IN THE SUPREME COURT OF THE STATE OF DELAWARE

JANET DAVIS-THOMPSON,[1]	§	
	§	
Respondent Below-Appellant,	§	No. 647, 2012
	§	
	§	
v.	§	Court Below—Family Court
	§	of the State of Delaware,
STANLEY BRENT,	§	in and for New Castle County
	§	File No. CN11-02650
Petitioner Below-Appellee.	§	Pet. Nos. 11-38552, 12-18321
	§	

Submitted: May 10, 2013
Decided: June 11, 2013

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

O R D E R

This 11th day of June 2013, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The appellant, Janet Davis-Thompson (the "Mother"), filed this appeal from a Family Court decision awarding sole custody of the parties' child to the appellee, Stanley Brent (the "Father"). We find no error or abuse of discretion in the Family Court's decision. Accordingly, we affirm.

(2) The Mother and the Father are the parents of one daughter who was born on June 2, 2010. On December 12, 2011, the Father filed a petition for custody, alleging that the Mother did not allow him to see his

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

daughter and that the Mother lied about where she was living. After mediation was unsuccessful, the Family Court entered an interim custody order on May 7, 2012 giving the parties joint custody but maintaining the child's primary residence with the Mother and awarding substantial visitation to the Father, including two overnight visits per week.

(3) On May 25, 2012, the Father filed a petition for a rule to show cause alleging that the Mother was in contempt of the interim custody order because she had refused to allow the Father to visit his daughter. The Father also alleged that the Mother had been notified to vacate her residence, and the Father did not know where the Mother would be moving with the child. On October 16, 2012, the Family Court held a hearing on the petition for custody and the petition for a rule to show cause. The Father appeared with counsel and, in addition to his own testimony, presented the testimony of three witnesses: a family friend, a co-worker, and a child care provider. The Mother appeared on her own behalf but presented no witnesses. After considering all of the evidence, the Family Court concluded that the nature of the parties' relationship with each other was such that joint decision-making was not possible. Accordingly, the Family Court determined that it was in the child's best interest to award sole custody to the Father while granting Mother visitation with the child. Mother appeals that ruling.

(4) The Mother's opening brief on appeal is a two-page document disputing the credibility of the Father's testimony that the Mother refused him visitation and that the Mother was abusing the child. In fact, the Mother asserts that a New Castle County Police Officer testified at the hearing and stated that there was no evidence that the Mother ever harmed the child. There is no evidence of such testimony mentioned in the Family Court's opinion, however, and the Mother has failed to provide a transcript of the Family Court hearing to support this claim. Accordingly, we find no sufficient basis to review the Mother's claim that the Family Court failed to consider this alleged testimony.[2]

(5) The scope of this Court's review of a Family Court judgment includes a review of both law and facts.[3] If the Family Court correctly applied the law, we review under an abuse of discretion standard.[4] 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.[5] When the determination of facts turns on the credibility

[2] *Burton v. Burton*, 2005 WL 1950214 (Del. July 19, 2005).

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

[4] *Jones v. Lang*, 591 A.2d 185, 186-87 (Del. 1991).

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

of the witnesses who testified under oath before the trial judge, this Court will not substitute its opinion for that of the trial judge.[6]

(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. After considering the relevant evidence and analyzing the section 722(a) factors, the Family Court concluded that the Father's testimony was more credible and that it was in the child's best interest to be placed in the Father's sole custody. Despite needing to travel for work, the Father established that he had a stable support system in place and was able to provide a loving home environment for the child. The Family Court was concerned that the Mother had changed her residence three different times over a six month period, reflecting a lack of stability, and was also concerned over testimony reflecting that the child was not being properly cared for by the Mother. The Family Court also accepted the Father's testimony that the Mother had attempted on prior occasions to interfere with his custodial rights. The Family Court found that the Mother's testimony was not "always sincere and truthful."

[6] *Wife (J.F.V) v. Husband (O.W.V., Jr.)*, 402 A.2d at 1204.

(7) Under the circumstances, we find that the Family Court correctly applied the law. Moreover, the trial judge's factual findings are supported by the record and were the product of an orderly and logical deductive process. We find no abuse of discretion in the Family Court's conclusion that granting the Father sole custody was in the child's best interests.

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

BY THE COURT:

/s/ Randy J. Holland
Justice