Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2008-283

FEBRUARY TERM, 2009

Kimberly VoganSchneider	}	APPEALED FROM:
	}	
v.	}	Caledonia Family Court
	}	
Earle Chaffee III	}	DOCKET NO. 7-1-95 Cadm
		Trial Judge: Harold E. Eaton, Jr.

In the above-entitled cause, the Clerk will enter:

Mother appeals the family court's denial of her motion to enforce a previous order and find father in contempt. We affirm.

The parties were divorced in 1995. Two of their three children have reached the age of majority. In a July 2007 order, the family court granted father's motion to modify the original divorce order by awarding him sole legal and physical rights and responsibilities with respect to the parties' youngest child, who was born in June 1993. Mother appealed the July 2007 order, which this Court affirmed in June 2008. On June 5, 2008, the family court found mother in contempt of the July 2007 order for failing to transport the parties' daughter to all school-related activities. At about the same time, mother filed the instant motion to enforce and for contempt, in which she alleged that father had violated the July 2007 order by not consulting her regarding his wife bringing their daughter to Planned Parenthood to be put on birth control. Father responded that their daughter, who had just turned fifteen, had made the decision regarding birth control, and that mother herself had acknowledged in a previous letter to father that their daughter could make certain health decisions without parental consent. The family court denied mother's motion, stating on a motion-reaction form that "[t]he allegations in the motion are not appropriate for contempt."

On appeal, mother argues that the family court erred by failing to make legal conclusions as to how father had not violated the July 2007 order, by not holding a hearing on her motion, and by not finding father in contempt. We find these arguments unavailing. In relevant part, the July 2007 order requires father to consult with mother about any major decision regarding their daughter's health, among other things. Nothing in mother's motion indicated that father had made a major decision regarding their daughter's health. Mother herself acknowledged in a previous letter to father that their daughter had reached an age at which she would be making

decisions concerning her health, and that both parents would have the right to consult and advise her regarding those decisions. Before filing her motion, mother had learned, either directly from the parties' daughter or from someone else, of the girl's visit to Planned Parenthood. In her motion, mother mentioned only the visit to Planned Parenthood, and the fact that their daughter was dating a seventeen-year-old boy. The motion did not request a hearing to present any further evidence. Under these circumstances, the family court acted within its discretion in denying the motion without holding a hearing. See V.R.F.P. 16(b)(1) ("The court shall issue an order initiating a [contempt] proceeding only if the alleged contempt, if proven, would be a clear and substantial violation of a previous order of the court."); Mayo v. Mayo, 173 Vt. 459, 462 (2001) (mem.) (stating that contempt ruling will not be disturbed on appeal unless trial court's discretion was entirely withheld or exercised on clearly untenable grounds); see also V.R.C.P. 78(b)(2) ("An opportunity to present evidence shall be provided, if requested, unless the court finds there to be no genuine issue as to any material fact. . . . In any case, the court may decline to hear oral argument and may dispose of the motion without argument.").

Affirmed.

BY THE COURT:

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice

Brian L. Burgess, Associate Justice