

IN THE SUPREME COURT OF THE STATE OF DELAWARE

THERESA D. LAWRENCE,	§	
	§	No. 535, 2004
Petitioner/Cross-Respondent Below,	§	
Appellant,	§	Court Below--Family Court of
	§	the State of Delaware, in and
v.	§	for New Castle County
	§	
DONALD F. SIMMONS,	§	C.A. No. 01-09216.
	§	
Respondent/Cross-Petitioner Below,	§	
Appellee.	§	

Submitted: September 9, 2005

Decided: December 14, 2005

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 14th day of December 2005, it appears to the Court that:

(1) In 2001, Theresa Lawrence and Donald Simmons¹ each filed a petition seeking custody of their four year-old daughter. The final hearing on custody took place in September 2004.² By decision dated November 8, 2004, the Family Court awarded the parties joint custody and “share[d] primary residence.” Lawrence appealed the Family Court’s decision.

¹The Court, *sua sponte*, has assigned pseudonyms to the parties. Supr. Ct. R. 7(d).

²In the interim, it appears that the Family Court held several hearings and issued a number of interim orders.

(2) On appeal, both Lawrence and Simmons challenge the Family Court’s factual findings and both request affirmative relief from the Family Court’s decision. The Court has concluded, however, that it has no basis in the record for evaluating the claims advanced by Lawrence or for considering the claims advanced by Simmons.

(3) As the appellant, Lawrence was required to produce any transcript that is necessary to support her claims on appeal.³ Lawrence did not produce any transcript.⁴ In the absence of the relevant transcript, including but not limited to a transcript of the final custody hearing, the Court has no adequate record to evaluate the merit of Lawrence’s claims on appeal.⁵

(4) As the appellee, Simmons was required to file a cross-appeal to assert his claims for affirmative relief on appeal.⁶ Simmons did not file a cross-appeal. In the absence of a cross-appeal, Simmons is limited to advancing arguments that defend the Family Court’s judgment.⁷

³Supr. Ct. R. 9(e)(ii), 14(e); *Porter v. Mannion*, 2004 WL 1656507 (Del. Supr.) (citing *Tricoche v. State*, 525 A.2d 151, 154 (Del. 1987)).

⁴At the outset of this appeal, Lawrence filed directions to the court reporter for preparation of transcript. Lawrence did not pay for the transcript, however, and by letter dated February 23, 2005, she requested that the appeal without the transcript.

⁵*Parson v. Parson*, 2002 WL 442399 (Del. Supr.) (citing *Slater v. State*, 606 A.2d 1334, 1336-37 (Del. 1992)).

⁶*Hercules, Inc. v. AIU Ins. Co.*, 783 A.2d 1275, 1277 (Del. 2000).

⁷*Id.*

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice