

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DIVISION OF FAMILY
SERVICES OF THE
DEPARTMENT OF SERVICES
FOR CHILDREN, YOUTH AND
THEIR FAMILIES, an agency of
the State of Delaware,

Petitioner Below,
Appellant,

v.

MICHAEL SHEA and DOREEN
HUBBARD, and MARGARET
HURLEY (CASA),

Respondents Below,
Appellees.

No. 269, 1999

Court Below: Family Court of the
State of Delaware, in and for
Sussex County in File No. CS98-
03509, Petition No. 98-09012.

Before **VEASEY**, Chief Justice, **WALSH** and **BERGER**, Justices.

Submitted: February 8, 2000

Decided: March 1, 2000

ORDER

This 1st day of March 2000, it appears to the Court that appellee-
Margaret Hurley, Court Appointed Special Advocate (“CASA”), has filed a
motion seeking to dismiss this appeal filed by the Division of Family Services
(“DFS”). The appeal is from the Family Court’s award of supervised

overnight visitation to appellee-Michael Shea with his minor children. In the motion to dismiss, CASA contends that DFS, who was the legal custodian of the minor children at the time the appeal was filed in June 1999, now lacks standing to further pursue the appeal in view of the Family Court's order of January 7, 1999, that granted guardianship of the minor children to the children's great aunt. Although DFS argued in the guardianship proceeding that the Family Court was without jurisdiction to consider the guardianship petition in view of this pending appeal, DFS appears to have abandoned that position and has filed an answer to CASA's motion to dismiss indicating that DFS has no objection to the dismissal of this appeal.

NOW, THEREFORE, IT IS ORDERED that the motion to dismiss is GRANTED pursuant to Supreme Court Rules 3(b) and 29(b).

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice