

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KENYA BURTON,	§	
	§	
Respondent Below-	§	No. 484, 2003
Appellant,	§	
	§	
v.	§	Court Below---Family Court
	§	of the State of Delaware,
	§	in and for Kent County
TAMYRA L. BURTON,	§	File No. CK02-04425
	§	Petition No. 02-28533
Petitioner Below-	§	
Appellee.	§	

Submitted: January 30, 2004

Decided: March 29, 2004

Before **BERGER, STEELE** and **JACOBS**, Justices

**ORDER**

This 29<sup>th</sup> day of March 2004, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The respondent-appellant, Kenya Burton (“Husband”), filed an appeal from the Family Court’s September 24, 2003 property division order,<sup>1</sup> which awarded the parties’ automobile to the petitioner-appellee, Tamyra L. Burton (“Wife”). We find no merit to the appeal. Accordingly, we AFFIRM.

(2) Husband and Wife were divorced by order of the Family Court on July 15, 2003, with the Family Court retaining ancillary jurisdiction over property division. The record reflects that, on July 15, 2003, a document entitled “Matters

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<sup>1</sup> Fam. Ct. Civ. R. 16(c).

Ancillary to Divorce” was issued by the Family Court and sent to the parties. The document notified the parties that, pursuant to Rule 16(c), the petitioner’s portion of the Rule 16(c) financial report was to be completed and sent to the respondent within 30 days of the divorce decree, and the respondent’s portion was to be completed and filed in the Family Court within 30 days of receipt of the petitioner’s portion. The document also stated that no further notice would be given to the parties with regard to the requirements of Rule 16(c) and that either party could request an extension of time for good cause shown.

(3) On September 15, 2003, the Family Court wrote a letter to the parties stating that Wife had filed her portion of the Rule 16(c) financial report on July 21, 2003 in compliance with Rule 16(c), but that Husband’s portion had not been filed. The Family Court then directed Wife to submit a proposed form of order regarding property division. In her proposed form of order, Wife requested alimony and also requested that she be awarded the parties’ automobile, a 1998 Toyota Avalon.

(4) On September 24, 2003, the Family Court issued its final order regarding property division. Husband still had not filed his portion of the Rule 16 financial report and had not requested an extension of time. The Family Court’s order denied Wife’s request for alimony, but granted her request for the parties’ automobile. The Family Court further directed Husband to transfer all right, title

and interest in the vehicle to Wife within 15 days of the date of the order and specified that the vehicle be in the same condition it was on the date of the parties' divorce.

(5) In his appeal, Husband claims that Wife's bankruptcy makes it impossible to transfer title of the vehicle to her and, further, that he needs the vehicle to pick up his children from their sports practices. He also claims that Wife sought title to the vehicle to gain an unfair advantage over him in the litigation.

(6) We review the Family Court's order on property division for abuse of discretion.<sup>2</sup> We find no abuse of discretion on the part of the Family Court in adopting Wife's form of order and awarding her the parties' vehicle where, despite notice from the Family Court, Husband failed to timely submit his portion of the Rule 16(c) financial report and, moreover, made no request for an extension of time in which to do so.

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

BY THE COURT:  
/s/ Myron T. Steele  
Justice

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<sup>2</sup> *Reynolds v. Reynolds*, 595 A.2d 385, 388 (Del. 1991).