

1IN THE SUPREME COURT OF THE STATE OF DELAWARE

DESHAUN MIDDLETON, ¹	§
	§ No. 224, 2026
Respondent Below,	§
Appellant,	§ Court Below–Family Court
	§ of the State of Delaware
v.	§
	§ File No. 25-12-02
DEPARTMENT OF SERVICES	§ Petition No. 25-27526
FOR CHILDREN, YOUTH AND	§
THEIR FAMILIES,	§
	§
Petitioner Below,	§
Appellee.	§

Submitted: September 21, 2026

Decided: October 22, 2026

Before **SEITZ**, Chief Justice; **TRAYNOR** and **LEGROW**, Justices.

ORDER

After consideration of the no-merit brief and the motion to withdraw filed by the appellant’s counsel under Supreme Court Rule 26.1(c), the responses, and the record on appeal, it appears to the Court that:

¹ The Court previously assigned a pseudonym to the appellant under Supreme Court Rule 7(d).

(1) By order dated May 13, 2026, the Family Court terminated the parental rights of the appellant, Deshaun Middleton (“Father”), with respect to his son (the “Child”).² This is Father’s appeal.

(2) On appeal, Father’s counsel filed an opening brief and a motion to withdraw under Rule 26.1(c). Counsel asserts that she conducted a conscientious review of the record and the relevant law and determined that Father’s appeal is wholly without merit. Counsel informed Father of the provisions of Rule 26.1(c), provided him with a copy of the motion to withdraw and the accompanying brief, and advised him that he could submit in writing any additional points that he wished for the Court to consider. Father submitted points for the Court’s consideration. The Delaware Department of Services for Children, Youth and Their Families, Division of Family Services (“DFS”) and the Child’s attorney have responded to counsel’s Rule 26.1(c) brief and argue that the Family Court’s judgment should be affirmed.

(3) The Child, who has autism and is mostly non-verbal, was born in March 2016. On February 28, 2024, DFS moved for emergency custody of the Child. DFS alleged that (i) it received a report of suspected physical abuse of the Child on January 27, 2024, (ii) Father had a lengthy history with DFS involving the Child and three older children who were removed from his care, (iii) DFS had not located any

² The child’s mother (“Mother”) consented to termination of her parental rights. We refer only to facts in the record that relate to Father’s appeal.

relatives willing to care for the Child, and (iv) Father refused to work with DFS. The Family Court granted the petition and appointed counsel to represent Father.

(4) At the preliminary protective hearing on March 6, 2024, the Family Court heard testimony from DFS worker Laurel DellaValle and Father. DellaValle reviewed Father's history with DFS, which dated back to 2004 for his older children and to 2019 for the Child. All of Father's older children left to live with relatives or in foster care. On January 27, 2024, DFS received a report that the Child went to daycare with a red eye and bruising. The Child was taken to Nemours Hospital where staff believed that the Child's injuries were consistent with direct blunt impact trauma and were concerned that the Child was neglected. Father was initially amenable to the Child living with respite caregiver Alton Carter while DFS investigated the matter but was unwilling to extend the arrangement absent a court order.

(5) Father testified that the Child had no injuries on his face when he dropped him off at his daycare on January 26. Father said he worked a lot of hours and therefore his girlfriend, and previously his mother, cared for the Child when he was not in school. Family Court found that there was probable cause to believe the Child was at substantial imminent risk of physical, mental, or emotional danger and continued to be dependent. The court also found that DFS had made reasonable efforts to prevent unnecessary removal of the Child from the home.

(6) At the adjudicatory hearing on May 13, 2024, the Family Court heard testimony from Dr. Stephanie Deutsch, who testified as an expert on child abuse, DellaValle, the paternal grandmother (“Paternal Grandmother”), Father’s adult daughter (“Daughter”), Carter, and Father. Dr. Deutsch, Medical Director of the Nemours CARE (Children at Risk Evaluation) Program, testified that, when the Child came to Nemours in January, he had peri-orbital bruising that could have resulted from a direct strike to his face. He also had bruising on his abdomen and lower limbs. Addressing the possibility of self-injury as suggested by Father, Dr. Deutsch testified that it would be unusual for a child to injure themselves around their eyes.

(7) Dr. Deutsch reviewed medical records revealing that the Child had facial bruising consistent with a strike to the face in April 2019, bruising and weight loss in October 2022, and bruising to his face, scalp, and lower limbs and weight loss in June 2023. The Child had gained three pounds since leaving Father to live with Carter. Dr. Deutsch also testified about the family’s failure to pursue and follow-up on multiple referrals to autism service providers. Based on the Child’s medical records, Dr. Deutsch testified that there appeared to be a pattern of abuse and neglect of the Child.

(8) Paternal Grandmother testified that she babysat the Child when he was younger and began assisting more when Mother left the household in 2023. She

took the Child to the dentist for the first time in the summer of 2023. Several of his teeth were rotten and had to be removed. Paternal Grandmother stopped speaking with Father in the summer 2023 when he refused to take the Child to the dentist after dental surgery that left the Child in excruciating pain. She was unable to take the Child herself. Daughter testified that she was removed from Father's care when she was two-and-a-half years old and lived with relatives or in foster care until she became an adult.

(9) Carter testified about the services he provided as respite caregiver to the Child. Carter also worked at the Child's daycare center. On January 26, 2024, he noticed the Child's right eye was red when Father dropped him off at the daycare center. He obtained Father's permission to take the Child to his pediatrician, who noticed bruising around the Child's left eye and told Carter to take the Child to the Nemours Hospital emergency room. Following the emergency room visit, Father agreed that the Child would live with Carter while DFS conducted an investigation. Carter testified that the Child had gained weight and said some words while in his care but still had temper tantrums and other behavioral issues.

(10) DellaValle reviewed Father's history with DFS, which dated back to the early 2000s for his older children and to 2019 for the Child. Neglect of the older children led to them living with relatives or in foster care. In late 2018 or early 2019, DFS began receiving reports that the parents were having difficulty controlling the

Child and that his autism was unaddressed. DFS struggled to contact the family but eventually did so and discovered bruising on the Child's face. DFS began a treatment plan with the family that was still open in November 2020 when DFS received law enforcement reports of domestic violence and poor housing conditions. These conditions included zip ties attached from the outside of the Child's bedroom door to a doorknob across the hallway that prevented the Child from opening the door. As a result of this incident, Father pleaded guilty to endangering the welfare of a child.

(11) As of October 2022, DFS had ongoing concerns about the family's housing and the Child's non-enrollment in school. DFS briefly obtained custody of the Child after learning that the family was living in a garage with no indoor plumbing. DFS returned the Child to his parents when they obtained a voucher for a motel room and agreed to continue working with DFS. Mother was generally compliant with her treatment plan, but Father was not. DFS closed the case based on Mother's compliance, but Mother left the family and moved to North Carolina in March 2023.

(12) In April 2023, DFS received reports that the Child was appearing at school with unexplained bruises and opened another investigation. There were also reports that the Child was losing weight and coming to school with bruises and wet

diapers. After Father engaged respite services and moved in with his girlfriend in Kent County, DFS closed the case on January 22, 2024.

(13) On January 27, 2024, DFS received a report that the Child went to daycare with a red eye and bruises. Carter took the Child to his pediatrician who recommended that Carter take the Child to the emergency room. At Nemours Hospital, staff were concerned that the Child was physically abused or neglected and obtained Father's permission for the Child to stay with Carter until DFS responded.

(14) The Child remained with Carter while DFS investigated the case. DellaValle interviewed Father who denied that the Child had any injuries except bruising on his legs. Father said that the Child would often become violent and hurt himself, which led to the Child and Father moving out of his girlfriend's home. Father also told her that he worked more than eighty hours per week. Father initially agreed to the Child living with Carter but would not agree to an extension of that arrangement absent a court order. After the preliminary protective hearing, DellaValle tried to set up visitation between Father and the Child, but Father directed her to his attorney and there was no response to the visitation efforts.

(15) Father blamed maternal grandmother for the Child's facial bruise in April 2019, and said the Child's school since September 2023 had not expressed any concerns to him about the Child having bruises. He attributed the family's poor housing conditions in November 2020 to his heavy drinking at that time. He claimed

that he had subsequently stopped drinking. Father denied that the zip ties were to keep the Child in his bedroom but were instead intended to stop the Child from entering the bedroom. As to the garage with no running water, Father said the family was supposed have access to the primary residence for bathroom and water access, but the landlord refused to allow them to enter the primary residence.

(16) Father stopped communicating with Paternal Grandmother in August 2023 because he believed she was lying when she told him that she could not take the Child to the dentist for the pain he was suffering after dental surgery. As to the poor condition of the Child's teeth before the surgery, Father said he was working a lot and Mother was the Child's caregiver. He blamed the Child's weight loss on the family's chaotic living conditions and Mother leaving.

(17) In January 2024, Father decided to leave his girlfriend's home because of the Child's behavioral problems, which included attacking her autistic son. Father said that, when he began packing on January 25, 2024, the Child became upset and flipped off the bed. The next day Father dropped the Child off at daycare and checked into a motel. Father did not notice any bruising on the Child's face before he dropped him off. Carter contacted Father later that day to report that the Child's eye was red, and Father agreed that Carter could take the Child to the pediatrician. The Child stayed with Carter over the weekend as he often did and

continued to stay with Carter because Father knew DFS would not consider a motel appropriate housing.

(18) Father acknowledged telling DFS that he worked more than eighty hours per week but said that those hours included his travel time from Kent County where he lived with his girlfriend to New Castle County where he worked. He testified that he relied on his girlfriend, Carter, and the school to assist him with the Child. He claimed Paternal Grandmother was responsible for contacting one of the autism service providers—the Swank Autism Center—but did not know what happened with that after he broke off contact with her. He contacted Autism of Delaware, but his work schedule prevented him from engaging with them.

(19) At the time of the adjudicatory hearing, Father was working forty hours per week and renting a room in a house. He denied any mental-health or substance-abuse problems. He described his relationship with his Daughter as strained and said he last saw her in 2020. He claimed Paternal Grandmother was toxic and conspiring against him with DFS and Carter. Father testified that he had not visited the Child since January 26, 2024 because he did not want to upset the Child, who would not understand that he could not stay with Father.

(20) Emphasizing the Father's demonstrated inability to meet the needs of the Child, the Family Court found that the Child was dependent and should remain in DFS custody. The court also found that Father had neglected the Child's medical

and nutritional needs and abused the Child. Finally, the court found that DFS had made reasonable efforts to prevent unnecessary removal of the Child from the home.

(21) At the June 27, 2024 dispositional hearing, DFS presented its case plan for Father. The elements of the case plan included Father completing a mental-health evaluation and complying with any recommended treatment, an anger-management class, and a general parenting class as well as a parenting class focused on children with autism. Father was also required to maintain employment, obtain appropriate housing, and attend appointments for the Child's developmental, medical, and education needs. The Family Court adopted the case plan for Father and found that the Child continued to be dependent and should remain in DFS custody.

(22) The Family Court held the first review hearing on September 18, 2024, Dr. Rachel Brandenburg testified about her psychological evaluation of Father. Based on her evaluation, Dr. Brandenburg concluded that Father did not meet the criteria for a mental-health diagnosis but was unable to put the Child's needs above his own. She believed that counseling was unlikely to address concerns regarding Father's parenting skills because he did not recognize that there was anything he should have done differently and would not take responsibility for his actions.

(23) DFS treatment worker Eric Winkler testified that Father was working with a family interventionist, had received referrals for a parenting class and applied behavioral analysis therapy for autism (“ABA therapy”) sessions, and completed an anger management class. Father continued to work and to rent a room. Father visited the Child weekly but did not attend any of the Child’s medical, educational, or developmental appointments. The Child was attending school and going to the Swank Autism Center. The Family Court found that the Child continued to be dependent and should remain in DFS custody.

(24) At the second review hearing on December 10, 2024, Winker testified that Father told him that he did not trust Dr. Brandenburg’s evaluation and was reluctant to attend therapy. Father had begun the parenting and ABA therapy classes, started a new job, and maintained his housing. Father’s visits with the Child were going well, but he had missed or was unable to attend most of the Child’s medical, developmental, and educational appointments. The Child was doing well physically in Carter’s care, but his behavior had regressed. He had to wear a diaper at times and was displaying sexualized behaviors. The Family Court found that the Child continued to be dependent and should remain in DFS custody.

(25) On January 21, 2025, DFS moved to change the permanency plan to termination of parental rights/adoption. DFS alleged that Father’s housing was

inappropriate for a child, that he refused to undergo mental health treatment, and that he was unable to meet the Child's developmental, medical, and educational needs.

(26) At the third review hearing on February 5, 2025, Winker reviewed the Child's medical, educational, and developmental appointments since May 2024. Father was notified of most of the appointments but failed to attend most of them. Father had completed his parenting class and continued the ABA therapy sessions. The Child's visits with Father were going well. Based on concerns that Carter was interfering with reunification, DFS was exploring placement of the Child in a different home. The Family Court found that the Child continued to be dependent and should remain in DFS custody.

(27) In March 2025, the parties agreed that an expert would assess whether Father's visitation with the Child was having a negative impact on the Child's behavior. The court held a permanency hearing on April 29, 2025. Father had previously been unable to engage in mental health counseling due to lack of insurance but was recently able to engage in counseling. Father remained employed, continued to rent a room, and had completed his ABA therapy sessions. He was visiting the Child weekly. Since his placement in a new home, the Child was exhibiting more outbursts and sleeping in class. The Family Court found that Father had partially complied with his case plan. The court stayed consideration of DFS's

motion to change the permanency plan until the next permanency hearing, which would occur after the assessment of the Child's visitation with Father.

(28) At the October 30, 2025 permanency hearing, the Family Court heard Allison Krauss Randall's testimony concerning her assessment of Father's visitation with the Child. Randall opined that the Child's behavioral issues were not tied to visits with Father, but she expressed concern about Father's behavior and parenting skills during the visits. When visits occurred outside of a controlled setting like a library, Father relied heavily on the family interventionist for supervision of the Child. Once when Father was overseeing the Child by himself, he placed the Child standing up on a swing, walked away, and then was dismissive after the Child fell hard off the swing onto his face and cried. Father became defensive and belligerent when the family interventionist raised safety concerns and made suggestions to Father about his parenting skills.

(29) After the Child's attorney raised concerns with the qualifications of Father's therapist, Father was looking for a new therapist, which was complicated by his new employment and new insurance coverage. Father had moved into appropriate housing with a new girlfriend, who had multiple children. The Family Court granted DFS's motion to change the permanency goal to the concurrent goals of reunification or termination of parental rights, emphasizing that Father was not exhibiting the lessons of his parenting skill and anger management classes.

(30) At the February 2, 2026 permanency hearing, DFS continued to express concerns with Father's ability to meet the Child's special needs. Father maintained his employment and housing with his girlfriend. They had a new baby. Father had started therapy with a new therapist. The Child was doing well with his foster mother, who was interested in adopting him.

(31) The Family Court held a TPR hearing on April 14, 2026. The Family Court heard testimony from Father's former therapist Angel Reddick, Winkler, DFS permanency worker Bethany Ash, the Child's foster mother, and Father. The testimony reflected that Father had engaged in counseling, but Reddick discharged him after five or six sessions because she believed that he required a higher level of care with a psychiatrist. Reddick testified that Father acknowledged responsibility for some of the events leading to the Child's placement in DFS custody but believed that he was the victim of a conspiracy and that it was unnecessary to change his thought processes or behavior. DFS remained concerned about Father's mental health and ability to meet the Child's special needs but acknowledged that Father had obtained appropriate housing, maintained employment, completed parenting and anger management classes, was attending the Child's appointments, and regularly visited the Child. Following the hearing, the Family Court issued a written decision terminating Father's parental rights.

(32) In this appeal from the Family Court’s TPR decision, the Court is required to consider the facts and the law as well as the inferences drawn and deductions made by the Family Court.³ We review legal rulings *de novo*.⁴ We conduct a limited review of the factual findings of the trial court to assure that they are sufficiently supported by the record and are not clearly wrong.⁵ If the trial court has correctly applied the law, then our standard of review is limited to abuse of discretion.⁶

(33) The statutory framework under which the Family Court may terminate parental rights requires two separate inquiries.⁷ First, the court must determine whether the evidence presented meets one of the statutory grounds for termination.⁸ Second, if the Family Court finds a statutory basis for termination of parental rights, the court must determine whether, under 13 *Del. C.* § 722, severing parental rights is in the child’s best interests.⁹ Both of these requirements must be established by clear and convincing evidence.¹⁰

(34) Here, the Family Court found that DFS proved by clear and convincing that termination of Father’s parental rights was appropriate because he was unable

³ *Wilson v. Div. of Fam. Servs.*, 988 A.2d 435, 439-40 (Del. 2010).

⁴ *Id.* at 440.

⁵ *Id.*

⁶ *Id.*

⁷ *Shepherd v. Clemens*, 752 A.2d 533, 536-37 (Del. 2000).

⁸ *Id.* at 537.

⁹ *Id.*

¹⁰ *Powell v. Dep’t of Servs. for Children, Youth and Their Fams.*, 963 A.2d 724, 731 (Del. 2008).

to plan for the Child's needs, the Child had been in DFS custody for more than one year, DFS previously had custody of the Child and two of Father's other children, and Father had a history of neglecting the Child and his other children.¹¹ The Family Court acknowledged that Father had completed most of his case plan but found that the record showed that his mental health and behavioral issues still prevented him from meeting the Child's special needs. The court also determined that DFS had made reasonable efforts to reunify the family.

(35) Applying the best interests factors,¹² the court found that factors four (the Child's adjustment to home, school, and his community), five (the mental and physical health of all individuals involved), six (Father's past and present non-compliance with his rights and responsibilities to the Child), seven (evidence of domestic violence by Father toward the Child), and eight (Father's criminal history, which included a conviction for endangering the welfare of the Child), weighed in favor of granting the TPR petition. The court found these factors outweighed factor one (Father's wishes), which weighed in favor of denying the petition, and factors two (the Child's wishes) and three (the Child's relationship with Father and bonding

¹¹ 13 *Del. C.* § 1103(a)(5)(b), (c), (d).

¹² *Id.* § 1103(a) (providing that parental rights may be terminated if one of several statutory grounds is established and termination "appears to be in the child's best interest"); *id.* § 722 (setting forth factors that the court may consider when determining the best interests of a child).

with his foster mother), which were neutral. The court concluded that termination of the Father's parental rights was in the Child's best interests.

(36) In his points submitted for the Court's consideration, Father argues that he satisfied the elements of his case plan, including the mental health component. He emphasizes that he underwent a mental-health evaluation as required and that Dr. Brandenburg did not diagnose him with any mental health disorder or opine that he must undergo therapy. When DFS and the Family Court expected him to pursue therapy anyway, he did so, even though it was difficult to find a therapist with the qualifications desired by DFS. Father then underwent counseling with Reddick until she discharged him through no fault of his own.

(37) In finding that Father failed to complete the mental-health component of his case plan, the Family Court emphasized that the goal of that element was to ensure that Father's mental-health status and coping skills helped him create a safe environment for the Child. The record supports the Family Court's conclusion that this goal was unmet. By the time the Child left the Father's care in 2024, there was a history of the Child suffering abuse and neglect as well as not receiving available services for his autism. Father pleaded guilty to endangering the welfare of the Child as result of the family's poor living conditions in 2020, which included zip ties to keep the Child in his bedroom.

(38) At the time of Dr. Brandenburg's evaluation of Father's mental health in 2024, Father did not take any responsibility for the Child being in DFS custody. He blamed others for what had happened and continued to blame others, including the Paternal Grandmother, Carter, and DFS, throughout the Family Court proceedings. Although Father obtained a mental health evaluation, underwent counseling, and completed parenting classes, he continued to display behaviors that threatened the Child's safety. During Randall's observation of one of Father's visits with the Child in 2025, the Child hurt himself after Father left him standing on a swing and walked away. When the Child fell on his face and cried, Father was dismissive of the Child's pain. Father became belligerent when the family interventionist raised safety concerns and suggestions to improve Father's parenting skills. Father could not meet the Child's special needs, and his inability to accept responsibility for his actions and change his behavior put the Child at risk. The Family Court did not err in concluding that DFS proved a statutory basis for termination of Father's parental rights by clear and convincing evidence. Nor did the Family Court err in finding that termination of Father's parental rights was in the Child's best interests

(39) Having carefully reviewed the parties' positions and the record on appeal, we find that the Family Court's factual findings are supported by the record, and we can discern no error in the court's application of the law to the facts. We

therefore conclude that Father's appeal is wholly without merit and devoid of any arguably appealable issues. We are satisfied that Father's counsel made a conscientious effort to examine the record and the law and properly determined that Father could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court be AFFIRMED. Counsel's motion to withdraw is moot.

BY THE COURT:

/s/ Gary F. Traynor
Justice