

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JENNIFER GREY, ¹	§
	§ No. 422, 2013
Petitioner Below-	§
Appellant,	§
	§
v.	§ Court Below—Family Court
	§ of the State of Delaware,
RACHEL KNIGHT and	§ in and for New Castle County
PETER J. DAVIS,	§ File No. CN12-03057
	§ Pet. No. 12-34129
Respondents Below-	§
Appellees.	§

Submitted: February 14, 2014

Decided: February 27, 2014

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

This 27th day of February 2014, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The appellant, Jennifer Grey (“Grandmother”), appeals from the Family Court’s order denying her petition seeking third-party visitation with her ten-year-old grandson (“the Child”). We find no merit to Grandmother’s appeal. Accordingly, we AFFIRM.

(2) On October 12, 2012, Grandmother filed a petition requesting third-party visitation with the Child. Grandmother is the mother of appellee, Rachel Knight (“Mother”). Mother filed an answer opposing Grandmother’s petition for

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

visitation. Peter J. Davis (“Father”) did not file an answer, but later indicated his objection to Grandmother’s petition. Mother’s answer, among other things, asserted that the Child is fearful of Grandmother and is currently in counseling to deal with his fear and anxiety.

(3) The Family Court held a hearing on the petition on July 7, 2013. Following the hearing, the Family Court issued an order denying Grandmother’s petition for third-party visitation because all of the parties’ testimony reflected that the Child presently is fearful of Grandmother and that the parents’ objection to visitation was thus reasonable. The Family Court’s order further required the parents to inform the Child’s therapist that Grandmother should be included in the Child’s counseling with the goal of alleviating the Child’s fears of being with Grandmother.

(4) In her opening brief on appeal, Grandmother asserts that the Family Court abused its discretion in denying her petition for visitation because the parents’ objections to visitation were not reasonable given Mother’s purposeful acts of alienation. The narrow issue presented to us is whether the Family Court properly denied Grandmother’s petition for third-party visitation. In order to obtain third-party visitation, a petitioner must first establish by a preponderance of the evidence that such visitation would be in the child’s best interests pursuant to

13 Del. C. § 722.² The Family Court must then find one of the following factors as to each parent: (a) the parent consents to the third-party visitation; (b) the child is dependent, neglected or abused in the parent’s care; (c) the parent is deceased; or (d) the parent objects to the third-party visitation; however, the petitioner has demonstrated by clear and convincing evidence that the objection is unreasonable and has demonstrated by a preponderance of the evidence that the visitation will not substantially interfere with the parent/child relationship.³

(5) On appeal from a Family Court decision, this Court reviews the facts and the law as well as the inferences and deductions made by the Family Court.⁴ We will not upset the Family Court’s findings of fact “unless they are clearly wrong and justice requires that they be overturned.”⁵ We review issues of law *de novo*.⁶ If the Family Court has correctly applied the law, we will not overturn the Family Court’s decision absent an abuse of discretion.⁷

(6) After reviewing the record and Grandmother’s brief, we find no error or abuse of discretion in the Family Court’s denial of Grandmother’s petition for

² DEL. CODE ANN. tit. 13 § 2412(a)(2)(d) (Supp. 2012).

³ *Frank v. Stewart*, 2013 WL 2304105 (Del. May 24, 2013) (citing DEL. CODE ANN. tit. 13 § 2412(a)(2) (Supp. 2012)).

⁴ *Wife (J.F.V.) v. Husband (O.W.V., Jr.)*, 402 A.2d 1202, 1204 (Del. 1979).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

third-party visitation. Given Grandmother's acknowledgement that the Child presently is afraid of being with her, we conclude that the Family Court did not err in finding that Grandmother had failed to sustain her burden of establishing that the parents' objection to visitation was unreasonable. Moreover, the Family Court ordered that Grandmother be included in the Child's counseling sessions in order to give the Child and Grandmother an opportunity to reconcile in a therapeutic way. Under these circumstances, we find no abuse of the Family Court's discretion.

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

BY THE COURT:

/s/ Randy J. Holland
Justice