

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KATHERINE F. PORTER, ¹	§	
	§	No. 535, 2003
Respondent Below,	§	
Appellant,	§	Court Below—Family Court
	§	of the State of Delaware, in
v.	§	and for Sussex County in
	§	File No. CS98-03876; Pet.
ANDREW A. MANNION,	§	Nos. 00-34314, 02-19791.
	§	
Petitioner Below,	§	
Appellee.	§	

Submitted: April 2, 2004
Decided: July 20, 2004

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

ORDER

This 20th day of July 2004, upon consideration of the *pro se* parties' submissions on appeal² and the Family Court record, it appears to the Court that:

(1) Katherine F. Porter (Porter) and Andrew A. Mannion (Mannion) were married in 1995, separated in 1998 and divorced in 2002. Their son, Andrew, Jr. (Andrew), was born in January 1996. By agreement entered into

¹Pursuant to Supreme Court Rule 7(d), the names of the parties are pseudonyms selected *sua sponte* by the Court.

²Neither party filed a brief. The appellant filed a three-page letter, and the appellee filed a one-page letter.

in 1998, Porter and Mannion shared joint legal custody of Andrew, with physical placement of Andrew with Porter and visitation with Mannion.

(2) In November 2000, Porter filed a petition to modify visitation. Porter primarily sought to prevent Mannion from taking Andrew out of state without her approval. In 2002, Mannion filed a motion to modify custody. Mannion sought physical placement of Andrew with Mannion and visitation with Porter. Porter opposed Mannion's motion. The Family Court appointed an attorney guardian *ad litem* for Andrew.

(3) On March 17, 2003, the Family Court held a hearing on Porter's motion to modify visitation and Mannion's motion to modify custody. Thereafter, by temporary order dated May 12, 2003, the Court granted joint legal custody to Porter and Mannion with physical placement of Andrew with Porter and visitation with Mannion. The Court ordered that Porter and Mannion enter into a counseling program with Andrew. The Court further provided that a hearing would be held on October 6, 2003, to review the temporary order and the issues of custody and visitation.

(4) The Family Court held a hearing on October 6, 2003, at which Porter and Mannion presented evidence. At the conclusion of the hearing, the

Family Court continued joint legal custody, but provided that Porter and Mannion share physical placement of Andrew on an alternating weekly basis.

(5) Porter filed an appeal from the Family Court's October 6 order. In connection with her appeal, Porter filed a motion in the Family Court for payment at State expense of the March 17, 2003 and October 6, 2003 hearing transcripts. The Family Court denied Porter's motion.

(6) On appeal, Porter contends that the Family Court judge was "biased and impartial" at the October 6, 2003 hearing, and she requests that custody arrangements "go back to the way it was," *i.e.*, with Porter having physical placement of Andrew and Mannion having visitation. In his written submission, Mannion maintains that the shared placement arrangements and counseling "have been excellent for all parties involved, especially for [Andrew]."

(7) In this case, Porter, as the appellant, has the burden of providing "such portions of the trial transcript as are necessary to give this Court a fair and accurate account of the context in which the claim of error occurred."³ Porter has not provided the Court with the necessary portions of the transcript that allegedly support her claims of error, as she was required to do.

³*Tricoche v. State*, 525 A.2d 151, 154 (Del. 1987).

(8) A civil litigant does not have an absolute right to be provided with a copy of a transcript at State expense.⁴ Even an appellant such as Porter,⁵ who was permitted to proceed *in forma pauperis* on appeal, is required to make her own financial arrangements to obtain necessary transcripts.⁶

(9) In the absence of a transcript of the October 6 hearing, this Court has no adequate basis for evaluating Porter's summary allegations of error. Notwithstanding Porter's contention that she "simply [could not] afford" the transcript fee, the Family Court denied Porter's request for transcript on the basis that she had not established sufficient cause for preparation of the transcript at State expense. We find no abuse of discretion on the part of the Family Court in denying Porter's request for a transcript at State expense.

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

BY THE COURT:

/s/ Carolyn Berger
Justice

⁴*Booth v. MacKay-Bush*, 1999 WL 1319345 (Del. Supr.); *Lynch v. McCarron*, 1997 WL 33110 (Del. Supr.).

⁵By Order dated November 5, 2003, this Court granted Porter's motion to proceed *in forma pauperis* limited only to waiver of the docketing fee. Supr. Ct. R. 20(a).

⁶*Smith v. Deptula*, 2003 WL 22931399 (Del. Supr.).