

IN THE SUPREME COURT OF THE STATE OF DELAWARE

FRED WALTON,	§	
	§	No. 149, 2003
Petitioner Below-	§	
Appellant,	§	Court Below – Family Court
	§	of the State of Delaware,
v.	§	in and for New Castle County
	§	File No. CN99-08005
MARY WALTON,	§	Petition Nos. 00-28915;01-11574;
	§	02-06166;02-33389
Respondent Below-	§	
Appellee.	§	

Submitted: October 31, 2003
Decided: December 17, 2003

Before **HOLLAND, STEELE** and **JACOBS**, Justices

ORDER

This 17th day of December 2003, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The petitioner-appellant, Fred Walton (“Father”),¹ filed an appeal from the Family Court’s January 28, 2003 and February 27, 2003 orders, which denied Father’s request that respondent-appellee Mary Walton (“Mother”) be held in contempt and denied Father’s request for residential custody of the parties’ two minor children. We find no merit to the appeal. Accordingly, we AFFIRM.

¹ The Court sua sponte has assigned pseudonyms to the parties pursuant to Supr. Ct. R. 7(d).

(2) Mother and Father were divorced on April 20, 2000. In August 1999, they entered into a consent agreement providing for joint legal custody, with Mother to have residential custody and Father to have visitation consistent with the Family Court's standard visitation guidelines. On August 3, 1999, the parties' agreement was entered as an order of the Family Court. In December 1999, March 2000, and April 2000, Father filed motions to modify the custody order to provide for shared residential custody.

(3) In September 2000, Father filed another request for modification of the residential custody arrangements alleging that Mother was unwilling to share responsibility for raising the children, had improperly involved the children in parental communications, and had failed to plan for the children's health, educational and other needs. On November 1, 2000, following a hearing, the Family Court held Mother in contempt of its August 1999 order for failing to involve Father in major decisions concerning the children and further ordered Mother to pay Father's attorney's fees and costs in the amount of \$262.50.

(4) In April 2001, Father filed a petition for a rule to show cause why Mother should not be found in contempt of the Family Court's November 1, 2000 order. In February 2002, Father filed another petition for a rule to show cause alleging violations of his right to visitation and requesting that he be granted sole

residential custody of the parties' minor children. On July 11, 2001, the Family Court held a hearing on Father's petitions and, on January 28, 2003, issued a letter decision and order denying Father's request for sole residential custody and declining to hold Mother in contempt.² On February 27, 2003, the Family Court issued an order denying Father's request to reconsider its decision concerning residential custody.

(5) At the July 11, 2001 hearing, the Family Court heard testimony from Father's wife and the day care provider, as well as Mother and Father. In its January 28, 2003 letter decision, the Family Court found that Mother had failed to see to the children's health needs in a couple of instances,³ had failed to communicate with Father about decisions concerning the children's health and welfare in a couple of instances,⁴ and is being treated for depression. Nevertheless, the Family Court also found that the children's best interests would be served by continuing to reside with Mother in a familiar and emotionally supportive environment. Because it is difficult for Mother to attend to the children's

² The Family Court did, however, award Father his attorney's fees and credited him with \$265.50 against monies he owed to Mother.

³ Mother failed to schedule dental appointments for both children and failed to schedule a speech evaluation appointment for the younger child.

⁴ Mother did not tell Father about changing the older child's school and the children's day care arrangements.

education and medical care in addition to her full-time job, the Family Court determined, however, that Father would have final decision-making authority in those areas, together with increased visitation. The Family Court declined to hold Mother in contempt, because her lack of compliance with the Family Court's orders appeared to stem from a lack of communication between the parties, responsibility for which lies equally with Mother and Father.

(6) This Court's review of appeals from the Family Court extends to review of the facts and the law as well as to a review of the inferences and deductions made by the judge.⁵ This Court will not disturb findings of fact unless they are clearly wrong and justice requires that they be overturned.⁶ This Court will not substitute its own opinion for the inferences and deductions made by the trial judge if they are supported by the record and are the product of an orderly and logical deductive process.⁷ We review issues of law de novo.⁸

(7) We have reviewed the trial transcript in detail and find that the evidence supports the Family Court's factual findings. We, therefore, conclude

⁵ *Wife (J.F.V.) v. Husband (O.W.V., Jr.)*, 402 A.2d 1202, 1204 (Del. 1979).

⁶ *Solis v. Tea*, 468 A.2d 1276, 1279 (Del. 1983).

⁷ *Id.*

⁸ *Solis v. Tea*, 468 A.2d at 1279-80.

that there is no basis for overturning those findings. Moreover, we find that the Family Court appropriately weighed the evidence in light of the proper statutory standards.⁹

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

BY THE COURT:

/s/ Randy J. Holland
Justice

⁹ Del. Code Ann. tit. 13, §§ 729(b) and 722(a).