

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

F.K. v. K.F.

2026 NY Slip Op 02336 (N.Y. Ct. App. 2026) · No. Docket Nos. V-00062/22, V-00063/22, V-00123/22, V-00124/22; Appeal No. 6377; Case No. 2024-05838 · Decided April 16, 2026

SUMMARY

The New York Supreme Court, Appellate Division, First Department dismissed as moot an appeal from a temporary custody and visitation order. The court held that the temporary order was not an appealable order of disposition under Family Court Act § 1112(a), had expired and been superseded, and presented no nonfrivolous appellate issues; it also granted assigned appellate counsel's application to withdraw.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Moulton, J.P.; Scarpulla, J.; Shulman, J.; Rodriguez, J.; Michael, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	April 16, 2026
DOCKET	Docket Nos. V-00062/22, V-00063/22, V-00123/22, V-00124/22; Appeal No. 6377; Case No. 2024-05838
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from a temporary custody and visitation order of Supreme Court, Bronx County.
PRECEDENTIAL VALUE	Published New York Appellate Division decision; the opinion states that it is subject to revision before publication in the Official Reports.
PARTIES	F.K., petitioner-appellant, the father v. K.F., respondent-respondent, the mother

TOPICS

family law procedure

child custody

visitation

mootness

appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the temporary custody and visitation order was appealable as of right under Family Court Act § 1112(a).
2. Whether the appeal should be dismissed as moot because the temporary order had expired and been superseded by unappealed subsequent orders.
3. Whether assigned appellate counsel should be permitted to withdraw under *Anders v. California*.

HOLDINGS

1. A temporary order of visitation is not an order of disposition within the meaning of Family Court Act § 1112(a) and therefore is not appealable as of right.
2. The appeal was moot because the temporary order had expired and been superseded by subsequent custody and visitation orders that were not appealed.
3. Assigned appellate counsel's application to withdraw was granted because the record disclosed no nonfrivolous issues that could be raised on appeal.

KEY QUOTATIONS

“The temporary order of visitation is not an order of disposition within the meaning of Family Court Act § 1112 (a) and thus is not appealable as of right” ([*1])

“Furthermore, the appeal is moot as the temporary order has already expired and been superseded by subsequent orders of custody and visitation, none of which were appealed” ([*1])

FACTUAL BACKGROUND

The challenged order temporarily awarded physical custody of the subject children to the respondent mother and provided the petitioner father with visitation. That temporary order expired and was superseded by subsequent custody and visitation orders. The later orders were not appealed.

PROCEDURAL HISTORY

Supreme Court, Bronx County, entered an order on or about August 19, 2024, temporarily awarding physical custody of the children to the respondent mother and providing the petitioner father with visitation. During the appeal, the temporary order expired and was superseded by later custody and visitation orders, none of which were appealed. The Appellate Division granted assigned appellate counsel's application to withdraw and dismissed the appeal as moot.

DISPOSITION

dismissed

CASES CITED

- *Anders v. California*, 386 U.S. 738 (1967)
- *Matter of Jodeci S. v. Sheila M.*, 240 A.D.3d 420, 420-421 (1st Dep't 2025)
- *Matter of Rosa M. v. Francisco P.*, 151 A.D.3d 451, 451 (1st Dep't 2017)
- *Matter of T.R. [Jaquasia G.]*, 227 A.D.3d 530, 530 (1st Dep't 2024)
- *Matter of Rolando A.G. v. Marisol R.M.*, 172 A.D.3d 631 (1st Dep't 2019)
- *Matter of Crystal G. v. Marquis E.*, 170 A.D.3d 557, 557-558 (1st Dep't 2019)

OPINION

F.K. v. K.F. 2026 NY Slip Op 02336

PER CURIAM.

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April 16, 2026

Appellate Division, First Department

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This decision is uncorrected and subject to revision before publication in the Official Reports.

F.K., Petitioner-Appellant,

v

K.F. Respondent-Respondent.

Decided and Entered: April 16, 2026

Docket No. V-00062/22, V-00063/22, V-00123/22, V-00124/22|Appeal No. 6377|Case No. 2024-05838|

Before: Moulton, J.P., Scarpulla, Shulman, Rodriguez, Michael, JJ.

Larry S. Bachner, New York, for appellant.

Donna C. Chin, New York, attorney for children.

[*1]

Appeal from order, Supreme Court, Bronx County (Jessica I. Flores, J.), entered on or about August 19, 2024, which temporarily awarded physical custody of the subject children to respondent mother and provided petitioner father with visitation, unanimously dismissed, without costs, as moot.

Application by the father's assigned attorney to withdraw as appellate counsel is granted (*see Anders v California*, 386 US 738 [1967]). A review of the record demonstrates that there are no nonfrivolous issues which could be raised on this appeal. The temporary order of visitation is not an order of disposition within the meaning of Family Court Act § 1112 (a) and thus is not appealable as of right (*see Matter of Jodeci S. v Sheila M.*, 240 AD3d 420, 420-421 [1st Dept 2025]; *Matter of Rosa M. v Francisco P.*, 151 AD3d 451, 451 [1st Dept 2017]). Furthermore, the appeal is moot as the temporary order has already expired and been superseded by subsequent orders of custody and visitation, none of which were appealed

(*see* *Matter of T.R. [Jaquasia G.]*, 227 AD3d 530, 530 [1st Dept 2024]; *Matter of Rolando A.G. v Marisol R.M.*, 172 AD3d 631 [1st Dept 2019]; *Matter of Crystal G. v Marquis E.*, 170 AD3d 557, 557-558 [1st Dept 2019]).

THIS CONSTITUTES THE DECISION AND ORDER

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ENTERED: April 16, 2026

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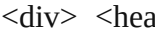
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PER CURIAM.

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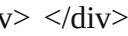
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