

# October 2019

# Legal Report

## SWAN Legal Services Initiative

*A monthly publication from the SWAN Legal Training Team*

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## SUPERIOR COURT OF PENNSYLVANIA

S.M.C. v. C.A.W

Date of Decision: October 22, 2019

Cite: 1802 MDA 2018

**Holding:**

In a non-dependency case, the trial court did not err in applying the doctrine of paternity by estoppel to require the mother's former paramour to pay child support where he held the child out as his own and provided her with emotional and financial support for the majority of her life.

**Facts and Procedural Posture:**

In 2002, S.M.C. ("mother") had a child with H.N (biological father). Mother and biological father were not married. Biological father had little contact with the child and did not support her financially. Shortly after the child's birth, mother began a relationship with C.A.W. He eventually moved in with mother and the child, where he lived for approximately twelve years. During that time, C.A.W. held himself out as the child's father; he referred to her as his daughter, supported her financially, and claimed her as a dependent on his tax returns. When the couple ended their relationship, C.A.W. moved out and cut off all financial support of the child. Mother subsequently filed an action for child support. An evidentiary hearing was held, in which a child psychologist testified that the child considered C.A.W. to be her "de facto emotional parent and had a positive and stable relationship with him while they resided together." Following the hearing, the trial court ordered C.A.W. to pay support under the doctrine of paternity by estoppel. C.A.W. appealed.

**Issue:**

Did the trial court err in concluding that C.A.W. owed a duty of support under the doctrine of paternity by estoppel?

**Rationale:**

The Superior Court completed its analysis through a review of Pennsylvania case law. In doing so, it noted that the paternity by estoppel doctrine remains good law and permits a court to determine a child's parentage for support purposes based on the actions of the child's mother and/or putative father. Further, it may be applied in circumstances when the child's mother was never married to the putative father and there is no dispute of biological parentage, provided that its application is in the best interest of the child. In comparing the factual circumstances of the current case to previous court decisions, the court determined that the evidence supported a finding of paternity by estoppel. In making this determination, the court noted the long-term in loco parentis relationship that formed between C.A.W. and the child over many years but further relied on the fact that C.A.W. held himself out as the father of the child for over a decade, providing her with emotional and financial support, both of which the child remained in need.

**In Interest of: D.W.**

Date of Decision: October 1, 2019

Cite: 104 WDM 2019

**Holding:**

Despite procedural errors, the juvenile court did not abuse its discretion in entering a dispositional order of out-of-home placement where the placement would serve the child's individualized treatment needs.

**Facts and Procedural Posture:**

On June 12, 2019, R.E.L., a minor, was caught smoking marijuana in a parked car while carrying a concealed firearm. He was detained in the Shuman Juvenile Detention Center pending juvenile adjudication proceedings. Hearings were held on July 2nd and 9th, and he was ultimately adjudicated delinquent. The court further determined that he was "in need of further court supervision and/or treatment." At the dispositional phase of the hearing, his juvenile probation officer recommended that he be enrolled in the Community Intensive Supervision Program (CISP), an in-home program. This recommendation was based on the fact that it was the least restrictive placement, supported by the fact that this was D.W.'s first official contact with delinquency proceedings and that he was an expectant father. It was further determined that D.W. had a history of truancy and was previously involved with CYF, receiving some mental health treatment as a result. The court deferred its final disposition and ordered D.W. to undergo mental health and substance abuse evaluations, to comply with any recommended treatment, and to submit to random drug screens. In the meantime, D.W. was to remain detained. The hearing reconvened two weeks later, where the results of the court ordered evaluations were presented. The juvenile court held the matter to review the newly admitted reports. On July 29th, the juvenile court entered a final dispositional order directing that "D.W. remain detained with permission to place in an appropriate placement." In doing so, the juvenile court cited to the facts that D.W. lacked supervision, presented a danger to himself and was a risk to the community. D.W. filed a petition for expedited review of out-of-home placement pursuant to Pa.R.A.P. 1770.

**Issue:**

Whether the juvenile court abused its discretion in entering a dispositional order of out-of-home placement.

**Rationale:**

The Superior Court began its review by citing to the laws governing out-of-home placement. It first looked to Pennsylvania Code, Rule 1770, which establishes the mechanism for a court to perform an expedited review of a juvenile court's imposition of out-of-home placement. It next cited to both the Juvenile Act and the Rules of Juvenile Court Procedure, which require the court to provide the name of the placement on the record and the basis of its decision committing a juvenile to out-of-home placement, including why the placement is the least restrictive. Finally, the court noted that, where a juvenile files a petition for expedited review of out-of-home placement, and the juvenile court does not state the reasons for placement on the record at the time of disposition, Pa.R.A.P. 1770 mandates that the court "file of record a brief statement of the reasons for the determination or where in the record such reasons may be found, within five days of service of the petition for review."

Given this requirement, the juvenile court finally entered its findings of facts and conclusions of law on September 9, 2019. In doing so, the juvenile court noted its consideration of the circumstances surrounding the firearm offenses, D.W.'s education and mental health history, his substance abuse problem, his family's involvement with CYF, the danger to the public, his treatment, supervision, rehabilitation and welfare.

The Superior Court, while not condoning the juvenile court's delay, or its failure to state the name of the placement, and the reasons why it was the least restrictive, found that the record ultimately supported the juvenile court's findings. Specifically, the juvenile court was focused on D.W.'s individualized needs and the consequences of the juvenile's behavior on the community. Based on D.W.'s history, it was clear that his treatment needs simply could not be satisfied at home. As such, the court found that the record supported the court's determination that in-home placement was inappropriate under the particular circumstances.

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## LEGISLATION SPOTLIGHT

### **Pennsylvania Rules of Juvenile Court Procedure**

On October 1, 2019, the Supreme Court amended Pa.R.J.C.P. 191. This amendment requires hearing officers to provide written notice to juveniles of their right to challenge the Juvenile Court Hearing Officer's recommendation of an adjudication of delinquency. This new requirement goes into effect on January 1, 2020. The approved notice format, and other additional information, can be found [here](#).

### **Rules of Judicial Administration**

On October 8, 2019, Rule 1910 of the Pa.R.J.A. was amended in regards to the use of recording and photography in the courtroom. The amended Rule, in part, states the following:

"It is unlawful and a criminal offense to use or operate a device to capture, record, transmit or broadcast a photograph, video, motion picture or audio of a proceeding or person within a judicial facility or in an area adjacent to or immediately surrounding a judicial facility without the approval of the court or presiding judicial officer or except as provided by rules of court."

The amendments shall be effective on January 1, 2020.

### **PA: Act 76 of 2019/HB 265**

Act 76, formerly House Bill 265, amended the Public School Code concerning career and technical education. The amendments make hundreds of technical changes by eliminating or replacing outdated terms such as "vocational-technical," "vocational homemaking" and "home economics" with more current terminology such as "career and technical." Other significant changes include, but are not limited to:

Adding a new section that requires school entities to treat career and educational recruiters equally and requires such career and educational recruiters to comply with the background check requirements relating to volunteers having contact with children.

Establishing the PAsmart Online Career Resource Center – this new section requires the Department of Education and the Department of Labor and Industry, in consultation with and the Department of Agriculture, to establish a central online clearinghouse database. The database must include, at a minimum, the following: postsecondary pathways and options; career and technical education and workforce opportunities; career pathways; data and statistics on employment opportunities and compensation; statewide and regional articulation agreements; and other relevant career resources. The online database must be easily accessible by students, parents, educators, school officials and the public, and must be updated at least annually.

The provisions of this Act shall be effective as of December 30, 2019.