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Legal Report

SWAN Legal Services Initiative

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SUPERIOR COURT OF PENNSYLVANIA

In the Interest of O.E.C.-A.

Date of Order: February 13, 2025

Citation: No 1657 EDA 2024

Order finding that adoptive mother lacked standing to file a petition to adopt the biological brother and sister of her adoptive son and foster child was reversed and remanded.

The children were found to be dependent due to the children's health care being neglected, domestic violence between the parents, and their grandparents using inappropriate discipline when they were left in their care. Eventually, the trial court changed the children's goals to adoption and terminated the parental rights of both parents. This is when the adoptive mother filed a petition for the adoption of these two children. The child welfare agency objected due to her lack of standing. The trial court agreed that the adoptive mother lacked standing because her relationship was only based on court-ordered visitation. Over the course of two years, the adoptive mother regularly cared for the children during twenty unsupervised sibling visits that occurred in her home, including two overnight visits. The court also found that she did not meet *in loco parentis status*. The adoptive mother filed an appeal.

The adoptive mother argued that the trial court erred in finding she lacked standing to file a petition for adoption under the specific facts of the case. The Superior Court conducted a *de novo* review because the standing issue is a pure question of law. The Superior Court determined that the trial court applied the incorrect legal standard in determining that the adoptive mother lacked standing. Rather, the Superior Court stated that, "All that a petitioner need establish for the purposes of standing is a 'substantial, direct, and immediate' interest in 'assuming the role of a permanent parent,' which rises above that of an 'ordinary, unrelated stranger.'" The Superior Court noted that the record showed the adoptive mother has a clear "substantial, direct, and immediate" interest in petitioning to adopt these two children. She is the adoptive mother of one of their siblings and the foster parent of another. The record showed she had closely bonded with one of the children and had regularly interacted and provided care for both children over the life of the dependency case. Thus, the Superior Court reversed the trial court holding, which concluded that the adoptive mother lacked standing and remanded for further proceedings.

In the Interest of T.G.

Date of Order: February 18, 2025

Citation: No 2014 EDA 2024

Decrees and orders that granted petitions for voluntary relinquishment of parental rights filed by adoptive parents were affirmed. The child in this matter was removed from his biological family in 2017 due to a lack of supervision, housing, inadequate food, domestic violence, and parental substance abuse. He was placed in multiple foster homes during the course of three years. He exhibited outbursts and other troubling behavior at school, at home, and in the courtroom. His

biological parents' parental rights were eventually terminated. He was subsequently placed with his adoptive parents and consented to their adoption of him. The adoption was completed in 2021 when the child was fourteen years old. However, his behaviors continued after the adoption. He physically assaulted one adoptive parent and hurt a family pet. The adoptive parents were unable to keep him in the home without asking for assistance from the local police department. By late 2022, the child was diagnosed with reactive attachment disorder, and it was indicated that he would have difficulty forming a lasting and permanent bond with his adoptive parents. The child admitted to his therapist that he did not want to be adopted by his adoptive parents and only signed the consent form so as not to disappoint them. He was admitted for long-term treatment due to physical aggression and inappropriate behaviors.

After being admitted for inpatient mental health treatment, the adoptive parents filed a private petition for dependency due to the child's commission of acts of habitual disobedience that rendered him ungovernable. The trial court adjudicated him dependent and made his placement the mental health facility. After the adjudication, the adoptive parents refused to participate in the child's treatment. As a result, by 2024, the trial court changed the child's goal to adoption. The adoptive parents then filed petitions to voluntarily relinquish their parental rights. However, the agency refused to consent. After incorporating the record from the dependency proceedings and hearing new evidence that the child committed a serious assault against a teacher and was detained through delinquency court, the trial court granted the adoptive parents' petitions. The agency appealed.

On appeal, the agency argued that the trial court erred in finding that the agency unreasonably withheld its consent to the petition to voluntarily relinquish parental rights. In support of withholding their consent, the agency argued that adoptive parents have the physical, mental, and financial ability to raise the child, and that consenting to the petition would cause the child to be a legal orphan, as there is no foreseeable adoption of the child by another resource. The Superior Court determined the agency's argument was without merit. The Superior Court reasoned that the agency's argument was setting a higher standard for adoptive parents to relinquish their rights than the law requires. The Superior Court noted that the Adoption Act only requires parents to enter their consent to relinquish the child to the agency. The Superior Court wrote that the Adoption Act does not permit the court to consider a parent's ability to care for the child. The Superior Court reiterated that when a child is in the custody of a child welfare agency, the Adoption Act does not require a potential adoptive resource. As a result, the Superior Court determined that the trial court's decision was well-supported by the record. Thus, the Superior Court affirmed the decrees terminating parental rights for the child.

Spotlight on Third-Party Custody Standing

A.C. v. E.K. (Superior Court of Pennsylvania)

The Superior Court determined that the trial court did not err in finding that the mother's former live-in boyfriend could not petition for custody because he lacked *in loco parentis* standing. The trial court found that the former live-in boyfriend failed to demonstrate that he assumed a significant parental role in the child's life despite being present for the child's birth and living with them for almost four years. The trial court noted the mother sought *in vitro* treatment before meeting him, did not list him on the birth certificate, and did not permit him to attend the child's medical appointments or financially support the child. The mother testified that she only considered him as her romantic partner and never held him out to be her child's parent. The Superior Court acknowledged that these cases are not "clear-cut or simple to analyze given the ever-changing landscape of today's family model. Nonetheless, we must remain true to the well-established principle that a party 'who is not biologically related to the child in question must prove that a parent-like relationship has been forged through the parties' conduct'... To do otherwise would carve a dangerous exception into the principle of standing, and more specifically, infiltrate 'the protected domain of the family'" (internal citations omitted). Thus, the Superior Court affirmed the trial court's order dismissing the claim for custody because he did not stand *in loco parentis*.

Administrative Office of Pennsylvania Courts (AOPC)

In December 2024, AOPC's Office of Children and Families in the Courts published the fourth edition of the Pennsylvania Dependency Benchbook. The Benchbook has been updated to include new Pennsylvania case law and legislative changes that have occurred since the third edition was published. It also has expanded guidance on trauma-informed practices and how to assist those with autism in the courtroom. This newest edition can be found [HERE](#).