

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

Matter of Shelby C.V. v. Joshua W.K.

2026 NY Slip Op 01002 · No. V-8867/24 · Decided February 19, 2026

SUMMARY

The Appellate Division, First Department reversed a Family Court order dismissing a mother's custody petition for lack of jurisdiction. The court held that Family Court failed to comply with the Uniform Child Custody Jurisdiction and Enforcement Act's requirements to communicate with the Ohio court handling a related proceeding and to place that communication on the record. The court also held that Family Court failed to consider whether temporary emergency jurisdiction was necessary in light of allegations of domestic violence.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Manzanet-Daniels, J.P.; Scarpulla, J.; Friedman, J.; Chan, J.; Hagler, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	February 19, 2026
DOCKET	V-8867/24
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a Family Court order dismissing with prejudice the mother's custody petition for lack of jurisdiction.
STANDARD OF REVIEW	Review on the law; the court characterized the failure to comply with the statutory jurisdictional procedures as reversible error.
PRECEDENTIAL VALUE	published
PARTIES	Shelby C.V. v. Joshua W.K.

TOPICS

- child custody
- subject matter jurisdiction
- domestic violence
- appellate procedure
- family law procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Family Court was required to communicate with the Ohio court after learning that a custody-related proceeding was pending there and to make a record of that communication and inform the parties.
2. Whether Family Court was required to consider exercising temporary emergency jurisdiction to protect the mother and child in light of the serious domestic-violence allegations.
3. Whether the failure to communicate with the Ohio court and place the proceedings on the record could be treated as harmless error.

HOLDINGS

1. When a custody-related proceeding is pending in another state, Family Court must comply with the Uniform Child Custody Jurisdiction and Enforcement Act by communicating with the other court, making a record of the communication, and informing the parties. The failure to do so was reversible error.
2. Family Court must consider whether temporary emergency jurisdiction is necessary to protect the mother and child when the circumstances, including serious domestic-violence allegations, warrant that consideration.
3. The court rejected the father's argument that Family Court's failure to communicate with the Ohio court and place the proceedings on the record was harmless error.

KEY QUOTATIONS

“Family Court failed to satisfy the procedural mechanism required by the Uniform Child Custody Jurisdiction and Enforcement Act (Domestic Relations Law, art 5-A) when a custody-related proceeding is pending in another state.” ([*1])

“The father's assertion that the communication might have taken place, even if the court did not mention it on the record, is unavailing because the court must make a record of the communication between the courts and inform the parties, none of which transpired in this case” ([*1])

FACTUAL BACKGROUND

The mother filed a custody petition in New York alleging serious domestic violence involving herself and the child. Family Court became aware that a custody-related proceeding was pending in Ohio and dismissed the New York petition for lack of jurisdiction. The record did not show communication between the New York and Ohio courts, notice to the parties of any such communication, or consideration of temporary emergency jurisdiction.

PROCEDURAL HISTORY

Family Court, New York County, dismissed the mother's custody petition after becoming aware of a related Ohio proceeding. The Appellate Division reversed, denied the motion to dismiss, and remanded for further proceedings because Family Court did not follow the Uniform Child Custody Jurisdiction and Enforcement Act's court-to-court communication and record-making requirements and did not consider temporary emergency jurisdiction in light of domestic-violence allegations.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The motion to dismiss was denied, and the matter was remanded for further proceedings consistent with the UCCJEA, including the required communication with the Ohio court, creation of a record, notice to the parties, and consideration of temporary emergency jurisdiction.

CASES CITED

- Vanneck v Vanneck, 49 NY2d 602, 610-611 (1980)
- Matter of Vashon H. v Bret I., 191 AD3d 1120 (3d Dept 2021)
- Matter of Alger v Jacobs, 169 AD3d 1415, 1416-1417 (4th Dept 2019)
- Matter of Santiago v Riley, 79 AD3d 1045, 1046 (2d Dept 2010)

OPINION

Matter of Shelby C.V. v. Joshua W.K 2026 NY Slip Op 01002

PER CURIAM.

Matter of Shelby C.V. v Joshua W.K (2026 NY Slip Op 01002) Matter of Shelby C.V. v Joshua W.K 2026 NY Slip Op 01002 Decided on February 19, 2026 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided and Entered: February 19, 2026 Before: Manzanet-Daniels, J.P., Scarpulla, Friedman, Chan, Hagler, JJ. V-8867/24 Case No. 2024-07845|Docket No. V-8867/24 |Appeal No. 5884|Case No. 2024-07845| [*1]In the Matter of Shelby C.V., Petitioner-Appellant, v Joshua W.K, Respondent-Respondent. Geoffrey P. Berman, Larchmont, for appellant. Joshua W. Kleinberg, respondent pro se. Order, Family Court, New York County (Jacob K. Maeroff, Ref.), entered on or about December 4, 2024, which, to the extent appealed from as limited by the briefs, dismissed with prejudice the mother's petition for custody on the ground that New York lacked jurisdiction, unanimously reversed, on the law, without costs, the motion to dismiss denied, and the matter remanded for further proceedings. Family Court failed to satisfy the procedural mechanism required by the Uniform Child Custody Jurisdiction and Enforcement Act (Domestic Relations Law, art 5-A) when a custody-related proceeding is pending in another state. Specifically, after the

court became aware of the Ohio proceeding, the record does not reflect that the court attempted to communicate with the Ohio court, which is a reversible error (see Domestic Relations Law §§ 76-c[4]; 76-e[1]; 75-i; *Vanneck v Vanneck* , 49 NY2d 602, 610-611 [1980]; see also *Matter of Vashon H. v Bret I.* , 191 AD3d 1120 [3d Dept 2021]). The father's assertion that the communication might have taken place, even if the court did not mention it on the record, is unavailing because the court must make a record of the communication between the courts and inform the parties, none of which transpired in this case (see Domestic Relations Law § 75-i[4]). Moreover, there is no statutory or case law authority to substantiate the father's argument that the court's failure to communicate with the Ohio court and put the proceedings on the record is a harmless error. Moreover, Family Court failed to comply with the statutory requirement to consider, under the circumstances presented and in light of the serious allegations of domestic violence in the mother's petition, whether it was necessary to exercise temporary emergency jurisdiction to protect the mother and the child (see Domestic Relations Law § 76-c[1]; *Matter of Alger v Jacobs* , 169 AD3d 1415 , 1416-1417 [4th Dept 2019]; *Matter of Santiago v Riley* , 79 AD3d 1045, 1046 [2d Dept 2010]).THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: February 19, 2026