

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID J. WILLIAMS, <sup>1</sup>	§
	§
Petitioner Below-	§ No. 242, 2010
Appellant,	§
	§ Court Below—Family Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
KELLY A. WILLIAMS,	§ File No. CN05-06234
	§ Petition No. 09-31194
Respondent Below-	§
Appellee.	§

Submitted: November 12, 2010

Decided: January 14, 2011

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

**ORDER**

This 14th day of January 2011, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The appellant, David Williams ("Husband"), filed this appeal from an order of the Family Court, dated March 31, 2010, which dismissed his petition for a Rule to Show Cause. We find no merit to the appeal. Accordingly, we affirm.

(2) The record reflects that the parties were married in 1997 and divorced in 2006. The Family Court held a hearing on the parties' property division matters on January 31, 2007. At that time, the parties represented to the Family Court that they had reached an agreement resolving all property division matters except one

---

<sup>1</sup> The Court previously assigned pseudonyms to the parties pursuant to Supreme Court Rule 7(d).

issue regarding the appropriate date to value Wife's 402(k) plan. The Family Court resolved that issue and entered a final order disposing of the property division matter on March 14, 2007.

(3) Two and a half years later, on September 15, 2009, Husband filed a petition for a rule to show cause alleging that Wife had violated the preliminary injunction order, which automatically issued upon her filing the divorce petition,<sup>2</sup> when she took a draw from a home equity line of credit in April 2006 after she had filed for divorce. The Family Court held a hearing on Husband's petition on March 30, 2010. Thereafter, the Family Court summarily dismissed the petition on the ground that Husband had waived any argument concerning Wife's home equity draw when, upon the advice of counsel and with full knowledge of Wife's debt, he voluntarily agreed to settle the parties' property division issues. Even treating Husband's petition as a motion to reopen the 2007 judgment, the Family Court concluded that Husband had failed to establish any circumstances that would justify reopening the final property division order.<sup>3</sup>

(4) Having carefully considered the parties' respective positions on appeal, we find it manifest that the judgment below should be affirmed on the basis of the Family Court's well-reasoned decision dated March 31, 2010. The Family

---

<sup>2</sup> Del. Code. Ann. tit. 13, § 1509(a)(4) (2009) provides in relevant part that, upon the filing of a divorce petition, a preliminary injunction shall issue against both parties enjoining them, among other things, from "incurring any debt for which the other party is or may be liable...."

<sup>3</sup> See Del. Code Ann. tit. 13, § 1519(a)(3) (2009), which provides that

Court did not err in concluding that Husband had waived his claim by failing to pursue it in a timely fashion and that Husband had failed to establish any circumstances warranting reopening of the property division judgment.<sup>4</sup>

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

BY THE COURT:

/s/ Randy J. Holland  
Justice

---

<sup>4</sup> See *Bachtle v. Bachtle*, 494 A.2d 1253, 1256 (Del. 1985).