

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TRACEY M. BRADLEY, <sup>1</sup>	§
	§
Petitioner Below-	§ No. 280, 2011
Appellant,	§
	§ Court Below—Family Court
v.	§ of the State of Delaware,
	§ in and for Kent County
JAMES L. GARBER,	§ File No. CK95-04142
	§ Petition Nos. 10-15316
Respondent Below-	§ 10-32296 and 10-40216
Appellee.	

Submitted: September 9, 2011  
Decided: November 10, 2011

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

**ORDER**

This 10th day of November 2011, upon consideration of the appellant's opening brief and the record on appeal, it appears to the Court that:

(1) The appellant, Tracey Bradley, filed this appeal from a Family Court order dated May 17, 2011. The Family Court found that the appellee, James Garber, is not the biological father of Bradley's son, Jack. The Family Court thus ordered that Garber's name be removed from the birth record as Jack's father and

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<sup>1</sup> Pseudonyms were assigned to the parties pursuant to Supreme Court Rule 7(d). The Court also has used pseudonyms in this order to identify appellant's children.

also granted Garber's request to decrease his child support obligation.<sup>2</sup> We find no merit to Bradley's appeal. Accordingly, we affirm the Family Court's judgment.

(2) The record reflects that Bradley filed a petition for parentage determination in April 2010 asserting that Garber is not the biological father of Jack. Bradley asserted that another man, Kevin Reed (a pseudonym), is Jack's father.<sup>3</sup> She requested that Garber's name be removed from Jack's birth record. In August 2010, Garber filed a motion to decrease his child support obligation. In October 2010, Bradley filed a motion requesting to dismiss her petition to determine parentage, which Garber opposed, and the Family Court denied. The Family Court held a hearing in November 2010 on Bradley's petition and ordered genetic testing. Before the results of the DNA testing were received, Bradley filed a petition seeking an increase in Garber's monthly child support obligation.

(3) After a hearing in February 2011, after the DNA results established that Garber is not Jack's biological father, the Commissioner granted Bradley's petition to determine parentage and ordered that Garber's name be removed from the birth record. The Commissioner denied Bradley's request to add Reed's name to the birth record because Bradley had not filed her petition to include Reed. Finally, the Commissioner granted Garber's request for a modification of his child

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<sup>2</sup> Pursuant to a prior support order, Garber was ordered to pay support for two of Bradley's children, David and Jack. The parties do not dispute that Garber is the biological father of David.

<sup>3</sup> Bradley did not name Reed as a party to her petition.

support obligation due to a substantial change in circumstances. The Commissioner reduced Garber's monthly obligation from \$432 per month to \$289 per month plus \$11 per month in arrears. Upon Bradley's request for review de novo, a judge of the Family Court concluded that the Commissioner had erred in two respects with regards to Garber's child support obligation.<sup>4</sup> As neither error impacted the final amount of support Garber was ordered to pay, however, the Family Court affirmed the Commissioner's ruling. Bradley now appeals.

(4) In her opening brief, Bradley argues that the Commissioner erred by: (i) not including Kevin Reed as a party to her petition, (ii) attributing Garber with a self-support allowance of \$1120 instead of \$1070; and (iii) using an incorrect SOLA percentage. We find no merit to Bradley's appeal.

(5) Our standard of review of a decision of the Family Court extends to a review of the facts and law, as well as the inferences and deductions made by the trial judge.<sup>5</sup> We have the duty to review the sufficiency of the evidence and to test the propriety of the trial court's conclusions.<sup>6</sup> Findings of fact will not be disturbed on appeal unless they are determined to be clearly erroneous.<sup>7</sup> We will not

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<sup>4</sup> Specifically, the Family Court found that it was error for the Commissioner to attribute Bradley with an income of \$1487 per month instead of \$1300 per month. The Family Court also concluded that the retroactive date for the support modification should have been November 15, 2010 and not November 13, 2010.

<sup>5</sup> *Solis v. Tea*, 468 A.2d 1276, 1279 (Del. 1983).

<sup>6</sup> *Wife (J.F.V.) v. Husband (O.W.V., Jr.)*, 402 A.2d 1202, 1204 (Del. 1979).

<sup>7</sup> *Mundy v. Devon*, 906 A.2d 750, 752 (Del. 2006).

substitute our opinion for the inferences and deductions of the trial judge if those inferences are supported by the record.<sup>8</sup>

(6) In this case, the Family Court did not err in denying Bradley's request that Reed's name be added to the birth record as Jack's father because Bradley had not filed her petition against Reed. Moreover, with respect to Garber's child support obligation, we find that the Family Court's factual determinations are supported by the record. We find no basis to disturb those findings on appeal. The Family Court properly applied the law to the facts in concluding that Father's child support obligation should be reduced from \$432 per month to \$289 per month (plus \$11 per month arrears) given the results of the DNA testing. The Family Court did not err in applying the standard child support formula based on Garber's support for one child instead of two.

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

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>8</sup> *Wife (J.F.V.) v. Husband (O.W.V., Jr.)*, 402 A.2d at 1204.