

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANGELA BATCH, ¹	§
	§
Respondent Below,	§ No. 39, 2012
Appellant,	§
	§
v.	§ Court Below—Family Court
	§ of the State of Delaware, in and
WILLIAM ANDERSON,	§ for New Castle County
	§ File No. CN10-05729
Petitioner Below,	§ Petition No.10-37250
Appellee.	§

Submitted: April 20, 2012

Decided: June 18, 2012

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

ORDER

This 18th day of June 2012, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The appellant, Angela Batch (Mother), filed this appeal from a Family Court decision awarding the parties joint custody of their two minor children with primary decision-making authority and residency to be with Mother. We find no error or abuse of discretion in the Family Court's decision. Accordingly, we affirm.

(2) The record reflects that the parties are the parents of twins born in August 2007. The parties lived in Georgia when the children were born.

¹ The Court has assigned pseudonyms to the parties pursuant to Supreme Court Rule 7(d).

Mother moved to Delaware with the children when they were about twelve months old. The appellee, Wilson Adams (“Father”), filed a petition for joint legal and physical custody in October 2010. An interim consent order was entered in February 2011 permitting Father two-hours of supervised visitation with the children every three months until Father was able to develop a relationship with the children. The order also allowed Father to have weekly telephone contact.

(3) The Family Court held a hearing on Father’s petition on January 4, 2012. Following the hearing, the Family Court entered its decision on January 23, 2012. The Family Court noted that it found Father’s testimony more credible regarding his involvement with the children prior to Mother’s move to Delaware. After considering the best interests of the children, the Family Court granted Father’s petition for joint custody with Mother having residential custody and authority for making daily decisions with respect to the children’s care. The Family Court granted supervised visits to Father for five consecutive days every six months. The Family Court also granted Father weekly telephone contact with the children.

(4) In her opening brief on appeal, Mother does not raise any specific claim of legal error made by the Family Court. Rather, she objects to the Family Court’s finding that Father was more credible than she. Mother also

objects to the 2:00 p.m. starting time set for Father's visits because it conflicts with her work schedule and the children's nap time and requests that the visits be changed to the morning hours.

(5) The scope of this Court's review of a Family Court judgment includes a review of both law and facts.² If the Family Court correctly applied the law, we review under an abuse of discretion standard.³ The Family Court's factual findings will not be disturbed on appeal if they are supported by the record and are the product of an orderly and logical deductive process.⁴ When the determination of facts turns on the credibility of the witnesses who testified under oath before the trial judge, this Court will not substitute its opinion for that of the trial judge.⁵

(6) The record in this case reflects that the Family Court reviewed the factors relevant to performing a best interest analysis under 13 Del. C. § 722(a). After considering the relevant evidence, the Family Court concluded that was in the best interests of the children to remain with Mother but to allow Father joint custody with supervised visits and telephone contact in order to develop his relationship with the children.

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

³ *Jones v. Lang*, 591 A.2d 185, 186-87 (Del. 1991).

⁴ *Solis v. Tea*, 468 A.2d 1276, 1279 (Del. 1983).

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

(7) Under the circumstances, we find that the Family Court correctly applied the law. Moreover, the trial judge's factual findings are supported by the record and were the product of an orderly and logical reasoning process. We find no abuse of discretion in the Family Court's conclusion that primary residential custody with Mother was in the children's best interests but that Father should share legal custody and have regular visitation and telephone contact with the children. We agree with Mother, however, that the 2:00 p.m. starting time for Father's visits conflicts with the evidence regarding Mother's work schedule and the children's naptime, as the trial court itself acknowledged.⁶ It appears that this was a typographical error. Thus, while we affirm the Family Court's judgment, we remand for correction of this error.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED. The matter is REMANDED for correction of an error in the Family Court's judgment consistent with this order.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁶ The Family Court's order states, "The visits shall commence at 2:00 p.m. The first visit shall be 2 hours long. The second shall be 2½ hours and the third through fifth visits shall be 4 hours long. The Court took into account that Mother works a 3:00 p.m. to 11:00 p.m. shift, that she has an infant and that the twins nap at 2:00."