

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CANDY R. BODE, <sup>1</sup>	§
	§
Petitioner Below-	§ No. 468, 2007
Appellant,	§
	§
v.	§ Court Below—Family Court
	§ of the State of Delaware,
TABITHA MOORE,	§ in and for New Castle County
	§ C.A. No. CN07-03570
Respondent Below-	§
Appellee.	§

Submitted: April 11, 2008

Decided: June 20, 2008

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

**ORDER**

This 20<sup>th</sup> day of June 2008, upon consideration of the opening brief and the record on appeal, it appears to the Court that:

(1) The appellant, Candy Bode, filed this appeal from the Family Court’s order granting Bode visitation rights with her granddaughter. In her letter-brief on appeal, Bode contends that the Family Court erred by not granting her all of the relief that she sought, which was visitation with her granddaughter every other weekend, “a few days out of the week,” and all holidays. Bode argues that she should have received all of the visitation

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<sup>1</sup> The Court previously ordered that pseudonyms be assigned to the parties pursuant to Supreme Court Rule 7(d).

time she requested because respondent, who is the child's mother, failed to appear in court.

(2) In seeking visitation, the burden of proof is on the grandparent to establish by a preponderance of the evidence that the child's visitation with the grandparent is in the best interests of the child.<sup>2</sup> The grant or denial of visitation is within the sound discretion of the Family Court.<sup>3</sup> Despite Bode's belief to the contrary, the Family Court still was required to consider the child's best interests before granting visitation even though Moore failed to appear in court. Under the circumstances, we find that the Family Court did not abuse its discretion in granting Bode weekly visitation with her granddaughter, along with one monthly overnight stay.

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

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice

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<sup>2</sup> See *Rosemary E.R. v. Michael G.Q.*, 471 A.2d 995, 996 (Del. 1984).

<sup>3</sup> *Thomas v. Nichols-Jones*, 2006 WL 2844525 (Del. Oct. 3, 2006).