

IN THE SUPREME COURT OF THE STATE OF DELAWARE

THOMAS J. BURNS,	§	
	§	
Respondent Below-	§	No. 573, 2003
Appellant,	§	
	§	
v.	§	Court Below – Family Court
	§	of the State of Delaware,
	§	in and for New Castle County
MARJORIE S. LAMB,	§	File No. CN00-06046
	§	Petition No. 0226694
Petitioner Below-	§	
Appellee.	§	

Submitted: May 21, 2004
Decided: June 7, 2004

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices

ORDER

This 7th day of June 2004, upon consideration of the appellant's opening brief and the record below,¹ it appears to the Court that:

(1) The respondent-appellant, Thomas J. Burns, filed an appeal from the Family Court's November 18, 2003 order regarding child support. The order affirmed the March 7, 2003 order of the Family Court commissioner, which found Burns in contempt for failing to pay child support in accordance with a November 22, 2000 stipulation and order and ordered him to pay \$517 per month in current

¹ On March 19, 2004, this Court ordered that the appeal would be decided on the basis of the opening brief and the Family Court record.

support plus \$25 per month in arrears. We find no merit to the appeal. Accordingly, we affirm.

(2) On February 24, 2003, a hearing was held before the Family Court commissioner on a petition for child support arrears, which had been filed against Burns by the Delaware Division of Child Support Enforcement. Following the hearing, the commissioner found Burns in contempt of the November 22, 2000 stipulation and order and ordered him to pay child support and arrears. Burns filed a petition for review of the commissioner's February 24, 2003 order, which the Family Court denied as untimely. On appeal, this Court reversed and remanded the matter to the Family Court for consideration of the merits of Burns' petition.² On November 18, 2003, the Family Court issued its decision, which affirmed the commissioner's order.

(3) In his appeal, Burns claims that the Family Court judge: a) failed to review his petition on the merits, as required by this Court in its October 6, 2003 Order; b) abused his discretion by not requiring his ex-wife to appear at the February 24, 2003 hearing; c) failed to notify him that his signature had been forged on the November 22, 2000 stipulation and order; d) illegally transferred a Pennsylvania grower's license from him to his ex-wife; and e) had a personal

² *Burns v. Lamb*, Del. Supr., No. 270, 2003, Steele, J. (Oct. 6, 2003).

interest in the outcome of the litigation because of a financial interest in a business that was in dispute between the parties.

(4) We have reviewed carefully the Family Court's decision dated November 18, 2003, as well as the Family Court record, and find no basis for concluding that the Family Court either abused its discretion or committed an error of law in affirming the commissioner's order. The Family Court's decision clearly addressed the merits of Father's claims on his petition for review of the commissioner's order, as ordered by this Court. There is, moreover, no factual support in the record for any of Burns' other claims.³

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

BY THE COURT:

/s/ Randy J. Holland
Justice

³ On March 11, 2004, Burns filed a motion for sanctions against petitioner-appellee, Marjorie S. Lamb, for failing to file an answering brief. Supr. Ct. R. 33. Under the Rule, this Court has discretion to apply sanctions in an appropriate case. There is no basis for the imposition of sanctions here, since the Court ordered that the appeal would be heard solely on the basis of the opening brief and the record below.

