

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GLADYS GOMEZ,) No. 414, 2001
)
 Respondent Below,) Court Below: Family Court
 Appellant,) of the State of Delaware in
) and for Kent County
v.)
) CK-00-04606
JAMES A. MORNING,)
)
 Petitioner Below,)
 Appellee.)

Submitted: March 5, 2002
Decided: April 11, 2002

Before **VEASEY**, Chief Justice, **HOLLAND** and **STEELE**, Justices.

ORDER

This 11th day of April 2002, on consideration of the briefs of the parties, it appears to the Court that:

1) In January 2001, the Family Court granted interim custody of Ramon Morning to Appellant, Respondent-below, Gladys Gomez with visitation rights for Appellee, Petitioner-below, James A. Morning. Throughout the summer of 2001, Gomez and Morning, the natural parents, engaged in a series of dueling Petitions for Custody and Petitions for Rule to Show Cause regarding the placement of and attendant visitation rights with Ramon. In August 2001, after conducting a hearing, the Family Court issued an order on the consolidated petitions. For

reasons stated on the record, the Family Court awarded joint legal custody to both parents, primary placement with the Father. This is Gomez's direct appeal.

2) Appellant Gomez contends that the trial judge abused her discretion in awarding primary placement with the Father by failing to properly apply the best interest factors set forth in Del. Code Ann. tit. 13 § 722. Specifically, she argues that the Family Court judge placed undue emphasis on the visitation issues raised at the hearing and thus did not give proper weight to Ramon's interaction with his parents and grandparents in the household and his adjustment to home, school and community. The record clearly reflects that the trial judge considered each of the factors listed in Section 722. Although the judge did not make explicit findings concerning each factor, she specifically listed each of the Section 722 factors on the record and stated that she considered all of the relevant factors in determining Ramon's best interests. We find that this constitutes sufficient consideration under the standard we articulated in *Fisher v. Fisher*¹ and *Jones v. Lang*.²

3) This Court has stated that every custody disposition requires that the criteria set forth in Section 722 be balanced in accordance with the factual circumstances presented to the Family Court.³ Because of this, the amount of weight given to one factor or a combination of factors will differ in each

¹ 622 A.2d 619,622-23 (Del. 1997).

² 591 A.2d 185, 188 (Del. 1991).

³ *Fischer* 622 A.2d at 623.

proceeding.⁴ Indeed, we have held that it is “quite possible that the weight of one factor will counterbalance the combined weight of all other factors and be outcome determinative in some situations.”⁵ The Family Court judge’s order suggests that this was the case in this instance. We find that the record contains sufficient evidence for us to conclude that the trial judge’s determination resulted from an orderly and logical deductive process, and therefore does not constitute an abuse of discretion.

4) Gomez also argues that the trial judge committed reversible error by refusing to allow witnesses from both parties to testify because of time constraints on the hearing. Both parties stated in the record that the additional testimony proffered merely corroborated testimony already presented to the court. Rule 403 of the Delaware Rules of Evidence allocates broad discretion to the trial judge to exclude needless presentation of cumulative evidence. Given the statements of both parties acknowledging the cumulative nature of the evidence that their final witnesses were to provide, we find no basis for Appellant’s contention that the Family Court judge abused her discretion by declining to hear the additional proffered witnesses.

⁴ *Id.*

⁵ *Id.*

NOW, THEREFORE, IT IS ORDERED, that the judgment of the Family Court be, and hereby is, **AFFIRMED**.

BY THE COURT:

/s/ Myron T. Steele
Justice