledge of Buffy’s behavioral disorder. *See Goddard*, 206 A.D.2d at 655, (R; 13–14). In *Goddard*, the defendant was tasked with watching a child for his girlfriend while she was at work. *Goddard*, 206 A.D.2d at 654. The child had several medical conditions that required medication, but unknown to the defendant, his girlfriend failed to provide the child with his medicine. *Id.* The child died while in the defendant’s care and the defendant was subsequently indicted for criminal negligent homicide and child endangerment. *Id.* Nonetheless, the defendant was acquitted after the state failed to prove that he had any intent to assume parental responsibilities

over the child and because he had nothing “more than a general awareness of the child’s medical conditions,” likening him to “a casual babysitter.” *Id.* at 654–55.

Unlike the defendant in *Goddard*, Angel had knowledge of Buffy’s behavioral disorder—making him more than “a casual babysitter.” *See id.*, (R: 7–8, 14–15, 23–24). Angel watched Buffy daily, which allowed him to become familiar with Buffy’s behavioral disorder. (R: 7–8, 14–15, 23–24). In fact, Angel believed that it was his responsibility to correct Buffy’s behavior and teach her proper manners. (R: 7–8, 14–15, 23–24). Since Angel watched Buffy daily—where he also worked to correct her behavioral disorder—Angel had extensive knowledge of Buffy’s behavioral disorder making him more than “a casual babysitter.” *See Goddard*, 206 A.D.2d at 654–55, (R: 7–8, 14–15, 23–24). Accordingly, Angel stood *in loco parentis* to Buffy making him legally responsible for her care. *See id.*

Angel stood *in loco parentis* to Buffy by intentionally and voluntarily assuming parental responsibilities of Buffy. *See Rutkowski*, 286 A.D. at 332, *Myers*, 201 A.D.2d at 856, *Goddard*, 206 A.D.2d at 655, Sunnydale Fam. Ct. Act § 3523(g). And since Angel had extensive knowledge of Buffy’s behavior disorder, he was more than “a casual babysitter,” and therefore stood *in loco parentis* to Buffy. *See Goddard*, 206 A.D.2d at 655, (R: 13–14). Because Angel stood *in loco parentis* to Buffy, he was a “person legally responsible” for Buffy’s care. *See Rutkowski*, 286 A.D. at 332, *Myers*, 201 A.D.2d at 856, *Goddard*, 206 A.D.2d at 655, *Matter of Yolanda D.*, 673 N.E.2d at 1228, Sunnydale Fam. Ct. Act § 3523(g).

C. Angel neglected Buffy by inflicting “excessive corporal punishment” on Buffy which caused Buffy to suffer physical and emotional injury.

Angel neglected Buffy because his disciplinary tactics constituted “excessive corporal punishment,” as they caused physical and emotional injury to Buffy. *See Matter of Vashti M.*, 214

A.D.3d at 1336, (R: 7–8, 14–15, 23–24). An adult who uses “excessive corporal punishment” on a child commits child neglect. Sunnydale Fam. Ct. Act § 3523(f)(b). “[E]xcessive corporal punishment” includes an adult’s use of physical contact towards a child that leaves the child with a physical or emotional injury. *See Matter of Vashti M.*, 214 A.D.3d at 1336. Also, “excessive corporal punishment” can be evidenced by a child’s display of physical injury. *Matter of Anthony C.*, 201 A.D.2d at 342–43.

Physical contact by an adult towards a child that leads to physical or emotional injury will constitute “excessive corporal punishment.” *See Matter of Vashti M.*, 214 A.D.3d at 1336. In *Matter of Vashti M.*, a mother hit her child’s face with an open hand, pushed her child into a bathtub, and threatened her child with a knife. *Id.* Because there was evidence that the child sustained both physical and emotional injuries from the altercation, the court held that the mother inflicted “excessive corporal punishment” to the child, and thereby neglected the child. *Id.*

Like the mother in *Matter of Vashti M.*, Angel neglected Buffy by using “excessive corporal punishment” on Buffy. *See id.*, Sunnydale Fam. Ct. Act § 3523(f)(b), (R: 8, 14–15, 23–24). In Angel’s case, Amy Madison, the Sunnydale School Nurse, observed Buffy having difficulty walking and noticed a bruise on the left-side of Buffy’s body. (R: 8). After suggesting that her uncle was responsible for the injury, Buffy told the nurse to not tell her uncle of their conversation out of fear that he would retaliate. *Id.* Even more, Angel admitted to becoming physical with Buffy while disciplining, as he believed that this was the only successful form of discipline for Buffy. (R: 14–15). Hence, Angel’s use of physical discipline towards Buffy gave rise to “excessive corporal punishment” that constituted child neglect, as the physical discipline caused physical and emotional injuries to Buffy. *See Matter of Vashti M.*, 214 A.D.3d at 1336, Sunnydale Fam. Ct. Act § 3523(f)(b), (R: 8, 14–15, 23–24).

Further, a child displaying evidence of physical injury supports a finding that a parent used “excessive corporal punishment” on the child. *Matter of Anthony C.*, 201 A.D.2d at 342–43. In *Matter of Anthony C.*, scars were found on the child’s back and the child’s father admitted to hitting the child with a belt. *Id.* at 342. The court held that the scarring showed evidence of “excessive corporal punishment,” as it supported a repetitive pattern of unreasonable contact with the child. *See id.* at 343. Like the child in *Matter of Anthony C.*, Buffy showed signs of physical injury through a large bruise on her left side and difficulty walking. *See id.* at 342, (R: 8). Thus, there is evidence that Angel used “excessive corporal punishment” on Buffy, and therefore Angel neglected her. *See id.*, Sunnydale Fam. Ct. Act § 3523(f)(b).

As a “person legally responsible” for Buffy, Angel neglected Buffy by using “excessive corporal punishment” while disciplining her. *See Matter of Yolanda D.*, 673 N.E.2d 1228, 1228 (N.Y. 1996), *Myers*, 201 A.D.2d at 856, *Matter of Vashti M.*, 214 A.D.3d at 1336, Sunnydale Fam. Ct. Act § 3523(g), Sunnydale Fam. Ct. Act § 3523(f)(b), (R: 7–8, 14–15, 23–24). Angel’s relationship with Buffy as her caretaker made Angel a “functional equivalent of [Buffy’s] parent,” making him a “person legally responsible” for Buffy’s care. *See Matter of Yolanda D.*, 673 N.E.2d at 1228, Sunnydale Fam. Ct. Act § 3523(g), (R: 7–8, 23–24).

Angel also stood *in loco parentis* to Buffy as he intentionally and voluntarily assumed the parental responsibilities of Buffy. *Myers*, 201 A.D.2d at 856, Sunnydale Fam. Ct. Act § 3523(g). And, by using physical discipline towards Buffy that caused physical and emotional injury to Buffy, Angel subjected Buffy to “excessive corporal punishment.” *See Matter of Vashti M.*, 214 A.D.3d at 1336, (R: 7–8, 14–15, 23–24). Accordingly, Angel Rosenberg was a “person legally responsible” for Buffy and his use of “excessive corporal punishment” gave rise to child neglect. *See Matter of Yolanda D.*, 673 N.E.2d at 1228, *Myers*, 201 A.D.2d at 856, *Matter of Vashti M.*, 214

A.D.3d at 1336, Sunnydale Fam. Ct. Act § 3523(g), Sunnydale Fam. Ct. Act § 3523(f)(b), (R: 7–8, 14–15, 23–24).

CONCLUSION

For the foregoing reasons, we respectfully ask this Court to affirm the State of Sunnydale Third Appellate Division's rulings on both issues.

Dated at State of Sunnydale, New York, January 31st, 2024.

Respectfully submitted,

PETITIONER - APPELLEE, SUNNYDALE
DEPARTMENT OF CHILD PROTECTIVE
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Team #200