

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

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2005-377

FEBRUARY TERM, 2006

Larkin A. Forney	}	APPEALED FROM:
	}	
	}	
v.	}	Chittenden Family Court
	}	
Ashley Terjelian	}	DOCKET NO. 332-5-03 Cndm
	}	

Trial Judge: Helen M. Toor

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

Father appeals the family court=s decision to modify the parent-child contact order. We affirm.

The family court issued its original parent-child contact order on February 1, 2005. Noting that father had been incarcerated until recently and had no prior relationship with child, who is now approximately two and a half years old, but that there was not clear and convincing evidence that contact with father would be harmful for child, the court ordered supervised contact at the Family Connection Center to allow father to develop a relationship with child. This effort was not successful, however, and father petitioned to change the contact order. The court modified the order, accepting mother=s proposal that the supervised visits occur at mother=s house, and that mother be able to decide whether others could accompany father on these visits. Father objected to this latter condition. The family court noted that child would be comfortable at mother=s house, and that the central concern of the order was contact between father and child, not whether other individuals were present with father during these visits. The court further stated that if father was able to establish a stable relationship with child, additional modifications allowing more contact could be appropriate.

In his motion for reconsideration, father sets forth a number of factual allegations concerning his past relationship with mother and his doubts about mother=s parenting ability. He further challenges the family court=s decision denying a subpoena seeking mother=s employment records, which father contends were necessary to prove mother was lying about the circumstances under which she left her last job. These issues go well beyond the scope of the modified parent-child contact order. Father=s primary objection pertaining to the modified order was that it offered him absolutely no protection@ and meant that the visits would take place in an environment that he found uncomfortable. Father=s reference to Aprotection@ arises from his concern that, unless father=s friends or family members are present during his visits with child, mother will feel free to level false accusations against him about his conduct during those visits. The family court summarily denied father=s motion for reconsideration. On appeal, father raises essentially the same arguments set forth in his motion for reconsideration.

A decision to grant, modify, or deny visitation rests within the discretion of the trial court and will not be reversed unless the court exercised its discretion based on unfounded considerations or to an extent clearly unreasonable given the facts before it. Fournier v. Fournier, 169 Vt. 600, 603 (1999) (mem.). In deciding or modifying a parent-child contact order, the family court must be guided by the best interests of the child. See 15 V.S.A. ' 665(b) (requiring that

The court shall be guided by the best interests of the child@ in making order determining parental rights and responsibilities).

Here, the family court correctly emphasized that child, who had no previous relationship with father, would be most comfortable visiting with father in the familiar surroundings of mother=s home. Further, father agreed to this aspect of the modification, at least initially. Regarding the family court=s decision to allow mother to determine whether father could bring others with him on his visits, the trial court was again correct in focusing on the purpose of the parent-child contact order: facilitating father=s development of a relationship with child. Finally, as stated above, father=s primary concern with the modified parent-child contact order is the possibility of future false allegations by mother against him, perhaps leading to an effort to eliminate any contact with his child. Such allegations and their truth or falsity can only be judged if and when they are actually made.

Father has not shown that the family court abused its discretion in modifying the parent-child contact order.

Affirmed.

BY THE COURT:

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John A. Dooley, Associate Justice

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice