

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
August 19, 2005 Session

TERESA ANN (WOODBY) WILSON v. JOHN GREGORY WILSON

**Appeal from the Circuit Court for Robertson County
No. 10449 Ross H. Hicks, Judge**

No. M2004-02954-COA-R3-CV - Filed September 12, 2005

This is an appeal from a divorce action in which the Wife appeals the trial court's decision regarding the parties' parenting time with their minor child. Wife also appeals the trial court's decision to award her engagement and wedding rings to Husband. We affirm the trial court's ruling as to the parenting plan. As for the engagement and wedding rings, we reverse the judgment as to the wedding rings finding they were a completed gift from Husband to Wife.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court
Affirmed in Part and Reversed in Part**

FRANK G. CLEMENT, JR., J., delivered the opinion of the court, in which WILLIAM B. CAIN and PATRICIA J. COTTRELL, JJ., joined.

Russell E. Edwards, Hendersonville, Tennessee, for the appellant, Teresa Ann (Woodby) Wilson.

John Michael Garrett, Nashville, Tennessee, for the appellee, John Gregory Wilson.

MEMORANDUM OPINION¹

John Gregory Wilson, Husband, desired to marry Teresa Ann Wilson, Wife, yet he was unable to pay for the engagement and wedding rings. Thus, in anticipation of the engagement, Husband's mother and father agreed to select and purchase the engagement and wedding rings during a trip to St. John's Island because jewelry was less expensive there. Upon their return, they gave the rings to their son, Husband. He in turn gave the engagement ring to Wife upon the

¹ Tenn. Ct. App. R. 10 states:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

parties' engagement. Thereafter, Husband gave the wedding ring to Wife during the wedding ceremony in July of 2002. Wife wore the rings throughout the parties' marriage.

The parties separated in January of 2004 after only eighteen months of marriage. Wife, along with the couple's one-year-old child, moved out of the couple's apartment and moved in with her parents. The parties divided their belongings and filed for divorce.

Each party submitted a parenting plan. The trial court rejected both parenting plans submitted by the parties and fashioned its own parenting plan that provided each parent with equal parenting time. Wife was designated as the primary residential parent with decision making authority.

The only assets in dispute were the engagement and wedding rings Husband had given Wife. The trial court found that the mother and father of Husband purchased the rings, they had not been repaid and thus the rings were not a completed gift. Based upon that finding the trial court awarded the rings to Husband. Wife appeals the ruling concerning the rings and both parties appeal the parenting plan.

THE PARENTING PLAN

Wife appeals the parenting plan on the ground that moving the child back and forth between Husband and Wife so regularly is not healthy for the child's development. Husband appeals the plan contending Wife is not stable enough to be the primary residential parent and that he should be the primary residential parent.

Because of the broad discretion given trial courts in matters of child custody, visitation, and related issues, including change in circumstances and best interests, and because of the fact specific nature of such decisions, appellate courts are reluctant to second-guess a trial court's determination regarding custody and visitation. *Parker v. Parker*, 986 S.W.2d 557, 563 (Tenn. 1999); *Nelson v. Nelson*, 66 S.W.3d 896, 901 (Tenn. Ct. App. 2001); *Gaskill v. Gaskill*, 936 S.W.2d 626, 631 (Tenn. Ct. App. 1996). Accordingly, this court will decline to disturb a parenting arrangement fashioned by a trial court unless that decision is based on the application of incorrect legal principles, is unsupported by a preponderance of the evidence, or is against logic and reasoning. *Eldridge v. Eldridge*, 42 S.W.3d at 85; *Adelsperger v. Adelsperger*, 970 S.W.2d 482, 485 (Tenn. Ct. App. 1997).

Though each spouse did an effective job of casting aspersions on the other's parenting skills, neither did a convincing job of establishing that he or she should be awarded greater parenting time or that the plan was erroneous based upon the criteria stated above. "It is not the function of appellate courts to tweak a visitation order. . . . When no error is evident from the record, the trial court's ruling must stand." *Eldridge*, 42 S.W.3d at 88. Moreover, Father failed to establish that he was a better choice for being the primary residential parent with decision making authority. Finding no error with the parenting plan, we affirm.

THE RINGS

Custom dictates that engagement and wedding rings are a gift from one future spouse to another spouse. Such a gift, like all gifts, is complete when it is delivered. *Arnoult v. Griffin*, 490 S.W.2d 701, 710 (Tenn. Ct. App. 1972). In the case of an engagement ring and a wedding ring, the gift is complete when the ring is placed on the finger of the fiancé or the bride. It is undisputed that Husband gave the engagement ring to his then fiancé. It is further undisputed that Husband gave the wedding ring to his bride, Wife, during the wedding ceremony. Thus, the gifts of the engagement and wedding rings were completed gifts.

The only evidence these rings were a conditional gift, conditioned on reimbursing Husband's parents, is the testimony of Husband and his mother, both of whom testified she was to be "reimbursed" for purchasing the rings – at some time down the road.² This evidence, however, does not negate the fact that Husband gifted each ring to Wife when he placed the rings on Wife's finger. Moreover, the fact that the parents were not "reimbursed" does not contravene the fact Husband made a gift of the rings to Wife when he placed them on Wife's finger. Further, it fails to justify awarding the rings to the only one who admits being obligated to reimburse his parents and who made a partial payment. Therefore, we reverse the ruling and award both rings to Wife.

CONCLUSION

For the foregoing reasons, we affirm the trial court's parenting plan, and we reverse the trial court's decision to award the engagement and wedding rings to the Husband. We remand this matter to the trial court for entry of an order consistent with this opinion. Costs of appeal are assessed against Husband, John Gregory Wilson.

FRANK G. CLEMENT, JR., JUDGE

² We find it significant that while Husband's mother paid for the rings and claims Husband and Wife were obligated to repay her for the rings, she never made a demand for payment upon Husband or Wife until the parties separated. Moreover, there is no evidence of an agreement between Wife and Husband's mother as to the amount of the alleged repayments or the time frame in which these payments were to be made. Of further significance, Wife never made a payment while Husband made a \$200 payment to his mother for the rings and the \$200 payment only serves as evidence of an agreement between Husband and his mother. It does not serve as evidence that Husband's gift of the rings to his fiance/wife was not a completed gift.