



SWAN Legal Services Initiative

March Legal Report

VOLUME 4, ISSUE 8

2018

INSIDE THIS ISSUE:

In the Interest of M.R.F. III 1

Legal Training Team

Division Manager

Ilene Dubin, Esq.

Training Specialists

Lauren Peters, Esq.

Alyssa H. Holstay, Esq.

Shawn Sangster, Esq.

Sara Steeves, Esq.

Contact the team:

lsiwarmline@diakon-swan.org

471 JPL Wick Drive
P.O. BOX 4560
Harrisburg, PA 17111

www.diakon-swan.org

PENNSYLVANIA SUPERIOR COURT

In the Interest of M.R.F., III

Date of Decision: March 28, 2018

Cite: 904 WDA 2017

Holding:

Superior Court affirmed the trial court's order denying foster parents' motion to intervene in an ongoing dependency proceeding.

Facts and Procedural Posture:

The agency became involved after a domestic violence incident between mother and father that resulted in charges for both parents and a brief period of incarceration. Mother was released and the charges were dismissed. The child, who was three months old at the time, was placed in a foster home where the child remained for two years. Father executed consents to terminate his parental rights, but the TPR/goal change regarding mother was denied. The court found that mother was making substantial progress insofar as mother was visiting regularly, making progress in reunification services and remedied the conditions that led to placement. Mother resolved her criminal issues, terminated the relationship with father and had stable housing. Mother's visits were extended to one overnight per week.

Foster parents filed the motion to intervene alleging that the designation of an adoptive resource made them indispensable parties, thereby conferring upon them standing. An evidentiary hearing was held and the trial court denied their motion to intervene.

Rationale:

The Court reviewed the statutory construction of "parties" and confirmed that foster parents do not meet the definition because their custody and/or control of the child are not in question. Case law carves out a narrow exception for foster parents who attain prospective adoptive status. Under those circumstances, foster parents have limited standing to contest the determination to remove a child from their care who was placed in anticipation of adoption. They have the expectation of permanent custody that confers standing. Despite the designation as pre-adoptive parents, the motion to intervene still must be denied because the purpose of the motion to intervene was to challenge mother's expanded visits and not the child's removal from their care.