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**SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-0260-21**

K.O. and V.M.,

Plaintiffs-Respondents,

v.

N.D.,

Defendant-Appellant.

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Submitted November 1, 2022 – Decided November 21, 2022

Before Judges Sumners and Geiger.

On appeal from the Superior Court of New Jersey,  
Chancery Division, Family Part, Bergen County,  
Docket No. FD-02-0350-21.

Law Office of Harriet E. Ragnal, attorneys for  
appellant (Harriet E. Ragnal and April Bauknight, on  
the briefs).

Pashman Stein Walder Hayden, PC, attorneys for  
respondents (Timothy P. Malone, on the brief).

PER CURIAM

In this non-matrimonial custody and child support dispute, defendant N.D.<sup>1</sup> appeals from nine Family Part orders awarding temporary joint legal custody of his two daughters N.D.D. (Nadia) and N.H.D. (Nancy), and other relief to their maternal and paternal aunts, plaintiffs K.O. and V.M. Collectively, the orders also established defendant's child support and college contribution obligations, applied derivative Social Security benefits, enforced litigant's rights, addressed parenting time, and denied defendant's motions. Because the orders were entered without a finding that defendant was unfit, without conducting a plenary hearing as to custody, and without adequate consideration of defendant's financial circumstances, we are constrained to reverse and remand.

Defendant is the biological father of Nadia, born on August 10, 2003, and the adoptive father of Nancy, born on November 29, 2006. The children's mother, who was defendant's wife, died in December 2018.

On October 19, 2020, the Division of Child Protection and Permanency received a report of physical abuse of Nancy by defendant. The following day, DCPD investigated defendant's residence and found it to be "cluttered,

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<sup>1</sup> We refer to the parties and the children by initials to protect the privacy of the children. R. 1:38-3(d)(12), (16).

disorganized, and unclean with large stacks of clothing, boxes, and paperwork scattered throughout." DCPD reported that "[t]he kitchen table and countertops were cluttered with various pill bottles, open containers of dry food, and dishes with minimal space to prepare food." Defendant would not allow the DCPD caseworker to speak alone with the children.

During DCPD's visit, the children's paternal aunt V.M. arrived at defendant's residence unannounced. V.M. instructed the children to go outside and speak with the caseworker privately.

Once outside with the caseworker, the children reported their father told them not to speak with the caseworker. Nancy reported she witnessed her father watching pornography at the dining room table because she could see the video reflected in the glass cabinet behind him. Nancy also reported that the week prior, her father placed her in a headlock, though she did not sustain any injuries from the incident. Nadia confirmed witnessing Nancy being put in a headlock.

Nadia reported she was made responsible to care for Nancy and all the household duties, and that defendant neglected to buy them food, clothes, and school supplies.

Both children reported that defendant is a diabetic and left his syringes and medications lying around the home. The children also reported defendant

had them take Uber rides by themselves to and from school, therapy, and doctor appointments because he refused to drive them. The children reported feeling depressed, stressed, and unhappy living with their father and asked if they could live with their aunt K.O.

After the caseworker spoke with the children, defendant agreed to allow the children to temporarily stay with K.O. and asked that they return home on October 24, 2020. The children then went to K.O.'s residence.

On October 21, 2020, the DCPP caseworker contacted defendant and scheduled to meet with him on October 27, 2020. Defendant agreed to allow the children to remain with K.O. until the caseworker's visit.

Defendant failed to appear for the caseworker visit. The caseworker rescheduled the visit for November 3, 2020. Defendant agreed to allow the children to stay with K.O. until that time. Defendant then texted Nadia instructing her to take Nancy to her dentist appointment on October 30, 2020, and to care for his dogs on October 31, 2020, because he would be out of town.

On November 3, 2020, the DCPP caseworker met with defendant at his residence. The caseworker reported that her conversation with defendant occurred at the dining room table, which was covered with multiple used insulin syringe caps.

During the meeting, defendant admitted to watching pornography, but denied that he watched it in the presence of the children. Defendant also admitted to putting Nancy in a headlock but claimed that it was a joke. Defendant explained it was Nadia's responsibility to care for Nancy by taking her to therapy and medical appointments. Defendant admitted to the children taking Uber to school every day by themselves and he did not believe anything was wrong with this.

On November 6, 2020, plaintiffs filed a verified complaint and emergent application<sup>2</sup> for temporary custody of the children and child support against defendant. The court heard the application on November 10, 2020. The judge recounted the DCPD report, stating:

There was a report to [DCPD] that [defendant] was physically abusive, had grabbed [Nancy] by the neck and choked her because of something she did . . . three years ago. [Nancy] disclosed that she had punched [defendant], and he punched her back.

[Defendant] has made [Nadia] a surrogate parent of her younger [sister], that she's responsible for taking care of [Nancy], taking Uber to school, to therapy, and the [defendant] has made [Nadia] who is 17, in charge of cleaning, cooking, [and] doctors' appointments.

It is alleged that the [defendant] is watching pornography in the presence of his children on his

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<sup>2</sup> The emergent application is not part of the record.

devices and that [Nancy] had seen this two weeks ago; that [Nadia], who is [overweight], [defendant] calls her fat, calls black women [m]onkeys and calls [Nadia] a monkey.

When [DCPP] went out, the children disclosed that they are depressed in the [defendant's] care. They don't wish to live with the [defendant]. They disclosed the same issues about [defendant] watching pornography, about [Nadia] having become the surrogate parent of [Nancy], and that the father had grabbed [Nancy] by the neck.

....

The children have been with the plaintiffs since October 2020 and that DCPP has no concerns about that

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Without hearing any testimony, the judge adopted the DCPP's findings and found there was sufficient evidence the children would suffer irreparable, immediate, and substantial harm if returned to defendant. The judge granted plaintiffs temporary custody of the children, directed DCPP to continue its investigation and submit an updated report, and ordered that the matter be relisted for any outstanding issues in the complaint.

On December 1, 2020, DCPP wrote to the court setting forth the findings of its investigation. The letter advised that DCPP had completed its investigation and was closing the case as the children were deemed safe in the

care of K.O. and the alleged physical abuse by defendant was not established. The judge issued a protective order and distributed the DCPD letter to counsel.

On December 7, 2020, the court heard the order to show cause and addressed child support. Defendant argued DCPD found that the alleged abuse was not established and requested that the order to show cause be dismissed and for the children to be returned to defendant. The judge read the DCPD's letter into the record. Without taking any testimony, the judge found it appropriate to continue temporary custody with plaintiffs. The judge stated that

at whatever point that the [defendant] can get himself . . . back to being grounded and through the work of the therapist and the family therapy, then at that point he may file . . . for custody of the girls. But at this point, I'm not going to take the chance . . . and it appears, too, that [defendant] has, for lack of a better word, dumped a lot of the responsibility for raising the 13-year-old on the 17-year-old. He has to get better himself before he can help the children.

The judge indicated returning the children to defendant would not be "in their best interest."

The judge then considered child support. He ordered that effective November 10, 2020, \$3,000 of the \$5,000 that defendant received from Social Security for the children due to the death of their mother, plus \$250 towards arrearages, be forwarded by defendant to plaintiffs as child support through the

probation department, with the remaining \$2,000 to be used by defendant to maintain a residence to which the children could return.

After defendant failed to make the required child support payments and to exchange financial information, plaintiffs moved to enforce litigant's rights. A different judge heard the motion. Plaintiffs sought a bench warrant, payment of Social Security death benefits, and turnover of the children's life insurance policies and personal identifying documents. Plaintiffs also requested that defendant be ordered to file a Free Application for Federal Student Aid form for Nadia, to pay for college prep tutoring, and produce college bank account statements. Plaintiffs also requested a power of attorney for those accounts, the income information previously ordered, and an award of counsel fees.

Defendant testified he was using the Social Security death benefits to pay for the children's private middle school and high school tuition. The judge declined to hear argument regarding parenting time because defendant did not file a parenting time application.

The judge ordered defendant to: (1) continue to pay the children's private school tuition; (2) pay \$12,309.00 in child support arrears by April 30, 2021; (3) continue to pay child support in the amount of \$3,000 by wage garnishment; (4) that the Social Security death benefits defendant received be garnished by the

probation department; (5) provide income documentation, including his 2019 and 2020 tax returns, W-2s, and 1099s, current paystubs, and his business bank accounts statements from 2019 through 2021; and (6) provide the children's health insurance information and documentation, passports, Social Security cards, birth certificates, and any documentation regarding Nancy's place of birth.

At the continued enforcement hearing on May 3, 2021, defendant paid the \$12,309.00 in child support arrears but did not provide his business bank records. The judge ordered defendant to provide his business bank account records in four days, subject to a \$400 per day sanction if he did not. The judge also ordered defendant to provide a release authorizing his accountant to release defendant's 2019 and 2020 tax returns, W-2s, 1099s, and 1098s. Finally, the judge ordered defendant to satisfy all child support arrearages by the next court date. Defendant once again asked about parenting time. The judge reiterated that there was no pending parenting time application.

On May 25, 2021, the judge noted there had been a substantial exchange of information and instructed the parties to exchange college information for Nadia. The judge directed defendant to provide statements of the children's accounts. Plaintiffs were ordered to provide documentation of college tuition and expenses to defendant.

On June 8, 2021, defendant filed an application for custody, termination of child support, and other relief. The next day, defendant filed an emergent application seeking the same relief, production of plaintiffs' attorney's communications with the children's therapist, termination of the therapist's services, and appointment of a new therapist. The custody application was heard on June 11, 2021. Defendant argued that the children must be returned to him unless the court finds plaintiffs are the psychological parents of the children and defendant is an unfit parent. The judge denied defendant's emergent custody application, finding defendant failed to establish immediate and irreparable harm. The case was relisted for July 20, 2021. The judge also denied defendant's request for a stay. We denied his application for emergent relief.

Plaintiffs cross-moved for college contribution costs and for counsel fees. On July 23, 2021, the judge conducted a Newburgh<sup>3</sup> hearing regarding contribution to Nadia's college expenses but did not issue a decision. Custody was not discussed at the hearing. Then, on August 18, 2021, the judge heard oral argument on the issues of custody, college contribution, child support, and counsel fees. The judge rejected defendant's argument regarding the absence of finding him an unfit parent, concluding that the prior judge made findings

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<sup>3</sup> Newburgh v. Arrigo, 88 N.J. 529 (1982).

regarding defendant's conduct and lack of fitness without using those precise words. The judge noted the prior judge established a pathway for reunification requiring the defendant to attend therapy, the children to attend therapy, and "when everybody is ready" for them to attend family therapy and then the defendant may file an application for a return of custody. The judge cited N.J.S.A. 9:2-9 for the proposition that a third party may make an application for custody when the parent is unfit or abandons the child, and that application may be heard in a summary proceeding. The judge explained that it was "abundantly clear from the record [on December 7, 2020] that the defendant's conduct was found to have put the children at risk of harm or caused actual harm," and it was in the children's best interest to temporarily remain in plaintiffs' custody.

As to custody, the judge reasoned:

Once there is a finding made for a transfer of custody to a third party pursuant to N.J.S.A. 9:2-9 the burden shifts to the parent seeking to regain custody to establish that there is a substantial change of circumstances to warrant that modification, which in this case would be that the defendant make a prima facie showing that the conduct that led to the children being at risk of harm or actual harm has been remediated and the children will not be placed at risk of harm by returning to the parent's custody. It's well established that defendant has the burden to prove that there is that change of circumstances in regards to Sheehan v. Sheehan, [51 N.J. Super. 276 (App. Div. 1958),] and numerous cases that follow.

Moreover, there's no need for the [c]ourt to conduct a plenary hearing until such a showing is made. Hallberg v. Hallberg, 113 N.J. Super. 205 (App. Div. 1971).

Plaintiffs were granted temporary physical custody of Nancy, with legal custody to be shared jointly with defendant. Custody to Nadia was deemed moot given her age.

The judge found plaintiffs had standing to apply for college contribution for Nadia as "they had taken on the role of the parent insofar as the day-to-day activities of the child are concerned." The judge granted the application, ordering defendant to pay Nadia's college expenses directly to the college and to reimburse K.O. for the \$3,980.88 she paid to the University of Connecticut, within five days of receipt of proof of payment.

Regarding child support, plaintiffs would continue to receive \$2,118 per month in Social Security benefits on behalf of Nancy but defendant's child support obligation was discontinued without prejudice, and his child support arrearages were extinguished.

Plaintiffs were awarded counsel fees and costs totaling \$17,803.71. Defendant's request to stay the order was denied by the judge.

This appeal followed. Defendant raises the following points:

POINT I

STANDARD OF REVIEW ABUSE OF DISCRETION

POINT II

THE TRIAL COURT FAILED TO ESTABLISH STANDING IN REGARD TO THE PLAINTIFFS WHO ARE THIRD PARTY LITIGANTS.

POINT III

THE TRIAL COURT VIOLATED THE [DEFENDANT'S] CONSTITUTIONAL RIGHT TO DUE PROCESS AND PARENTAL AUTONOMY BY TERMINATING HIS PARENTAL RIGHTS WITHOUT A HEARING.

POINT IV

OBTAINING TEMPORARY CUSTODY OF A RELATIVE DOES NOT CREATE PSYCHOLOGICAL PARENTHOOD.

POINT V

TRIAL COURT VIOLATED [DEFENDANT'S] CONSTITUTIONAL RIGHTS BY ALLOWING FINANCIALLY INTRUSIVE DISCOVERY.

Our scope of review is limited. "We invest the family court with broad discretion because of its specialized knowledge and experience in matters involving parental relationships and the best interests of children." N.J. Div. of Youth & Fam. Servs. v. F.M., 211 N.J. 420, 427 (2012). Appellate courts

"review the Family Part judge's findings in accordance with a deferential standard of review, recognizing the court's 'special jurisdiction and expertise in family matters.'" Thieme v. Aucoin-Thieme, 227 N.J. 269, 282-83 (2016) (quoting Cesare v. Cesare, 154 N.J. 394, 413 (1998)). "Thus, 'findings by the trial court are binding on appeal when supported by adequate, substantial, credible evidence.'" Id. at 283 (quoting Cesare, 154 N.J. at 413). However, "the trial judge's legal conclusions, and the application of those conclusions to the facts, are subject to our plenary review." Elrom v. Elrom, 439 N.J. Super. 424, 433 (App. Div. 2015) (quoting Reese v. Weis, 430 N.J. Super. 552, 568 (App. Div. 2013)).

We first address whether plaintiffs had standing to seek custody. Defendant argues plaintiffs are third-party litigants who lacked standing because he was not found an unfit parent and plaintiffs were not the children's psychological parents.

A third party may file an action for custody of any child under N.J.S.A. 9:2-9, which provides:

When the parents of any minor child . . . are grossly immoral or unfit . . . it shall be lawful for any person interested in the welfare of such child to institute an action in the Superior Court, Chancery Division, Family Part, in the county where such minor child is residing, for the purpose of having the child brought

before the court, and for the further relief provided by this chapter. The court may proceed in the action in a summary manner or otherwise.

N.J.S.A. 9:2-10 permits a court to award custody to a third party bringing the action under N.J.S.A. 9:2-9. However, "a presumption of custody exists in favor of a parent" over a third party. Watkins v. Nelson, 163 N.J. 235, 246 (2000). "Unlike a child's legal parents, third parties . . . have no inherent rights to custody of that child." W.M. v. D.G., 467 N.J. Super. 216, 229 (App. Div. 2021) (citing Watkins, 163 N.J. at 245).

In a custody dispute between a parent and a third party, the trial court must engage in a two-step analysis. Watkins, 163 N.J. at 253. First, it must determine whether the third party overcame the presumption in favor of the parent by presenting clear and convincing evidence of parental "unfitness, abandonment, gross misconduct," or the existence of "exceptional circumstances" affecting the welfare of the child. Id. at 244-45, 249, 253-55; accord K.A.F. v. D.L.M., 437 N.J. Super. 123, 131-32 (App. Div. 2014).

The "exceptional circumstances" standard stems from the court's parens patriae power to protect minor children from "serious physical or psychological harm." Watkins, 163 N.J. at 246-47. The "exceptional circumstances" standard "always requires proof of serious physical or psychological harm or a substantial

likelihood of such harm” and is considered on a case-by-case basis. Id. at 248. Proof that a third party has become a child's psychological parent by assuming the role of his or her legal parent who has been unable or unwilling to undertake the obligations of parenthood will suffice to establish "exceptional circumstances." Id. at 254.

If "exceptional circumstances" are shown, the second step is for the court to consider the best interests of the child test articulated in N.J.S.A. 9:2-4(c). Watkins, 163 N.J. at 254. However, "the best interest of the child cannot validly ground an award of custody to a third party over the objection of a fit parent without an initial court finding that the standard for termination of the rights of a non-consenting parent or the 'exceptional circumstances' prong has been satisfied." Id. at 255.

Although there are no reported cases providing a standard for parental fitness as it relates to N.J.S.A. 9:2-9, "[t]o a large extent, the grounds for a total denial of custody mirror those for the termination of parental rights" under Title 30, N.J.S.A. 30:4C-15.1(a). Fall & Romanowski, Child Custody, Protection & Support § 21:3-3(a) (2019); see also § 22:3-1(a).

A parent's rights may be terminated if:

- (1) The child's safety, health, or development has been or will continue to be endangered by the parental relationship;
- (2) The parent is unwilling or unable to eliminate the harm facing the child or is unable or unwilling to provide a safe and stable home for the child and the delay of permanent placement will add to the harm;
- (3) The [DCPP] has made reasonable efforts to provide services to help the parent correct the circumstances which led to the child's placement outside the home and the court has considered alternatives to termination of parental rights; and
- (4) Termination of parental rights will not do more harm than good.

[N.J.S.A. 30:4C-15.1(a).]

The first prong requires that the harm "threatens the child's health and will likely have continuing deleterious effects on the child." In re Guardianship of K.H.O., 161 N.J. 337, 352 (1999). In turn, the second prong "relates to parental unfitness." Ibid. Unfitness is established by showing the parent is "'unwilling or unable to eliminate the harm' that has endangered the child's health and development." Ibid. (quoting N.J.S.A. 30:4C-15.1(a)(2)). Unfitness is also demonstrated if a parent fails to supply a "safe and stable home for the child." Ibid.

The judge relied upon N.J.S.A. 9:2-9 in awarding temporary physical custody to plaintiffs. As the children's aunts, plaintiffs are third parties. To be granted custody under N.J.S.A. 9:2-9, plaintiffs must establish "clear and convincing" evidence of either parental unfitness, abandonment, gross misconduct, or the existence of "exceptional circumstances." Watkins, 163 N.J. 244-45, 249, 253-55. Neither judge made these findings. Instead, the first judge merely recited the hearsay DCPD report without hearing any testimony. The second judge then relied upon the first judge's purported conclusion, without hearing any testimony. Moreover, the DCPD report did not speak to whether defendant was "'unwilling or unable to eliminate the harm' that has endangered the child's health and development." K.H.O., 161 N.J. at 352 (quoting N.J.S.A. 30:4C-15.1(a)(2)). That finding was not made by either judge.

Nadia is now nineteen years old. The issue of custody of a child becomes moot when they turn eighteen years old. N.J. Div. of Youth & Fam. Servs. v. W.F., 434 N.J. Super. 288, 296 (App. Div. 2014). We therefore limit our review of the custody rulings to Nancy.

Defendant argues the trial court effectively terminated his parental rights without conducting a testimonial hearing. Our Supreme Court has noted:

Although an award of custody to a third party does not involve a termination of all parental rights, "such an

award destroys any pretense of a normal parent-child relationship and eliminates nearly all of the natural incidents of parenthood including everyday care and nurturing which are part and parcel of the bond between a parent and child."

[Watkins, 163 N.J. at 253-54 (quoting Zack v. Fiebert, 235 N.J. Super. 424, 432 (App. Div. 1989)).]

Defendant was entitled to a hearing on the issue of whether he is an unfit parent.

Defendant further argues that the award of temporary physical custody did not render plaintiffs the children's psychological parents. We agree that the temporary custody award did not, by itself, elevate plaintiffs to being the children's psychological parents.

To order to establish that a third-party is a child's psychological parent, four elements must be met:

(1) that the biological or adoptive parent consented to, and fostered, the petitioner's formation and establishment of a parent-like relationship with the child; (2) that the petitioner and the child lived together in the same household; (3) that the petitioner assumed the obligations of parenthood by taking significant responsibility for the child's care, education and development, including contributing towards the child's support, without expectation of financial compensation [a petitioner's contribution to a child's support need not be monetary]; and (4) that the petitioner has been in a parental role for a length of time sufficient to have established with the child a bonded, dependent relationship parental in nature.

[V.C. v. M.J.B., 163 N.J. 200, 223 (2000) (alteration in original).]

Under this test, to be considered a psychological parent,

the legal parent must consent to and foster the relationship between the third party and the child; the third party must have lived with the child; the third party must perform parental functions for the child to a significant degree; and most important, a parent-child bond must be forged. We are satisfied that that test provides a good framework for determining psychological parenthood in cases where the third party has lived for a substantial period with the legal parent and her child.

[Ibid.]

Under the first prong,

in order for a third party to be deemed a psychological parent, the legal parent must have fostered the formation of the parental relationship between the third party and the child. By fostered is meant that the legal parent ceded over to the third party a measure of parental authority and autonomy and granted to that third party rights and duties vis-a-vis the child that the third party's status would not otherwise warrant.

[Id. at 224.]

Awarding temporary physical custody to plaintiffs did not automatically convert them to psychological parents. Because a plenary hearing was never conducted, the record is limited to conflicting written submissions and hearsay DCPD submissions that have not been substantiated by testimony subjected to

cross-examination. Defendant was not afforded the opportunity to testify, call his own witnesses, cross-examine plaintiffs and the DCPD caseworker, or present other relevant evidence. This prevented the trial court from assessing credibility and meaningfully determining the weight to be given to evidence. Nor was defendant afforded the opportunity to demonstrate whether the circumstances have changed since the initial temporary custody order was entered.

"A thorough plenary hearing is necessary in contested custody matters where the parents make materially conflicting representations of fact." J.G. v. J.H., 457 N.J. Super. 365, 372 (App. Div. 2019) (citing K.A.F., 437 N.J. Super. at 137-38).

A court, when presented with conflicting factual averments material to the issues before it, ordinarily may not resolve those issues without a plenary hearing. While we respect the family court's special expertise, a court may not make credibility determinations or resolve genuine factual issues based on conflicting affidavits. . . . Moreover, a plenary hearing is particularly important when the submissions show there is a genuine and substantial factual dispute regarding the welfare of children.

[Ibid. (alteration in original) (quoting K.A.F., 437 N.J. Super. at 137-38).]

In J.G., we reversed and remanded in part because a plenary hearing was not held in a contested custody case. Id. at 372-373, 376. We noted "[t]he judge must allow the parties cross-examination." Id. at 373 (citing N.B. v. S.K., 435 N.J. Super. 298, 308 n.12 (App. Div. 2014)). These principles apply with even greater force when the custody dispute is between a parent and third parties. Here, there were clearly contested facts.

In K.A.F., we emphasized:

A court, when presented with conflicting factual averments material to the issues before it, ordinarily may not resolve those issues without a plenary hearing. While we respect the family court's special expertise, a court may not make credibility determinations or resolve genuine factual issues based on conflicting affidavits. When the evidence discloses genuine material issues of fact, the failure to conduct a plenary hearing to resolve those issues requires us to reverse and remand for such a hearing.

[437 N.J. Super. at 137-38 (internal citations omitted); accord Faucett v. Vasquez, 411 N.J. Super. 108, 128 (App. Div. 2009).]

We reverse the temporary physical custody award and remand for a plenary hearing on whether plaintiffs are the psychological parents of Nancy and whether defendant is an unfit parent. Given the time that has elapsed while this case and appeal have been pending, we direct that the plenary hearing be conducted promptly.

Considering our ruling, we do not reach defendant's due process violation argument. See Comm. to Recall Robert Menendez from the Off. of U.S. Senator v. Wells, 204 N.J. 79, 95-96 (2010) (stating that courts "strive to avoid reaching constitutional questions unless required to do so"); Randolph Town Ctr., L.P. v. Cnty. of Morris, 186 N.J. 78, 80 (2006) ("Courts should not reach a constitutional question unless its resolution is imperative to the disposition of litigation.").

We next address defendant's college contribution argument. The judge found plaintiffs had standing to apply for contribution to Nadia's college expenses. He ordered defendant to reimburse K.O. for the monies K.O. had paid toward Nadia's college expenses. Defendant contends the trial court erred by ordering a hearing under Newburgh because the trial court lacks jurisdiction to compel him to contribute to Nadia's college expenses. We decline to address this issue as it is not adequately briefed by defendant. See S. Jersey Cath. Sch. Tchrs. Org. v. St. Teresa of the Infant Jesus Church Elementary Sch., 150 N.J. 575, 598 (1997) ("Issues that are raised but are not supported with arguments are deemed waived.").

We likewise decline to address defendant's inadequately briefed argument that the financial discovery relating to child support that he was ordered to

provide to plaintiffs violated Article 1, "Section 1" of the New Jersey Constitution.<sup>4</sup> See *ibid.*

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.



CLERK OF THE APPELLATE DIVISION

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<sup>4</sup> We note that there is no article 1, section 1 in the New Jersey Constitution. In the event defendant was referring to article 1, paragraph 1, we find that provision has no relevance to the financial discovery defendant was ordered to provide.