

IN THE SUPREME COURT OF THE STATE OF DELAWARE

THOMAS J. BURNS,	§
	§
Respondent Below-	§ No. 325, 2001
Appellant,	§
	§
v.	§ Court Below—Family Court
	§ of the State of Delaware,
MARJORIE S. LAMB,	§ in and for New Castle County
	§ File No. CN00-06046
Petitioner Below-	§
Appellee.	§

Submitted: September 11, 2001

Decided: October 17, 2001

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

**ORDER**

This 17<sup>th</sup> day of October 2001, upon consideration of the appellant's opening brief and the appellee's motions to dismiss and affirm, it appears to the Court that:

(1) The appellant, Thomas J. Burns, filed this appeal on July 16, 2001 from an order of the Family Court dated July 6, 2001. The July 6, 2001 order denied Burns' series of four motions for sanctions against Suzanne Seubert, the attorney representing his former wife, Marjorie Lamb. Burns' motions alleged that Seubert had made various misrepresentations to the Family Court during a contempt of court proceeding that Lamb had instituted against Burns for

Burns' alleged violation of a stipulated-to order dated November 22, 2000, which settled the parties' property division issues remaining from their divorce.

(2) Lamb filed a motion to dismiss Burns' appeal on the ground that the appeal was interlocutory when it was filed, and Burns did not comply with the requirements of Supreme Court Rule 42 when taking the interlocutory appeal. Lamb contends that, when the appeal was filed on July 16, 2001, a motion for attorneys fees was still pending before the Family Court. Lamb acknowledges, however, that the Family Court resolved the attorneys fees issue on July 17, 2001. Accordingly, we must deny Lamb's motion to dismiss.

(3) Lamb also has filed a motion to affirm the Family Court's judgment on the ground that it is manifest on the face of Burns' opening brief that the appeal is without merit. We have considered the record and the parties' respective positions on appeal very carefully. The three arguments raised by Burns in his opening brief challenge the conduct of the Family Court judge. Burns' contentions are entirely unsubstantiated. We find no error or abuse of discretion in the trial judge's refusal to disqualify himself from the case below. Moreover, we find the Family Court's ruling on Burns' motions for sanctions to be amply supported by the record and free from legal error. Consequently, we have concluded that the denial of Burns' motions for sanctions should be

affirmed on the basis of the Family Court's well-reasoned decision dated July 6, 2001.

NOW, THEREFORE, IT IS ORDERED that the motion to dismiss is DENIED. The motion to affirm is GRANTED. The judgment of the Family Court is AFFIRMED.

BY THE COURT:

Steele

/s/ Myron T.

Justice