

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KAITLIN HARLEY,	§
	§ No. 354, 2000
Petitioner-Below,	§
Appellant/Cross-Appellee,	§
	§ Court Below—Family Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
MATTHEW J. BROWN,	§ File No. CN97-07555
	§
Respondent Below,	§
Appellee/Cross Appellant.	§

Submitted: May 8, 2001  
Decided: July 17, 2001

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

This 17<sup>th</sup> day of July 2001, it appears to the Court that:

1) This is an appeal and a cross-appeal from separate judgments entered by the Family Court on June 21, 2000. The proceeding in the Family Court included a Rule to Show Cause for Contempt and Petition to Transfer Primary Residence filed by the Father, respondent-appellee, Matthew J. Brown (“appellee”), and a Petition to Reopen Custody Proceeding filed by the Mother, petitioner-appellant, Kaitlin Harley (“appellant”), under Family Court Civil Rule 60(b).

2) We begin with the issue raised in the original appeal. The appellant moved to reopen proceedings which had been decided initially by

a Temporary Order of the Family Court and ultimately resolved by a Stipulated Order of the parties on September 27, 1999. The appellant subsequently retained a different attorney to represent her. The appellant contends that the Stipulated Order was entered into by her, “based on duress, mistake, and ineffective assistance of counsel.”

3) The Family Court held a hearing on June 6, 2000. In a memorandum opinion, the trial judge noted that all parties had been represented by counsel and had consulted with three psychologists who specialize in family and children matters before agreeing to the September 1999 Stipulated Order that was approved and entered as a judgment. The Family Court denied the appellant’s motion to reopen the judgment that was entered on the basis of the Stipulated Order.

4) The Family Court then decided the appellee’s Rule to Show Cause for Contempt. The Family Court found the appellant to be in civil contempt of the September 1999 Stipulated Order. That finding is not on appeal.

5) The cross-appeal challenges the Family Court’s remedy and order to compel compliance with the Stipulated Order. After finding the appellant in contempt of the September Stipulated Order, the Family

Court's remedy was to order a replacement of the psychologist who had been working with this family. As part of the June 21, 2000 order, the Family Court also *sua sponte* dismissed appellee's Petition to Transfer Primary Residence to him. The Father contends that an appropriate remedy for a finding of contempt by the Mother should have included a transfer of primary residence to him, the appellee. Accordingly, the appellee's cross-appeal challenges the Family Court's limited remedy for contempt and its summary dismissal of his Petition to Transfer Primary Residence.

6) The Father's motion for reargument in the Family Court "pointed out that the Petition to Transfer Primary Residence had been filed in April 2000, that the Family Court had not noticed that the petition was to be heard on June 6, 2000, that the petition had not been timely answered, and that due process required notice and hearing." The Family Court denied the Motion to Reargue stating "[T]here is no factual basis for reargument." In response to the cross-appeal, the appellant argues that the Family Court properly dismissed the Father's Petition 00-13074 because it was simply an update of Petition 00-00104, which the Family Court heard

and decided on the merits. The appellant also submits that the Family Court's disposition of the contempt proceeding was appropriate.

7) This Court has carefully considered the briefs filed on behalf of the parties with regard to the appeal and the cross-appeal. The record reflects that the Family Court had the parties and their respective attorneys before it on June 6, 2000. Each of the parties was given an opportunity to be heard on all issues in an effort to completely resolve an emotionally charged and protracted custody dispute.

8) This Court has concluded that the Family Court's rulings on June 21, 2000 are the product of an orderly and logical deductive process. This Court has determined to the extent that the issues raised on appeal are factual, the record evidence supports the trial judge's factual findings. To the extent that the errors alleged on appeal are attributed to an abuse of discretion, the record does not support those assertions. To the extent that the issues raised on appeal are legal, they are controlled by settled Delaware law, which was properly applied.

NOW, THEREFORE, IT IS ORDERED that the judgments of the Family Court are AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland  
Justice