

APPELLATE DIVISION OF THE SUPREME COURT OF NEW YORK, THIRD DEPARTMENT

Matter of James EE. v. Vanessa EE.

2026 NY Slip Op 03483 · No. CV-24-1462 · Decided June 4, 2026

SUMMARY

The New York Appellate Division, Third Department, affirmed an amended Family Court order concerning custody, parenting time, violation petitions, and orders of protection. The court held that several of the father's appellate challenges were moot because subsequent orders provided similar relief, and it upheld dismissal of his violation petition because he failed to establish prejudice to his rights. The court also deemed his challenge to denial of joint legal custody abandoned.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of New York, Third Department
WRITING FOR THE COURT	Clark, J.; Garry, P.J.; Fisher, J.; Mackey, J.; Ryba, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	June 4, 2026
DOCKET	CV-24-1462
DISPOSITION	affirmed
PROCEDURAL POSTURE	Father appealed from an amended Family Court order that dismissed his custody-modification and violation petitions, granted the mother's violation applications, continued the existing custody and parenting-time arrangement, and imposed restrictions concerning contact with the children and their medical and educational providers.
STANDARD OF REVIEW	Family Court's determination on a Family Court Act article 6 violation petition is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	James EE. v. Vanessa EE.

TOPICS

- family law procedure
- child custody
- visitation
- mootness
- appellate procedure

PRACTICE AREAS

family law

appellate procedure

QUESTIONS PRESENTED

1. Whether the father's challenges to restrictions on his access to the children's medical and educational information and telephone contact with the children were rendered moot by subsequent Family Court orders.
2. Whether Family Court erred in dismissing the father's violation petition concerning the 2022 custody order.
3. Whether Family Court's dismissal of the father's custody-modification petition should be reversed.

HOLDINGS

1. The father's challenges to the August 2024 order concerning access to the children's medical and educational records and telephone contact with the children were moot because subsequent orders modified or superseded the challenged provisions, and complete relief could not be granted on the appeal.
2. Family Court properly dismissed the father's violation petition because his evidence, even if credited, did not establish that the mother violated the custody order in a manner that prejudiced his rights.
3. The father's challenge to dismissal of his custody-modification petition was not considered because he made no specific argument challenging Family Court's denial of joint legal custody, thereby abandoning that argument.

KEY QUOTATIONS

*"In other words, even if the father were successful in challenging the August 2024 order on this ground, complete relief could not be accorded in the context of this appeal since subsequent orders, which are not the subject of this appeal, contain the same prohibition" (*2)*

*"the proponent of a violation petition "must establish by clear and convincing evidence that the party charged with contempt had actual knowledge of a lawful, clear and unequivocal order, that the charged party disobeyed that order, and that this conduct prejudiced the opposing party's rights"" (*3)*

FACTUAL BACKGROUND

The father and mother have two children, and a 2022 order awarded the mother sole legal and residential custody while granting the father parenting time on alternate weekends. The father alleged that the mother interfered with his parenting time, while the mother alleged that the father violated the custody order by interfering with medical and educational decisions, contacting providers, making CPS reports, and failing to comply with restrictions concerning the children. Family Court dismissed the father's petitions, granted the mother's enforcement applications, and continued substantially the existing custody arrangement.

PROCEDURAL HISTORY

Family Court of Otsego County entered an amended order after a fact-finding hearing in August 2024. The court dismissed the father's modification and violation petitions, found that he willfully violated the 2022 custody order, granted the mother's enforcement applications, and imposed restrictions on his contact with the children and their providers. While the appeal was pending, later Family Court orders modified some of the challenged provisions, leading the Appellate Division to conclude that several issues were moot; it reached the merits of the father's challenge to dismissal of his violation petition and affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of James EE. v. Vanessa EE., 228 AD3d 1025 (3d Dept 2024)
- Matter of Joshua J. [Tameka J.], 44 NY3d 394, 401 (2025)
- Matter of Frank CC. v. Cecilia BB., 182 AD3d 642, 643 (3d Dept 2020)
- Matter of Audra Z. v. Lina Y., 135 AD3d 1197, 1198 (3d Dept 2016)
- Matter of Ashley UU. v. Ned VV., 235 AD3d 1200, 1202-1203 (3d Dept 2025)
- Matter of Jahari BB. v. Zada CC., 232 AD3d 1142, 1146-1147 (3d Dept 2024)
- Matter of David ZZ. v. Amanda YY., 244 AD3d 1357, 1358 (3d Dept 2025)
- Matter of Tina X. v. Thomas Y., 233 AD3d 1272, 1275 (3d Dept 2024)
- Matter of Nelson UU. v. Carmen VV., 202 AD3d 1414, 1416 (3d Dept 2022)
- Matter of Smith v. Morrison, 196 AD3d 772, 773 n. (3d Dept 2021)