

# *Judge Let Abusive Parents Keep Daughter. Days Later, She Was Dead.*

A Brooklyn judge ordered Ella Vitalis, 1, who died of blunt force trauma, to stay with her parents, after the child welfare agency argued she should be removed.



**By Claire Fahy and Andy Newman**

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A judge in Brooklyn overruled city concerns that a baby was being abused and allowed her to return to her parents' care the day before she was fatally injured, according to court papers obtained by The New York Times.

Police are investigating the death as a homicide, but have not made any arrests.

The baby, Ella Vitalis, 1, was brought to the hospital in cardiac arrest on Sept. 15 after she suffered a blunt force injury to her head while at her home in Crown Heights with her parents, according to the police. Doctors saw bruising and cuts on her forehead, a swollen eyelid, what appeared to be bite marks and a broken jaw, among other injuries, according to the papers, which include court petitions and Administration for Children's Services records. Five days later, she was declared dead.

Ella and her brother, Liam, 2, were in foster care with family members until June, after A.C.S. made a "substantiated" finding of abuse last year, when Ella was 3 weeks old. During a hearing in Kings County Family Court on June 15, Judge Erik S. Pitchal ordered the children to be returned to the care of their parents —

Johnson Vitalis, 28, and Lafayette Browne, 29 — on a trial basis, according to a person who saw some of the family's social service records but was not authorized to discuss the case publicly.

A.C.S. had requested that the children remain in foster care with family members, with the parents given visits, according to the person familiar with the case. Judge Pitchal sided with the parents.

The judge asked Heartshare St. Vincent's, a foster care agency that works with the city, to conduct follow-up visits, but denied an A.C.S. request for the parents to undergo mental health evaluations.

Judge Pitchal declined to comment through a spokesman at the New York State Office of Court Administration.

The child welfare agency, A.C.S., is under pressure from two sides: Its job is to safeguard children from harm, and killings of children under its care subject it to accusations of negligence. But A.C.S. has also been accused of intervening too aggressively, and being too quick to separate children from their parents.

In these cases, the judge is ultimately responsible, said Gladys Carrión, a former commissioner at A.C.S. and now a senior fellow at the Columbia Justice Lab. Judges can make returning very young children a priority, she said.

"The challenge is that this is not an exact science," Ms. Carrión said.

On Aug. 11 of last year, according to the documents, Mr. Vitalis and Ms. Browne brought both children to the hospital after police responded to their apartment following a report of domestic violence. Ella Vitalis had been born three weeks before.

The parents said their son, Liam, had hit his head when Ms. Browne pushed Mr. Vitalis, who was holding Liam, into a wall during an argument.

Doctors evaluated both children; Liam was uninjured, but Ella had two broken ankles, a fractured skull and a small brain hemorrhage. Neither parent offered an explanation.

Following this incident, A.C.S. determined that Ella and Liam Vitalis were abused, which by definition put them at “substantial risk of death,” and the children were placed in foster care with Mr. Vitalis’s mother, according to documents viewed by The Times.

A spokeswoman for A.C.S. said the agency could not comment on the case.

On Sept. 9, 2022, according to a family court petition, Ella was hospitalized with a “tongue laceration” that made it impossible for her to eat for six days.

Mr. Vitalis had visited Ella while she was in foster care. Mr. Vitalis’s mother left the two alone and returned to find Ella “with a moderate amount of blood in her mouth,” according to court records. A doctor determined a sharp object must have been used to cause that level of harm, and that Ella had not simply scratched her mouth, the records said.

The two children remained in the care of family until a June hearing, when Judge Pitchal ordered Ella and Liam to return to their parents. Between the June hearing and Ella’s death last month, Mr. Vitalis and Ms. Browne failed to bring Ella to at least five follow-up appointments with specialists and did not allow either child to be evaluated for early intervention, according to court papers.

On Sept. 14, there was another hearing when the parents’ care could have been terminated.

Judge Pitchal decided to allow the children to remain with their parents, and asked the parents and maternal grandmother to work out a visitation arrangement. The children went home.

On Sept. 15, Ella Vitalis’s father called 911 after she became unresponsive. Her mother told authorities that Ella began choking while her father was feeding her. She attributed her injuries — the bruising, the cuts, and the blunt force injury to her head, among others — to Ella drinking too much milk.

Ella was placed on life support after suffering a brain bleed resulting from a skull fracture and was declared dead five days later, on Sept. 20, according to documents reviewed by The Times.

Chelsia Rose Marcius contributed reporting. Susan C. Beachy and Kitty Bennett contributed research.

***A correction was made on Oct. 3, 2023: An earlier version of this article misstated A.C.S.'s recommendations to the judge. A.C.S. recommended that the parents be allowed to have unsupervised visits, not supervised visits.***

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When we learn of a mistake, we acknowledge it with a correction. If you spot an error, please let us know at [nytnews@nytimes.com](mailto:nytnews@nytimes.com). [Learn more](#)

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