

IN THE SUPREME COURT OF THE STATE OF DELAWARE

AMANDA SCOTT, <sup>1</sup>	§	
	§	No. 309, 2010
Respondent Below,	§	
Appellant,	§	Court Below—Family Court of
	§	the State of Delaware in and for
v.	§	New Castle County
	§	
ANDREW SCOTT,	§	
	§	File No. 08-05400
Petitioner Below,	§	Pet. No. 09-04846
Appellee.	§	

Submitted: September 17, 2010

Decided: December 17, 2010

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

**ORDER**

This 17<sup>th</sup> day of December 2010, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The parties divorced in 2009 after a marriage of twenty-seven months. The Family Court retained jurisdiction to decide ancillary matters. The respondent-appellant, Amanda Scott (“Wife”), filed this appeal from the Family Court’s orders that divided the parties’ marital estate,<sup>2</sup> denied her

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<sup>1</sup> By Order dated May 27, 2010, the Court *sua sponte* assigned pseudonyms to the parties. Del. Supr. Ct. R. 7(d).

<sup>2</sup> The record reflects that the parties appeared for a hearing on March 10, 2010. The Family Court’s order dividing the parties’ marital estate issued on March 15, 2010.

“motion for rediscovery,”<sup>3</sup> and denied her motion for reargument.<sup>4</sup> The petitioner-appellee, Andrew Scott (“Husband”), has moved to affirm the judgment of the Family Court on the ground that it is manifest on the face of the opening brief that the appeal is without merit.<sup>5</sup> We agree and affirm.

(2) The Family Court has broad discretion to divide marital property under title 13, section 1513 of the Delaware Code.<sup>6</sup> On appeal from an order dividing a marital estate, this Court reviews the facts and the law as well as the inferences and deductions made by the Family Court.<sup>7</sup> The Court will not disturb findings of fact unless they are clearly wrong and justice requires that they be overturned.<sup>8</sup> Conclusions of law are reviewed *de novo*.<sup>9</sup> If the Family Court has correctly applied the law, our standard of review is abuse of discretion.<sup>10</sup>

(3) In this case, the Family Court awarded Wife 50% of the marital assets and 40% of the marital debt that was not otherwise waived by

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<sup>3</sup> Wife filed her “motion for rediscovery” on March 25, 2010. Husband responded orally to the motion at a custody hearing on April 7, 2010. The Family Court’s order denying the “motion for rediscovery” issued on April 16, 2010.

<sup>4</sup> By order dated May 12, 2010, the Family Court denied Wife’s motion for reargument filed on April 27, 2010.

<sup>5</sup> Del. Supr. Ct. R. 25(a).

<sup>6</sup> Del. Code Ann. tit. 13, § 1513 (2009). *Newman v. Newman*, 2006 WL 1725581 (Del. Supr.) (citing *Linder v. Linder*, 496 A.2d 1028, 1030 (Del. 1985)).

<sup>7</sup> *Wife (J.F.V.) v. Husband (O.W.V.)*, 402 A.2d 1202, 1204 (Del. 1979).

<sup>8</sup> *Id.*

<sup>9</sup> *Mundy v. Devon*, 906 A.2d 750, 752 (Del. 2006) (citing *In re Heller*, 669 A.2d 25, 29 (Del. 1995)).

<sup>10</sup> *Forrester v. Forrester*, 953 A.2d 175, 179 (Del. 2008) (citing *W. v. W.*, 339 A.2d 726, 727 (Del. 1975)).

Husband. Additionally, the Family Court offset Wife's portion of the marital debt by \$820, an amount owed by Husband on Wife's behalf for attorney's fees. The Family Court denied Wife's "motion for rediscovery" after concluding that Wife's alleged newly-discovered evidence was available to her well in advance of the March 2010 hearing on ancillary matters. The Family Court denied Wife's motion for reargument after concluding that the motion was "based on restatements of previously made arguments and discoverable evidence that should have been presented at trial."

(4) In her opening brief, Wife takes issue with the orders on appeal. She fails, however, to identify any factual findings or inferences made by the Family Court that are "clearly wrong," unsupported by the record or illogical.<sup>11</sup> In essence, Wife asks this Court to substitute its own opinion for the factual findings and deductions made by the Family Court, which would be an improper exercise of this Court's appellate jurisdiction. Having reviewed the parties' positions on appeal and the Family Court record, we conclude that there is no basis for disturbing the factual findings of the Family Court and no errors of law.

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<sup>11</sup> The Court notes that Wife elected to proceed without the transcript that she ordered for the appeal.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the motion to affirm is GRANTED. The judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice