Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2003-328

JANUARY TERM, 2004

	APPEALED FROM:
Maria Carlson	Franklin Family Court
v.	DOCKET NO. 351-10-02Frdm
Timothy M. Mewhinney	Trial Judge: Howard Van Benthuysen

In the above-entitled cause, the Clerk will enter:

Father appeals from the family court= s final order awarding mother legal responsibility for the party=s minor child and setting forth a parent-child contact schedule. He argues that the court erred by: (1) failing to issue any findings of fact to support its order; and (2) establishing a parent-child contact schedule that was not in the child= s best interests. We affirm.

Father and mother Maria Carlson are the parents of Zoe Mewhinney, born July 28, 1999. Father and mother are not married, and father= s paternity was established at mother= s request. In February 2003, father filed a motion to establish parental rights and responsibilities. After a hearing, during which father agreed that mother should have legal responsibility for the child, the court issued its final order. The court granted mother sole physical and legal rights and responsibilities for the child and established a parent-child contact schedule. Father appealed.

Father first argues that the court erred by failing to issue findings of fact to accompany its final order. He asserts that the court did not adequately explain the basis of its conclusions. This argument is without merit. V.R.C.P. 52(a) Aprovides that either party to an action may request the court to set forth in writing or on the record findings of fact and conclusions of law which constitute the basis for its decision, or the court may do so on its own initiative; however, the trial court is not required to make findings of fact and conclusions of law where none are requested.@ Viskup v. Viskup, 149 Vt. 89, 92 (1987); V.R.C.P. 52(a). Defendant did not request that the court make findings of fact and conclusions of law, and given his failure to do so, he cannot now claim that the order was invalid because it failed to specify the factual findings on which it was based. See Am. Trucking Ass=ns v. Conway, 152 Vt. 363, 375 (1989). We therefore reject father=s first argument.

Father next argues that the court erred in establishing a parent-child schedule because he should have been allowed additional visitation time and the schedule was not in the child= s best interests. The family court has broad discretion in determining what course of action is in a child= s best interests. See Myott v. Myott, 149 Vt. 573, 578 (1988). The pattern of visitation adopted will not be reversed unless the court=s discretion Awas exercised upon unfounded considerations or to an extent clearly unreasonable upon the facts presented.@ Cleverly v. Cleverly, 151 Vt. 351, 355-56 (1989) (citation omitted). In this case, the court awarded father visitation on alternate weekends and one day a week until Zoe started kindergarten. Once the child started school, weekday visits would be replaced by visits during school vacations. Based on evidence that father had suffered a seizure, the court specified that overnight visits would begin on alternate weekends once father received a clean bill of health from his doctor, but not later than September 2003. The court noted that if the child= s therapist believed that overnight visits were not appropriate, father was entitled to a hearing on this issue. The court acted within its discretion in crafting the parent-child contact schedule, and we find no

error.

Appellee requests attorney=s fees and costs, and we direct her attention to V.R.A.P. 39 for the proper procedure for filing such a request.

Affirmed.

BY THE COURT:

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Jeffrey L. Amestoy, Chief Justice

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John A. Dooley, Associate Justice

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Paul L. Reiber, Associate Justice