

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CAITLYN MACNAIR, <sup>1</sup>	§	
	§	No. 529, 2017
Respondent Below-	§	
Appellant,	§	
	§	Court Below—Family Court
v.	§	of the State of Delaware,
	§	in and for New Castle County
DEVON WASHINGTON,	§	File No. CN13-05957
	§	Petition Nos. 17-00214 and
Petitioner Below-	§	17-09867
Appellee.	§	

Submitted: July 27, 2018

Decided: September 27, 2018

Before **STRINE**, Chief Justice; **VALIHURA** and **TRAYNOR**, Justices.

**ORDER**

Upon consideration of the parties’ briefs and the record below, it appears to the Court that:

(1) The appellant, Caitlyn MacNair (“Mother”), filed this appeal from the Family Court’s order dated December 8, 2017, ruling on the parties’ cross-petitions for custody of their three young daughters. Among other things, the Family Court awarded the parties joint legal custody with shared residential placement on a week-on/week-off basis, so long as Mother remained living in Delaware. If Mother moved to Georgia as she planned to do, then the Family Court awarded primary residential

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

placement to Devon Washington (“Father”), with Mother having visitation on alternating weekends.

(2) Mother argues on appeal that her daughters would be better off with her and could easily adjust to relocating to Georgia because they are young and have not started school yet and because their older half-brother will be living with them. Mother asserts that she has more time for the children because of Father’s work and coaching schedules, and she is concerned because Father has a pending criminal charge against him. Mother does not assert, however, that the Family Court failed to consider all of the evidence or misapplied the law in any way.

(3) Our review of an appeal from a custody decision extends to both the facts and the law, as well as to the inferences and deductions made by the Family Court after considering the weight and credibility of the testimony.<sup>2</sup> To the extent the Family Court's decision implicates rulings of law, our review is *de novo*.<sup>3</sup> Findings of fact will not be disturbed unless they are found to be clearly erroneous and justice requires that they be overturned.<sup>4</sup> The judgment below will be affirmed “when the inferences and deductions upon which [the decision] is based are

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<sup>2</sup> *Devon v. Mundy*, 906 A.2d 750, 752 (Del. 2006).

<sup>3</sup> *Id.* (citing *In re Heller*, 669 A.2d 25, 29 (Del. 1995)).

<sup>4</sup> *Id.* (citing *Solis v. Tea*, 468 A.2d 1276, 1279 (Del. 1983)).

supported by the record and are the product of an orderly and logical deductive process.”<sup>5</sup>

(4) After careful review, we hold that the Family Court considered all of the relevant evidence presented at the hearing in this case, including Mother’s testimony concerning Father’s work and coaching schedules, Mother’s job opportunities and quality of life in Georgia, and Father’s criminal history. The Family Court weighed all of the relevant evidence bearing on the best interest factors under 13 *Del. C.* § 722,<sup>6</sup> as it was required to do, and also considered the best interest factors under the Model Relocation Act, which it was permitted to do in its discretion.<sup>7</sup>

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<sup>5</sup> *Id.* at 752-53.

<sup>6</sup> The best interest factors include: (i) the wishes of the parents regarding the child's custody and residential arrangements; (ii) the wishes of the child regarding her custodians and residential arrangements; (iii) the interaction and interrelationship of the child with her parents, grandparents, siblings, persons cohabitating in the relationship of husband and wife with a parent of the child, and any other residents of the household or persons who may significantly affect the child's best interests; (iv) the child's adjustment to her home, school, and community; (v) the mental and physical health of all individuals involved; (vi) past and present compliance by both parents with their rights and responsibilities to the child under 13 *Del. C.* § 701; (vii) evidence of domestic violence; and (viii) the criminal history of any party or any resident of the household. 13 *Del. C.* §722.

<sup>7</sup> *Potter v. Branson*, 2005 WL 1403823, at \*2 (Del. June 13, 2005) (holding the Family Court has discretion to consider additional factors like the Model Relocation Act factors as long as it considers the mandated Section 722 factors). The Model Relocation Act factors include: (i) the nature, quality, extent of involvement and duration of relationship of the child with each parent; (ii) the age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development; (iii) the feasibility of preserving the child's relationship with the non-custodial parent; (iv) the child's preference, considering age and maturity level; (v) whether there is an established pattern of the person seeking relocation either to promote or thwart the child's relation with the other parent; (vi) whether the relocation of the child will enhance the general quality of life for both the party seeking the relocation and the child, including but not limited to financial, emotional, or educational opportunity (including

(5) After careful consideration of the parties' respective positions on appeal and after a thorough review of the record, the Court has determined that this appeal should be affirmed on the basis of the Family Court's well-reasoned decision dated December 8, 2017. It is clear that the trial judge considered the evidence under the appropriate legal standards and applied an orderly and logical deductive process in determining that shared residential placement was in the best interests of the children and in denying Mother's request to relocate with the children to Georgia.

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

BY THE COURT:

*/s/ Leo E. Strine, Jr.* \_\_\_\_\_

Chief Justice

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cultural opportunities and access to extended family); (vii) the reasons for seeking relocation; and (vii) any other factor affecting the interest of the child.