

NEW YORK COURT OF APPEALS

Matter of David J. Abdoch v. Fonda D. Abdoch

2026 NY Slip Op 03219 · No. No. 38 · Decided May 21, 2026

SUMMARY

The New York Court of Appeals held that an attorney for the child may appeal a Family Court custody determination on behalf of an aggrieved child, even when neither parent appeals. The Court reversed the Appellate Division's dismissal and remitted the matter for consideration of the factual and legal issues not previously decided.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Singas, J.; Chief Judge Wilson; Judge Rivera; Judge Garcia; Judge Cannataro; Judge Troutman; Judge Halligan
JURISDICTION	New York Court of Appeals
DECIDED	May 21, 2026
DOCKET	No. 38
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	An attorney for the children appealed a Family Court custody-modification order to the Appellate Division without a separate appeal by either parent. The Appellate Division, Fourth Department, dismissed the appeal, and the Court of Appeals granted leave to appeal.
STANDARD OF REVIEW	The Court interpreted the Family Court Act de novo and applied the CPLR aggrievement requirement to determine whether the children could pursue the appeal.
PRECEDENTIAL VALUE	Published and precedential New York Court of Appeals opinion
PARTIES	Alison Bates, Esq., Attorney for the Children v. David J. Abdoch, Fonda D. Abdoch

TOPICS

- child custody
- family law procedure
- appellate procedure
- appellate jurisdiction
- statutory interpretation

PRACTICE AREAS

family law

child custody

appellate procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether an attorney for the child appointed in a Family Court Act article 6 custody proceeding may appeal a custody determination on behalf of the child when neither parent has filed an appeal.
2. Whether the children satisfied the CPLR requirement that an appealing party be aggrieved.

HOLDINGS

1. Under the plain language of the Family Court Act, an attorney for the child is authorized to appeal a custody determination on behalf of the child, even when neither parent-party has appealed and the child is not a full party to the custody proceeding.
2. An attorney for the child may appeal on behalf of an aggrieved child, and the children were aggrieved because the custody order was modified contrary to the position advocated by their attorney.

KEY QUOTATIONS

“We hold that under the plain language of the Family Court Act, an AFC has the authority to appeal a custody determination when the subject child is aggrieved.” ([*1])

“We hold only that an AFC is authorized to appeal a custody determination on behalf of an aggrieved child.” ([*3])

FACTUAL BACKGROUND

The parents had an agreed-upon custody order providing that their four children lived primarily with the mother. The father sought modification, while the mother opposed his petition through a competing petition. The attorney for the children opposed modification and advocated that the children wished to continue living primarily with the mother, but Family Court awarded the parents joint custody and shared residency. The attorney for the children filed an appeal, which the Appellate Division dismissed.

PROCEDURAL HISTORY

The parents had an agreed custody order under which the children lived primarily with the mother. After the father petitioned to modify custody and the mother filed a competing petition, Family Court awarded the parents joint custody with designated zones of influence and shared residency. The attorney for the children appealed, but the Appellate Division dismissed the appeal under Fourth Department precedent. The Court of Appeals reversed and remitted for consideration of the facts and issues not previously determined.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded to the Appellate Division, Fourth Department, for consideration of the facts and issues raised but not determined on appeal, without costs.

CASES CITED

- Matter of Newton v McFarlane, 174 AD3d 67, 72-73 [2d Dept 2019]
- Matter of Kylie P. [Carlos P.—Karen G.], 213 AD3d 463, 463 [1st Dept 2023]
- Matter of Amber B. v Scott C., 207 AD3d 847, 848 n 1 [3d Dept 2022]
- Matter of Lawrence v Lawrence, 151 AD3d 1879, 1879 [4th Dept 2017]
- Matter of McDermott v Bale, 94 AD3d 1542, 1543 [4th Dept 2012]
- Matter of Kessler v Fancher, 112 AD3d 1323, 1324 [4th Dept 2013]
- Matter of Muriel v Muriel, 228 AD3d 1345, 1346-1347 [4th Dept 2024]
- 235 AD3d 1251, 1251 [4th Dept 2025]
- Matter of Marian T. [Lauren R.], 36 NY3d 44, 49 [2020]
- Matter of Mestecky v City of New York, 30 NY3d 239, 243 [2017]