

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RICHARD A. THORPE, SR.,	§
	§
Petitioner Below-	§ No. 138, 2005
Appellant,	§
	§
v.	§ Court Below—Family Court
	§ of the State of Delaware,
ANTOINETTE D. THORPE,	§ in and for New Castle County
	§ File No. CN00-11009
Respondent Below-	§ Petition No. 02-11653
Appellee.	§

Submitted: September 2, 2005

Decided: November 4, 2005

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

**ORDER**

This 4<sup>th</sup> day of November 2005, upon consideration of the appellant's opening brief and the appellee's motion to affirm, it appears to the Court that:

(1) The appellant, Richard Thorpe ("Husband"), filed this appeal from decisions of the Family Court, dated February 14, 2005 and March 11, 2005, on matters of property division and alimony ancillary to the parties' divorce. The appellee, Antoinette Thorpe ("Wife"), has filed a motion to affirm the Family Court's judgment on the ground that it is manifest on the face of Husband's opening that the appeal is without merit. We agree and affirm.

(2) The record reflects that Husband and Wife were married in 1988, separated in 1998, and divorced in 2002. The parties have two minor children

who live with Wife. In May 2001, Husband was ordered to pay Wife child support of \$784 per month. The Family Court held a hearing in January 2005 on Husband's petition for alimony and property division. At the hearing, the trial court heard testimony from both parties, as well as a vocational expert.

(3) Based on the evidence presented at the hearing, the Family Court concluded, despite Husband's unemployment and undocumented health problems, he was capable of earning between \$21,000 and \$46,000 per year. The trial judge attributed Husband with income of \$36,460 per year and expenses of \$850 per month. Wife's income was \$45,595 with expenses of \$4505 per month. After considering all of the statutory factors, the Family Court divided the parties' assets and debts 50-50 and denied Husband's petition for alimony. The Family Court also awarded Wife attorneys fees in the amount of \$7718.96 because of Husband's "overly litigious conduct" and Husband's failure to diligently seek employment without just cause.

(4) In his opening brief on appeal, Husband raises four issues: (i) the Family Court violated his constitutional rights by ordering him to undergo an independent medical examination; (ii) the Family Court improperly ordered Husband to appear for a vocational evaluation after the period of discovery had ended; (iii) the Family Court ignored relevant facts presented at the hearing

regarding the parties' marital residence; and (iv) the trial court improperly awarded Wife attorneys fees.

(5) Having carefully considered the parties' respective positions, we find it manifest that the judgment of the Family Court should be affirmed on the basis of the Family Court's well-reasoned decisions dated February 14, 2005 and March 11, 2005. Given Husband's petition for alimony and his alleged poor health, we find no abuse of the Family Court's discretion in ordering Husband to undergo a medical evaluation and a vocational evaluation. The Family Court's findings of fact are amply supported by the record, and we find no error in its division of property or denial of alimony.<sup>1</sup> Moreover, we find the Family Court's award to Wife of half her attorneys fees to be the result of a logical deductive process.<sup>2</sup>

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

BY THE COURT:

/s/Henry duPont Ridgely

Justice

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<sup>1</sup> *Gregory J.M. v. Carolyn A.M.*, 442 A.2d 1373, 1374 (Del. 1982).

<sup>2</sup> *Gray v. Gray*, 503 A.2d 198, 204 (Del. 1986).