

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

Matter of Amiyah C. (Wanda T.)

2026 NY Slip Op 00740 · No. 976 CAF 24-01397 · Decided February 11, 2026

SUMMARY

The New York Supreme Court, Appellate Division, Fourth Department affirmed an order terminating the father's parental rights on the ground of permanent neglect. The court held that the petitioner made diligent efforts, the father failed to plan for the child's future, the Family Court properly drew a negative inference from his failure to testify, and he received meaningful representation.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Fourth Judicial Department
WRITING FOR THE COURT	Whalen, P.J.; Lindley, J.; Ogden, J.; Nowak, J.; DelConte, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Fourth Department
DECIDED	February 11, 2026
DOCKET	976 CAF 24-01397
DISPOSITION	affirmed
PROCEDURAL POSTURE	Respondent father appealed from a Family Court order terminating respondents' parental rights to the subject child on the ground of permanent neglect.
PRECEDENTIAL VALUE	Published
PARTIES	Marcus C. v. Onondaga County Department of Children and Family Services

TOPICS

- termination of parental rights
- parental rights
- family law procedure
- appellate procedure

PRACTICE AREAS

- family law
- termination of parental rights
- child welfare

QUESTIONS PRESENTED

1. Whether the petitioner established diligent efforts to encourage and strengthen the parent-child relationship as required for a permanent-neglect determination.
2. Whether the father failed to plan for the child's future despite the petitioner's diligent efforts.
3. Whether Family Court properly drew a negative inference from the father's failure to testify at the fact-finding hearing.
4. Whether the father received effective assistance of counsel.
5. Whether the father preserved, and was entitled to, a suspended judgment.

HOLDINGS

1. The petitioner established that it exercised diligent efforts to encourage and strengthen the parent-child relationship as required by Social Services Law § 384-b (7) (a).
2. Despite the petitioner's diligent efforts, the father failed to plan for the child's future, supporting termination of his parental rights for permanent neglect.
3. Family Court properly drew the strongest possible negative inference against the father after he failed to testify at the fact-finding hearing.
4. The father was not denied effective assistance of counsel because the record viewed in its totality showed that he received meaningful representation.
5. The father's contention that the court should have granted a suspended judgment was unpreserved, and in any event a suspended judgment was not warranted under the circumstances.

KEY QUOTATIONS

*“Diligent efforts include reasonable attempts at providing counseling, scheduling regular visitation with the child, providing services to the parent[] to overcome problems that prevent the discharge of the child into their care, and informing the parent[] of [the] child's progress” ([*1])*

*“‘[T]o plan for the future of the child' shall mean to take such steps as may be necessary to provide an adequate, stable home and parental care for the child” ([*1])*

*“the record, viewed in totality, reveals that the father received meaningful representation” ([*1]-[*2])*

FACTUAL BACKGROUND

The petitioner developed a service plan for the father that included mental-health treatment, domestic-violence services, anger-management counseling, substance-abuse evaluation, and clinical visitation services. The petitioner also communicated concerns about the father's continuing volatile relationship with the child's mother. Despite those efforts, the father failed to complete or make adequate progress in recommended services, continued his relationship with the mother, and failed to testify at the fact-finding hearing.

PROCEDURAL HISTORY

The Onondaga County Department of Children and Family Services commenced a proceeding under Social Services Law § 384-b in Family Court, Onondaga County. Family Court entered an order on July 29, 2024, terminating respondents' parental rights, among other relief. The Fourth Department unanimously affirmed the order without costs.

DISPOSITION

affirmed

CASES CITED

- Matter of Jessica Lynn W., 244 A.D.2d 900, 900-901 (4th Dep't 1997)
- Matter of Albina H. [John H.], 229 A.D.3d 1169, 1170 (4th Dep't 2024), lv denied, 42 N.Y.3d 903 (2024)
- Matter of Ariana F.F. [Robert E.F.], 202 A.D.3d 1440, 1442 (4th Dep't 2022)
- Matter of Carter H. [Seth H.], 191 A.D.3d 1359, 1360 (4th Dep't 2021)
- Matter of Nykira H. [Chellsie B.-M.], 181 A.D.3d 1163, 1165 (4th Dep't 2020)
- Matter of Matilda B. [Gerald B.], 187 A.D.3d 1677, 1679 (4th Dep't 2020), lv denied, 36 N.Y.3d 905 (2021)
- Matter of Moses K.B. [Ezra B.B.], 239 A.D.3d 1479, 1479-1480 (4th Dep't 2025)
- Matter of Mea V. [Brandon V.], 235 A.D.3d 1242, 1243 (4th Dep't 2025)

OPINION

PER CURIAM.

Matter of Amiyah C. (Wanda T.) (2026 NY Slip Op 00740) Matter of Amiyah C. (Wanda T.) 2026 NY Slip Op 00740 Decided on February 11, 2026 Appellate Division, Fourth 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, Fourth Judicial Department PRESENT: WHALEN, P.J., LINDLEY, OGDEN, NOWAK, AND DELCONTE, JJ. 976 CAF 24-01397 [*1]IN THE MATTER OF AMIAH C. ONONDAGA COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, PETITIONER-RESPONDENT; WANDA T., RESPONDENT, AND MARCUS C., RESPONDENT-APPELLANT.

LAW OFFICE OF VERONICA REED, SCHENECTADY (VERONICA REED OF COUNSEL), FOR RESPONDENT-APPELLANT. ROBERT A. DURR, COUNTY ATTORNEY, SYRACUSE (LISA S. CUOMO OF COUNSEL), FOR PETITIONER-RESPONDENT. SUSAN B. MARRIS, MANLIUS, ATTORNEY FOR THE CHILD. Appeal from an order of the Family Court, Onondaga County (Christina F. DeJoseph, J.), entered July 29, 2024, in a proceeding pursuant to Social Services Law § 384-b.

The order, among other things, terminated respondents' parental rights with respect to the subject child. It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs. Memorandum: In this proceeding pursuant to Social Services Law § 384-b, respondent father appeals from an order that, inter alia, terminated his parental rights with respect to the subject child on the ground of permanent neglect.

Contrary to the father's contention, petitioner established that it exercised diligent efforts to encourage and strengthen the parent-child relationship, as required by Social Services Law § 384-b (7) (a). "Diligent efforts include reasonable attempts at providing counseling, scheduling regular visitation with the child, providing services to the parent[] to overcome problems that prevent the discharge of the child into their care, and informing the parent[] of [the] child's progress" (Matter of Jessica Lynn W., 244 AD2d 900, 900-901 [4th Dept 1997]; see § 384-b [7] [f]).

Here, petitioner developed a comprehensive service plan for the father, which included mental health treatment, domestic violence services, anger management counseling, substance abuse evaluation, and clinical visitation services. Petitioner also communicated to the father its concern with his continued volatile relationship with the child's mother. Contrary to the further contention of the father, we conclude that, despite petitioner's diligent efforts, the father failed to plan for the child's future. " '[T]o plan for the future of the child' shall mean to take such steps as may be necessary to provide an adequate, stable home and parental care for the child" (Social Services Law § 384-b [7] [c]).

Here, the father failed to complete or make adequate progress in the services that petitioner recommended, including mental health services, and he continued his relationship with the mother (see Matter of Albina H. [John H.], 229 AD3d 1169, 1170 [4th Dept 2024], lv denied 42 NY3d 903 [2024]). Furthermore, Family Court properly drew the strongest possible negative inference against the father after he failed to testify at the fact-finding hearing (see Matter of Ariana F.F.

[Robert E.F.], 202 AD3d 1440, 1442 [4th Dept 2022]). We reject the father's contention that he was denied effective assistance of counsel. Here, we conclude that "the record, viewed in totality, reveals that the father received meaningful representation" (Matter of Carter H. [Seth H.], 191 AD3d 1359, 1360 [4th Dept 2021]; see [*2]Matter of Nykira H. [Chellsie B.-M.], 181 AD3d 1163, 1165 [4th Dept 2020]).

The father failed to preserve for our review his contention that the court should have granted a suspended judgment (see Matter of Matilda B. [Gerald B.], 187 AD3d 1677, 1679 [4th Dept 2020], lv denied 36 NY3d 905 [2021]), and, in any event, a suspended judgment was not warranted under the circumstances (see Matter of Moses K.B. [Ezra B.B.], 239 AD3d 1479, 1479-1480 [4th Dept 2025]; Matter of Mea V. [Brandon V.], 235 AD3d 1242, 1243 [4th Dept 2025]).

We have reviewed the father's remaining contentions and conclude that they lack merit. Entered:
February 11, 2026 Ann Dillon Flynn Clerk of the Court

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