

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RANDY SANDERS, ¹	§
	§ No. 265, 2008
Respondent Below-	§
Appellant,	§
	§ Court Below—Family Court
v.	§ of the State of Delaware
	§ in and for New Castle County
DONNA NEWTON,	§ File No. 04-08454
	§ Petition No. 04-24179
Petitioner Below-	§
Appellee.	§

Submitted: November 7, 2008

Decided: January 12, 2009

Before **HOLLAND, BERGER** and **JACOBS**, Justices

ORDER

This 12th day of January 2009, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The respondent-appellant, Randy Sanders (“Husband”), filed an appeal from the Family Court’s February 29, 2008 order, which divided the marital property and awarded attorney’s fees to the petitioner-appellee, Donna Newton (“Wife”), and from the Family Court’s May 6, 2008 order, which denied Husband’s motion for reargument. We find no merit to the appeal. Accordingly, we AFFIRM.

¹ The Court *sua sponte* assigned pseudonyms to the parties by Order dated May 29, 2008. Supr. Ct. R. 7(d).

(2) The record reflects that the parties were married on March 8, 2003, and divorced on September 7, 2005. Following the divorce, the Family Court retained ancillary jurisdiction to decide, among other things, the division of the marital property. The ancillary hearing took place on February 28, 2008. Both parties appeared. Wife was represented by counsel and Husband appeared pro se. The transcript reflects that the Family Court did not conduct a formal property division hearing. Rather, it reached its decision on the property division by asking the parties questions based upon their respective Rule 16(c) financial reports, making the necessary calculations on the record, explaining to the parties the basis for each of its calculations, and addressing any concerns the parties had regarding those calculations.²

(3) In this appeal, Husband claims that the Family Court a) improperly awarded Wife 60% of the equity in the pre-marital property and 60% of Husband's pension; b) abused its discretion when it failed to credit Husband with payments made to Wife following their separation and divorce; c) improperly prevented Husband from fully presenting his case by imposing unreasonable time constraints; d) abused its discretion when it

² The Family Court spent considerable time at the beginning and the end of the property division hearing explaining to the parties the reasoning behind its earlier custody decision. The Family Court noted in its May 6, 2008 decision that it based its division of the marital property, in part, on Husband's testimony concerning his income and work schedule as presented at the August 9, 2007 custody hearing.

awarded Wife \$3,000 in attorney's fees; and e) improperly permitted unfounded and irrelevant claims of domestic violence to be raised at the ancillary hearing, which prejudiced the outcome. Husband requests that the Family Court's judgment be reversed and the matter remanded for a new hearing with a different Family Court judge.

(4) This Court's review of appeals from the Family Court extends to a review of the facts and the law as well as a review of the inferences and deductions made by the judge.³ This Court will not disturb findings of fact unless they are clearly wrong and justice requires that they be overturned.⁴ If the Family Court has correctly applied the law, our standard of review is abuse of discretion.⁵ Errors of law are reviewed de novo.⁶

(5) Although the Family Court conducted the property division hearing in an unconventional manner, we conclude that there is no basis for disturbing any of its factual findings or second-guessing its decision making process. The Family Court explained in detail---at the hearing, in its February 29, 2008 decision, and in its May 6, 2008 decision----the rationale

³ *Wife (J.F.V.) v. Husband (O.W.V., Jr.)*, 402 A.2d 1202, 1204 (Del. 1979).

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

⁵ *Jones v. Lang*, 591 A.2d 185, 186 (Del. 1991).

⁶ *In re Heller*, 669 A.2d 25, 29 (Del. 1995).

for its apportionment of the marital estate.⁷ We affirm the Family Court's division of the marital property on the basis of those well-reasoned decisions. Moreover, we have reviewed the transcript of the hearing in detail and find no basis for Husband's claim that the judge imposed unreasonable time constraints that prevented him from fully presenting his case. Nor do we find that the judge's decision was improperly influenced by information raised at the hearing concerning domestic violence. Finally, we find no error or abuse of discretion with respect to the award of attorney's fees to Wife.⁸

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

BY THE COURT:

/s/ Carolyn Berger
Justice

⁷ Del. Code Ann. tit. 13, § 1513(3), (5), (8) and (10); *Albanese v. Albanese*, Del. Supr., No. 113, 1995, Walsh, J. (Feb. 8, 1996) (in property division, wife was entitled to a share of the increased value of property acquired by husband prior to the marriage).

⁸ Del. Code Ann. tit. 13, § 1515.