

State of New York  
Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: July 2, 2026

CV-24-1336

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In the Matter of SKYLER O. and  
Another, Alleged to be  
Permanently Neglected Children.

MADISON COUNTY DEPARTMENT  
OF SOCIAL SERVICES,  
Respondent;

MEMORANDUM AND ORDER

CRYSTAL L.,  
Appellant.

(And Two Other Related Proceedings.)

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Calendar Date: May 28, 2026

Before: Garry, P.J., Fisher, Mackey, Corcoran and Ryba, JJ.

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*Lisa K. Miller*, McGraw, for appellant.

*Madison County Department of Social Services*, Wampsville (*Lisa S. Cuomo*,  
Syracuse, of counsel), for respondent.

*Vicki J. Prager*, Northville, attorney for the children.

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Corcoran, J.

Appeal from an order of the Family Court of Madison County (Rhonda Youngs,  
J.), entered June 17, 2024, which granted petitioner's applications, in three proceedings

pursuant to Social Services Law § 384-b, to adjudicate the subject children to be permanently neglected, and terminated respondent's parental rights.

Respondent Crystal L. (hereinafter the mother) is the mother of the four subject children (born in 2015, 2019, 2020 and 2021). Petitioner first became involved with this family in 2019 after filing a neglect petition alleging domestic violence, substance abuse, inadequate supervision and unstable housing. The mother was previously afforded an opportunity to avoid removal through an adjournment in contemplation of dismissal conditioned upon her compliance with court-imposed directives and engagement in services, but the three oldest children were removed from her care in July 2021 following additional incidents of domestic violence. The youngest child, born in October 2021, was removed shortly after birth. The children remained in foster care continuously thereafter. In July 2022, petitioner commenced the first of these permanent neglect proceedings concerning the two oldest children and commenced additional proceedings in October 2022 regarding the two youngest children. Following a fact-finding hearing, Family Court adjudicated all four children to be permanently neglected and, after a dispositional hearing, terminated the mother's parental rights. The mother appeals, and we affirm.

"A permanently neglected child is one who is in the care of an authorized agency and whose parent has failed, for at least one year or for 15 out of the most recent 22 months, to substantially and continuously or repeatedly plan for the future of the child, although physically and financially able to do so, notwithstanding the agency's diligent efforts to encourage and strengthen the parental relationship when such efforts will not be detrimental to the best interests of the child" (*Matter of Alisha SS. [Zuhra SS.]*, 246 AD3d 1265, 1265-1266 [3d Dept 2026] [internal quotation marks and citations omitted], *lv denied* \_\_\_ NY3d \_\_\_ [June 18, 2026]; *see* Social Services Law § 384-b [7] [a]). Diligent efforts require "reasonable attempts by an authorized agency to assist, develop and encourage a meaningful relationship between the parent and child" (*Matter of Macayla N. [Sheena N.]*, 240 AD3d 976, 977 [3d Dept 2025] [internal quotation marks and citations omitted], *lv denied* 44 NY3d 910 [2026]), including facilitating visitation, providing appropriate services and counseling, keeping the parent apprised of the children's progress and attempting to ameliorate the conditions that led to their removal (*see Matter of Alisha SS. [Zuhra SS.]*, 246 AD3d at 1266; *Matter of Macayla N. [Sheena N.]*, 240 AD3d at 978; *Matter of Issac Q. [Kimberly R.]*, 212 AD3d 1049, 1050-1051 [3d Dept 2023], *lv denied* 39 NY3d 913 [2023]). Although petitioner bears the burden of establishing diligent efforts by clear and convincing evidence, its obligation is satisfied where appropriate services are offered but the parent fails to sufficiently engage or progress (*see Matter of Nikole V. [Norman V.]*, 224 AD3d 1102, 1104 [3d Dept 2024], *lv*

*denied* 41 NY3d 909 [2024]; *Matter of Jessica U. [Stephanie U.]*, 152 AD3d 1001, 1003-1004 [3d Dept 2017]).

Here, the record supports Family Court's determination that petitioner exercised diligent efforts to strengthen the mother's relationship with the children and promote reunification. Petitioner's caseworker testified that the agency began working with the mother in 2019 to connect her with mental health, substance abuse and domestic violence services. Petitioner facilitated weekly supervised visitation with all four children, plus an additional weekly visit with the youngest child, and arranged supervised telephone contact. Petitioner conducted regular service plan review meetings and communicated with the mother about planning for reunification. Petitioner's witnesses testified that the agency repeatedly provided guidance regarding appropriate parenting techniques and visitation conduct, attempted to implement coaching before and after visitation sessions to address difficulties, referred the mother to parenting programs and counseling services and encouraged her participation in treatment and permanency planning. Although visitation never progressed beyond a fully supervised setting, petitioner's witnesses explained that such restrictions were necessary due to ongoing safety concerns, including the mother's inability to appropriately manage all four children, her repeated discussions with the children about prohibited subjects and concerns that she appeared under the influence of drugs during certain visits. Deferring to Family Court's credibility determinations, which credited petitioner's witnesses, we are satisfied that petitioner met its burden of establishing diligent efforts to encourage and strengthen the parental relationship (*see Matter of Alisha SS. [Zuhra SS.]*, 246 AD3d at 1267; *Matter of Gabriel J. [Christina I.]*, 232 AD3d 1093, 1095 [3d Dept 2024], *lv denied* 43 NY3d 901 [2025]; *Matter of Ryan J. [Taylor J.]*, 222 AD3d 1207, 1209-1210 [3d Dept 2023], *lv denied* 41 NY3d 909 [2024]).

Next, the mother argues that she substantially planned for the children's future. Once petitioner establishes diligent efforts, it must demonstrate, by clear and convincing evidence, that the parent failed to plan for the children's future (*see Matter of Jack V. [Jack U.]*, 243 AD3d 1174, 1178 [3d Dept 2025]). Planning for the future requires a parent to take "meaningful steps" to correct the conditions that led to the children's removal (*id.*). The plan must be "realistic and feasible" and "good faith effort, alone, is not enough" (*Matter of Alisha SS. [Zuhra SS.]*, 246 AD3d at 1267 [internal quotation marks and citations omitted]); *see Matter of Daimeon MM. [Laurie MM.]*, 230 AD3d 1416, 1418 [3d Dept 2024], *lv denied* 42 NY3d 910 [2025]). Family Court may properly consider the parent's failure to meaningfully engage in services intended to address the conditions necessitating removal, including counseling, substance abuse treatment,

parenting education and permanency planning (*see Matter of Macayla N. [Sheena N.]*, 240 AD3d at 980; *Matter of Daimeon MM. [Laurie MM.]*, 230 AD3d at 1418).

The record here reflects a history of domestic violence involving the fathers of several of the children, which resulted in prior neglect proceedings, orders of protection and court-directed conditions to prevent the children from being further exposed to such conduct. The mother acknowledged a history of domestic violence in all of her prior relationships, some of which she described as "toxic." She further admitted that she resumed her relationship with one of the volatile fathers following removal. The children were present when he lunged at the mother and damaged property inside the residence. In June 2021, the father of the two youngest children engaged in domestic violence in violation of an order of protection; the mother claimed that she was unsure if the children overheard the altercation. Although the mother participated intermittently in domestic violence counseling, she never completed it and minimized the seriousness of prior incidents.

Nor did the mother meaningfully address her substance abuse issues. She admitted daily use of marihuana, which she purchased from unlicensed sellers. Following the July 2022 neglect proceedings prompted by her marihuana use while caring for the children, the mother was directed to participate in substance abuse treatment and Family Treatment Program services. However, she missed multiple sessions, tested positive for cocaine and methamphetamine twice and thereafter refused hair follicle testing. As noted above, the mother appeared under the influence of drugs during visitation on several occasions, resulting in suspended or prematurely terminated visits. Despite these ongoing concerns, the mother minimized her substance abuse and denied using any substances other than marihuana.

The mother's conduct during supervised visitation further supports Family Court's determination. Despite ongoing services and repeated coaching efforts, the mother consistently struggled to appropriately manage all four children during the visits. Despite petitioner's warnings, she repeatedly discussed court proceedings, permanency issues and future placements with the children. She arrived late to several visits and missed others altogether. She became easily frustrated with the children during visitation, displayed inconsistent discipline and demonstrated inattention to their safety as evidenced by instances where one unattended child fell from a couch and struck her head and another choked on an age-inappropriate object. The mother also displayed aggressive and combative behavior during visitation and, on at least one occasion, was escorted from the building. She refused petitioner's offer of parenting classes.

Similar concerns arose regarding the mother's ability to recognize and respond to the children's developmental and emotional needs. One of the younger children exhibited developmental delays and received speech, occupational and physical therapy services while in foster care. The mother repeatedly denied that the child had any developmental limitations and she failed to inquire into certain therapies and services afforded others in foster care.

Several of the mother's family members described her as loving and affectionate toward the children. However, they also acknowledged the mother's ongoing volatile relationships. The mother likewise testified about her participation in certain services, her efforts to obtain housing and her desire to regain custody of her children. Nonetheless, she admitted continued marijuana use and that she resumed relationships despite domestic violence concerns. She acknowledged her mental health diagnoses, which include anxiety, depression, bipolar disorder and posttraumatic stress disorder, but her mental health counseling ceased because she missed two sessions. Based on the foregoing, and deferring to Family Court's credibility determinations, we find that petitioner established by clear and convincing evidence that the mother permanently neglected all four children.

The mother also challenges evidentiary rulings at the hearing, claiming that Family Court improperly admitted hearsay testimony and certain agency records made by a nontestifying caseworker in violation of Family Ct Act § 1046 (b) (iii). Initially, because these proceedings were commenced pursuant to Social Services Law § 384-b, the admissibility of evidence was governed by the CPLR (*see Matter of Noah P. [Anthony F.]*, 246 AD3d 1398, 1400 [4th Dept 2026], *lv denied* \_\_\_ NY3d \_\_\_ [June 18, 2026]; *Matter of Zaiden P. [Ashley Q.]*, 211 AD3d 1348, 1356 n 5 [3d Dept 2022], *lvs denied* 39 NY3d 911 [2023], 39 NY3d 911 [2023]). To the extent that the challenged testimony constituted inadmissible hearsay and certain exhibits were received without appropriate foundation to qualify as admissible business records (*see CPLR 4518 [a]*), any error in their admission was harmless. The record does not indicate that Family Court relied upon the challenged evidence in reaching its determination and, in any event, other admissible evidence amply supported the finding of permanent neglect (*see Matter of Noah P. [Anthony F.]*, 246 AD3d at 1400).

As to the disposition, Family Court properly determined that termination of the mother's parental rights, rather than a suspended judgment, was in the children's best interests. "Following an adjudication of permanent neglect, the sole concern at a dispositional hearing is the best interests of the child, and there is no presumption that

any particular disposition, including the return of a child to a parent, promotes such interests" (*Matter of Gionni LL. [Beatriz LL.]*, 248 AD3d 1633, 1634 [3d Dept 2026] [internal quotation marks and citations omitted], *lv denied* \_\_\_ NY3d \_\_\_ [June 18, 2026]). Although Family Court may enter a suspended judgment to permit a "brief grace period" where a parent has made "significant progress" and the evidence demonstrates that the parent will likely become fit within a short period of time, this relief is appropriate only where the "delay is consistent with the child[ren]'s best interests" (*id.* [internal quotation marks and citations omitted]; *see Matter of Gabriel J. [Christina I.]*, 232 AD3d at 1097).

At the dispositional hearing, a case assistant who supervised visitation testified that the mother's time with the children remained "chaotic" because she struggled to manage them and appeared impaired during several visits, exhibiting erratic movements, foul language and combative behavior. This witness further testified that the mother stated she was "tired" of hearing about one of the children's developmental needs from petitioner's staff. The various foster parents testified that the children were bonded to their respective foster families and were thriving emotionally, behaviorally and developmentally. The foster parents ensured that the siblings maintained regular relationships and contact with one another. The children were receiving therapeutic services, including counseling, speech therapy, occupational therapy and physical therapy. Several of the children experienced emotional distress after visits and phone contact with the mother. One foster parent testified that a child returned from visitation "dazed," while another explained that a child became increasingly agitated by the mother's telephone calls and visitation. Some of the children opposed visitation with the mother altogether. The foster parents further described the children's improved emotional regulation, speech, behavior and overall health following removal.

To her credit, the mother completed some substance abuse treatment and counseling services. However, her records reflect that she stopped attending treatment after January 2023 and that her progress was unsatisfactory. The mother acknowledged that she resisted her mental health medications and sometimes forgot to take them. Finally, she failed to attend the final service plan meeting about the children's status and permanency planning.

Considering the record in its entirety, including the length of time the children have been in foster care and the mother's failure to remedy her substance abuse or meaningfully address her mental health, "we conclude that Family Court's determination that the best interests of the child[ren] would be served by termination of the mother's

parental rights, rather than a suspended judgment, is supported by a sound and substantial basis in the record" (*Matter of Gionni LL. [Beatriz LL.]*, 248 AD3d at 1635; see *Matter of Gabriel J. [Christina I.]*, 232 AD3d at 1097; *Matter of Carmela D. [Shameeka G.]*, 232 AD3d 1126, 1131 [3d Dept 2024], *lvs denied* 43 NY3d 903 [2025], 43 NY3d 903 [2025]).

We have examined the mother's remaining contentions and have found them to be unavailing.

Garry, P.J., Fisher, Mackey and Ryba, JJ., concur.

ORDERED that the order is affirmed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger  
Clerk of the Court