

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

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Argued - June 21, 2018

REINALDO E. RIVERA, J.P.  
MARK C. DILLON  
JEFFREY A. COHEN  
ANGELA G. IANNACCI, JJ.

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2017-10338

DECISION & ORDER

In the Matter of Aliyah S. P. (Anonymous).  
Dutchess County Department of Community and  
Family Services, respondent; William L. (Anonymous),  
appellant.

(Docket No. B-6389-16)

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Salvatore C. Adamo, New York, NY, for appellant.

James M. Fedorchak, County Attorney, Poughkeepsie, NY (Michael L. Rusilas of  
counsel), for respondent.

Michael J. O'Connor, Poughkeepsie, NY, attorney for the child.

In a proceeding pursuant to Social Services Law § 384-b, the father appeals from an  
order of the Family Court, Dutchess County (Denise M. Watson, J.), dated August 18, 2017. The  
order, after a fact-finding hearing, found that the father abandoned the child and terminated his  
parental rights.

ORDERED that the order is affirmed, without costs or disbursements.

The petitioner commenced this proceeding pursuant to Social Services Law § 384-b  
against the father to terminate his parental rights on the ground of abandonment. Following a fact-  
finding hearing, the Family Court terminated his parental rights. We affirm.

To demonstrate that the father abandoned the subject child, the petitioner was  
required to establish by clear and convincing evidence that the father “evinced an intent to forego  
his . . . parental rights and obligations” by failing to visit or communicate with the child or petitioner

July 25, 2018

Page 1.

MATTER OF P. (ANONYMOUS), ALIYAH S.

during the six-month period before the petition was filed (Social Services Law § 384-b[5][a]; *see* Social Services Law § 384-b[4][b]; *Matter of Andrea B.*, 66 AD3d 770). Here, the petitioner met this burden. The record reveals that the father did not contact the petitioner, or otherwise attempt contact with the child by sending letters, gifts, cards, or financial support (*see Matter of Jeremiah Kwimea T.*, 10 AD3d 691, 692). The father's incarceration did not relieve him of his responsibility to maintain contact or communicate with the child or the petitioner (*see Matter of Beatrice A. [Selina A.]*, 158 AD3d 747, 748). Although the father testified to attempts to maintain contact through his mother and other family members, his testimony was vague and uncorroborated, and insufficient to overcome a showing of abandonment. Further, contrary to the father's contention, there was no evidence that the petitioner prevented or discouraged him from visiting or communicating with the petitioner or the child.

Finally, the Family Court providently exercised its discretion in terminating the father's parental rights without conducting a dispositional hearing (*see Matter of Thomas Z.*, 4 AD3d 372, 373).

RIVERA, J.P., DILLON, COHEN and IANNACCI, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino  
Clerk of the Court