

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARY R. STREET,¹

Movant Below-
Appellant,

v.

CHARLES A. BUTLER,

Respondent Below-
Appellee.

§

§

§ No. 100, 2011

§

§

§ Court Below—Family Court

§ of the State of Delaware,

§ in and for Sussex County

§ File No. CS06-01448

§ Petition No. 10-35794

§

Submitted: May 5, 2011

Decided: June 20, 2011

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

ORDER

This 20th day of June 2011, upon consideration of the appellee's motion to dismiss² and the appellant's response thereto, it appears to the Court that:

(1) Appellant, Mary Street (Mother), filed this appeal from a Family Court decision, entered January 28, 2011, denying her motion requesting the Family Court to relinquish jurisdiction of the case to the State of Maryland. Because it denied Mother's motion to relinquish jurisdiction, the Family Court has scheduled a two-day hearing on Father's petition to

¹ The Court assigned pseudonyms to the parties pursuant to Supreme Court Rule 7(d).

² The appellee also filed a motion to affirm, which we do not address given our disposition of the motion to dismiss.

modify visitation to be held on July 19-20, 2011. Father has filed a motion to dismiss Mother's appeal on the ground that the Family Court's January 28th decision is an interlocutory order, and Mother has failed to comply with the requirements of Supreme Court Rule 42 in filing this interlocutory appeal.

(2) Mother filed a response to the motion to dismiss. She contends that the jurisdictional issue on appeal is separate from the underlying visitation issue and, thus, should be separately appealable. We disagree.

(3) An order constitutes a final judgment when it "leaves nothing for future determination or consideration."³ The Family Court's jurisdictional ruling is an interlocutory ruling because it did not address the merits of the case but, instead, left the merits of Husband's petition to modify visitation for future determination.⁴

(4) Absent compliance with Supreme Court Rule 42, the appellate jurisdiction of this Court is limited to the review of final trial court orders.⁵ Mother's failure to comply with Supreme Court Rule 42 leaves this Court without jurisdiction to hear her interlocutory appeal. Mother may appeal the January 2011 jurisdictional ruling, however, once the Family Court issues a final order on the merits of the case.

³ *Werb v. D'Alessandro*, 606 A.2d 117, 119 (Del. 1992).

⁴ *Showell Poultry, Inc. v. Delmarva Poultry Corp.*, 146 A.2d 794, 795 (Del. 1958).

⁵ *Julian v. State*, 440 A.2d 990, 991 (Del. 1982).

NOW, THEREFORE, IT IS ORDERED that the within interlocutory appeal is hereby DISMISSED. The filing fee paid by Mother in this appeal may be transferred to any future appeal from a final judgment of the Family Court.

BY THE COURT:

/s/ Randy J. Holland
Justice