

IN THE SUPREME COURT OF THE STATE OF DELAWARE

STACEY CLARK, ¹	§
	§
Respondent Below-	§ No. 411, 2012
Appellant,	§
	§
v.	§ Court Below—Family Court
	§ of the State of Delaware,
DARREN RYAN, JR.,	§ in and for New Castle County
	§ File No. CN07-06571
Petitioner Below-	§ Petition No. 12-12091
Appellee.	§

Submitted: January 4, 2013
Decided: February 7, 2013

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

ORDER

This 7th day of February 2013, upon consideration of the appellant’s opening brief and the record below,² it appears to the Court that:

(1) Appellant Stacey Clark (“Wife”) filed this appeal from an order of the Family Court dated July 3, 2012. The Family Court’s order granted appellee Darren Ryan’s (“Husband”) petition for a rule to show cause. Given the circumstances of this case, we find no abuse of discretion in the Family Court’s judgment. Accordingly, we affirm.

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

² The appellee chose not to file an answering brief.

(2) Husband filed his petition for a rule to show cause on April 10, 2012. He alleged that Wife was in contempt of a prior Family Court order, dated May 6, 2009, which ordered in part that the parties would alternate every year in claiming their son as a dependent for tax purposes. By the terms of the order, Husband was permitted to claim their son in odd years. In his petition, Husband alleged that his 2011 tax return forms were rejected because Wife had already claimed the child as a dependent. Wife was served with the petition for a rule to show cause on April 18, 2012. She did not file an answer or otherwise respond to the petition, despite being properly served.

(3) The Family Court held a hearing on July 3, 2012. Father appeared. Wife did not. In its order, the Family Court noted that Wife had not responded to the petition or appeared at the hearing. While it acknowledged that written notice of the hearing had not been provided to either party, the Family Court stated that it had held a teleconference with both parties to schedule the hearing and that both parties received a follow-up telephone call on the day before the hearing reminding them of the scheduled hearing. The Family Court entered a default judgment the same day granting Husband's petition and ordering Wife to reimburse Husband \$3000 for claiming a dependent credit on her 2011 tax return in clear

violation of the Family Court's prior order. Wife did not move to reargue or to reopen the default judgment. Instead, she filed this appeal.

(4) Wife's sole issue on appeal is that the Family Court erred in entering a default judgment against her because it failed to provide written notice of the scheduled rule to show cause hearing. Wife does not deny that she never filed a response or offered any defense to Husband's petition despite being properly served. She also does not deny that she participated in the scheduling teleconference with the Family Court and that she had actual notice of the date scheduled for the hearing on Husband's petition.

(5) We review a trial court's entry of a default judgment for abuse of discretion.³ We have held that a trial court does not abuse its discretion when it enters a default judgment "on a record which reflects an exercise of judgment directed by conscience and reason."⁴ In this case, Wife never responded to Husband's petition despite receiving proper service and never offered a defense to Husband's claim of contempt. Wife also had actual notice of the scheduled hearing date, despite the Family Court's failure to send written notice to either party. Husband appeared at the hearing. Wife

³ *Gallagher v. Long*, 2007 WL 3262150 (Del. Nov.6, 2007).

⁴ *In re Estate of Jones*, 2001 WL 118011 (Del. Feb. 2, 2001).

did not. Under these circumstances, we find no abuse of discretion in the Family Court's July 3, 2012 judgment by default.

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

BY THE COURT:

/s/ Carolyn Berger
Justice