

DISTRICT COURT OF APPEAL OF FLORIDA  
SECOND DISTRICT

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STEVEN DE LA FE,

Appellant,

v.

DAVIHANA DE LA FE,

Appellee.

No. 2D20-2635

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December 8, 2021

Appeal from the Circuit Court for Lee County; John S. Carlin,  
Judge.

Steven De La Fe, pro se.

No appearance for Appellee.

LABRIT, Judge.

Steven De La Fe (Former Husband) and Davihana De La Fe  
(Former Wife) married in 2009 and had two children during their  
marriage. After an evidentiary hearing, the trial court entered a  
final order of dissolution in July 2020.

Former Husband challenges several aspects of the final order, and we reverse in part because we find merit in his claim that the order does not grant shared parental responsibility because Former Wife has ultimate decision-making authority. We affirm without comment as to the remaining issues Former Husband raises.

### **Analysis**

The order provides that parental responsibility "should be shared by both [Former Husband] and [Former Wife] which the court finds is in the best interest of the minor children," and it directs the parties to try to jointly make decisions affecting their children's welfare. However, the order grants Former Wife "ultimate decision-making authority."

"The standard of review for the trial court's findings and determination regarding primary parental responsibility is abuse of discretion." *Hudson-McCann v. McCann*, 8 So. 3d 1228, 1229 (Fla. 5th DCA 2009).

Section 61.13, Florida Statutes (2018), "refers to two types of parental responsibility, sole and shared parental responsibility. Shared parental responsibility is the preferred arrangement, rather than sole parental responsibility." *Meyers v. Meyers*, 295 So. 3d

1207, 1213 (Fla. 2d DCA 2020). "Under the principle of shared parental responsibility, major decisions affecting the welfare of a child are to be made after the parents confer and reach an agreement." *Gerencser v. Mills*, 4 So. 3d 22, 23 (Fla. 5th DCA 2009). "In the event that the parents reach an impasse, the dispute should be presented to the court for resolution." *Id.*

Here, as in *Gerencser*, the order "does not provide [Former Husband] with shared parental responsibility as it allows [Former Wife] to make the ultimate decision on any issue on which the parents do not agree." *Id.* at 24. "It is well-established that a trial court may not grant one parent sole parental responsibility without making a specific finding that 'shared parental responsibility would be detrimental to the child.'" *Meyers*, 295 So. 3d at 1213 (quoting § 61.13(2)(c)2.). Without a "specific finding" that shared parental responsibility would be detrimental to the child, an "award of sole parental responsibility must be reversed." *Id.* at 1214.

The trial court abused its discretion by granting Former Wife ultimate decision-making authority without making the statutorily required findings that shared parental responsibility would be detrimental to the children. The trial court may not have

appreciated that giving one parent "tie-breaking" authority is tantamount to awarding sole parental responsibility, but the law confirms that this is so.

We reverse the final order insofar as it provides that Former Wife has "ultimate decision-making authority" and remand with instructions for the trial to either (1) grant unrestricted shared parental responsibility or (2) make findings to support awarding Former Wife sole parental responsibility. We affirm the final order in all other respects.

Affirmed in part; reversed in part; remanded.

NORTHCUTT and LaROSE, JJ., Concur.

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Opinion subject to revision prior to official publication.