

SUPREME COURT OF THE STATE OF DELAWARE

Brown v. Tucker

No. 157, 2026 (Del. May 28, 2026) · No. No. 157, 2026 · Decided May 28, 2026

SUMMARY

The Delaware Supreme Court dismissed Caitlyn Brown’s appeal from an interlocutory Family Court custody order. Because the order did not finally resolve the custody-modification proceeding and Brown had not complied with Supreme Court Rule 42, the Court held that it lacked jurisdiction to review the appeal.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Per Curiam; Traynor, Justice; LeGrow, Justice; Griffiths, Justice
JURISDICTION	Supreme Court of the State of Delaware
DECIDED	May 28, 2026
DOCKET	No. 157, 2026
DISPOSITION	dismissed
PROCEDURAL POSTURE	Interlocutory appeal from a Family Court order granting temporary custody and scheduling a review hearing; the Supreme Court issued a notice to show cause and dismissed the appeal for lack of jurisdiction.
STANDARD OF REVIEW	The Supreme Court's appellate jurisdiction is limited to review of final trial-court orders absent compliance with Supreme Court Rule 42 for an interlocutory appeal.
PRECEDENTIAL VALUE	Published
PARTIES	Caitlyn Brown v. Kenneth Tucker

TOPICS

- interlocutory appeal
- appellate jurisdiction
- family law procedure
- child custody
- appellate procedure

PRACTICE AREAS

- family law
- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the Family Court's March 27, 2026 custody order was a final judgment or an interlocutory order.
2. Whether the Supreme Court had jurisdiction to review the interlocutory order absent compliance with Supreme Court Rule 42.

HOLDINGS

1. An order is final only when it leaves nothing for future determination or consideration; because the Family Court order did not finally resolve the merits of the custody-modification petition and scheduled a review hearing, it was interlocutory.
2. Absent compliance with Supreme Court Rule 42, the Supreme Court lacks jurisdiction to review an interlocutory order and may review only final trial-court orders.

KEY QUOTATIONS

“An order constitutes a final judgment when it “leaves nothing for future determination or consideration.””
(¶ 2)

“Absent compliance with Rule 42, the appellate jurisdiction of this Court is limited to the review of final trial court orders.” (¶ 3)

FACTUAL BACKGROUND

The Family Court entered an order granting the appellee custody of the appellant's children on a very temporary basis. The order scheduled a future review hearing and did not finally resolve the pending custody-modification petition.

PROCEDURAL HISTORY

The Family Court entered a March 27, 2026 order granting Kenneth Tucker custody of the children on a very temporary basis and scheduling a June 17, 2026 review hearing. Caitlyn Brown appealed on April 15, 2026. After the Supreme Court required her to show cause why the appeal should not be dismissed for failure to comply with Supreme Court Rule 42 governing interlocutory appeals, she responded on the merits but did not address the interlocutory nature of the order. The Supreme Court dismissed the appeal under Supreme Court Rule 29(b).

DISPOSITION

dismissed

CASES CITED

- Werb v. D’Alessandro, 606 A.2d 117, 119 (Del. 1992)
- Julian v. State, 440 A.2d 990, 991 (Del. 1982)

OPINION

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE CAITLYN BROWN,¹ § § No. 157, 2026 Petitioner Below, § Appellant, § Court Below–Family Court § of the State of Delaware v. § § File No. CN20-04793 KENNETH TUCKER, § Petition No. 25-16646 § Respondent Below, § Appellee. § Submitted: May 22, 2026 Decided: May 28, 2026 Before TRAYNOR, LEGROW, and GRIFFITHS, Justices.

ORDER After consideration of the notice to show cause and the appellant’s response, it appears to the Court that: (1) On April 15, 2026, the appellant, Caitlyn Brown, filed a notice of appeal from a March 27, 2026 Family Court order granting custody of the appellant’s children to the appellee “on a very temporary basis” and scheduling a review hearing for June 17, 2026.

The Senior Court Clerk issued a notice to Brown to show cause why this appeal should not be dismissed for her failure to comply with Supreme Court Rule 42 when taking an appeal from an interlocutory order. Brown has 1 The Court previously assigned pseudonyms to the parties under Supreme Court Rule 7(d). responded to the notice to show cause and argues the merits of her appeal but does not address its interlocutory nature.

(2) An order constitutes a final judgment when it “leaves nothing for future determination or consideration.”² Because the Family Court’s March 27 order did not finally resolve the merits of the appellee’s petition for custody modification, it was interlocutory.

(3) Absent compliance with Rule 42, the appellate jurisdiction of this Court is limited to the review of final trial court orders.³ Brown’s failure to comply with Rule 42 leaves this Court without jurisdiction to hear her interlocutory appeal. Brown may appeal once the Family Court issues a final order in the custody- modification proceedings. NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal is DISMISSED under Supreme Court Rule 29(b).

BY THE COURT: /s/ Abigail M. LeGrow Justice 2 Werb v. D’Alessandro, 606 A.2d 117, 119 (Del. 1992) (citation omitted). 3 Julian v. State, 440 A.2d 990, 991 (Del. 1982). 2