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This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3794-16T1

B.J.P.,

Plaintiff-Appellant,

v.

K.F.W. and M.P.-W.,

Defendants-Respondents.

Submitted May 14, 2018 — Decided May 24, 2018

Before Judges Sabatino, Rose and Firko.

On appeal from Superior Court of New Jersey,
Chancery Division, Family Part, Passaic
County, Docket No. FD-16-1237-10.

B.J.P., appellant pro se.

Respondents have not filed a brief.

PER CURIAM

Plaintiff BJP appeals from the April 21, 2017 Family Part order entered after the trial judge conducted an in camera interview of N.P.¹, plaintiff's granddaughter, and denied

¹ We use initials to protect the privacy interests of the parties.
R. 1:38-3(d)(9).

grandparent visitation. We affirm substantially for the reasons set forth in the comprehensive written decision rendered by Judge Sohail Mohammed.

The parties are familiar with the procedural history and facts of this case and, therefore, they will not be repeated in detail here.²

In her brief on appeal, plaintiff argues:

POINT I:

THE COURT BELOW ERRED IN DENYING GRANDPARENT VISITATION BETWEEN PLAINTIFF AND N.P. IN FACT, N.J.S.A. 9:2-7.1(A)(B) AND (C) WERE PROVEN BY A PREPONDERANCE [SIC] OF EVIDENCE AND TRIAL TESTIMONY. GRANDPARENT VISITATION WAS EXPLICITLY PERMITTED BY BIOLOGICAL PARENTS EXERCISING THEIR FUNDAMENTAL RIGHTS. THE CUSTODIANS AND THE LOWER COURT IS NOT UPHOLDING THE BIOLOGICAL PARENTS' FUNDAMENTAL CONSTITUTIONAL RIGHTS.

POINT II:

THE COURT BELOW ERRED IN PROTOCOL FOR THE IN CAMERA INTERVIEW OF THE CHILD. PROPER PROCEDURES WERE NOT FOLLOWED SUCH AS HAVING A FAMILY COURT JUDGE TO CONDUCT THE INTERVIEW, NOT GIVING REASONS FOR EACH INDIVIDUAL QUESTIONS SUBMITTED BY COUNSEL THAT WAS DENIED, NOT DISCLOSING PROTOCOL STATEMENT IN DECISION, AND NOT DISQUALIFYING ONESELF BEFORE INTERVIEW FOR A FAMILY JUDGE TO CONDUCT

² The chronology is set forth in this court's unpublished opinion entered on January 31, 2017 in which we remanded and directed the trial court to conduct an in camera interview of N.P., pursuant to Rule 5:8-6. We incorporate, by reference, the facts stated in our prior opinion to the extent they are consistent with those developed on remand.

INTERVIEW AND ALSO FOR IMPARTIALITY TO PREVAIL.

POINT III:

THE COURT BELOW'S FAILURE TO CONDUCT AN IN CAMERA INTERVIEW OF THE CHILD TWO YEARS AGO AND THE DELAY HAS AFFECTED THE CHILD'S RESPONSES IN THE INTERVIEW HELD MARCH 24, 2017. THE COURT BELOW (NOT HAVING A FAMILY JUDGE PRESIDING OVER THE INTERVIEW) ERRED TO SEE THAT THE NEGATIVE RESPONSES WERE DUE TO DURESS AND UNDUE INFLUENCES AND THE FEAR OF PUNISHMENT. PUNISHMENT THAT THE AUNT AND UNCLE TESTIFIED WAS BESTOWED UPON N.P. AFTER N.P. CONTACTED HER GRANDMOTHER.

"The scope of appellate review of a trial court's fact-finding function is limited. The general rule is that findings by the trial court are binding on appeal when supported by adequate, substantial, credible evidence." Cesare v. Cesare, 154 N.J. 394, 411-12 (1998). Moreover, "[b]ecause of the family courts' special jurisdiction and expertise in family matters, appellate courts should accord deference to family court fact finding." Id. at 413. An appellate court should intervene only when convinced that the trial judge's factual findings and legal conclusions "are so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend the interest of justice." Id. at 412 (quoting Rova Farms Resort, Inc. v. Investors Ins. Co. of Am., 65 N.J. 474, 484 (1974)). Furthermore, "[a] trial court's interpretation of the law and the legal

consequences that flow from established facts are not entitled to any special deference," and this court review questions of law de novo. See Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995) (citations omitted).

Turning to the issues raised by plaintiff, we begin with the in camera interview of N.P.³ We note that it was extensive and took approximately forty-five minutes. Judge Mohammed found N.P. "was adamant that she did not want the plaintiff to be granted visitation." He found her to be "competent, intelligent, and not under any undue influence." Judge Mohammed further stated the court is "clearly convinced that the child made her preferences clear and her preferences are against any visitation at this time."

Judge Mohammed further noted the child had a "calm demeanor." "She answered each question confidently and with age appropriate vocabulary, she did not appear to be in any distress" Saliently, "the responses did not appear to be suggestive." Moreover, Judge Mohammed asked the questions in an open-ended fashion so as not to provoke a tainted response.

N.P. spoke "positively" to the judge about her life. As to the purpose of the interview, she responded, "I assume because of

³ The interview was conducted in 2017 in accordance with Rule 5:8-6. N.P. is now sixteen years old and she will become seventeen years old in June 2018.

my grandmother." When pressed about plaintiff's desire to see her, N.P. responded, "I don't think it's a good idea." She further added she felt that way, "because [B.J.P.] has a history of not being good, not acting in my best interest, manipulating, and lying to me." Judge Mohammed set forth specific examples substantiating N.P.'s position.

The parties were appropriately permitted to submit questions for N.P. to Judge Mohammed. Judge Mohammed gave reasons for not asking certain proposed questions submitted by plaintiff as "inappropriate to ask during the interview or were outside the scope of N.P.'s knowledge." After assessing the proposed questions, the judge appropriately exercised his discretion in choosing what to ask N.P.

Judge Mohammed denied plaintiff's application for visitation. His decision is plainly supported by substantial credible evidence in the record and the applicable law. Plaintiff has not met her burden by a preponderance of the evidence that the denial of parenting time would result in harm to N.P. See N.J.S.A. 9:2-7.1; see also Troxel v. Granville, 530 U.S. 57 (2000); Major v. Maquire, 224 N.J. 1 (2016); and Moriarty v. Bradt, 177 N.J. 84 (2003).

Applying these principles, we are satisfied that Judge Mohammed conducted the meticulous investigation required and

properly denied plaintiff's application for the reasons set forth in his thorough opinion.

Plaintiff's remaining arguments, including her claim that the matter should have been remanded to a different judge, are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(A) and (E).

Affirmed.

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



CLERK OF THE APPELLATE DIVISION