

IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE

Assigned on Briefs January 10, 2005

**IN RE: R. D. F. and D. L. F.**

**Appeal from the Juvenile Court for Rutherford County  
No. TC424 Donna Scott, Judge**

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**No. M2003-02798-COA-R3-JV - Filed March 8, 2005**

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**ORDER GRANTING MOTION TO REASSESS COSTS**

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

Neil Flit, attorney for Roger Fallon, was adjudged in criminal contempt of the Juvenile Court of Rutherford County, and appealed the judgment to this court. We reversed the finding of contempt and assessed the costs to Sherryl Fallon, who has filed a motion to re-tax the costs, pointing out that she took no position in the contempt matter which was essentially between attorney Flit and the court.

Costs shall be allowed to the prevailing party “unless the court otherwise directs.” Rule 54.04, Rules of Civil Procedure. We think this is an appropriate case for the application of the exception to the rule that costs are allowed to the prevailing party, and, in the exercise of our discretion, the costs are assessed to attorney Neil Flit.

The motion of Sherryl Fallon is accordingly granted.

PER CURIAM