J. & S.O. v. C.H., 2019 Pa. Super 91 (filed March 27, 2019)

Father appealed a July 2018 order, which granted Maternal Grandparents' Petition for Modification and awarded Maternal Grandparents partial physical of the Child. Father and Mother were married and the Child was born in 2009. Maternal Grandparents saw the Child on a weekly basis and often stayed overnight at the family home. Mother passed away in 2013. In 2014, Maternal Grandparents filed a Complaint for Custody, which was resolved via a Stipulated Order, which provided Maternal Grandparents with partial physical custody of the Child for three days per month during the school year and seven days per month during the summer. In 2017, Maternal Grandparents filed a Petition to Modify Custody. The trial court granted the Petition, awarding Maternal Grandparents partial physical custody of the Child every other Saturday, Christmas Eve and four additional days over the summer. Husband appealed, asserting, inter alia, that 23 Pa.C.S.A. § 5325(1), the statute granting standing to Maternal Grandparents, was unconstitutional, alleging that it violated his due process and equal protection rights to raise his child without government interference. Father asserted that the statute failed to pass strict scrutiny because it was not narrowly tailored to serve a compelling state interest. The Superior Court rejected Father's argument and affirmed the trial court, reasoning (and citing Hiller v. Fausey, 904 A.2d 875 (Pa. 2006)), that "the protection of the welfare of children, including ensuring that children of deceased parents are not deprived of beneficial relationships with their grandparents, is a compelling state interests" and that the statute was narrowly tailored to serve that interest. The Superior Court also rejected Father's argument that § 5325(1) violated his equal protection rights by subjecting "a class of individuals, namely widowers, to court review of their parenting decisions regarding grandparent visitation when non-widowed parents are not subject to such review." In affirming the trial court, the Superior Court reasoned that the statute did not violate Father' equal protection rights because the classification inherent in the statute was necessary to achieve the compelling state interest of protecting children and ensuring their well being.

N.P. v. K.C.P., No. 3386 EDA 2018 (Superior Court - filed April 2, 2019)
Non-Precedential

Mother appealed an October 2018 order denying her exceptions to a temporary order of child support. In October 2013, Father was ordered to pay support for the parties' two children. In August 2017, the order was "administratively changed" from two children to one child due to the emancipation of the oldest child. In April 2018, Father filed a *pro se* Petition for Modification seeking a reduction or termination of the support order due to his prolonged homelessness and inability to pay. The hearing officer entered an order, inter alia: bringing Father's obligation down to zero dollars, due to his inability to pay (with no income or assets or reasonable prospect that he would be able to pay in the foreseeable future); remitting arrears without prejudice; requiring Father to submit an updated Physicians Verification Form; and ordering a review by the Domestic Relations Office in 90 days. Mother filed timely exceptions, which the trial court denied. Mother appealed. The Superior Court quashed the appeal, reasoning that, in the context of a child support award, a final appealable order is one that "dispose[s] of all claims related to [the] award for child support." The Court found that the order granting Father's Petition for Modification did not dispose of all the claims related to the award, qualifying the order as interlocutory and unappealable, and likening the order to a 90 day continuance. Further, the

Court commented that, "while interlocutory orders are appealable in certain circumstances, none of those circumstances apply to the case at bar."

Appeal of: J.Z., Father, 2019 Pa. Super 106 (filed April 4, 2019)

Father appealed from the decrees granting the petitions filed by Bucks County CYS to involuntarily terminate Father's parental rights to his three children. CYS was involved due ongoing concerns regarding inadequate supervision of the children, the condition of the family home, substance abuse by the parents, and developmental delays for one of the children. The family was ultimately evicted from their home due to non-compliance with the requirements of the support housing program. The children were adjudicated dependent in September 2016 and the children have remained in the custody of CYS since then. CYS filed Petitions for the Involuntary Termination of Father's Parental Rights under § 2511(a)(2), (5) and (8). Father appealed, arguing, inter alia, that the trial court erred by permitting the court appointed counsel for the children to make "hearsay statements" on the record of the children's wishes over Father's objections and by considering those statements as evidence, without allowing Father the opportunity to question the children. The Superior Court affirmed the trial court, reasoning that "testimony as to what a child tells other people is admissible in order to establish that child's mental state at the time he or she made the comment." The Court cited the reasoning from In re: Adoption of L.B.M., 161 A.3d 172 (Pa. 2017) and In re: Child M., 681 A.2d 793 (Pa. Super. 1996), where the courts declined to create a requirement that would entitle a natural parent to force an abused child to testify in an involuntary termination proceeding. The Court added that mental health professionals, case workers and the foster parents could testify about their direct observations of the child's conduct.