

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ASHLEY L. VANN, ¹	§
	§ No. 202, 2011
Respondent Below-	§
Appellant,	§
	§
v.	§ Court Below—Family Court
	§ of the State of Delaware,
CHARLES E. DANIELS,	§ in and for Sussex County
	§ File No. CS10-02409
Petitioner Below-	§ Petition No. 10-25853
Appellee.	§

Submitted: April 6, 2012
Decided: May 21, 2012

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

ORDER

This 21st day of May 2012, upon consideration of the Family Court’s decision on remand, the parties’ supplemental briefing, and the record below, it appears to the Court that:

(1) The appellant, Ashley Vann (“Mother”), filed this appeal pro se from an order of the Family Court dated March 24, 2011. The Family Court’s order awarded the parties joint custody of their minor daughter but granted Father’s petition for primary residential placement of the child “for the reasons set forth in open court at the conclusion of the hearing.” Upon initial review, we concluded that the matter should be remanded to the Family Court to provide a fuller, written

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

decision setting forth the rationale for its conclusion that primary residential placement with Father is in the child's best interests. The Family Court issued its written decision on remand on February 13, 2012, and the parties submitted supplemental briefing. After careful consideration, we find no error or abuse of discretion in the Family Court's decision on remand. Accordingly, we affirm.

(2) The record reflects that the parties' daughter was born in 2006. The parties, who were living in Milford, separated in December 2009 and agreed to a shared custody arrangement with the child moving between their respective households from week to week. In the spring of 2010, Mother moved to Elkton, Maryland to be closer to her job. The daughter moved with Mother, and Father's contact was reduced to visitation every weekend from 6 p.m. on Friday to 6 p.m. on Sunday. In August 2010, Father filed a petition seeking joint custody and residential placement of his daughter with him. At a mediation conference held in October 2010, the parties agreed that their daughter was happy and had adjusted to her new circumstances. Accordingly, the Family Court entered an interim visitation order, which maintained the child's current living arrangements with Mother and granted Father visitation three weekends out of every month and any other additional contact agreed to by the parties.

(3) In March 2011, the Family Court held a hearing on Father's custody petition. Father and his fiancé testified at the hearing, as well as Mother and the

maternal grandmother. Neither party was represented by counsel. The judge granted Father's petition at the conclusion of the hearing.

(4) Thereafter, following this Court's remand, the Family Court entered a written decision fully explaining its rationale for granting Father's petition. In her supplemental opening brief on appeal, Mother does not allege that the Family Court committed any legal error. Rather, she takes issue with some of the Family Court's factual findings and the weight given to those findings.

(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 bearing on each factor. The Family Court found that both parties were good parents to their daughter and

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 at 1204.

both were capable of providing her with a stable home. Nonetheless, after considering the relevant evidence and analyzing the § 722(a) factors, the Family Court granted primary residential custody to Father because: (i) Mother had moved far enough away from where the parties' daughter was born and raised in Milford, Delaware to make a shared residential arrangement unworkable; (ii) Father had played a more active role in caring for the child during the course of the parties' relationship because of Mother's work schedule; (iii) Father remained in Milford where the child could continue to attend the same daycare and have access to extended family; and (iv) Father had since remarried and moved into a five-bedroom home, which provided his daughter with more stability.

(7) Mother disputes the Family Court's finding that Father was more active as a caregiver during the course of their relationship. She also disputes the trial judge's conclusion that Father's remarriage provides their daughter with more stability. Mother does not dispute, however, that she made a unilateral decision to move to Elkton, Maryland from her former home in Milford. This decision made the parties' previous shared residential custody arrangement untenable because of the distance. Mother had worked in Newark, Delaware during the course of the marriage. Her move to Elkton, thus, was not prompted by a new job. Father, on the other hand, remained in Milford where the child has extended family and can attend the same daycare.

(8) Under the circumstances, we find no error or abuse of discretion in the Family Court's ruling. The Family Court correctly applied the law and considered all of the best interest factors. Moreover, the trial judge's factual findings are supported by the record and are the product of an orderly and logical deductive process. Accordingly, we affirm the Family Court's decision that primary residential placement with Father is in the child's best interests.

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

BY THE COURT:

/s/ Carolyn Berger
Justice