

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

Matter of King P. (James Q.)

2026 NY Slip Op 00173 (3d Dep't 2026) · No. CV-24-0311 · Decided January 15, 2026

SUMMARY

The New York Appellate Division, Third Department affirmed an order modifying the permanency goal for two neglected children from return to parent to free for adoption. The court held that the father's due process challenge to the duration of the permanency hearing was unpreserved and, alternatively, that good cause supported the hearing schedule. The court concluded that the record provided a sound and substantial basis for finding that reunification was not viable and that continued placement with the petitioner served the children's best interests.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Corcoran, J.; Aarons, J.P.; Reynolds Fitzgerald, J.; Ceresia, J.; Fisher, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	January 15, 2026
DOCKET	CV-24-0311
DISPOSITION	affirmed
PROCEDURAL POSTURE	James Q. appealed from an order of the Family Court of Montgomery County modifying the permanency goal for his children from return to parent to free for adoption and continuing the children's placement with the petitioner.
STANDARD OF REVIEW	A modification of a permanency goal will not be disturbed when supported by a sound and substantial basis in the record. The appellate court gives requisite deference to Family Court's credibility assessments.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	James Q. v. Montgomery County Department of Social Services

TOPICS

family law procedure

parental rights

adoption

preservation of error

standard of review

PRACTICE AREAS

Family law

child welfare

juvenile law

appellate procedure

QUESTIONS PRESENTED

1. Whether James Q.'s due-process challenge based on the duration of the permanency hearing and delay in Family Court's decision was preserved and, if preserved, whether the delay violated due process.
2. Whether the Montgomery County Department of Social Services made sincere efforts to reunify James Q. with the children.
3. Whether the evidence supported modifying the permanency goal from return to parent to free for adoption.
4. Whether the evidence supported the children's continued placement with the petitioner rather than their return to James Q.

HOLDINGS

1. James Q.'s due-process claim was unpreserved because he failed to object to, or consented to, the scheduled hearing dates. Even assuming preservation, the hearing's duration did not violate due process because good cause existed to extend beyond the statutory time limit to accommodate his out-of-state witnesses and interstate travel.
2. Family Court properly modified the permanency goal from return to parent to free for adoption because the Department of Social Services provided appropriate reunification services and the evidence established that return to James Q. was impossible under the circumstances.
3. Family Court properly determined that the children's best interests warranted their continued placement with the petitioner rather than their return to James Q.

KEY QUOTATIONS

"[A]t the conclusion of a permanency hearing, Family Court has the authority to modify an existing permanency goal and must enter a disposition based upon the proof adduced and in accordance with the best interests of the children" (*2)

"Wherever possible, the societal goal and overarching consideration is to return a child to the parent, and reunification remains the goal unless a parent is unable or unwilling to correct the conditions that led to removal" (*2)

"If petitioner establishes by a preponderance of the evidence that a return to the parent is impossible, 'the goal then becomes finding a permanent, stable solution for the child[ren]'" (*2)

FACTUAL BACKGROUND

The children were removed from their parents in 2019 after a physical altercation and other safety concerns, including bruising observed on the son. James Q. later relocated to South Carolina and, despite receiving referrals and assistance for reunification services and visitation, violated multiple conditions of his order of supervision. The evidence showed substance use before visitation, criminal activity, unstable and unverified income, failure to address the son's medical needs, unsafe supervision during visits, inconsistent contact, and continuing association with the children's mother despite the domestic-violence concerns that led to removal.

PROCEDURAL HISTORY

The Montgomery County Department of Social Services commenced neglect proceedings against James Q. and Tia O. in 2019 after a domestic-violence incident and other safety concerns involving their children. James Q. consented to a finding of neglect without admission and agreed to a one-year order of supervision. After a permanency hearing conducted over eleven dates, Family Court modified the permanency goal from return to parent to free for adoption. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Jemar H. v Nevada I., 182 AD3d 805, 808-809 (3d Dep't 2020)
- Matter of Telsa Z. [Denise Z.], 84 AD3d 1599, 1600, 1603 (3d Dep't 2011), lv denied 17 NY3d 708 (2011)
- Matter of Anthony QQ., 48 AD3d 1014, 1015 (3d Dep't 2008), lv denied 10 NY3d 714 (2008)
- Matter of Winter II. [Kerriann II.], 227 AD3d 1142, 1146 (3d Dep't 2024), lv denied 42 NY3d 903 (2024)
- Matter of Isayah R. [Shaye R.], 189 AD3d 1942, 1944 (3d Dep't 2020)
- Matter of Alexis SS. [Chezzy SS.], 125 AD3d 1141, 1143 (3d Dep't 2015)
- Matter of Joshua J. [Tameka J.], 2025 NY Slip Op 03010, *4 (2025)
- Matter of Gabrielle N. [Linda N.], 202 AD3d 1397, 1399-1400 (3d Dep't 2022)
- Matter of Dawn M. [Michael M.], 151 AD3d 1489, 1491-1492 (3d Dep't 2017), lv denied 29 NY3d 917 (2017)