

In this divorce case, the appellant Etta Mechelle Parks argues that the trial court erred in awarding her former husband, Craig Dewayne Parks, custody of their two boys, ages seven and almost four. We do not find that the evidence preponderates against the trial court's custody decree. See Rule 13(d), T.R.A.P.; **Hass v. Knighton**, 676 S.W.2d 554, 555 (Tenn. 1984). Accordingly, we cannot say that the trial court abused its discretion in placing the children's sole custody with Mr. Parks. See **Grant v. Grant**, 286 S.W.2d 349, 350 (Tenn.App. 1954).

The appellee seeks damages for a frivolous appeal pursuant to the provisions of T.C.A. § 27-1-122. While we have decided appellant's sole issue adverse to her, we do not find her appeal to be frivolous.

The judgment of the trial court is affirmed pursuant to the provisions of Rule 10(b), Rules of the Court of Appeals.¹ Costs on appeal are taxed to the appellant and her surety. This case is remanded to the trial court for enforcement of the judgment and for collection of costs assessed below, all pursuant to applicable law.

Charles D. Susano, Jr., J.

¹Rule 10(b), Rules of the Court of Appeals, provides as follows:

The 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 When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in a subsequent unrelated case.

CONCUR:

Houston M. Goddard, P.J.

Don T. McMurray, J.