

POSTED  
*Re*

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

DOCKET NO: 2018-0264

RECEIVED  
NEW HAMPSHIRE  
SUPREME COURT  
2019 APR 25 P 4: 07

---

In The Matter of:  
Steven Summers and Christine Summers

---

RULE 7 DISCRETIONARY APPEAL OF CHRISTINE SUMMERS

APPEALING AN ORDER OF THE  
9th CIRCUIT COURT - FAMILY DIVISION - MERRIMACK

---

ANSWERING BRIEF ON BEHALF OF APPELLANT, CHRISTINE SUMMERS

Counsel For Christine Summers:

Elaine M. Kennedy, Esquire  
NH Bar #14013  
Solomon Professional Association  
One Buttrick Road  
P.O. Box 937  
Londonderry, New Hampshire 03053  
(603) 437-3700

Oral Argument By:  
Elaine M. Kennedy, Esquire

## ANSWER

Petitioner/Appellee's Brief states at page 9, that "In reality, Ms. Summers never actually had shared or equal parenting time." A copy of the Temporary Parenting Plan issued by the Court in this matter is attached to Petitioner/Appellee's Brief, beginning at page 20. Paragraph B. Residential Responsibility clearly states that "The parties shall share residential responsibility as follows:" The Court then stated at Paragraph B.1. Routine Schedule that: "Respondent shall have parenting time each Wednesday through Friday and alternate weekends from Friday through Monday morning. Her parenting time shall occur at her parents' home. If she has her own residence, said overnight parenting time shall be supervised by one of her parents." The Court's Temporary Parenting Plan establishes shared parenting time for Christine Summers which in no way diminished her shared parenting time as being less than shared parenting because it was supervised.

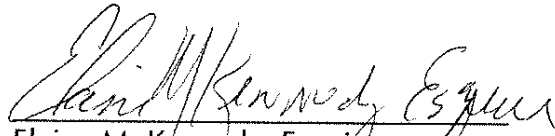
In Petitioner/Appellee's Brief at page 13, and again at page 23, Petitioner argues that shared parenting time for Christine never existed because her parenting time was either supervised or suspended. This is the first instance in which Petitioner/Appellee raises this argument. He did not make this argument at the February 6, 2018 Review Hearing nor did he raise this argument in his subsequent Objection to Christine's Motion for Reconsideration. At the Review Hearing, counsel for Petitioner/Appellee stated "And, frankly, from the temporary order on, Christine has always had, really supervised parenting time." TR at 29. At no time did he state the position that supervised parenting

time is not shared parenting time. Having not made the argument in the trial court thereby not preserving it for appeal; the Petitioner/Appellee cannot now raise it on appeal for the first time.

**CERTIFICATE OF SERVICE**

I, Elaine M. Kennedy, Esquire hereby certify that two copies of Appellant's Brief and accompanying Appendix were this day mailed, postage prepaid, to Robert Shepard, Esquire, Counsel for Petitioner/Appellant.

April 22, 2019

  
Elaine M. Kennedy, Esquire