IN THE SUPREME COURT OF THE STATE OF DELAWARE

RACHEL WRIGHT,[1]	§	
	§	No. 81, 2012
Petitioner Below-Appellant,	§	
	§	
	§	Court Below–Family Court
v.	§	of the State of Delaware
	§	in and for New Castle County
LAUREN SCOTT, DARREN J. THOMAS and DARREN J. THOMAS, III,	§	File Nos. CN10-06153
	§	CN11-03526
	§	Petition Nos. 10-40569
	§	10-22522
Respondents Below-Appellees.	§	11-18389
	§	11-20190

Submitted: October 19, 2012
Decided: November 20, 2012

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices

O R D E R

This 20th day of November 2012, upon consideration of the briefs of the parties and the record below, it appears to the Court that:

(1) The petitioner-appellant, Rachel Wright, filed an appeal from the Family Court's February 13, 2012 order granting the petition for guardianship of the respondents-appellees, Lauren Scott and Darren J. Thomas, and denying her petition for guardianship of the minor child, David. We find no merit to the appeal. Accordingly, we affirm.

[1] The Court *sua sponte* assigned pseudonyms to the parties by Order dated February 21, 2012. Supr. Ct. R. 7(d). In this Order, we also assign a pseudonym to the minor child.

(2) The record reflects that David, born on July 26, 2009, has been under the care and guardianship of his paternal grandfather, Darren J. Thomas ("Paternal Grandfather") and Paternal Grandfather's significant other (collectively, "Paternal Grandparents"), since December 2010 when the Family Court granted them temporary guardianship. On March 29, 2011, the Family Court entered an order granting visitation to David's maternal grandmother, Rachel Wright ("Maternal Grandmother"). On February 3, 2012, the Family Court held a hearing on four petitions---Paternal Grandparents' petition for guardianship; Maternal Grandmother's petition for guardianship; a petition to rescind guardianship filed by David's biological mother and father ("Mother" and "Father"); and Maternal Grandmother's petition for a rule to show cause.

(3) The petition to rescind guardianship was withdrawn by Father who stated that he was "unfit" to care for David. Mother did not appear for the hearing because she was in a residential substance abuse treatment facility in Pennsylvania. Given those circumstances, the Family Court declared David to be a dependent child[2] and dismissed Mother and Father's petition to rescind guardianship. Maternal Grandmother's petition for a rule to show cause was based upon her allegation that Paternal Grandparents

[2] Del. Code Ann. tit. 10, §901(8).

were denying her visitation with David. Because visitation was no longer being denied her, she agreed that the petition could be dismissed.[3]

(4) Based upon the evidence presented at the February 3, 2012 hearing, the Family Court made the following findings of fact. David is a dependent child, since neither Father nor Mother is able to care for him. David has been under the care of Paternal Grandparents since December 2010. He has developed a routine and is thriving in that routine. Paternal Grandparents have provided David with a comfortable and supportive environment in which to grow. While Maternal Grandmother also could provide a comfortable and supportive environment for David, there is nothing to be gained by removing David from his current situation.

(5) Weighing the best interests factors, the Family Court concluded that it is in David's best interests to allow him to remain with Paternal Grandparents. While expressing some concern with the number of people living in Paternal Grandparents' home, the Family Court also noted that the 2010 assessment by the Delaware Division of Family Services did not find any problems with David's living situation, which was essentially the same as it is currently. The Family Court inquired into Paternal Grandparents' criminal history and found that Paternal Grandfather's arrest in Florida 30

[3] The Family Court also vacated its prior order regarding Mother's visitation with David, since Mother was unavailable for visitation.

years ago and his recent citation for driving without a valid license and with David's car seat in the front seat of his car were not sufficient to deny guardianship of David to Paternal Grandparents. The Family Court further ordered Father to undergo drug treatment and prohibited him from unsupervised contact with David. The Family Court found that visitation with Maternal Grandmother also is in David's best interests.

(6) In her appeal from the Family Court's denial of her petition for guardianship, Maternal Grandmother claims that a) there was an agreement that David would remain with her and that all legal proceedings would take place in Pennsylvania; b) David ingested a pill at the home of Paternal Grandparents; c) David should live in Pennsylvania with Mother; d) Paternal Grandparents have had criminal charges brought against them; e) Father resides with Paternal Grandparents and, therefore, has access to David; f) Paternal Grandparents' home is not suitable for David because there are numerous people living there; and g) Father has not gone through any drug treatment program, while Mother has.

(7) When reviewing an order of the Family Court, this Court's standard of review involves a review of the facts and the law, as well as the Family Court's inferences and deductions.[4] To the extent that the issues on

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

appeal implicate rulings of law, we conduct a *de novo* review.[5] To the extent that the issues on appeal implicate findings of fact, we review the factual findings of the Family Court to ensure that they are sufficiently supported by the record and are not clearly erroneous.[6] We will not disturb inferences and deductions that are supported by the record and that are the product of an orderly and logical deductive process.[7] If the Family Court has correctly applied the law, our review is limited to abuse of discretion.[8]

(8) In granting a petition for guardianship,[9] the Family Court must find, after a hearing on the merits, and by a preponderance of the evidence, that the child is either dependent[10] or neglected,[11] and that it is in the best interests of the child for the guardianship to be granted.[12] The best interests factors may be summarized as a) the wishes of the parents; b) the wishes of the child; c) the interaction of the child with his parents, grandparents, siblings and other relevant individuals; d) the child's adjustment to his home, school and community; e) the mental and physical health of the individuals involved; f) past and present compliance of the parents with their

[5] *In re Heller*, 669 A.2d 25, 29 (Del. 1995).
[6] *In re Stevens*, 652 A.2d 18, 23 (Del. 1995).
[7] *Solis v. Tea*, 468 A.2d at 1279.
[8] Id.
[9] Del. Code Ann. tit. 13, §2330(a) (2); *Ward v. DFS*, Del. Supr., No. 276, 2010, Berger, J. (Jan. 10, 2011).
[10] Del. Code Ann. tit. 10, §901(8).
[11] Del. Code Ann. tit. 10, §901(18).
[12] Del. Code Ann. tit. 13, §722.

rights and responsibilities; g) evidence of domestic violence; and h) the criminal history of any party.

(9) We have reviewed the parties' submissions and the record, including the transcript of the February 3, 2012 hearing, carefully. Maternal Grandmother's claims b) through g) are essentially claims that Paternal Grandparents' home is unsuitable for David and they are not suitable guardians for David and, therefore, the Family Court either erred or abused its discretion when it awarded guardianship of David to them. We disagree. The record reflects that the Family Court carefully weighed the best interests factors in light of the evidence presented at the hearing. The Family Court's factual findings were supported by the evidence presented at the hearing and there was no error of law. We, therefore, conclude that Maternal Grandmother's claims b) through g) are without merit.

(10) Maternal Grandmother's remaining claim is that there was an agreement among the parties that David would remain in Pennsylvania with her and that all legal proceedings would take place in Pennsylvania. The hearing transcript does not reflect that this claim was presented to the Family Court in the first instance.[13] We note that the claim appears to be based

[13] Supr. Ct. R. 8.

upon an earlier hearing that took place on October 21, 2011, in which both the Delaware and Pennsylvania courts were involved.

(11) We have reviewed the transcript of that hearing and observe the following. Both the Pennsylvania Court of Common Pleas and the Delaware Family Court were involved at that time because Mother and Father were living in Pennsylvania with Maternal Grandmother, who had been granted visitation, while David was living in Delaware with Paternal Grandparents, who had been granted temporary guardianship. The purpose of the hearing was to determine which court had jurisdiction over the parties' claims with respect to David.

(12) All parties were present for the hearing, which took place by telephone, with Mother, Father and Maternal Grandmother in Pennsylvania and Paternal Grandparents in Delaware. It was conceded by counsel for Maternal Grandmother, as well as Mother and Father, that Delaware had jurisdiction over the guardianship proceedings. It was further agreed that, if Mother and Father were able to assume their responsibilities as parents, that any custody proceedings would be heard in the jurisdiction where they then resided. A visitation schedule was set for Mother and Father, with Maternal Grandmother supervising. The hearing transcript does not reflect that there was any agreement that David would remain in Pennsylvania with Maternal

Grandmother and that all proceedings would take place in Pennsylvania. As such, even if Maternal Grandmother's claim were properly before this Court,[14] it would be ruled meritless in the absence of any evidence to support it.

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

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

[14] Id.