

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOHN TOWER,¹

Petitioner Below,
Appellant,

v.

JANET FOWLER,

Respondent Below,
Appellee.

§

§ No. 317, 2023

§

§ Court Below–Family Court
§ of the State of Delaware

§

§ File No. CN14-04728

§ Petition No. 22-21006

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Submitted: February 23, 2024

Decided: April 30, 2024

Before **SEITZ**, Chief Justice; **VALIHURA** and **GRIFFITHS**, Justices.

ORDER

After consideration of the appellant’s opening brief and the record on appeal, we conclude that the judgment below should be affirmed on the basis of and for the reasons assigned by the Family Court in its August 23, 2023 order denying the appellant’s petition for a rule to show cause. To the extent that the appellant argues that he is entitled to a rule to show cause based on events that occurred after the Family Court entered the order that is the subject of this appeal, those claims must

¹ The Court previously assigned pseudonyms to the parties under Supreme Court Rule 7(d).

be presented to the Family Court in the first instance.² And, to the extent that the appellant argues that the Family Court judge exhibited bias against him during the rule-to-show-cause hearing, we are unable to review this claim because the appellant did not provide the Court with the transcript of the hearing.³

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice

² See *Holmes v. Grant*, 2023 WL 2768914, at *1 (Del. Apr. 3, 2023) (“To the extent that the appellant argues that the residential placement and contact schedule should be altered based on events that have occurred since the Family Court entered the order that is the subject of the appeal, that claim must be presented to the Family Court in the first instance.”); *Price v. Boulden*, 2014 WL 3566030, at *2 (Del. July 14, 2014) (“[T]his evidence was not available to the Family Court in the first instance, is outside of the record on appeal, and cannot properly be considered by this Court.”); *Del. Elec. Coop., Inc. v. Duphily*, 703 A.2d 1202, 1206 (Del. 1997) (“It is a basic tenet of appellate practice that an appellate court reviews only matters considered in the first instance by a trial court.”).

³ Supr. Ct. R. 14(e) (requiring that “the appellant’s appendix ... contain such portions of the trial transcript as are necessary to give this Court a fair and accurate account of the context in which the claim of error occurred and must include a transcript of all evidence relevant to the challenged finding or conclusion”); *Trioche v. State*, 525 A.2d 151, 154 (Del. 1987) (holding that the burden is on the appellant to produce parts of the trial transcript that are necessary to give the Court the ability to review his claims).