

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

Matter of Chary M. L. (Zachary R.)

2026 NY Slip Op 02115 (N.Y. Ct. App. 2026) · No. 2024-02503, 2024-03651; Family Court Docket Nos. B-3293-22, B-3294-22 · Decided April 8, 2026

SUMMARY

The Appellate Division, Second Department, affirmed orders terminating the mother's parental rights based on abandonment and permanent neglect and transferring guardianship and custody of the children for adoption. The court held that clear and convincing evidence supported the findings and that the mother's incarceration did not excuse her failure to communicate or keep the agency apprised of her location.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Valerie Brathwaite Nelson, J.; Laurence L. Love, J.; James P. McCormack, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	April 8, 2026
DOCKET	2024-02503, 2024-03651; Family Court Docket Nos. B-3293-22, B-3294-22
DISPOSITION	affirmed
PROCEDURAL POSTURE	The mother appealed from two Family Court orders of fact-finding and disposition that found abandonment and permanent neglect, terminated her parental rights, and transferred guardianship and custody of the children for adoption.
STANDARD OF REVIEW	The Appellate Division reviewed whether clear and convincing evidence supported the Family Court's findings of abandonment and permanent neglect and whether the disposition terminating parental rights and transferring guardianship and custody was in the children's best interests.
PRECEDENTIAL VALUE	Published; precedential New York Appellate Division opinion

PARTIES

Zachary R. (the mother) v. New Alternatives for Children, Inc.,
petitioner-respondent, Commissioner of Social Services of the City of
New York

TOPICS

termination of parental rights

parental rights

adoption

guardianships

appellate procedure

PRACTICE AREAS

family law

termination of parental rights

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guardianships

appellate procedure

QUESTIONS PRESENTED

1. Whether clear and convincing evidence supported the finding that the mother abandoned the children by failing to visit or communicate with them or the agency during the statutory six-month period.
2. Whether clear and convincing evidence supported the finding of permanent neglect.
3. Whether the Family Court properly excused the agency from demonstrating diligent efforts because the mother failed to keep the agency apprised of her location for at least six months.
4. Whether the Family Court properly declined to grant a suspended judgment and properly terminated the mother's parental rights and transferred guardianship and custody for adoption.

HOLDINGS

1. The finding of abandonment was supported by clear and convincing evidence because the mother had no contact with the petitioner or the children during the six months preceding the filing of the petitions, and the petitioner did not prevent or discourage contact.
2. The finding of permanent neglect was supported by clear and convincing evidence, and the petitioner was excused from demonstrating diligent efforts because the mother failed for at least six months to keep the petitioner apprised of her location.
3. The Family Court properly declined to grant a suspended judgment and properly terminated the mother's parental rights and transferred guardianship and custody of the children for adoption.

KEY QUOTATIONS

“Termination of parental rights based on a finding of abandonment requires clear and convincing evidence”
([*2])

“the parent “evinces an intent to forego his or her parental rights and obligations as manifested by his or her failure to visit the child and communicate with the child or agency, although able to do so and not prevented or discouraged from doing so by the agency.”” ([*2])

“the court must evaluate as a threshold matter whether the agency has exercised diligent efforts to encourage and strengthen the parental relationship” ([*2])

FACTUAL BACKGROUND

The mother had no contact with the petitioner or the children during the six months immediately preceding the filing of the petitions on September 5, 2022. The petitioner did not prevent or discourage contact, and the mother did not establish that incarceration or severe hardship made communication infeasible. She also failed to keep the petitioner apprised of her whereabouts for at least six months.

PROCEDURAL HISTORY

New Alternatives for Children, Inc. commenced related proceedings under Social Services Law § 384-b concerning two children. After fact-finding and dispositional hearings, the Family Court, Richmond County, entered orders dated March 13, 2024, terminating the mother's parental rights and transferring guardianship and custody to the petitioner and the Commissioner of Social Services of the City of New York for adoption. The Appellate Division affirmed insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Matter of Annette B., 4 N.Y.3d 509, 514 (2005)
- Matter of Julius P., 63 N.Y.2d 477, 481 (1984)
- Matter of Abel J.R. [Michael S.], 207 A.D.3d 727, 728 (2d Dep't 2022)
- Matter of Nyshawn R.V.S. [Erica M.V.], 145 A.D.3d 902, 902-903 (2d Dep't 2016)
- Matter of Samantha L.S. [Daniel S.], 134 A.D.3d 1128, 1129 (2d Dep't 2015)
- Matter of J.F. [Yves A.], 158 A.D.3d 798, 799 (2d Dep't 2018)
- Matter of Keymani R.J. [Shakima J.], 95 A.D.3d 1213, 1213 (2d Dep't 2012)
- Matter of Sheila G., 61 N.Y.2d 368, 381 (1984)
- Matter of Riyanna N.F. [Crystal M.S.-Angelina F.], 170 A.D.3d 1009, 1010 (2d Dep't 2019)
- Matter of George R. [Samatha M.], 162 A.D.3d 1041, 1042 (2d Dep't 2018)
- Matter of Jamel Raheem B. [Vernice B.], 89 A.D.3d 933, 934 (2d Dep't 2011)
- Matter of King-Osiris A.T. [Isis S.], 224 A.D.3d 839, 841 (2d Dep't 2024)
- Matter of Kaiden L. [Kdaya R.], 168 A.D.3d 846, 847 (2d Dep't 2019)
- Matter of Tymel P. [Tyrone P.], 157 A.D.3d 699, 700 (2d Dep't 2018)
- Matter of Christina M.A.R. [Megan M.R.], 154 A.D.3d 690, 691 (2d Dep't 2017)