

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Matter of Storm A. H. (Jahmel W.)

2026 NY Slip Op 00773 · No. 2024-10742 · Decided February 11, 2026

SUMMARY

The Appellate Division, Second Department affirmed an order terminating a father's parental rights on the ground of permanent neglect and transferring guardianship and custody of the child for adoption. The court held that the petitioner made diligent efforts to strengthen the parent-child relationship and that the father failed to plan for the child's return despite those efforts.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Lara J. Genovesi, J.P.; William G. Ford, J.; Carl J. Landicino, J.; Susan Quirk, J.
JURISDICTION	New York Supreme Court, Appellate Division, Second Department
DECIDED	February 11, 2026
DOCKET	2024-10742
DISPOSITION	affirmed
PROCEDURAL POSTURE	The father appealed from an order of fact-finding and disposition of the Family Court, Queens County, entered in a proceeding under Social Services Law § 384-b. The order found permanent neglect, terminated the father's parental rights, and transferred guardianship and custody of the child for adoption.
STANDARD OF REVIEW	The court reviewed whether the petitioner established permanent neglect by clear and convincing evidence and whether the Family Court properly terminated parental rights and declined to impose a suspended judgment.
PRECEDENTIAL VALUE	Published appellate decision
PARTIES	Jahmel W. v. Graham Windham, Commissioner of the Administration for Children's Services of the City of New York

TOPICS

termination of parental rights

parental rights

family law procedure

appellate procedure

standard of review

PRACTICE AREAS

family law

termination of parental rights

appellate procedure

QUESTIONS PRESENTED

1. Whether the petitioner established by clear and convincing evidence that it made diligent efforts to encourage and strengthen the parent-child relationship.
2. Whether the father failed, despite those diligent efforts and his physical and financial ability to do so, to maintain contact with the child or plan for the child's future.
3. Whether a suspended judgment was appropriate under the circumstances.

HOLDINGS

1. The petitioner established by clear and convincing evidence that it fulfilled its statutory duty to make diligent efforts to encourage and strengthen the parent-child relationship.
2. The Family Court properly found that the father permanently neglected the child because, despite the agency's diligent efforts, he failed to plan for the child's return and failed to consistently maintain contact or provide information relevant to planning.
3. A suspended judgment was not appropriate because the child had lived with the foster parent for most of the child's life, was strongly bonded to the foster parent, and was well cared for in that home.

KEY QUOTATIONS

“In a proceeding to terminate parental rights because of permanent neglect, the agency must demonstrate by clear and convincing evidence that it has fulfilled its statutory duty to exercise diligent efforts to encourage and strengthen the parent-child relationship” ([*1])

“Once the agency demonstrates that it made diligent efforts to strengthen the parental relationship, it bears the burden of proving that, during the relevant period of time, the parent failed to maintain contact with the child or plan for the child's future, although physically and financially able to do so” ([*2])

FACTUAL BACKGROUND

The agency kept the father apprised of the child's welfare, explored the possibility of placement with the paternal grandmother proposed by the father, and scheduled consistent visitation. Despite those efforts, the father failed to consistently attend visits, suggest viable planning resources, or provide information needed to assess whether he had suitable housing. The child had lived with the foster parent for most of the child's life, was strongly bonded to the foster parent, and was well cared for in that home.

PROCEDURAL HISTORY

Graham Windham commenced a proceeding to terminate the father's parental rights on the ground of permanent neglect. After fact-finding and dispositional hearings, the Family Court found by clear and convincing evidence

that the father permanently neglected the child, terminated his parental rights, and transferred guardianship and custody to Graham Windham and the Commissioner of the Administration for Children's Services for adoption. The Appellate Division affirmed insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Matter of Dynasty S.G. [Paula G.], 228 AD3d 657, 658
- Matter of Alexis M.B. [Jaclyn R.P.], 224 AD3d 679, 680
- Matter of Benz G. [Nadia B.], 241 AD3d 684, 685, 687
- Matter of Drevon L. [Tiron L.], 180 AD3d 909, 910
- Matter of Orazio R. [Nanci P.], 233 AD3d 689, 690
- Matter of Justin A.G.M. [Richard G.V.], 167 AD3d 1016, 1017
- Matter of Ahking-Tyheem C.J. [Letitia M.E.], 238 AD3d 754, 757
- Matter of Amira W.H. [Tamara T.H.], 207 AD3d 546, 548

OPINION

Matter of Storm A. H. (Jahmel W.) 2026 NY Slip Op 00773

PER CURIAM.

Matter of Storm A. H. (Jahmel W.) (2026 NY Slip Op 00773) Matter of Storm A. H. (Jahmel W.) 2026 NY Slip Op 00773 Decided on February 11, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on February 11, 2026

SUPREME COURT OF THE STATE OF NEW YORK

Appellate Division, Second Judicial Department LARA J. GENOVESI, J.P.

WILLIAM G. FORD

CARL J. LANDICINO

SUSAN QUIRK, JJ. 2024-10742

(Docket No. B-6607-21) [*1]In the Matter of Storm A. H. (Anonymous), etc. Graham Windham, petitioner-respondent; Jahmel W. (Anonymous), appellant, et al., respondent. Lewis S. Calderon, Jamaica, NY, for appellant. Leventhal, Mullaney & Blinkoff, LLP, Roslyn, NY (Jeffrey Blinkoff of counsel), for petitioner-respondent. Twyla Carter, New York, NY (Dawne A. Mitchell, Polixene Petrakopoulos, and Jess Rao of counsel), attorney for the child. DECISION & ORDER In a proceeding pursuant to Social Services Law § 384-b, the father appeals from an order of fact-finding and disposition of the Family Court, Queens County (Joan Piccirillo, J.), dated July 18, 2023. The order of fact-finding and disposition, insofar as appealed from, after fact-

finding and dispositional hearings, found that the father permanently neglected the subject child, terminated the father's parental rights, and transferred guardianship and custody of the subject child to the petitioner and the Commissioner of the Administration for Children's Services of the City of New York for the purpose of adoption. ORDERED that the order of fact-finding and disposition is affirmed insofar as appealed from, without costs or disbursements. The petitioner commenced this proceeding pursuant to Social Services Law § 384-b, inter alia, to terminate the father's parental rights on the ground of permanent neglect. Following fact-finding and dispositional hearings, the Family Court, among other things, found that the petitioner established by clear and convincing evidence that the father permanently neglected the child, terminated the father's parental rights, and transferred guardianship and custody of the child to the petitioner and the Commissioner of the Administration for Children's Services of the City of New York for the purpose of adoption. The father appeals. "In a proceeding to terminate parental rights because of permanent neglect, the agency must demonstrate by clear and convincing evidence that it has fulfilled its statutory duty to exercise diligent efforts to encourage and strengthen the parent-child relationship" (Matter of Dynasty S.G. [Paula G.] , 228 AD3d 657 , 658 [internal quotation marks omitted]; see Matter of Alexis M.B. [Jaclyn R.P.] , 224 AD3d 679 , 680). Diligent efforts may include counseling, making suitable arrangements for parental visitations, exploring the possibility of having a proposed family member care for the child, and advising the parents of the child's progress and development (see Matter of Benz G. [Nadia B.] , 241 AD3d 684 , 685; Matter of Drevon L. [Tiron L.] , 180 AD3d 909 , 910). [*2]"Once the agency demonstrates that it made diligent efforts to strengthen the parental relationship, it bears the burden of proving that, during the relevant period of time, the parent failed to maintain contact with the child or plan for the child's future, although physically and financially able to do so" (Matter of Dynasty S.G. [Paula G.] , 228 AD3d at 658 [internal quotation marks omitted]; see Matter of Orazio R. [Nanci P.] , 233 AD3d 689 , 690). A period of incarceration does not obviate the obligation to plan for the child's future (see Matter of Benz G. [Nadia B.] , 241 AD3d at 687). Here, contrary to the father's contention, the petitioner established, by clear and convincing evidence, that it made diligent efforts to encourage and strengthen the parent-child relationship. The petitioner established that it kept the father apprised of the child's welfare, explored the possibility of having the paternal grandmother care for the child, as the father proposed, and scheduled consistent visitation between the father and the child (see Matter of Drevon L. [Tiron L.] , 180 AD3d at 910; Matter of Justin A.G.M. [Richard G.V.] , 167 AD3d 1016 , 1017). Further, the petitioner established that, despite its diligent efforts, the father failed to plan for the return of the child. The father failed to consistently attend scheduled visits with the child, suggest viable planning resources, or provide the petitioner with information to assist in assessing whether the father had suitable housing. Contrary to the father's contention, a suspended judgment is not appropriate where, as here, a child has lived with his or her foster parent for most of the child's life, is strongly bonded to the foster parent, and is well cared for in the foster parent's home (see Matter of Ahking-Tyheem C.J.

[Letitia M.E.] , 238 AD3d 754 , 757; Matter of Amira W.H. [Tamara T.H.] , 207 AD3d 546 , 548). Accordingly, the Family Court properly found that the father permanently neglected the child, terminated the father's parental rights, and transferred guardianship and custody of the child to the petitioner and the Commissioner of the Administration for Children's Services of the City of New York for the purpose of adoption. GENOVESI, J.P., FORD, LANDICINO and QUIRK, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

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