

COURT OF APPEALS OF TENNESSEE

In re Jordan A. et al.

No. M2025-00960-COA-R3-PT (Tenn. Ct. App. May 22, 2026) · No. M2025-00960-COA-R3-PT · Decided May 22, 2026

SUMMARY

The Tennessee Court of Appeals held that the Colorado permanent custody order rendered moot the father’s challenges to Tennessee orders granting telephone visitation to the maternal aunt, uncle, and grandmother. The court affirmed the denial of the father’s abusive civil action claim, concluding that the relatives had not acted primarily to harass or maliciously injure him. The court also affirmed the denial of attorney’s fees and costs.

CASE DETAILS

COURT	Court of Appeals of Tennessee
WRITING FOR THE COURT	Steven W. Maroney; Kristi M. Davis; Valerie L. Smith
JURISDICTION	Tennessee Court of Appeals
DECIDED	May 22, 2026
DOCKET	M2025-00960-COA-R3-PT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Father appealed as of right from the Chancery Court for Coffee County's orders granting the maternal aunt and uncle telephone visitation and denying Father's request for a finding that they were abusive civil plaintiffs and his requests for attorney's fees and costs.
STANDARD OF REVIEW	Mootness is a question of law reviewed de novo. The application of the abusive-civil-action statute to the facts presents a mixed question of law and fact reviewed de novo without a presumption of correctness, although appellate courts have great latitude in reviewing mixed questions. Statutory interpretation is reviewed de novo.
PRECEDENTIAL VALUE	published
PARTIES	Bernard A. v. Dorothy C., Ezekiel C.

TOPICS

- mootness
- appellate procedure
- termination of parental rights
- attorney fees
- statutory interpretation

PRACTICE AREAS

family law

appellate procedure

civil procedure

statutory interpretation

remedies

QUESTIONS PRESENTED

1. Whether the Tennessee trial court's orders granting telephone visitation to the maternal aunt and uncle and permitting the maternal grandmother to participate remained justiciable after the Colorado court entered a permanent custody order.
2. Whether Father's abusive-civil-action claim was timely and whether the aunt and uncle qualified as abusive civil plaintiffs.
3. Whether Father was entitled to attorney's fees and costs under Tennessee Code Annotated section 29-41-106(b) based on his abusive-civil-action claim.
4. Whether Father was entitled to attorney's fees and costs under Tennessee Code Annotated section 36-6-236 of the UCCJEA.

HOLDINGS

1. The telephone-visitation issues were moot because the Colorado court's permanent custody order extinguished the controversy concerning the Tennessee telephone-visitation orders and left the Tennessee Court of Appeals unable to provide meaningful relief.
2. A claim for abusive civil action must be raised by answer or motion while the civil action remains pending, before entry of final judgment; Father's post-judgment response to a Rule 59 motion was likely untimely and attempted to raise a new theory after judgment.
3. The aunt and uncle were not abusive civil plaintiffs because the record did not show that they filed the action primarily to harass or maliciously injure Father or with any of the prohibited purposes identified by the statute.
4. Father was not entitled to attorney's fees and costs under Tennessee Code Annotated section 29-41-106(b) because he did not establish that the appellees were abusive civil plaintiffs.
5. Tennessee Code Annotated section 36-6-236 did not authorize attorney's fees and costs because this was a child-custody and termination-of-parental-rights proceeding, not an enforcement-related UCCJEA proceeding.

KEY QUOTATIONS

"To be justiciable, an issue must be cognizable not only at the inception of the litigation but also throughout its pendency." (at 4)

"In view of the Colorado order, this Court can provide no judicial relief by addressing the trial court's telephone communication orders." (at 5)

"Accordingly, it appears that Appellant's attempt to raise a claim for abusive civil action was made too late, i.e. not while the civil action was pending but after it was decided." (at 9)

FACTUAL BACKGROUND

Father voluntarily relinquished custody of the children to their maternal aunt and uncle while the children's mother was ill and near the end of her life, and the aunt and uncle brought the children from Colorado to Tennessee after the mother's death. Tennessee juvenile and chancery proceedings followed, but the chancery court ultimately dismissed the termination petition and ordered the children returned to Father while granting the aunt and uncle telephone contact. During the appeal, a Colorado court entered a permanent custody order awarding the aunt and uncle primary custody and sole decision-making authority, and Father returned the children to them.

PROCEDURAL HISTORY

The Coffee County Juvenile Court awarded temporary custody to the maternal aunt and uncle under the UCCJEA's emergency-jurisdiction provisions. The aunt and uncle later petitioned the Chancery Court for termination of Father's parental rights and adoption; after trial, the chancery court dismissed the petition and ordered the children returned to Father, while separately granting telephone contact to the aunt and uncle. The chancery court denied the aunt and uncle's post-judgment motion and denied Father's abusive-civil-action claim and request for attorney's fees. During the appeal, a Colorado court entered a permanent custody order awarding custody and decision-making authority to the aunt and uncle, rendering the telephone-visitation issues moot. The Court of Appeals affirmed and remanded for any further proceedings consistent with its opinion.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The case is remanded for such further proceedings as may be necessary and consistent with the opinion. Costs of the appeal are assessed to Father.

CASES CITED

- City of Memphis v. Hargett, 414 S.W.3d 88, 96 (Tenn. 2013)
- UT Med. Grp., Inc. v. Vogt, 235 S.W.3d 110, 119 (Tenn. 2007)
- Colonial Pipeline Co. v. Morgan, 263 S.W.3d 827, 838 (Tenn. 2008)
- Norma Faye Pyles Lynch Family Purpose LLC v. Putnam Cnty., 301 S.W.3d 196, 203-04 (Tenn. 2009)
- Lufkin v. Bd. of Prof'l Responsibility, 336 S.W.3d 223, 226 & n.5 (Tenn. 2011)
- Knott v. Stewart Cnty., 185 Tenn. 623, 207 S.W.2d 337, 338-39 (Tenn. 1948)
- County of Shelby v. McWherter, 936 S.W.2d 923, 931 (Tenn. Ct. App. 1996)
- Carras v. Williams, 807 F.2d 1286, 1289 (6th Cir. 1986)
- Alliance for Native American Indian Rights in Tennessee, Inc. v. Nicely, 182 S.W.3d 333, 339 (Tenn. Ct. App. 2005)
- West v. Vought Aircraft Industries, Inc., 256 S.W.3d 618, 625 (Tenn. 2008)

- Tennessee Democratic Party v. Hamilton Cnty. Election Commission, No. E2018-01721-COA-R3-CV, 2020 WL 865282, at *2 (Tenn. Ct. App. Feb. 21, 2020)
- Levine v. March, 266 S.W.3d 426, 439 (Tenn. Ct. App. 2008)
- Tanner v. Whiteco, L.P., 337 S.W.3d 792, 796 (Tenn. Ct. App. 2010)
- Lance v. York, 359 S.W.3d 197, 201 (Tenn. Ct. App. 2011)
- Aaron v. Aaron, 909 S.W.2d 408, 410 (Tenn. 1995)
- Falls v. Goins, 673 S.W.3d 173, 180 (Tenn. 2023)
- Anderson v. DTB Corp., No. 89-172-II, 1990 WL 33380, at *2 (Tenn. Ct. App. Mar. 28, 1990)
- Bemis Co., Inc. v. Hines, 585 S.W.2d 574, 576 (Tenn. 1979)
- Estate of Doyle v. Hunt, 60 S.W.3d 838, 842 (Tenn. Ct. App. 2001)
- Norton v. Everhart, 895 S.W.2d 317, 319 (Tenn. 1995)
- Fann v. City of Fairview, 905 S.W.2d 167 (Tenn. Ct. App. 1994)
- Fallin v. Knox County Bd. of Comm'rs, 656 S.W.2d 338, 342 (Tenn. 1983)
- State v. Minimum Salary Dep't of A.M.E. Church, 477 S.W.2d 11, 12 (Tenn. 1972)
- Culbreath v. First Tenn. Bank Nat'l Ass'n, 44 S.W.3d 518, 524 (Tenn. 2001)
- Cafarelli v. Yancy, 226 F.3d 492, 499 (6th Cir. 2000)
- Robinson v. City of Clarksville, 673 S.W.3d 556, 567 (Tenn. Ct. App. 2023)
- Brooks v. Andrews, No. W2021-00106-COA-R10-JV, 2021 WL 6111863, at *18 (Tenn. Ct. App. Dec. 27, 2021)