

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                                 |                             |
|---------------------------------|-----------------------------|
| HENRY L. WALTERS, <sup>1</sup>  | §                           |
|                                 | §                           |
| Respondent Below-<br>Appellant, | § No. 636, 2012             |
|                                 | §                           |
| v.                              | §                           |
|                                 | § Court Below—Family Court  |
|                                 | § of the State of Delaware, |
| CRYSTAL L. GILL,                | § in and for Kent County    |
|                                 | § File No. CK11-02628       |
| Petitioner Below-<br>Appellee.  | § Pet. No. 12-24352         |
|                                 | §                           |

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

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

**ORDER**

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, Henry Walters (the "Husband"), filed this appeal from a Family Court decision dated November 9, 2012, which found him in contempt of a prior Family Court order dated June 12, 2012. The Court finds no merit to the Husband's appeal. Accordingly, we affirm the Family Court's judgment.

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

(2) On June 12, 2012, the Family Court held a hearing and entered an order ancillary to the parties' divorce. That order awarded specific items of property to each party and also ordered the Husband to pay the Wife alimony in the amount of \$350 per month for two years and four months, which was half the length of their marriage. Neither party appealed that order.

(3) On July 5, 2012, the Wife filed a motion seeking to hold the Husband in contempt of the June 12<sup>th</sup> ancillary order. The Family Court held a hearing on November 9, 2012. Both parties appeared and testified. At the conclusion of the hearing, the Family Court judge noted that the testimony of both parties was vague in some respects and exaggerated in other respects. After weighing all of the evidence, the Family Court concluded that the Husband was in contempt of the prior ancillary order with respect to paying alimony and with respect to several items of property that had been awarded to Wife. The Family Court found that the Husband was not in contempt with respect to other items of property. The Family Court ordered the Husband to pay the Wife alimony arrears of \$1050.00 within 90 days and also ordered the Husband to pay the Wife \$3255.00 for personal property that either was damaged or had not been provided to the Wife in accordance with the June 12<sup>th</sup> order. The Husband now appeals the contempt ruling.

(4) The Husband's opening brief on appeal essentially recounts the Family Court's findings and takes issue with the credibility of the Wife and the sufficiency of her evidence. Our standard of review of a decision of the Family Court extends to a review of the facts and law, as well as inferences and deductions made by the trial judge.<sup>2</sup> We have the duty to review the sufficiency of the evidence and to test the propriety of the findings.<sup>3</sup> When the determination of facts turns on the credibility of the witnesses who testified under oath before the trial judge, this Court will not substitute its opinion for that of the trial judge.<sup>4</sup>

(5) In this case, it is undisputed that the Family Court entered a property division and alimony order in June 2012, which neither party appealed. It also was undisputed below that the Husband had failed to make any alimony payments to the Wife as of the date of the contempt hearing. With respect to the items of property that the Wife allegedly had not received or had received in a damaged condition, the Family Court concluded that both parties' testimony was vague or exaggerated on different points. With respect to some items of property, the Family Court found the Wife's testimony to be more specific and more credible. With respect to other items of property, the

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

<sup>3</sup> *Wife (J.F.V.) v. Husband (O.W.V., Jr.)*, 402 A.2d 1202, 1204 (Del. 1979).

<sup>4</sup> *Wife (J.F.V.) v. Husband (O.W.V., Jr.)*, 402 A.2d at 1204.

Family Court found the Husband's testimony more credible. We will not substitute our opinion for the trial judge's with respect to the parties' credibility.<sup>5</sup> Under the circumstances, we find sufficient evidence to support the Family Court's finding of contempt and award of damages.

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

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>5</sup> *Id.*