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IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARGARET AMES,¹

Petitioner Below-
Appellant,

v.

PAUL AMES,

Respondent Below-
Appellee.

§
§
§ No. 323, 2006
§
§
§ Court Below—Family Court
§ of the State of Delaware,
§ in and for New Castle County
§ File No. CN04-09432
§ Petition Nos. 05-17453; 04-27108
§

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DELAWARE SUPREME COURT

Submitted: February 16, 2007
Decided: April 27, 2007

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

ORDER

This 27th day of April 2007, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The appellant, Margaret Ames (Mother), filed this appeal from a Family Court decision awarding the parties joint custody of their two minor children with primary residency to be with appellee, Paul Ames (Father). We find no error or abuse of discretion in the Family Court's decision. Accordingly, we affirm.

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

(2) The record reflects that Mother filed for divorce in August 2004 with a request for the Family Court to retain jurisdiction over ancillary matters including custody of the parties' children. Shortly thereafter, the parties entered into a Consent Order of Protection from Abuse (PFA) on September 24, 2004. The Consent PFA provided, among other things, that the parties would share joint custody of the children, but the children would begin living primarily with Father, beginning November 1, 2004, with substantial visitation to Mother. Thereafter, both parties filed various unsuccessful motions regarding interim custody of the children.

(3) A hearing on Mother's custody petition was finally held on April 5, 2006. The Family Court heard from several witnesses, including Mother and Father. The judge also conducted an interview with the parties' ten-year-old daughter. After considering all of the evidence, the Family Court concluded that the parties should share joint custody, but the children should continue to maintain their primary residence with Father, allowing for substantial visitation with Mother.

(4) Mother's opening brief on appeal, in fact, is a four-page letter that does not enumerate any specific claims of error made by the Family Court. Construing Mother's letter broadly, it appears that Mother contends the Family Court's custody decision was improperly based on the judge's

conclusion that Mother was dating her “uncle,” who in fact is the half-brother of Mother’s step-father and thus not biologically related to Mother. Mother also contends that the Family Court refused to consider a “written deposition” she provided from her niece, who at one time was the children’s babysitter while Father worked evenings. Mother also makes vague allegations concerning the credibility of witnesses.

(5) The scope of this Court’s review of a Family Court judgment includes a review of both law and facts.² If the Family Court correctly applied the law, we review under an abuse of discretion standard.³ The Family Court’s factual findings will not be disturbed on appeal if they are supported by the record and are the product of an orderly and logical deductive process.⁴ When the determination of facts turns on the credibility of the witnesses who testified under oath before the trial judge, this Court will not substitute its opinion for that of the trial judge.⁵

(6) The record in this case reflects that the Family Court reviewed all of the factors relevant to performing a best interest analysis under 13 Del. C. § 722(a) and included substantial citation to evidence in the record

² *Wife (J.F.V.) v. Husband (O.W.V., Jr.)*, 402 A.2d 1202, 1204 (Del. 1979).

³ *Jones v. Lang*, 591 A.2d 185, 186-87 (Del. 1991).

⁴ *Solis v. Tea*, 468 A.2d 1276, 1279 (Del. 1983).

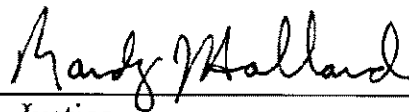
⁵ *Wife (J.F.V.) v. Husband (O.W.V., Jr.)*, 402 A.2d 1202, 1204 (Del. 1979).

bearing on each factor. After considering the relevant evidence and analyzing the § 722(a) factors, the Family Court concluded that the custody arrangement that had been in place for over a year and a half was working well. Among other reasons, the Family Court concluded the present custody arrangement was in the best interests of the children because the children had adjusted well to Father's home but did not exhibit the same level of feeling comfortable in Mother's home. The trial judge noted the eldest daughter's confusion over Mother's relationship with her live-in boyfriend, whom previously had been referred to as "Uncle," and the daughter's inhibitions in discussing her confusion with Mother. The trial judge also noted that, while the children had solid relationships with both parents, the children were prohibited while in Mother's home from mentioning or contacting Father. The Family Court found no evidence to support disturbing the children's current living arrangements.

(7) Under the circumstances, we find that the Family Court correctly applied the law. Moreover, the trial judge's factual findings are supported by the record and were the product of an orderly and logical deductive process. We find no abuse of discretion in the Family Court's conclusion that primary residential custody with Father was in the children's best interests.

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

BY THE COURT:



Justice