

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CAF 24-01128

PRESENT: CURRAN, J.P., BANNISTER, OGDEN, DELCONTE, AND HANNAH, JJ.

IN THE MATTER OF AHREN B.-N.

ONEIDA COUNTY DEPARTMENT OF FAMILY AND
COMMUNITY SERVICES, PETITIONER-RESPONDENT;

MEMORANDUM AND ORDER

GARY B.-N., RESPONDENT-APPELLANT.

JOHN ROWLEY, SPENCER, FOR RESPONDENT-APPELLANT.

MARYANGELA SCALZO, UTICA, FOR PETITIONER-RESPONDENT.

WALTER BURKARD, MANLIUS, ATTORNEY FOR THE CHILD.

Appeal from an order of the Family Court, Oneida County (Julia Brouillette, J.), entered May 24, 2024, in a proceeding pursuant to Social Services Law § 384-b. The order, inter alia, terminated the parental rights of respondent with respect to the subject child.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: In this proceeding pursuant to Social Services Law § 384-b, respondent father appeals from an order that, inter alia, terminated his parental rights with respect to the subject child on the ground of permanent neglect and freed the child for adoption. We affirm.

Contrary to the father's contention, petitioner established that it exercised diligent efforts to encourage and strengthen the parent-child relationship, as required by Social Services Law § 384-b (7) (a). "Diligent efforts include reasonable attempts at providing counseling, scheduling regular visitation with the child, providing services to the parent[] to overcome problems that prevent the discharge of the child into their care, and informing the parent[] of [the] child's progress" (*Matter of Jessica Lynn W.*, 244 AD2d 900, 900-901 [4th Dept 1997]; see § 384-b [7] [f]). The petitioning agency is not required, however, to "guarantee that the parent succeed in overcoming [their] predicaments" (*Matter of Sheila G.*, 61 NY2d 368, 385 [1984]; see *Matter of Jamie M.*, 63 NY2d 388, 393 [1984]). Rather, the parent must "assume a measure of initiative and responsibility" (*Jamie M.*, 63 NY2d at 393). Here, petitioner established by clear and convincing evidence (see § 384-b [3] [g] [i]) that it exercised diligent efforts to encourage and strengthen the father's relationship with the child (see *Matter of Janette G. [Julie G.]*, 181 AD3d 1308,

1308-1309 [4th Dept 2020], *lv denied* 35 NY3d 907 [2020]). Specifically, petitioner developed a plan for services that addressed the father's needs—i.e., designed to address the specific reasons that led to the removal of the child from the father's care. Petitioner provided the father with access to counseling to address his mental health and domestic violence issues, scheduled regular visitation with the child, and offered him parental education to address petitioner's concerns on proper home safety and sanitation, and on how to ensure that the child was receiving adequate nutrition (see *Matter of Kiara F. [Evan F.]*, 231 AD3d 1489, 1491 [4th Dept 2024]; *Matter of Briana S.-S. [Emily S.]* [appeal No. 2], 210 AD3d 1390, 1391-1392 [4th Dept 2022], *lv denied* 39 NY3d 910 [2023]). We further note that petitioner made those efforts despite evidence that the father was uncooperative with the agency, which frustrated petitioner's meaningful efforts to assist him (see *Kiara F.*, 231 AD3d at 1491; see generally *Matter of Star Leslie W.*, 63 NY2d 136, 144 [1984]).