

SWAN Legal Services Initiative



April Legal Report

VOLUME 3, ISSUE 10

2017

INSIDE THIS ISSUE:

In the Interest of L.T. and D.T., Minor Children Adjudicated Dependent	1
In the Interest of A.W., a Minor	5
In the Interest of H.K., a Minor	7
Amendments to Pa. R.J.C.P.	9
Amendment to Code of Judicial Conduct; and Amendment to Commonwealth Court IOP	10

Legal Training Team

Division Manager

Rachel Meaker, Esq.

Training Specialists

Alyssa Cowan, Esq.

Ilene Dubin, Esq.

Lauren Peters, Esq.

Alyssa H. Holstay,
Esq.

Contact the team:

lsiwarmline@diakon-swan.org

471 JPLwick Drive
P.O. Box 4560
Harrisburg, PA 17111

www.diakon-swan.org

PENNSYLVANIA SUPERIOR COURT

In the Interest of L.T. and D.T., Minor Children Adjudicated Dependent

Date of Decision: April 7, 2017

Cite: 1032 WDA 2016

Holding:

1. Despite adjudication of dependency, biological Mother still retained a fundamental interest in the care, custody, and control of her children, which includes the preservation of privacy concerns and the prevention of psychological and emotional harm flowing from the media's intrusion upon and invasion of their privacy rights; failure to require the media to provide notice of and/or a written petition to open a dependency hearing denied the parties an opportunity to address the constitutional analysis of the effect of the media's intrusion upon the children.
2. The Juvenile Act, as the dispositive authority in dependency cases, authorizes the juvenile court to alter the permanency goals of dependent children *sua sponte*; there is no statutory requirement that the Court provide express notice to parties regarding their contemplation of a goal change.
3. Where the Agency has demonstrated neither futility of reunification efforts, nor the prolonged exhaustion of reunification resources, dispensing with the permanency goal of reunification after a period of less than three months despite moderate compliance with services and the existence of a bond between Mother and children constitutes an abuse of discretion requiring reversal.

Facts and Procedural Posture:

L.T. and D.T. came into the care and custody of Erie County Children and Youth Services following D.T.'s emergency admission to the hospital for "near-fatal child abuse" suffered while in the care of Father. On March 16, 2016, both Mother and Father stipulated to the adjudications of dependency. D.T., (who had sustained a skull fracture and hematoma on the right side of his brain and was placed in a medically induced coma) was expected to remain hospitalized indefinitely; L.T. was placed in kinship care with her maternal grandmother ("Grandmother"). The permanency goal for both children was set at reunification. Visitation between Father and D.T. was indefinitely suspended; Mother was granted visitation with D.T. "as often as she is able to visit"¹ the medical facility. Mother was permitted two two-hour supervised visitations per week with L.T. at Grandmother's home, but was prohibited by the court from residing with her daughter. Given the seriousness of the dependency case, the juvenile court scheduled the first permanency review hearing for June 1, 2016, approximately thirty days from the dispositional order. Prior to making any progress toward his court-ordered services, Father was arrested and incarcerated on charges of aggravated assault, simple assault, and endangering the welfare of children as a result of the underlying criminal case.

¹ At the time of D.T.'s emergent admission to the hospital and the children's subsequent adjudication of dependency, Mother was suffering from physical limitations due to extensive injuries (some of which required surgery) to her collar bone, ribs and shoulder stemming from an automobile accident that Father had intentionally caused.

(In the Interest of L.T. and D.T., cont.)

At the outset of the June 1, 2016 Permanency Review Hearing, the Agency noted the presence in the courtroom of an unidentified media outlet and objected to its presence and participation in the closed juvenile proceeding; both guardians ad litem for the children, as well as Mother and Father, all joined in this objection. The objection of all parties was overruled by the trial court, which determined that no compelling state interest existed to close the courtroom and granted permission for the media to remain in attendance at the hearing “given the fact that this case already [garnered] a significant amount of media attention because of [Father’s] criminal cases [.]”

The Court then addressed the proposed testimony of D.T.’s nurses regarding his medical status, treatment and prognosis, and indicated, *sua sponte*, that “The agency is recommending a goal of reunification, but from what I’m looking at in the summary [prepared by the CYS caseworker], I am not sure I’ll go along with it. So for all intents and purposes this is a change of goal hearing.” During the hearing, Agency witness’ testimony “branded Mother as immature, possessing a mentality of entitlement, and dependent upon others for satisfying routine obligations.” Both witnesses also testified that despite lack of suitable housing, Mother had demonstrated efforts toward reunification, including starting the process for her psychological evaluation², starting her parenting and domestic violence programs and attending supervised visitation with L.T. Although the Agency’s Petition for Permanency Review set forth a goal of reunification, the Agency caseworker testified during the hearing that she was seeking to expand the recommendation to include “looking for an adoptive resource for L.T.”

At the close of the evidentiary portion of the hearing, the trial court indicated it was “certainly not leaving the goal of reunification,” but invited argument from the parties. Mother and Father both argued that reunification remained an appropriate and viable goal, as the family had only been receiving services for approximately two and a half months; L.T.’s guardian ad litem (GAL) recommended concurrent goals of reunification and adoption, and concurred with Mother and Father that reunification was still appropriate since the dependency proceeding was in such an early stage. Conversely, D.T.’s GAL advocated changing the goals to adoption, and despite the Agency’s initial recommendation the Agency agreed and argued that the goals should be changed to adoption. The Trial Court changed the children’s goals to adoption, and issued an order directing the Agency to cease services and visitations as to Mother and pursue termination of parental rights.

Prior to the June 1, 2016 hearing resulting in the goal change, D.T.’s GAL had filed and withdrew multiple petitions seeking the court’s guidance concerning D.T.’s end-of-life decisions. A hearing on the GAL’s Petitions was held following the June 1 hearing, in which testimony was presented that D.T. was “technologically dependent” and the issue of the parents’ rights to request or preclude a DNR was raised. At the conclusion of the hearing, the trial court issued an order confirming that the prior award of legal custody in favor of CYS included the responsibility over “all medical decisions,... including end-of-life decisions, in the best interest of the dependent child, [D.T.],” and reasserted that Mother was not only prohibited from contacting D.T. directly, but that she was also prohibited from contacting the hospital for updates on his condition. Following issuance of this order, D.T.’s condition declined; the trial court permitted Mother one final visit with her son prior to D.T.’s July 15, 2016 death as a result of his injuries³.

(continued on following page...)

² Mother completed the initial portion of her psychological evaluation on May 10, 2016; however, she was unable to attend the scheduled follow-up session due to her necessary appearance as a witness under subpoena for Father’s preliminary hearing scheduled for the same date. Mother’s follow-up session was rescheduled for June 6, 2016, approximately one week after the June 1, 2016 permanency review hearing.

³ Father’s criminal charges were amended to include a charge of criminal homicide following D.T.’s death as a result of his injuries.

(In the Interest of L.T. and D.T., cont.)**Issue(s):**

1. Whether the trial court erred when it permitted, over unanimous objection, the presence of the media at the June 1, 2016 permanency review hearing;
2. Whether the trial court erred in contemplating a goal change without providing adequate notice to the parties;
3. Whether the trial court erred when it determined that the goal of reunification was no longer feasible and dispensed with the goal of reunification after only one month and twenty-seven days when the record failed to support that a goal change was in the best interest of the minor child;
4. Whether the trial court erred when it determined that visitation should cease between Mother and her minor children following the court's *sua sponte* change of goal to adoption when the record failed to support a conclusion that it was in the best interests of the minor children to no longer have visitation with their Mother⁴; and
5. Whether the trial court erred and/or deprived Mother of her rights under the United States and Pennsylvania Constitutions when it denied Mother the right to participate in the care and control of her minor children, specifically, medical decision making, in violation of due process of law⁵?

Rationale:

The Superior Court addressed Mother's issues in the order they were presented, and thus, began with an analysis regarding the trial court's permission of the presence and participation of the media in the June 1, 2016 Permanency Review Hearing. 42 Pa.C.S.A. §6336(d) provides that, except for a declaration of contempt of court or one of the enumerated circumstances that are implicated in delinquency proceedings,

...the general public shall be excluded from hearings under this chapter ... only the parties, their counsel, witnesses, the victim and counsel for the victim, other persons accompanying a party or a victim for his or her assistance, and any other person as the court finds have a proper interest in the proceeding or in the work of the court shall be admitted by the court.

While §6336(d) of the Juvenile Act demonstrates the legislature's compelling interest in safeguarding children involved in juvenile procedures, a comment to the rule specifies that reporters are within the class of people with a proper interest in attending dependency proceedings and therefore, the juvenile court may elect, at its discretion, to grant the press access. 42 Pa.C.S.A. §6336(d). The Court clarified that while a rebuttable constitutional presumption exists that juvenile court proceedings are open to the public, this rebuttable presumption is not absolute; juvenile courts may deny access if they find that confidentiality serves an important governmental interest and no less restrictive means exist to serve that interest. In In re: M.B., the Superior Court concluded that the protection of minors from psychological and emotional harm and the trauma and embarrassment associated with testifying in public were compelling interests that militated in favor of privacy concerns, and that unlike delinquency proceedings, dependent children have not brought attention upon themselves and therefore, "the public's interest is less keen than it is in delinquency proceedings." In re: M.B., 819 A.2d 59, 61 (Pa. Super. 2003).

(continued on following page...)

⁴ In light of the Court's finding that the trial court erred in changing the permanency goal from reunification to adoption, the Superior Court did not address the merits of this argument; they did, however, remand to the trial court with instruction to address the issue of visitation pursuant to the grave threat standard. In the Interest of M.B., 674 A.2d 702 (Pa. Super. 1996).

⁵ The Superior Court deemed this issue as moot (because the child that was the subject of the order is now deceased) and declined to address the merits of this argument.

(In the Interest of L.T. and D.T., cont.)

In this case, the juvenile court reasoned that Mother did not have standing to challenge the media's presence on behalf of the children (presumably because they had been adjudicated dependent) that Mother had failed to show a compelling reason why the hearing ought to be closed, and had failed to demonstrate injury resulting to herself from the opening of the proceeding. The Superior Court disagreed, and noted that as the focus of the constitutional analysis is the effect of the media's intrusion upon the children, the juvenile court's reference to Mother's privacy rights was misplaced. Additionally, despite the adjudication of dependency, Mother's parental rights remained intact and she retained a fundamental interest in the care, custody and control of her children, which included the preservation of their privacy concerns and the prevention of psychological and emotional harm flowing from the invasion of their privacy rights. Therefore, the Superior Court rejected the juvenile court's conclusion that Mother lacked standing to object to and challenge the media's presence at the hearing. In light of the children's ages and the D.T.'s recent passing, the Court also rejected the juvenile court's assertion conclusion that the intrusion would not cause psychological or emotional harm. They further noted that the existence of a related criminal matter was not a dispositive consideration, as Father's criminal case would not reveal the confidential aspects of the children's lives. The Superior Court also noted a procedural defect in the juvenile court's failure to require the media to provide a written petition to open the dependency hearing, or even issue notice of its request, thereby denying the parties to the proceeding an opportunity to prepare a measured response addressing the relevant aspects of constitutional analysis. In sum, the Superior Court concluded that the juvenile court abused its discretion directed the juvenile court to close the dependency proceedings consistent with §6336(d).

The Superior Court next addressed whether the trial court erred in contemplating a goal change without providing adequate notice to the parties. The Court began its analysis with a reading of §6351 of the Juvenile Act. The Court noted that the Juvenile Act, as the dispositive authority in dependency cases, authorizes the juvenile court to alter the permanency goals of dependent children *sua sponte*, and as such, despite the "Best Practice" recommended by the Pennsylvania Dependency Benchbook, there is no statutory requirement that the Court provide express notice to parties regarding their contemplation of a goal change.

The Superior Court then turned to the issue of whether the trial court erred when it determined that the goal of reunification was no longer feasible and dispensed with the goal of reunification. In support of its determination that a goal change was necessary and appropriate in this matter, the juvenile court relied upon In the Interest of D.P. and In re: M.S., two cases where the Superior Court had affirmed juvenile court goal change orders at the dispositional phase. The Superior Court noted that reliance upon these cases by the juvenile court under the facts of the current matter was misplaced. In the Interest of D.P. involved extensive history spanning ten years from the agency's involvement to the order changing the permanency goal, as well as an express finding of aggravated circumstances against one of the parents and active agency involvement with the family for approximately three years between the adjudication of dependency and the dispositional order granting a goal change. In the Interest of D.P., 972 A.2d 1221, 1227 (Pa. Super. 2009). In re: M.S. involved an implicit finding of aggravated circumstances where Mother had failed to protect the child from repeated sexual assaults "by at least one but in all likelihood more than one of her brothers". In re: M.S., 980 A.2d 612 (Pa. Super. 2009). The Superior Court reasoned that the trial court's reliance upon these cases was in error, as the facts of the present case did not demonstrate the futility of the Agency's reunification efforts, and more importantly, did not reveal a prolonged exhaustion of reunification resources. The Court noted that to the contrary, the Agency had provided services to Mother for a period of no more than three months.

In addition, the Superior Court noted that review of the record did not sustain the juvenile court's finding that reunification was not a viable option in this case, as the court discounted Mother's compliance with the Agency as well as the progress that she had achieved during the short period of time she had been offered services.

(continued on following page...)

(In the Interest of L.T. and D.T., cont.)

Specifically, in regard to the cleanliness/housing issue, the Superior Court noted that the juvenile court had discounted Mother's physical limitations stemming from the automobile accident despite testimony from the Agency caseworker that Mother only had the use of one arm. Mother had executed all necessary releases, completed the initial portion of her psychological evaluation, had enrolled in and attended the first three classes of a domestic violence program, enrolled in a parenting education program, regularly attended her supervised visitations with L.T., demonstrated appropriate parenting behavior, and her close bond with her daughter was evident. Moreover, the Superior Court determined that "[w]hile the juvenile court branded Mother as an immature 21-year old who has yet to exhibit self-reliance or independence," the record was more revealing as it demonstrated that Mother was no longer romantically involved with Father, and despite lacking a driver's license and even after Father demolished the family vehicle, Mother "cobbled together resources" to continue to regularly make the two-hour trek to sit with D.T. at the hospital prior to his death. The Superior Court concluded that dispensing with the permanency goal of reunification after a period of less than three months despite moderate compliance with services and the existence of an evident bond between Mother and L.T. constituted an abuse of discretion requiring reversal.

The Superior Court then assessed the juvenile court's finding that abrupt cessation of visitation was in L.T.'s best interests. The Court noted that "when reunification is contemplated, a juvenile court cannot deny or reduce visitation absent a "grave threat" to the dependent child," a standard that "underscores the importance of each parent's maintaining a meaningful and sustaining relationship with the child." In the Interest of M.B., 674 A.2d 702 at 705 (Pa. Super. 1996). The Superior Court remanded this issue to the juvenile court to address the issue of visitation pursuant to the grave threat standard.

Mother's final challenge was related to the juvenile court's denial of her right to participate in the care and control of her minor children, specifically, medical decision making, in violation of due process of law. The Superior Court found that as the only child that was subject to the order was now deceased, no actual case or controversy existed at this stage of the judicial process and thus, was moot. In re: J.A., 107 A.3d 799 (Pa. Super. 2015). Moreover, the issue was not excepted from the mootness doctrine due to an issue prone to repetition yet likely to evade review, as it involved "the functional determination of the juvenile court's statutory authority to empower CYS to make end-of-life decisions under 23 Pa.C.S.A. §6357, which raises a question of law". Id.

Justice Strassburger filed a separate Opinion Dissenting on the first issue and Concurring in the result (not the analysis) related to the second and third issues.

In the Interest of A.W., a Minor

Date of Decision: April 11, 2017

Cite: 1715 MDA 2016

Holding:

The trial court abused its discretion in changing the child's permanency goal from reunification to adoption and CYS failed to meet its burden of establishing that a goal change would be in the best interests of the child where Father had demonstrated moderate compliance with services in the short period of time since his release from incarceration and no evidence had been offered regarding the child's physical, emotional or developmental needs.

Facts:

In September of 2015, A.W. was placed in the legal and physical custody of York County Children and Youth Services (CYS), who then placed the child in kinship foster care. A.W. was adjudicated dependent with a primary goal of reunification/return to parent and a concurrent goal of adoption. At the time of A.W.'s adjudication and placement, Father was incarcerated in a State Correctional Institution. The Family Service Plan (FSP) for Father included goals of securing stable housing, employment, receipt of in-home services, and permission for Father to request supervised visitation upon approval from SCI or upon his release and return York County.

(continued on following page...)

(In the Interest of A.W., a Minor, cont.)

At the first Permanency Review hearing, held in December of 2015, the trial court noted that Father had been speaking to the child through the foster parents approximately one time per week. At the March 2016 Permanency Review hearing, the court found Father to be in “moderate compliance” with the FSP. Specifically, the court noted that while Father was still incarcerated, his expected parole eligibility date was set for late April or early May of 2016, Father continued to express his desire to be a resource for his son upon his release, and that Father had maintained contact with A.W. through weekly telephone contact as well as written letters. On April 25, 2016, Father was released from SCI and transferred to a halfway house in Harrisburg, PA (Dauphin County). On June 9, 2016, the court held a status review hearing, and found that Father had secured full-time employment, was working with CYS to arrange visits with his son and to arrange for an in-home services team, and had opened with Catholic Charities the day prior to the hearing. On August 30, 2016, following a Permanency Review Hearing, the Master concluded that Father had demonstrated only “minimal compliance” with the FSP; while Father had been assigned an in-home services team through Catholic Charities, he had missed several appointments and the therapeutic portion of services had been closed out. Additionally, the Guardian ad Litem (GAL) for the child argued that Father had the opportunity to visit the child, attend Doctor’s appointments and call the Foster Parents regarding the welfare of the child, but didn’t do any of these things. The court recognized that Father had “a lot on his plate since being out of prison”, and directed CYS to make a referral to re-open services through Catholic Charities, and if delay would result, work with Father to arrange for supervised visitation between Father and his son through CYS. During a subsequent status review hearing held one month later, the GAL requested a goal change. The court agreed, citing the need for stability and permanency for the child, the lack of a bond between A.W. and his Father, the fact that the foster family was the only family that A.W. had ever lived with and known, and in that in the one year since the child’s adjudication, Father had made only minimal progress toward reunification and since his release from prison, had not made any effort to engage in A.W.’s life. The court concluded that “while Father is making progress, the child cannot wait indefinitely on Father to become a resource,” issued an order changing the child’s permanency goal from reunification to adoption and directed CYS to begin the process of termination of parental rights as to both parents.

Issue:

Whether the trial court abused its discretion in changing the child’s permanency goal from reunification to adoption and CYS failed to meet its burden of establishing that a goal change would be in the best interests of the child where Father had demonstrated moderate compliance with services in the short period of time since his release from incarceration and no evidence had been offered regarding the child’s physical, emotional or developmental needs.

Rationale:

The Superior Court began its analysis by noting that a goal change request is governed by The Juvenile Act, which was amended in 1998 to conform with The Adoption and Safe Families Act (ASFA), and acknowledged that while both laws seek to benefit the best interests of the children, ASFA promotes reunification of children with their natural parents when feasible, and The Juvenile Act focuses upon reunification of the family and preservation of the family unit whenever possible. In re: M.S., 980 A.2d 612, 615 (Pa. Super. 2009), *citing* 42 Pa.C.S.A. §6301(b)(1). As such, child welfare agencies are required to make reasonable efforts to return a child to his or her biological parent. In re: N.C., 909 A.2d 818, 823 (Pa. Super. 2006). The Court also reiterated that the burden is on the child welfare agency to prove that a change in goal would be in the child’s best interests. In re: R.I.S., 36 A.3d 567, 573 (Pa. 2011).

(continued on following page...)

(In the Interest of A.W., a Minor, cont.)

In this case, the Superior Court concluded that the trial court's conclusion was unreasonable and wasn't supported by the record. While A.W. had been in the care of CYF for approximately twelve and a half months at the time of the hearing resulting in a goal change, Father had been incarcerated for seven and a half months during that time. At the time of the September 2016 hearing, Father had only been residing in York County for about one month, and supervised visitation had only begun two days prior to the hearing. Since his release from prison, Father had maintained full-time employment, and was receiving assistance through Catholic Charities to obtain suitable and appropriate housing. Additionally, the record reflected that CYF had offered no evidence that the child had any physical, emotional or developmental special needs. The Superior Court concluded that the change of goal by the trial court constituted an abuse of discretion, as CYF had failed to satisfy their burden of establishing that a goal change was in the child's best interests, reversed the order, and remanded to the trial court with direction to issue an order establishing the child's goal as reunification with Father.

In the Interest of H.K., a Minor

Date of Decision: April 28, 2017

Cite: 1201 WDA 2016

Holding:

1. Father lacked standing to challenge CYF family finding efforts affecting Paternal Grandparents and Permanency Review order denying rights of custody and/or visitation between minor child and paternal grandparents, as he was not an aggrieved party who had a substantial, direct, or immediate interest in the issues on appeal.
2. While evidence regarding reasonable efforts may be relevant for the court's consideration of both the grounds for termination and the best interests of the child, trial court did not abuse its discretion in precluding testimony regarding CYF's efforts to find Father's family when determining whether to terminate parental rights of uninvolved Father.

Facts:

H.K. was placed in the care and custody of Allegheny Office Children Youth and Families (CYF) upon her discharge from the hospital following thirteen days of detoxing after her birth. Prior to H.K.'s adjudication of dependency in August of 2014, Mother had named R.L. ("Father", who was currently incarcerated), as the Father of the child. R.L.'s name was not on the birth certificate, nor had he executed an acknowledgment of paternity, however, paternity was subsequently confirmed in December of 2014 through genetic testing. Father had no contact with CYF and did not participate in the dependency proceedings from January 2015 to April 2016 despite receipt of related notice. In March of 2016, CYF filed a petition to terminate Father's parental rights. Following the filing of this petition, Father sought counsel (who did not appear on his behalf until the Permanency Review Hearing held in July of 2016). In the interim, Paternal Grandparents filed a Complaint for Custody in Allegheny County in April of 2016; their requests for visitation with the child and issues related to custody were deferred to the July 2016 Permanency Review hearing. Following the July 2016 permanency hearing, the trial court ordered the child to remain with the foster parents, and directed CYF to offer Family Team Conferencing and Act 101 Mediation to the foster parents; the court further directed that "NO visitation shall be scheduled with paternal grandparents...without approaching the court." Father appealed from the July 2016 Permanency Review Order (1201 WDA 2016). On August 2, 2016, the family court issued an order denying Paternal Grandparent's Complaint for Custody. On August 24, 2016 following a hearing, the court issued an order terminating Father's parental rights. Father's appeal from the July 2016 Permanency Review Order and his appeal from the order terminating his parental rights were consolidated for review before The Superior Court at this docket; Grandparent's related appeal from the August 2, 2016 order denying their Complaint for Custody was docketed separately (1315 WDA 2016⁶).

⁶ The Family Court's denial of Paternal Grandparents' Complaint for Custody was affirmed by the Superior Court on April 25, 2017. P. and M.L. v. S.K. and R.L., 1315 WDA 2016 (Pa. Super. 2017).

(In the Interest of H.K., a Minor, cont.)**Issues:**

1. Whether the trial court erred/abused its discretion in its determination that CYF had conducted ongoing family finding efforts that failed to identify and engage Paternal Grandparents during the two years that the minor child had been in care;
2. Whether the trial court erred/abused its discretion in its determination that CYF was unaware of the existence of Paternal Grandparents until 2 years after the minor child had been in care;
3. Whether the trial court erred/abused its discretion in not permitting visitation between the minor child and Paternal Grandparents;
4. Whether the trial court erred/abused its discretion in finding that introduction to and/or reunification of the minor child with Paternal Grandparents would be traumatic to the child;
5. Whether the trial court erred/abused its discretion in ruling that the court is not required to consider reasonable efforts or lack thereof in a hearing seeking involuntary termination of parental rights; and
6. Whether the trial court erred/ abused its discretion in its determination that CYF had proven by clear and convincing evidence that termination of parental rights would best serve the needs and welfare of the minor child?

Rationale:

The Superior Court began its analysis by noting that Father's first four issues related to findings from the Permanency Review Order issued following a hearing in July of 2016. The Court concluded that Father lacked standing to challenge these issues. Pennsylvania Rule of Appellate Procedure 501 states: "Except where the right of appeal is enlarged by statute, any party who is aggrieved by an appealable order...may appeal therefrom." The Pennsylvania Supreme Court has further interpreted that "aggrieved" when used in terms of standing is generally understood to mean that the person "has a substantial, direct and immediate interest in the claim sought to be litigated". William Penn Parking Garage, Inc. v. Pittsburgh, 346 A.2d 269, 280-81 (Pa. 1975); Spahn v. Zoning Bd. of Adjustment, 977 A.2d 1132, 1149 (Pa. 2009). The Superior Court concluded that as Father's arguments focused on the effects of the trial court's decision on Paternal Grandparents and their rights and not how his rights as to the child or his ability to visit or communicate with the child were affected, Father did not have a substantial, direct or immediate interest to satisfy the "aggrieved party" requirement necessary to achieve standing to appeal issues one through four.

The Superior Court then turned to Father's argument regarding the trial court's failure to consider the reasonable efforts (or alleged lack thereof) of CYF. The Court began their analysis by noting that while not a requirement under §2511(a) or (b), the provision or absence of reasonable efforts may be relevant to the Court's consideration of both the grounds for termination and the best interests/needs and welfare analysis. In re: D.C.D., 105 A.3d 662, 672 (Pa. 2014) *citing* In re: Adoption of S.E.G., 901 A.2d 1017, 1029 (Pa. 2006). In this case, the trial court heard testimony regarding CYF's efforts to contact Father, and ultimately concluded that "Father largely eschewed all CYF inquiry and communication until he received notice that CYF filed a petition to terminate his rights," and therefore, the trial court did not err/abuse its discretion in precluding testimony regarding CYF's efforts to find Father's family when determining whether to terminate Father's parental rights.

The Court then turned to Father's last issue and analyzed whether the trial court erred/abused its discretion in determining that termination of Father's parental rights was best suited to the needs and welfare of the minor child. The Court determined that Father's arguments (that the trial court failed to consider the lack of family finding efforts as "other considerations" that affect the needs and welfare of the child, and that the minor child knowing her biological family would be in her best interests) were without merit, as the focus in terminating parental rights under §2511(b) is not on the parent, but on the child. In re: Adoption of C.L.G., 956 A.2d 999, 1008 (Pa. Super. 2008) (*en banc*).

(continued on following page...)

(In the Interest of H.K., a Minor, cont.)

In this case, the minor child had never even met her Father, and had only ever been in the home of her pre-adoptive foster parents, with whom she had formed a very strong, primary and exclusive attachment. Therefore, any benefit that the child may have received from knowing her biological family would not affect whether it would be in her best interests to terminate Father's parental rights, and any such benefit would not outweigh the evidence supporting that the child's needs and welfare would be best served by remaining with her pre-adoptive foster parents. The Court concluded its analysis by noting that "[t]he goal of preserving the family unit cannot be elevated above all other factors when considering the best interests of children, but must be weighed in conjunction with other factors." In re: Adoption of G.R.L., 26 A.3d 1124, 1127 (Pa. Super. 2011). Father's appeal from the July 2016 Permanency Review Order (1201 WDA 2016) was dismissed, and the August 2016 order terminating Father's parental rights to the minor child (1416 WDA 2016) was affirmed.

ORDER AMENDING THE PENNSYLVANIA RULES OF JUVENILE COURT PROCEDURE

On April 6th, 2017, the Pennsylvania Supreme Court issued an Order amending the Pennsylvania Rules of Juvenile Court Procedure related to both Delinquency and Dependency matters in order to replace the term "Master" with "Juvenile Court Hearing Officer." The changes are effective September 1, 2017. The following Rules (and comments to the Rules) were amended to reflect this change:

DELINQUENCY MATTERS

- Rule 120 Definitions.
- Rule 127 Recording and Transcribing Juvenile Court Proceedings.
- Rule 140 Bench Warrants for Failure to Appear at Hearings.
- Rule 160 Inspecting, Copying, and Disseminating the Official Court Record.
- Rule 166 Maintaining Records in the Clerk of Courts.
- Rule 182 Qualifications of [Master] **Juvenile Court Hearing Officer.**
- Rule 185 Appointment to Cases.
- Rule 187 Authority of [Master] **Juvenile Court Hearing Officer.**
- Rule 190 Admissions Before [Master] **Juvenile Court Hearing Officer.**
- Rule 191 [Master's] **Juvenile Court Hearing Officer's** Findings and Recommendation to the Judge.
- Rule 192 Challenge to [Master's] **Juvenile Court Hearing Officer's** Findings and Recommendation.
- Rule 243 Detention Rehearings.
- Rule 512 Dispositional Hearing.
- Rule 800 Suspensions of Acts of Assembly.

DEPENDENCY MATTERS

- Rule 1120 Definitions.
- Rule 1127 Recording and Transcribing Juvenile Court Proceedings.
- Rule 1154 Duties of Guardian *Ad Litem*.
- Rule 1166 Maintaining Records in the Clerk of Courts.
- Rule 1182 Qualifications of [Master] **Juvenile Court Hearing Officer.**
- Rule 1185 Appointment to Cases.
- Rule 1187 Authority of [Master] **Juvenile Court Hearing Officer.**
- Rule 1190 Stipulations Before [Master] **Juvenile Court Hearing Officer.**
- Rule 1191 [Master's] **Juvenile Court Hearing Officer's** Findings and Recommendation to the Judge.
- Rule 1243 Shelter Care Rehearings.
- Rule 1342 Pre-Adjudicatory Conference.
- Rule 1512 Dispositional Hearing.
- Rule 1608 Permanency Hearing.
- Rule 1610 Permanency Hearing for Children over Eighteen.
- Rule 1635 Hearing on Motion for Resumption for Jurisdiction.
- Rule 1800 Suspensions of Acts of Assembly.

ORDER AMENDING CANON 2, RULE 2.3 OF THE CODE OF JUDICIAL CONDUCT

On March 28, 2017 (filed for public inspection April 14, 2017), the Pennsylvania Supreme Court issued an Order amending Canon 2, Rule 2.3 (Bias, Prejudice, and Harassment) of the Code of Judicial Conduct to include language prohibiting bias, prejudice or harassment based upon gender **identity or expression**. This amendment is effective immediately, as “immediate promulgation...is found to be in the interests of justice and efficient administration.” The full text of the amendment can be found [here](#).

AMENDMENT TO COMMONWEALTH COURT INTERNAL OPERATING PROCEDURE

On March 10, 2017 (filed for Public Inspection April 7, 2017), the Pennsylvania Supreme Court issued an Order amending the Internal Operating Procedure of the Commonwealth Court in relation to §69.414 “Citing Judicial Opinions in Filings.” The full context of the amendment can be accessed [here](#).