IN THE SUPREME COURT OF THE STATE OF DELAWARE

DEREK YORK,[1]	§	
	§	No. 370, 2013
Petitioner Below,	§	
Appellant,	§	Court Below—Family Court
	§	of the State of Delaware,
v.	§	in and for New Castle County
	§	
VANESSA YORK,	§	File No. CN09-05514
	§	Petition No. 09-34498
Respondent Below,	§	
Appellee.	§	

Submitted: April 18, 2014
Decided: June 12, 2014

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

O R D E R

This 12th day of June 2014, upon consideration of the parties' briefs and the record on appeal, it appears to the Court that:

(1) Appellant, Derek York ("Husband"), appeals from a Family Court order dated June 7, 2013, which, among other things, awarded alimony to the appellee, Vanessa York ("Wife"). We find no merit to Husband's appeal, and accordingly, affirm the Family Court's judgment.

(2) The parties were married on July 14, 2007 and were divorced on July 5, 2012. On May 3, 2012, the Family Court entered an order awarding Wife interim alimony of $634.25 per month, payable directly to Wife,

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

beginning the day after the divorce was final, to cover the costs of her COBRA insurance. On May 21, 2013, the Family Court held a hearing on the remaining ancillary issues. Wife appeared at the hearing without counsel. Husband failed to appear. The Family Court entered judgment in Wife's favor in the amount of $18,710.38, which the court calculated by multiplying $634.25 (the amount of the monthly interim alimony award) by 29½ (one-half the number of months that the parties were married).[2]

(3) In his opening brief on appeal, Husband claims that the Family Court abused its discretion by awarding alimony on the basis of an incomplete record and in light of Wife's credibility issues. Husband further argues that the Family Court erred in finding that Wife was dependent upon Husband for support because she owns sufficient property to meet her own needs.

(4) On appeal from a Family Court decision regarding alimony, this Court reviews both the law and the facts, as well as the inferences and deductions made by the trial judge.[3] We review conclusions of law *de novo*.[4] If the Family Court correctly applied the law, we review for abuse of

[2] *See* 13 *Del. C.* § 1512(d) (providing, among other things, that a dependent party may be eligible for alimony for a period not to exceed 50% of the term of the marriage).

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

[4] *Forrester v. Forrester*, 953 A.2d 175, 179 (Del. 2008).

discretion.[5] The Family Court's factual findings will not be disturbed on appeal unless those findings are clearly wrong and justice requires they be overturned.[6] Where 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.[7]

(5) The Family Court held a hearing, at which Husband did not appear, on the issues of permanent alimony and the division of Husband's pension on May 21, 2013. Husband does not claim in this appeal that he was not properly notified of the hearing or that the Family Court's decision to proceed with the hearing in his absence was erroneous or an abuse of discretion. Nor do we find any evidence to that effect in the record. The Husband has not included a transcript of the May 21, 2013 permanent alimony hearing or of the April 20, 2012 interim alimony hearing. Therefore, Husband has failed to provide this Court with an adequate record for evaluating the merits of any claim of error with respect to the appealed order.[8] Moreover, Husband's arguments on appeal are essentially the

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

[6] *Forrester*, 953 A.2d at 179.

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

[8] DEL. SUPR. CT. R. 9(e)(ii), 14(e); *Tricoche v. State*, 525 A.2d 151, 154 (Del. 1987) (explaining that the burden is on the appellant to produce "such portions of the trial

arguments he should have—but did not—present to the Family Court in the first instance, due to his failure to appear at the ancillary hearing.[9] Given the absence of an adequate basis for appellate review, we conclude that the judgment of the Family Court must be affirmed.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

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transcript as are necessary to give this Court a fair and accurate account of the context in which the claim of error occurred").

[9] DEL. SUPR. CT. R. 8 (2013) ("Only questions fairly presented to the trial court may be presented for review. . . .").