

SUPREME COURT OF NEW YORK, APPELLATE DIVISION, FIRST  
DEPARTMENT

Matter of O.J.V. (S.V.)

2026 NY Slip Op 01930 (N.Y. 2026) · No. B08712/24, B08713/24, Appeal No. 6240-6240A, Case No. 2025-03371 · Decided March 31, 2026

SUMMARY

The Appellate Division, First Department, affirmed Family Court orders terminating the mother's parental rights based on permanent neglect and committing the children's guardianship and custody to the agency and Commissioner of Social Services for adoption. The court dismissed the appeal from the fact-finding determination because it was entered on default, and held that the termination and best-interests determinations were supported by the evidence.

CASE DETAILS

|                       |                                                                                                                                                |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of New York, Appellate Division, First Department                                                                                |
| WRITING FOR THE COURT | Moulton, J.P.; Kennedy; Rodriguez; Michael; Chan                                                                                               |
| JURISDICTION          | New York Appellate Division, First Department                                                                                                  |
| DECIDED               | March 31, 2026                                                                                                                                 |
| DOCKET                | B08712/24, B08713/24, Appeal No. 6240-6240A, Case No. 2025-03371                                                                               |
| DISPOSITION           | affirmed                                                                                                                                       |
| PROCEDURAL POSTURE    | Appeal from Family Court orders terminating mother's parental rights and dismissing appeal from fact-finding determination entered on default. |
| PRECEDENTIAL VALUE    | published                                                                                                                                      |
| PARTIES               | S.V. v. Graham Windham                                                                                                                         |

TOPICS

- termination of parental rights
- child custody
- adoption
- appellate procedure
- family law

PRACTICE AREAS

- family law
- appellate procedure

## QUESTIONS PRESENTED

1. Whether the appeal from the fact-finding determination entered on default should be dismissed
2. Whether the finding of permanent neglect is supported by clear and convincing evidence
3. Whether termination of the mother's parental rights is in the children's best interests
4. Whether a suspended judgment is warranted

## HOLDINGS

1. No appeal lies from a fact-finding determination entered on default.
2. The finding that the mother permanently neglected the children is supported by clear and convincing evidence.
3. A preponderance of the evidence supports the determination that termination of the mother's parental rights is in the children's best interests.
4. There is no basis for a suspended judgment.

## FACTUAL BACKGROUND

The agency (Graham Windham) made diligent efforts to encourage and strengthen the relationship between the mother and children by scheduling and arranging for in-person and virtual visitation and developing a service plan for the mother to follow, including parenting classes and mental health services. The mother completed some aspects of her service plan but had not meaningfully benefited from such services, and she failed to attend mental health services and visits with the children. The children were doing well living with their respective pre-adoptive foster parents, with whom they have resided for much of their lives, and who have met all of their special needs. The mother had never cared for the children, was not attending mental health services, and continued to engage in behavior detrimental to the children.

## PROCEDURAL HISTORY

Family Court, Bronx County (Gigi Parris, J.) entered orders on or about May 14, 2025, which, upon a fact-finding determination after inquest, found that respondent mother permanently neglected the subject children, terminated her parental rights, and committed guardianship and custody to petitioner agency and the Commissioner of Social Services for the purpose of adoption. The Appellate Division affirmed the termination orders and dismissed the appeal from the fact-finding determination as no appeal lies from a determination entered on default.

## DISPOSITION

affirmed

## CASES CITED

- R.M. v S.B., 245 AD3d 419 (1st Dept 2026)
- Matter of Nahajah Lituarrah Lavern K. (Tiffany Renee W.), 67 AD3d 565 (1st Dept 2009)

- Matter of Alexis C. (Jacqueline A.), 99 AD3d 542 (1st Dept 2012)
- Matter of Shilloh M.J. (Jamesina M.J.), 183 AD3d 540 (1st Dept 2020)
- Matter of Maria G.T. (Maria T.), 213 AD3d 556 (1st Dept 2023)
- Matter of Felicia Malon Rogue J. (Lena J.), 146 AD3d 725 (1st Dept 2017)

## OPINION

### PER CURIAM.

Matter of O.J.V. (S.V.) ( 2026 NY Slip Op 01930 ) Matter of O.J.V. (S.V.) 2026 NY Slip Op 01930  
Decided on March 31, 2026 Appellate Division, First 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 and Entered: March 31, 2026 Before:  
Moulton, J.P., Kennedy, Rodriguez, Michael, Chan, JJ. Docket No. B08712/24, B08713/24|Appeal  
No. 6240-6240A|Case No. 2025-03371| [\*1]In the Matter of O.J.V.

Also Known as O.K.M., and Another, Children Under the Age of Eighteen Years, etc., S.V.,  
Respondent-Appellant, Graham Windham, Petitioner-Respondent. Anne Reiniger, New York, for  
appellant. Leventhal Mullaney & Blinkoff, LLP, Roslyn (Jeffrey Blinkoff of counsel), for  
respondent. Dawne A. Mitchell, The Legal Aid Society, New York (Susan Clement of counsel),  
attorney for the children.

Orders, Family Court, Bronx County (Gigi Parris, J.), entered on or about May 14, 2025, which,  
upon a fact-finding determination after inquest that respondent mother permanently neglected the  
subject children, terminated her parental rights to the children and committed their guardianship  
and custody to petitioner agency and the Commissioner of Social Services for the purpose of  
adoption, unanimously affirmed, without costs.

Appeal from the fact-finding determination unanimously dismissed, without costs, as no appeal  
lies from a determination entered on default. The finding that the mother permanently neglected  
the children is not appealable because it was entered on her default at the fact-finding portion of  
the proceeding, and she did not attempt to vacate the default ( see R.M. v S.B., 245 AD3d 419 [1st  
Dept 2026]).

Were we to consider the mother's arguments on the merits, we would determine that the finding  
that the mother permanently neglected the children is supported by clear and convincing evidence  
(Social Services Law § 384-b [7] [a]; see Matter of Nahajah Lituarrh Lavern K. [Tiffany Renee  
W.], 67 AD3d 565, 566 [1st Dept 2009]).

The credible evidence established that the agency made diligent efforts to encourage and  
strengthen the relationship between the mother and children by, inter alia, scheduling and  
arranging for in-person and virtual visitation and developing a service plan for the mother to

follow, including parenting classes and mental health services, which was clearly communicated to her ( see id ).

Notwithstanding the agency's diligent efforts, while the mother completed some aspects of her service plan, it was clear from her behavior that she had not meaningfully benefited from such services, and she failed to attend mental health services and visits with the children ( see Matter of Alexis C. [Jacqueline A.], 99 AD3d 542, 542-543 [1st Dept 2012], lv denied 20 NY3d 856 [2013]).

Moreover, a preponderance of the evidence supports the determination that termination of the mother's parental rights is in the children's best interests ( see Matter of Shiloh M.J. [Jamesina M.J.], 183 AD3d 540, 541 [1st Dept 2020].

The evidence presented at the dispositional hearing established that the children were doing well living with their respective pre-adoptive foster parents, with whom they have resided for much of their lives, and who have met all of their special needs ( see id. ). By contrast, the mother has never cared for the children, was not attending mental health services, and continued to engage in behavior detrimental to the children ( see Matter of Maria G.T.

[Maria T.], 213 AD3d 556, 557 [1st Dept 2023]). There is no basis for a suspended judgment ( see Matter of Felicia Malon Rogue J. [Lena J.], 146 AD3d 725, 726 [1st Dept 2017]). The mother presented no evidence in support of her claim that therapeutic visits and mental health services were imminent, or that she would meaningfully engage in or benefit from those services, especially where she had failed to do so previously.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: March 31, 2026