Philadelphia Bar Association
Family Law Section Meeting Minutes

Meeting of April 6, 2015

The meeting was called to order at approximately 12:11 p.m. by Section Chair, Lee Schwartz. Approximately 67 people attended, including the 2 presentation panelists. Judges Murphy and Matthews attended as did Master Dan Sulman and law clerk, Bill Schenk. The meeting concluded at approximately 1 p.m.

I. Welcome and Introduction

The Chair made a brief welcome.

II. Approval of Minutes

Did not occur.

III. Announcements

A. Lee Schwartz reminded the section of the Chancellor’s “Boots on the Ground” Pro Bono Initiative. He announced that the section was partnering with the Worker’s Compensation Committee to “adopt” the Women Against Abuse Emergency Shelter as its contribution to the Initiative. Two drives for donated goods will be held each year. Goods requested by the shelter include basic toiletries such as toothpaste, toothbrushes, shampoo, and skin lotion; nail polish, gift cards, children’s dvds, and toddler jigsaw puzzles. Other volunteer efforts to benefit the Shelter may be made ad hoc in the future. Meredith Brennan is overseeing our section’s effort. Look for later announcements.

B. Judge Murphy/Susan Pearlstein/Lee announced the opening of the Family Court’s Help Center as of April 7, 2015. Thanks to all for the hard work and long effort necessary making the Help Center a reality. Judge Murphy believes it will prove a benefit not just to pro se litigants, but to the lawyers, judges, and court personnel as well. Attorney volunteers are being sought. Contact Meredith Brennan to volunteer.

C. Mike Viola of VIP announced that 50 family law cases had been dealt with through VIP for the first three months of 2015 and that 42 of the volunteer attorneys were section members. He thanked the section and called for continued volunteers from the section.

D. Rick Bost is overseeing the section’s Spring Reception. Be on the lookout for announcements from him regarding the Reception.
IV. Presentation

Janet Ginzberg, Esquire and Kathleen Creamer, Esquire of Community Legal Services of Philadelphia presented a substantive and engaging program on significant changes to PA’s Child Protective Services Law. Changes became effective December 31, 2014. The materials which accompanied the program are attached. Ginzberg and Creamer announced that their program was pared down for our group and that it’s typically two hours. They also announced they are available and happy to speak at other gatherings; contact them to make arrangements.

V. Committee Reports

Case Law Committee: See attached case law updates.
Other Committee reports: To be distributed via list serve, if any.

VI. Good and Welfare

None.

Next Section Meeting: Monday, May 4, 2015, Noon, Philadelphia Bar Association, 1101 Market St., 11th Fl.

Next Executive Committee Meeting: Thurs., April 16, 2015, Noon, 1101 Market St, 11th Fl.

Respectfully submitted,

Ann M. Funge, Esquire
Secretary

Attachments:
Presentation Mat’ls: Power Point of “The Child Protective Services Law in a Post-Sandusky World”
April 2015 Case Law Summaries courtesy of Sara Slocum, Esq.
THE CHILD PROTECTIVE SERVICES LAW IN A POST-SANDUSKY WORLD

Janet Ginzberg & Kathleen Creamer

April 6, 2015

SIGNIFICANT CHANGES TO THE CPSL

- Definition of Perpetrator
- Definition of Child Abuse
- Rights of Juvenile Perpetrators
- Rights of Parents to Use Corporal Punishment
- Appeal Deadlines

......and more

DEFINITION OF PERPETRATOR

Expanded to include:

--Former spouse/former paramour of parent

--Individual 18 years or older NOT residing in home who is related within third degree of consanguinity or affinity to child
DEFINITION OF PERPETRATOR
Only the following may be considered a perpetrator for failure to act (perpetrator by omission):

--Parent or spouse/paramour of parent
--Person 18 years or older and responsible for child's welfare
--Person 18 years or older who resides in the same home as child

DEFINITION OF PERPETRATOR
Expands definition of "Person in charge of a child's welfare"

--Now includes any person who has direct or regular contact with child through any program, activity or service sponsored by a school or any nonprofit, for profit or religious organization

DEFINITION OF CHILD ABUSE
"Non-Accidental" removed from Definition
New standard: "Intentionally, knowingly or recklessly"

Intentionally, knowingly and recklessly have same meaning as criminal code (relating to general requirements of culpability)
DEFINITION OF CHILD ABUSE

Restatement of Culpability

Conduct that causes harm or risk of harm shall not be considered child abuse if there is no evidence that the person acted intentionally, knowingly, or recklessly when causing the harm or creating the risk.

DEFINITION OF CHILD ABUSE

Bodily Injury

Impairment of Physical Condition or Substantial Pain

DEFINITION OF CHILD ABUSE

Lists of Acts/Failures to Act

- Causing bodily harm
- Fabricating/exaggerating a medical condition
- Causing or contributing to serious mental harm
- Causing sexual abuse or exploitation
- Creating a reasonable likelihood of bodily injury or sexual abuse
- Causing serious physical neglect
- Per se child abuse

**All of these must have been done intentionally, recklessly, or knowingly**
DEFINITION OF CHILD ABUSE
Reasonable Likelihood of Injury

Replaces “Imminent Risk” Standard

For sexual abuse, only requires likelihood of injury, not reasonable likelihood

DEFINITION OF CHILD ABUSE

Serious Physical Neglect:
- endangers a child’s life or health
- threatens a child’s well-being
- causes bodily injury
- impairs health, development or functioning
Exclusion for environmental factors beyond parent’s control

DEFINITION OF CHILD ABUSE
Failure to Supervise

Now requires repeated, prolonged “or egregious” failure to supervise a child in a manner that is appropriate considering a child’s developmental age and abilities
DEFINITION OF CHILD ABUSE

Per Se Child Abuse—no injury required

- Kicking, biting, burning, stabbing, cutting
- Unreasonably physically restraining
- Forcefully shaking, slapping or striking child less than a year old
- Interfering with the breathing of a child
- Causing a child to be present at site of a meth lab
- Leaving a child with an individual who the actor knows or reasonably should know is a sex offender
- Causing the death of a child

DEFINITION OF CHILD ABUSE

Sexual Abuse or Exploitation

Definition expanded and more specific.

"The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct..."

DEFINITION OF CHILD ABUSE

Sexual Abuse or Exploitation

Acts include, but not limited to:

- Looking at sexual or intimate parts
- Participating in sexually explicit conversations in person or by device
- Actual or simulated sexual activity or nudity
- Actual or simulated sexual activity or nudity for purpose of producing a visual depiction"
DEFINITION OF CHILD ABUSE
Sexual Abuse or Exploitation

All listed examples must be "for the purpose of sexual stimulation or gratification of any individual" except for the production of visual depiction.

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DEFINITION OF CHILD ABUSE
Sexual Abuse or Exploitation

Exception:

Does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years or older and whose age is within 4 years of the child's age.

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DEFINITION OF CHILD ABUSE
Mental/Emotional Abuse

- New definition lowers the threshold
- No longer need to show that acts caused mental injury, just that they contributed to a child’s feelings of fearfulness, agitation, depression, etc.
CORPORAL PUNISHMENT

Use of force for supervision, control and safety
"Reasonable" use of force by parent or person responsible for welfare of child not child abuse if:
• Incidental, minor or reasonable contact to maintain order and control
• Necessary to quell disturbance, remove child from scene of disturbance that threatens person or property
• To prevent self-inflicted harm by child
• For self-defense or defense of another
• To obtain possession of weapons, dangerous objects or drugs

CORPORAL PUNISHMENT
Rights of Parents

Re-emphasis on generally recognized rights of parents to use "reasonable" force for purposes of supervision, control and discipline of their children

JUVENILE PERPETRATORS

Newly recognized concept that kids are kids:
-- automatic expungements
-- some child-to-child contact exempted
-- sex abuse exception
CHILD-ON-CHILD CONTACT

Injury (other than sexual abuse) to a child that results from the act of another child shall not constitute child abuse unless the child who caused the injury meets the definition of "perpetrator."

Injury that results from dispute, fight, or scuffle entered into by mutual consent is not child abuse.

EXPUNGEMENT PROCESS

Several changes, most for the better:
- Appeal deadlines extended
- DPW Secretary's discretion to expunge for good cause delineated
- Hearing process expedited
- Right to investigative file (limited)

EXPUNGEMENT PROCESS

Appeal Deadlines

Deadlines to appeal indicated report have been extended from 45 days to 90 days

--both initial request and post-administrative review request
CHILD CUSTODY

- Title 23 amended to require the court, in custody matters, to consider the receipt of Children & Youth services, even voluntary ones. The court must consider:
  - Whether a party or a member of the party's household was provided services;
  - The type of services provided;
  - The circumstances surrounding the provision of services;
  - The status of services;
  - The date services were provided; and
  - The jurisdiction where services were provided.

- Also requires cooperation by the Department and county children and youth agencies with the courts to assist in fulfilling their duties under this section.

MANDATED REPORTING

All mandated reporters of child abuse must now report directly to Childline, cannot simply report to internal chain of command

MANDATED REPORTING

New Mandated Reporters:
- Individual, paid or unpaid, who accepts responsibility for a child as a result of their role as an integral part of a regularly scheduled program
- Independent Contractors
- Some attorneys (continued)
MANDATED REPORTING

- Some attorneys are now mandated reporters: attorneys who work for a school, church or other organization with responsibility for "the care, guidance, control or supervision of children"
- Exceptions to attorney reporting requirement
  - Confidential client communications
  - Work product
  - Rules of Professional Conduct

EXCHANGE OF INFORMATION

Health care providers can provide information to Agency about a child or without a release where:

- there is a negative effect on the medical health of a child
- there is a GPS, CPS or family accepted for services

EXCHANGE OF INFORMATION

Can be about prior or current health

Can provide "relevant" information about other children in the household

Releases still needed for exchange of information about behavioral health
EXCHANGE OF INFORMATION

Agencies can provide information to health care providers

-- to ensure proper medical care of child
-- to notify provider of outcome of a child abuse investigation

CLEARANCES

Changes made:

-- who has to get clearances
-- timing and renewal of clearances
-- status of clearances
-- how clearances can be obtained

Questions? Comments?

Janet Ginsberg
Senior Staff Attorney, Employment Unit
jginsberg@clsphila.org, 215-981-3745

Kathleen Creamer
Supervising Attorney, Family Advocacy Unit
kcream@clsphila.org, 215-981-3799
RECENT PA. APPELLATE COURT FAMILY LAW SLIP OPINIONS

April 2015

Summarized by Sara L. Slocum, Esquire

1. **In the Interest of L.Z.**, Philadelphia, 26 EAP 2014
   (Pa. Supreme 3/25/15)

   Supreme Court reversed order of Superior Court for misapplication of the
   Child Protective Services Law's (CPSL) definition of child abuse and presumption of
   prima facie evidence of abuse by the parent. 24 month old child brought to Abington
   Memorial with a penile laceration, severe diaper rash and yeast infection and bruising to
   the cheeks. Trial court determined the child to be dependent and found abuse
   perpetrated by Mother pursuant to 23 Pa.C.S. § 6303. Superior Court upheld finding of
   dependency but vacated the trial court’s determination of abuse by Mother. The Court
   acknowledged that 23 Pa.C.S. § 6381(d) provides for prima facie evidence of abuse
   and cited its decision in In re: J.G., 984 A.2d 541, 547 (Pa. Super. 2009) that the statute
   is only applicable if the parent is responsible for the child at the time of the abuse. The
   Superior Court held the presumption to be inapplicable even though there was no
   testimony on record regarding the time the child was in Mother's care.

   Definition of abuse - no dispute that the penile laceration constituted
   abuse. Supreme Court held that the bruising to the child's cheeks caused by squeezing
   them so hard to constitute dark bruising is "serious physical injury" which would have
   caused "severe pain" within the definition of child abuse under § 6303(a) and (b). The
   Court stated the trial court was in the best position to ascertain the demeanor of the
   doctor's flippant remark. The record also supports the yeast infection and diaper rash
   constitute "serious physical neglect" under § 6303(b)(1)(iv), especially considering the
   doctor refuted Mother's explanation.

   Applicability of presumption - Supreme Court analyzed the Superior
   Court's reasoning in In re: J.G. and determined it to be dicta and an improper analysis
   of the law. The Commonwealth’s application of the statute in expungement cases (as
   opposed to dependency cases) where the threshold of proof is much higher led the
   Superior Court astray.

   A parent is always responsible for their child; therefore, does not have to
   be present during the injury. The statute limits the class of people who are accountable
   for injuries to a child to “other people responsible for the child. ...” The statute includes
   acts and omissions of those responsible. The statute is also applicable in multiple
caregiver cases.
The purpose of the presumption is to prevent caregivers from pointing fingers at one another to avoid prosecution. The Court reiterated that when a child is in the care of multiple people, all individuals are responsible for the care of that child whether they actually inflicted the injury or failed to act to protect the child. The presumption is rebuttable by evidence that they did not inflict injury, that they gave the responsibility of care to another person without a reason to believe they would cause harm or the injuries were accidental.

Finally, the Court held that the evidence supported that Mother perpetrated the abuse as to all 3 injuries, joined by Mr. Chief Justice Saylor, Mr. Justice Eakin, Madame Justice Todd and Mr. Justice Stevens, and was not contested or rebutted by Mother.

Majority opinion by Mr. Justice Baer.

   (Pa. Super. 3/2/15)

   Intervenor Parental Grandparents' appeal order awarding Mother sole legal and primary physical custody of child and partial physical custody in Paternal Grandparents following counseling. Affirmed on basis that all factors were considered and due to unhealthy relationship between Paternal Grandparents' child. Memorandum opinion by Panella joined by Ott and Musmanno.

   (Pa. Super. 3/3/15)

   Mother appeals termination orders. Affirmed. Mother tested positive for cocaine at birth, failed to treat her bipolar disorder and addiction issues, failed to meet goals and where reasonable efforts at reunification were made. Memorandum opinion by Mundy joined by Donohue and Stabile.
   (Pa. Super. 3/4/15)

   Father appeals order granting Mother primary physical custody and providing Father with supervised visitation. Remanded for perfection of certified record and consideration of all 16 factors. Memorandum opinion by Strassburger joined by Lazarus and Wecht.

   (Pa. Super. 3/4/15)

   Father appeals order on Emergency Petition. Reversed and remanded. Parties filed cross petitions seeking primary physical custody. Mother alleged the child had a contentious relationship with Father's wife and began cutting herself. Father alleged Mother failed to ensure the child was getting to school and identified Mother's objective to sever his relationship with the child. Court awarded Mother with sole legal and physical custody. Reversed and remanded on basis that the record was devoid of any medical or psychiatric evidence regarding the child's cutting or reasons for it. It was an error of law for the trial court to rely on a generalized report about cutting that was not admitted into evidence. It was also an error of law for the court to find Father is a "mean belligerent drunk" from incidents many years ago and where no record evidence supports the conclusion. No evidence of continued substance abuse or violence. Court also misinterpreted the child's preference. Superior Court directed an interim order of shared legal custody, primary physical with Mother and partial physical custody with Father outside his home, court ordered therapy and a custody evaluation. Memorandum opinion by Bender joined by Lazarus and Fitzgerald.

   (Pa. Super. 3/4/15)

   Husband appealed $1,000 reduction in alimony obligation. Affirmed. Adequate support of Husband's ability to pay and that he kept his income artificially low by charging less rent to son's firm. Cannot challenge award of lifetime alimony on a modification appeal. Memorandum opinion by Donohue joined by Ford Elliott and Allen.
   (Pa. Super. 3/4/15)

   Husband appeals order distributing the marital estate and awarding Wife 6.5 years alimony and $6,000 counsel fees. Affirmed. No record evidence of Husband’s payment of marital debt and debts identified were not debts the judge ordered him to pay (each daughter’s student loan). Memorandum opinion by Shogan joined by Donohue and Stabile.

   (Pa. Super. 3/4/15)

   Mother appeals PFA. The child’s statements testified to by Father constituted hearsay. There was no record of an in camera hearing of the child to determine the child “unavailable” pursuant to 42 Pa. C.S. §5985. No evidence of record that Mother knew of the abuse. All knowledge was based upon Father’s hearsay statements of the child. Order vacated. Memorandum opinion by Bender joined by Olson and Ott.

9. **In Re: Adoption of P.J.S.**, Erie, 1192 WDA 2014  
   (Pa. Super. 3/4/15)

   Father appeals termination order. Affirmed. Father had long history of substance abuse, was currently incarcerated for DUI, best interest of child to remain with maternal grandparents. Memorandum opinion by Shogan joined by Donohue and Stabile.

    (Pa. Super. 3/4/15)

    Husband appeals equitable distribution order. Affirmed. No testimony on record regarding Husband’s payment of debts and debts referenced were not actually ordered for Husband to pay. Counsel fee award to Wife was appropriate. All other issues waived for failure to cite legal authority. Memorandum opinion by Shogan joined by Donohue and Stabile.
(Pa. Super. 3/5/15)

   Father appealed order awarding Mother primary physical custody during school year and shared physical custody in the summer. Vacated and remanded. No evidence on the record that the parties agreed that the back and forth was detrimental to the child or actual evidence of the detriment, or that the distance of 14 miles between houses did not support a shared custody arrangement. The Court specifically rejected the trial court’s conclusion that a primary physical custody schedule was warranted where the child was entering full day school. Remanded for Court to enter shared custody order during the school year. Memorandum opinion by Strassburger joined by Stabile and Jenkins.

(Pa. Super. 3/5/15)

   Mother appeals termination decrees. Affirmed on basis that Mother refused to acknowledge Father’s abuse of the children and she failed to provide them with a safe environment despite meeting goals. Bond with foster parents. Dissent on basis that Judge disagreed that there was no evidence of bond with Mother would have remanded for further exploration. Memorandum opinion by Bender joined by Lazarus. Fitzgerald dissents.

13. **In Re: A.C.**, Berks, 1110 MDA 2014  
(Pa. Super. 3/5/15)

   Mother appeals order directing Mother to bring child to local child advocacy center for an interview on basis that Mother has a constitutional right to have counsel of her choice observe and hear interview. Mother’s issues waived for failure to cite legal authority and one issue moot because interview took place. Memorandum opinion by Fitzgerald joined by Stabile. Mundy concurs.

Father and Mother appeal termination order of child. Affirmed. Parents unable to care for child due to their unstable marriage, Father's physical abuse of child, Mother's mental health issues and lack of bond. Memorandum opinion by Wecht joined by Lazarus and Jenkins.


D.J.C. appealed order denying genetic testing. Affirmed on basis that presumption of paternity applied, child born to intact marriage at the time of the challenge to paternity. Memorandum opinion by Ford Elliott joined by Donohue and Allen.


Wife appeals entry of support order arguing trial court failed to consider Husband's inheritance and trust accounts that generated income. Affirmed. Trial court considered the yearly distributions of interest from the trust but declined to include it in his monthly income crediting Husband's testimony that the payment was not guaranteed and the amount varied year to year. Memorandum opinion by Allen joined by Gantman. Shogan concurs.


Appeal of order determining child no longer dependent, terminating dependency case and releasing juvenile court jurisdiction. Appeal dismissed as moot. M.B. turned 21 years of age. Memorandum opinion by Ford Elliott joined by Shogan and Stabile.


Mother appeals termination orders. Affirmed. Mother physically and mentally abused child, no bond with Mother, and termination would not result in harm to child. Memorandum opinion by Platt joined by Gantman and Stabile.
      (Pa. Super. 3/10/15)

    Mother appeals order granting Father primary custody of the children. Affirmed. Custody evaluator’s report was considered but court not bound to follow recommendations. Parents agreed that oldest would live with Father. Court noted strong public policy to keep siblings together. Mother also argued that the relocation factors should have been considered where parents live 51 miles apart and change in custody would amount to relocation. Court disagreed where neither parent was actually moving and had been in the same residence since 2013. No relocation between Royersford, Montgomery County and Coatesville, Chester County. 5337(h) factors only considered when parent is relocating with a child. Memorandum opinion by Jenkins joined by Gantman and Wecht.

20.  **In the Interest of M.J.G., Jr.**, Philadelphia, 2869 EDA 2014  
      (Pa. Super. 3/10/15)

    Matter returned after Court directed trial court to evaluate emotional bond between Mother and child and address effect on child if rights were terminated. Record now supports trial court’s order terminating rights. Affirmed. Memorandum opinion by Ford Elliott joined by Lazarus and Wecht.

      (Pa. Super. 3/10/15)

    Mother appealed entry of PFA requested by Father. Affirmed. Claims waived for failure to file 1925(b) statement. Memorandum opinion by Strassburger joined by Bowes and Allen.
   (Pa. Super. 3/10/15)  
   Father appealed order denying petition to modify custody. Affirmed. All factors considered. Consistency and stability factor weighed in Mother’s favor where all other factors were equal. Memorandum opinion by Ott joined by Panella and Musmanno.

   (Pa. Super. 3/10/15)  
   Father appeals order permitting Mother to relocate and granting her primary physical custody and sole legal custody of the children. Trial court’s order and opinions adopted and affirmed on that basis. Memorandum opinion by Strassburger joined by Bowes and Olson.

24. **In Re: Involuntary Termination of Parental Rights KMT,**  
   Father appeals termination order. Affirmed. M.H. stood in loco parentis where child was dropped off to her at 6 weeks and she made all medical decisions and cared for the child from that time on. Father showed passive interest in the child. Memorandum opinion by Fitzgerald joined by Panella and Olson.

   (Pa. Super. 3/16/15)  
   Father appeals custody order granting him partial physical custody. Vacated and remanded for failure to consider custody factors and the order was silent with regard to the children. Memorandum opinion by Allen joined by Ford Elliott and Bowes.
26. **In Re: Adoption of C.D.R.**, Cambria, 1692 WDA 2014  
    (Pa. Super. 3/17/15)

    Mother appeals termination order. Affirmed. Mother had a criminal  
    history, failed to complete any services offered by CYS, including drug, alcohol and  
    psychiatry services and failed to seek employment or appropriate housing. Memorandum opinion by Stabile joined by Donohue and Shogan.

    (Pa. Super. 3/17/15)

    Wife appealed order granting Husband a PFA. Affirmed. No evidence on  
    record that indicates that Wife sought to present other witness testimony. Memorandum opinion by Panella joined by Shogan and Fitzgerald.

    (Pa. Super. 3/17/15)

    Appeal of child and spousal support orders. Husband challenged earning capacity. Court’s reliance on an immigration affidavit of support was appropriate.  
    Husband also contended that it was error for the Court to consider Egyptian marriage certificate but not the Egyptian divorce decree. Trial Court was correct in not recognizing the divorce where neither party met the domicile requirements in Egypt and there was no evidence Wife ever received notice of the Egyptian divorce proceedings. Comity should not be extended under these circumstances. Memorandum opinion by Stabile joined by Ford Elliott and Shogan.

    (Pa. Super. 3/17/15)

    Maternal Grandmother appeals order awarding Mother legal and primary physical custody of the children. Vacated and remanded. Custody and relocation factors not considered. Memorandum opinion by Bender joined by Mundy and Stabile.
(Pa. Super. 3/18/15)

Mother appeals order regarding primary custody and the continuation of temporary approval of relocation. Custody factors not considered. Relocation factors also must be considered where the previous custody order allowed for Mother to relocate on a temporary basis until the child was school aged. Reversed and remanded. Memorandum opinion by Bowes joined by Ford Elliott and Allen.

(Pa. Super. 3/20/15)

Mother appeals order awarding Father primary physical custody and allowed his relocation to Illinois. Affirmed. Father initially had primary custody but filed several petitions to prevent Father from exercising his periods of custody in Illinois. Mother alleged inappropriate sexual conduct and abuse on 2 occasions, which were unfounded. Mother’s nephew reported sexual abuse by Father in 2009 which was also deemed unfounded. Every entity that investigated Father found no abuse. All factors considered. Memorandum opinion by Panella joined by Lazarus and Wecht.

32. **In Re: B.Z.**, Allegheny, 1638 WDA 2014  
(Pa. Super. 3/23/15)

Father appeals termination order. Affirmed. Child born prematurely due to Mother’s drug use. Bond with foster parents of a year and thriving. Father reincarcerated in 2013 with limited contact and no bond order. Memorandum opinion by Bender joined by Mundy and Stabile.

33. **Ramsey v. Grumberg**, Chester, 1881 EDA 2014  
(Pa. Super. 3/24/15)

Mother sought to relitigate Father’s income in 2012 and 2013 on basis that Mother did not have information at the time of trial. Court denied request since modification not the proper avenue where appeal was available in form of exceptions or to reopen the record. No evidence to support ex parte communications. Memorandum opinion by Shogan joined by Gantman and Allen.
(Pa. Super. 3/24/15)

Appeal of support contempt order. Appellant admitted to non-payment but stated his reason for doing so was his misunderstanding of the order. He claimed his failure to pay them was not willful. Court disagreed. Sufficient evidence to support contempt. Memorandum opinion by Stabile joined by Ford Elliott and Shogan.

35. **In Re: Adoption of C.J.B.**, York, 1797 MDA 2014  
(Pa. Super. 3/24/15)

Mother appeals goal change to adoption. Affirmed. Child removed January 2013. Mother addicted to heroin, unable to maintain employment, frequent incarcerations, bond with foster parents, lack of bond with Mother. Memorandum opinion by Panella joined by Ott and Musmanno.

36. **In the Interest of N.A.**, Philadelphia, 2440 EDA 2014  
(Pa. Super. 3/26/15)

DHS appeals 2 orders determining children not dependent. DHS contended that the trial court erred by limiting the evidence to exclude past history of the case. Court held that DHS had to prove the children were dependent at that particular point in time and failed to meet that burden. Memorandum opinion by Lazarus joined by Bender and Fitzgerald.

37. **In the Interest of M.L.S.**, Phila., 2516 EDA 2014  
(Pa. Super. 3/27/15)

Mother appeals termination order. Child born premature and with a multitude of medical issues. Mother failed to care for child while still at the hospital. Slept through alarms on the several occasions. DHS evaluation of Mother's home determined not suitable for child. Mother had drug and mental health issues. Mother not able to provide for child's needs and welfare and testified to the same at trial. Memorandum opinion by Ford Elliott joined by Panella and Ott.
38. **In Re: Adoption of J.C.T.R.**, Tioga, 1738 MDA 2014  
(Pa. Super. 3/27/15)

Mother appeals termination order. Reversed. Mother was unable to contact child while no contact order was in place filed by Father. Evidence did not show that Mother had relinquished her parental rights for period of 6 months. To the contrary, Mother stayed in contact and updated about the child through Maternal Grandmother. Memorandum opinion by Lazarus joined by Wecht and Jenkins.

2810 EDA 2014 (Pa. Super. 3/30/15)

Plaintiff appeals order finding she lacked third party standing to file a custody complaint against Mother, Father's Maternal Grandfather. Affirmed. Mother and Father had not consented to Plaintiff having a parental role in the child's life. Therefore, Plaintiff did not stand in loco parentis to the child. Memorandum opinion by Jenkins joined by Donohue and Wecht.

(Pa. Super. 3/30/15)

Mother appeals order denying petition to remove guardian ad litem of children in custody litigation with Father. Order was not a final appealable order. Appeal quashed. Guardian ad litem shall not be permitted to cross examine witnesses pursuant to Pa.R.A.P. 1915.11-2 Note, 1915.25. Memorandum opinion by Wecht joined by Shogan and Strassburger.

(Pa. Super. 3/31/15)

Father appeals child support order. Affirmed. Evidence supported Father's earning capacity of $30,000 considering his work history and failure to report income in his tax return. Also appropriate to include day care expenses where child was enrolled in day care prior to separation. No deviation where Father's expenses were only $800 per month. Memorandum opinion by Jenkins joined by Bowes and Mundy.

Husband challenges amount of child support on the basis that Husband’s 2011 income, his highest, should not be used for support calculations. Affirmed. It was Husband’s choice to reinvest the income into a building for purpose of expansion. Therefore, that income is available for support. Investment not mandatory to prevent demise of business. Memorandum opinion by Ford Elliott joined by Panella and Ott.


Father appeals termination order. Affirmed. Father participated in 2 of the weekly visits in one year, bond with foster mother, Father’s substance abuse continued and child characterized Father as somewhat abusive. Memorandum opinion by Wecht joined by Ford Elliott and Shogan.


Husband appealed order directing DRO to process a support order per a Marital Settlement Agreement and awarding Wife $1,000 in sanctions. Affirmed. Husband’s attorney requested the deletion of child support language in the Marital Settlement Agreement. After signing, Husband used the Marital Settlement Agreement to administratively modify the order to alimony only and have a conference scheduled. Wife was forced to file several petitions and was awarded sanctions. Affirmed. Memorandum opinion by Bender joined by Lazarus and Mundy.