

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

Matter of Davis v. ACS-Kings

2025 NY Slip Op 06860 (N.Y. Ct. App. 2025) · No. 2024-11063 · Decided December 10, 2025

SUMMARY

The Appellate Division, Second Department, affirmed an order dismissing custody petitions without a hearing. It held that the petitioner, whose parental rights had been terminated and whose children had been adopted, lacked standing to seek custody and therefore could not establish potentially meritorious proceedings warranting an extension of time for service under CPLR 306-b.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Second Judicial Department
WRITING FOR THE COURT	Cheryl E. Chambers, J.P.; Paul Wooten; Lourdes M. Ventura; Elena Goldberg Velazquez
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	December 10, 2025
DOCKET	2024-11063
DISPOSITION	affirmed
PROCEDURAL POSTURE	The biological father appealed from a Family Court order that, without a hearing, dismissed his petitions for custody of three children. The Appellate Division affirmed.
STANDARD OF REVIEW	Abuse of discretion as to the denial of an extension of time to serve in the interest of justice; the Appellate Division reviewed whether the Family Court providently exercised its discretion.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Tyreek Davis v. ACS-Kings

TOPICS

- child custody
- termination of parental rights
- standing
- service of process
- appellate procedure

PRACTICE AREAS

family law

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the Family Court properly declined to extend the time for service of the custody petitions in the interest of justice under CPLR 306-b.
2. Whether the petitioner had standing to seek custody of children whose adoption followed termination of his parental rights.
3. Whether the Family Court properly dismissed the custody petitions without a hearing because the petitioner could not demonstrate potentially meritorious proceedings.

HOLDINGS

1. The interest-of-justice standard permits an extension of time for service when appropriate, but the determination is discretionary and may consider diligence, the expiration of the statute of limitations, the potential merit of the proceeding, the length of delay, the promptness of the extension request, and prejudice to the respondent.
2. A biological parent whose parental rights were terminated and whose children were adopted lacks standing, even as a biological parent, to seek custody of those children.
3. The Family Court properly dismissed the custody petitions without a hearing because the petitioner lacked standing and failed to establish potentially meritorious proceedings.

KEY QUOTATIONS

"'Good cause' and 'interest of justice' are two separate and independent statutory standards" (2025 NY Slip Op 06860)

"The more flexible interest of justice standard accommodates late service that might be due to mistake, confusion, or oversight, so long as there is no prejudice to the [respondent]" (2025 NY Slip Op 06860)

"Thus, the petitioner lacked standing, even as a biological parent, to seek custody of the children" (2025 NY Slip Op 06860)

FACTUAL BACKGROUND

The petitioner was the biological father of three children. His parental rights were terminated in 2013, and the children were subsequently adopted. In April 2023, he commenced related proceedings seeking custody of the children, but the Family Court dismissed the petitions without a hearing.

PROCEDURAL HISTORY

In April 2023, Tyreek Davis commenced related Family Court proceedings for custody of his three children. The Family Court, Kings County, dismissed the petitions without a hearing by order dated August 26, 2024, and Davis appealed. The Appellate Division affirmed, concluding that Davis lacked standing because his parental

rights had been terminated and the children had been adopted, and that no extension of time for service was warranted.

DISPOSITION

affirmed

CASES CITED

- Leader v. Maroney, Ponzini & Spencer, 97 N.Y.2d 95
- Bumpus v. New York City Tr. Auth., 66 A.D.3d 26
- OneWest Bank N.A. v. All the Heirs at Law [Moran], 240 A.D.3d 803
- A.K. v. T.K., 150 A.D.3d 1091
- Matter of Davis v. ACS-Kings, 236 A.D.3d 904
- Matter of Mehmeti v. Dautaj, 198 A.D.3d 781
- Brown v. Sanders, 142 A.D.3d 940

OPINION

PER CURIAM.

Matter of Davis v ACS-Kings (2025 NY Slip Op 06860) Matter of Davis v ACS-Kings 2025 NY Slip Op 06860 Decided on December 10, 2025 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 December 10, 2025 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department CHERYL E. CHAMBERS, J.P.

PAUL WOOTEN LOURDES M. VENTURA ELENA GOLDBERG VELAZQUEZ, JJ. 2024-11063 (Docket Nos. V-7566-23, V-7567-23, V-7568-23) [*1]In the Matter of Tyreek Davis, appellant, v ACS-Kings, respondent. Catherine S. Bridge, Staten Island, NY, for appellant. DECISION & ORDER In related proceedings pursuant to Family Court Act article 6, the petitioner appeals from an order of the Family Court, Kings County (Ione K. Curva, Ct.

Atty. Ref.), dated August 26, 2024. The order, without a hearing, dismissed the petitions for custody of the subject children. ORDERED that the order is affirmed, without costs or disbursements. The petitioner is the biological father of three children.

In April 2023, he commenced related proceedings for custody of the children. By order dated August 26, 2024, the Family Court, without a hearing, dismissed the petitions. The petitioner appeals. CPLR 306-b permits a court to dismiss a proceeding without prejudice or extend the time for service upon good cause shown or in the interest of justice (see Leader v Maroney, Ponzini &

Spencer, 97 NY2d 95, 104-105). "'Good cause' and 'interest of justice' are two separate and independent statutory standards" (*Bumpus v New York City Tr.*

Auth., 66 AD3d 26, 31; see *Leader v Maroney, Ponzini & Spencer*, 97 NY2d at 104). "To establish good cause, a [petitioner] must demonstrate reasonable diligence in attempting service" (*Bumpus v New York City Tr. Auth.*, 66 AD3d at 31; see *Leader v Maroney, Ponzini & Spencer*, 97 NY2d at 104). "The more flexible interest of justice standard accommodates late service that might be due to mistake, confusion, or oversight, so long as there is no prejudice to the [respondent]" (*OneWest Bank N.A. v All the Heirs at Law [Moran]*, 240 AD3d 803, 805 [internal quotation marks omitted]; see *Leader v Maroney, Ponzini & Spencer*, 97 NY2d at 105).

In deciding whether to extend time in the interest of justice, the court may consider diligence, or lack thereof, along with other factors including "the expiration of the statute of limitations, the meritorious nature of the [proceeding], the length of delay in service, the promptness of a request by the [petitioner] for an extension, and prejudice to the [respondent]" (*Bumpus v New York City Tr.*

Auth., 66 AD3d at 32; see *Leader v Maroney, Ponzini & Spencer*, 97 NY2d at 105; *A.K. v T.K.*, 150 AD3d 1091, 1093). "The determination of whether to grant the extension in the interest of justice is within the discretion of the motion court" (*OneWest Bank N.A. v All the Heirs at Law [Moran]*, 240 AD3d at 805; see *Leader v Maroney, Ponzini & Spencer*, 97 NY2d at 101).

Here, the Family Court providently exercised its discretion in declining to grant an extension of time to serve the petitions in the interest of justice. The petitioner's parental rights were terminated in 2013, and the children were adopted.

Thus, the petitioner lacked standing, even as a biological parent, to seek custody of the children (see *Matter of Davis v ACS-Kings*, 236 AD3d 904, [*2]904; *Matter of Mehmeti v Dautaj*, 198 AD3d 781, 782). As such, the petitioner failed to demonstrate that an extension of time was warranted in the interest of justice, since the petitioner failed to establish the existence of potentially meritorious proceedings (see *Leader v Maroney, Ponzini & Spencer*, 97 NY2d at 105; *Brown v Sanders*, 142 AD3d 940, 941).

Accordingly, the Family Court properly dismissed the petitions. CHAMBERS, J.P., WOOTEN, VENTURA and GOLDBERG VELAZQUEZ, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

PER CURIAM.

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Thus, the petitioner lacked standing, even as a biological parent, to seek custody of the children (see *Matter of Davis v ACS-Kings*, 236 AD3d 904, [*2]904; *Matter of Mehmeti v Dautaj*, 198 AD3d 781, 782). As such, the petitioner failed to demonstrate that an extension of time was warranted in the interest of justice, since the petitioner failed to establish the existence of potentially meritorious proceedings (see *Leader v Maroney, Ponzini & Spencer*, 97 NY2d at 105; *Brown v Sanders*, 142 AD3d 940, 941).

Accordingly, the Family Court properly dismissed the petitions. CHAMBERS, J.P., WOOTEN, VENTURA and GOLDBERG VELAZQUEZ, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court