

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RANDI JENKINS, ¹	§
	§ No. 259, 2012
Respondent Below,	§
Appellant,	§ Court Below—Family Court
	§ of the State of Delaware, in
v.	§ and for New Castle County
	§
BRADLEY JENKINS,	§ File No. CN05-02658
	§ CPI No. 10-28585
Petitioner Below,	§
Appellee.	§

Submitted: September 21, 2012

Decided: October 31, 2012

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 31st day of October 2012, upon consideration of the appellant’s opening brief and the record below,² it appears to the Court that:

(1) The respondent-appellant, Randi Jenkins (“Wife”), filed an appeal from the Family Court’s May 8, 2012 order dismissing the request for an ancillary hearing on property division, permanent alimony, and costs filed

¹ The Court *sua sponte* assigned pseudonyms to the parties by Order dated May 17, 2012. Supr. Ct. R. 7(d).

² Because the appellee failed to file an answering brief, the Court notified the parties on August 22, 2012, that the appeal would be considered on the basis of the appellant’s opening brief and the record below.

by the petitioner-appellee, Bradley Jenkins (“Husband”). We find no merit to the appeal. Accordingly, we affirm.

(2) The record before us reflects that, following the Family Court’s grant of a continuance, the hearing on matters ancillary to the parties’ July 7, 2011 divorce was re-scheduled for May 7, 2012. The ancillary matters to be taken up by the Family Court included property division, permanent alimony, and court costs. On the day of the re-scheduled hearing, Wife telephoned the Family Court and received permission to participate by telephone due to her illness. At the time of the hearing, however, Wife did not answer her phone and did not return the Family Court’s phone call. Moreover, Husband failed to appear and did not contact the Family Court regarding his failure to appear. On May 8, 2012, the Family Court dismissed the case.

(3) In her appeal from the Family Court’s May 8, 2012 order, Wife claims that she was sick at the time of the hearing and did not hear the telephone when the Family Court called her.

(4) A Family Court decision to dismiss a petition is reviewed by this Court for an abuse of discretion.³ This Court accepts the factual findings of

³ *Beck v. Beck*, 766 A.2d 482, 484 (Del. 2001).

the Family Court unless they are clearly wrong and justice requires that they be overturned.⁴

(5) We find no abuse of discretion on the part of the Family Court in ordering the dismissal of all matters ancillary to the parties' divorce under the circumstances presented here. The judgment of the Family Court will, therefore, be affirmed.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁴ *Wife (J.F.V.) v. Husband (O.W.V., Jr.)*, 402 A.2d 1202, 1204 (Del. 1979).