

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                        |   |                               |
|------------------------|---|-------------------------------|
| KEITH O. WAYMAN, SR.,  | § |                               |
|                        | § | No. 553, 2002                 |
| Petitioner Below,      | § |                               |
| Appellant,             | § | Court Below: Family Court of  |
|                        | § | the State of Delaware, in and |
| v.                     | § | for Kent County in File No.   |
|                        | § | CK01-03307.                   |
| JUANITA VAUGHN and THE | § |                               |
| OFFICE OF THE CHILD    | § |                               |
| ADVOCATE,              | § |                               |
|                        | § |                               |
| Respondents Below,     | § |                               |
| Appellees.             | § |                               |

Submitted: February 24, 2003

Decided: April 2, 2003

Before **WALSH, HOLLAND** and **BERGER**, Justices.

**ORDER**

This 2<sup>nd</sup> day of April 2003, upon consideration of the appellant's opening brief and the appellee's motion to affirm, it appears to the Court that:

(1) In 2002, the Family Court considered cross-petitions for custody that were filed by Keith O. Wayman, Sr. (Wayman) and Juanita Vaughn (Vaughn). During the course of the custody proceedings, the Family Court appointed the Office of the Child Advocate (OCA) to represent the interests of the minor child. By decision dated September 12,

2002, the Family Court awarded joint custody of the minor child to Wayman and Vaughn with primary placement of the child with Vaughn. Wayman filed an appeal from the Family Court's September 12, 2002 decision.

(2) The Court has carefully considered the opening brief filed by Wayman, the motion to affirm filed by the OCA and the Family Court record. The Court concludes that the Family Court's September 12 decision represents a proper exercise of discretion, in full consideration of the factors set forth in title 13, section 722(a) of the Delaware Code. To the extent the issues raised on appeal are factual, the record supports the trial judge's factual findings. To the extent the errors alleged on appeal are attributed to an abuse of discretion, the record does not support those assertions. To the extent the issues on appeal are legal, the trial judge committed no legal errors of law. Therefore, we conclude that the judgment of the Family Court should be affirmed.

NOW, THEREFORE, IT IS ORDERED that OCA's motion to affirm is GRANTED pursuant to Supreme Court Rule 25(a). The judgment of the Family Court as to Vaughn is AFFIRMED, *sua sponte*, pursuant to Supreme Court Rule 25(b).

BY THE COURT:

/s/ Randy J. Holland  
Justice