

The South Carolina Court of Appeals

Charles Kenneth Murphy,

Respondent,

v.

Reva Lee Katz,

Appellant.

The Honorable William J. Wylie, Jr.
Dorchester County
Trial Court Case No. 2004-DR-18-00939

ORDER

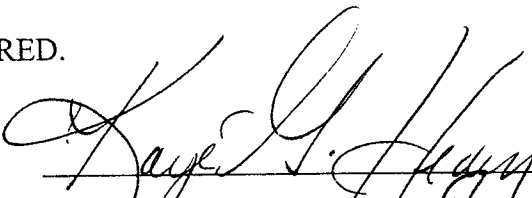
Appellant appeals the order of the Honorable William J. Wylie, Jr., dated December 15, 2004. The appeal is from an order changing custody of the child from Appellant mother to Respondent father.

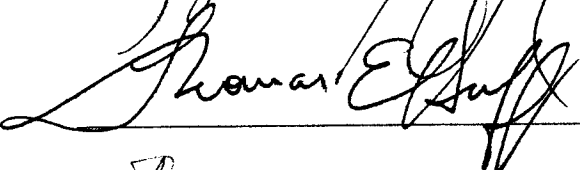
Respondent now requests that this appeal be dismissed under the “fugitive disentitlement doctrine,” by asserting that Appellant is a fugitive from South Carolina as a result of the very case she is appealing from. In order for an appellate court to invoke the fugitive disentitlement doctrine to dismiss an appeal, two prerequisites must be met: (1) the appellant must be a fugitive; and (2) there must be a connection between the fugitive status and the appellate process the appellant seeks to utilize. Scelba v. Scelba, 342 S.C. 223, 228, 535 S.E.2d 668, 671 (Ct. App. 2000). We find that both requirements have been satisfied here.

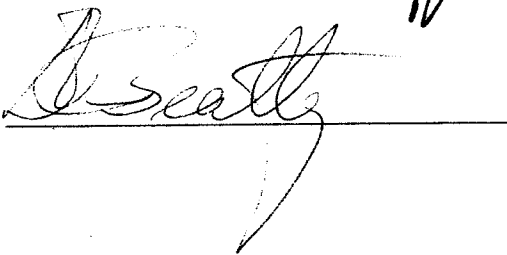
The paramount and controlling factor in every custody dispute is the best interests of the children. Nasser-Moghaddassi v. Moghaddassi, 364 S.C. 182, 191, 612 S.E.2d 707, 711 (Ct.

App. 2005). Because this court must act in the best interest of the child, we decline to adopt a strict application of the fugitive disentitlement doctrine in child custody matters. However, the court will not allow an individual to disobey the orders of the trial court simply because a child is involved in the litigation. In the matter before us, Appellant does not allege abuse by Respondent, and the trial court has found that placing custody of the child with the Respondent is in the best interest of the child. Under these facts, we will apply the fugitive disentitlement doctrine and grant Respondent's motion to dismiss.

AND IT IS SO ORDERED.



CJ



J


J

Columbia, South Carolina

12/14/2005

cc: Barry Krell, Esquire
Gregory Samuel Forman, Esquire


12/15/05 dip