

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DENNIS ELLIOTT,	§	
	§	No. 321, 2005
Respondent Below,	§	
Appellant,	§	Court Below--Family Court of
	§	the State of Delaware, in and
v.	§	for Sussex County in File No.
	§	CS01-04285.
CAROL A. JOHNSON,	§	
	§	
Petitioner Below,	§	
Appellee.	§	

Submitted: October 27, 2005  
Decided: January 24, 2006

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

**ORDER**

This 24<sup>th</sup> day of January 2006, it appears to the Court that:

(1) The *pro se* appellant, Dennis Elliott, seeks review of the Family Court's ancillary decision of July 6, 2005 that designated and divided the parties' personal property pursuant to title 13, section 1513 of the Delaware Code.<sup>1</sup> In his opening brief on appeal, Elliott disputes a number of the Family Court's factual findings. The appellee, Carol A. Johnson, has filed a motion to affirm.<sup>2</sup>

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<sup>1</sup>See Del. Code Ann. tit. 13, § 1513 (1999)(governing disposition of marital property).

<sup>2</sup>See Supr. Ct. R. 25(a) (providing grounds for filing a motion to affirm).

(2) The Family Court has broad discretion when dividing marital property.<sup>3</sup> This Court's standard of review on a claim that the Family Court abused its discretion when dividing marital property is whether the decision was arbitrary or capricious.<sup>4</sup> The Court will not overturn the Family Court's factual findings unless those findings are clearly wrong and justice requires that they be overturned.<sup>5</sup> Similarly, the Court will not disturb the Family Court's determination of questions of credibility unless those determinations are clearly erroneous.<sup>6</sup>

(3) It is manifest on the face of Elliott's opening brief that this appeal is without merit.<sup>7</sup> After carefully considering the opening brief and the Family Court record, including the transcript of the property division hearing at which the parties testified, the Court concludes that there was sufficient credible evidence presented at the hearing to support each of the Family Court's factual findings that are now disputed by Elliott. We find no basis upon which to

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<sup>3</sup>*Linder v. Linder*, 496 A.2d 1028, 1030 (Del. 1985).

<sup>4</sup>*See Gately v. Gately*, 2003 WL 22282584 (Del. Supr.) (citing *Chavin v. Cope*, 243 A.2d 694, 695 (Del. 1968)).

<sup>5</sup>*Solis v. Tea*, 468 A.2d 1276, 1279 (Del. 1983).

<sup>6</sup>*See Gately v. Gately*, 2003 WL 22282584 (Del. Supr.) (citing *Wife (J.F.V.) v. Husband (O.W.V., Jr.)*, 402 A.2d 1202, 1204 (Del. 1979)).

<sup>7</sup>Supr. Ct. R. 25(a).

disturb those findings or to otherwise conclude that the Family Court abused its discretion when designating and dividing the parties' marital property.

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED. The decision of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice