

*C.G. v. J.H.*

Supreme Court of Pennsylvania

No. 2 MAP 2018

J-32-2018

September 21, 2018

Before: Saylor, Baer, Todd, Donohue, Dougherty, Wecht and Mundy

Opinion by Justice Mundy

Concurring opinions by Justices Dougherty and Wecht

This Supreme Court decision provides an excellent summary of the law regarding parental rights and obligations to children born with assisted reproductive technology (ART). The Supreme Court affirmed the Superior Court's approval of the trial court's holding that a non-biological non-adoptive former partner lacked standing to pursue custody under 23 Pa. C. S. § 5324 (1). The Court also affirmed the Superior Court's adoption of the trial court's holding that a former partner should not be accorded *in loco parentis* status under § 5324 (2) because the former partner did not assume parental status and discharge parental duties. Justice Dougherty and Wecht's concurring opinions join the majority's result, urge thoughtful analysis of custody cases with ART and contain useful academic citations in this area. Justice Wecht forthrightly states: "I think that today's case is a missed opportunity for this Court to address the role of intent in analyzing parental standing in ART cases."

*M.W. v. S.T and V.T.*

Superior Court of Pennsylvania

No: 712 WDA 2018

2018 Pa. Super. 268

September 26, 2018

Before: Olson, McLaughlin, and Strassburger

Opinion by: Strassburger

This Superior Court decision reminds practitioners that timing is important, especially in a fluid custody case. The Court affirmed the trial court's dismissal of Grandmother's (M.W.) custody complaint for lack of standing under 23 Pa. C. S. § 5324. That section provides, in relevant part, "The following individuals may file for any form of physical or legal custody...(3) A grandparent of the child who is not *in loco parentis* to the child...and (iii) when one of the following conditions is met: (A) the child has been determined to be a dependent child under 42 Pa. C. S. Ch. 63 (relating to juvenile matters)..." The Superior Court adopted the trial court's reasoning that Grandmother failed to satisfy any of the requirements of § 5324 (3) (iii), specifically the requirement upon which Grandmother relied, "(A) the child has been determined to be a dependent child..." The children were, indeed, adjudicated dependent while the children were placed by CYS with Grandmother (May 2015 to November 2015), but were later declared no longer dependent on June 21, 2017. What should Grandmother have done differently? Perhaps she should have withdrawn the custody complaint she filed in March 2017 and refilled under § 5324 (2) as a person who stands *in loco parentis* to the child?