

RECENT PA. APPELLATE COURT FAMILY LAW SLIP OPINIONS

September 2016

Summarized by Sara L. Slocum, Esquire

1. **M.B.B. v. A.J.B.**, Delaware, 1400 EDA 2015
(Pa. Super. 5/2/16)

Appeal from PFA. Affirmed. Court entered a temporary cooling off period to address Appellant's concerns that he was the sole person on the lease and give Appellee time to obtain housing. The Judge took the underlying PFA under advisement. Additional incidents happened in the interim. No abuse in continuing the matters for additional evidence and testimony. Memorandum opinion by Olson joined by Ott and Stevens.

2. **J.S. v. B.M.P. and M.J.P.**, Cambria, 1795 WDA 2015
(Pa. Super. 5/2/16)

Mother appeals granting primary custody to Paternal Grandmother. Affirmed. All factors considered. Court found Mother's short term unmonitored sobriety to weigh against her and found that Paternal Grandmother met the high burden of proving that the stability she provided weighed in favor of her having custody considering the child's educational needs. Memorandum opinion by Ford Elliott joined by Mundy and Jenkins.

3. **E.R. v. D.D.**, Elk, 1505 WDA 2015
(Pa. Super. 5/2/16)

Mother appeals order allowing Father additional physical custody. Affirmed. Mother initially agreed to relocate and enroll the child in Father's school district. Child started school and Mother sought to modify to change the school district back due to financial constraints. Court ordered that the child remain in current school. All other issues waived. Memorandum opinion by Ford Elliott joined by Bender and Shogan.

4. **J.D.D. v. M.D.**, Butler, 1022 WDA 2015
(Pa. Super. 5/2/16)

Mother appeals custody orders. Affirmed. Father raised issues of Mother's older children sexually abusing one another. Court gave weight to factors regarding the safety of the child. The primary caretaker doctrine will not trump the safety of the child. Conflict of the parents prevented a shared custody schedule. Memorandum opinion by Ford Elliott joined by Bender and Shogan.

5. **K.F. v. A.F.**, York, 1693 MDA 2015
(Pa. Super. 5/3/16)

Wife appeals divorce decree and denial of her exceptions. Affirmed. Wife was denied alimony. Court found that Wife could earn more with her degree in accounting but rather used a four year separation to obtain a medical billing certificate and earn far less. Court considered the federal poverty guidelines in reaching its conclusion. The parties were also separated longer than they were married. Memorandum opinion by Shogan joined by Ott and Strassburger.

6. **D.M.W. v. D.M.G.**, Allegheny, 1667 WDA 2015
(Pa. Super. 5/3/16)

Father appeals termination of parental rights. Affirmed. No contact order with Mother due to aggravated assault 2 months prior to child's birth. Failed to meet FSP goals including mental health treatment and remaining drug free. Also Court found credible testimony that Father sexually assaulted a sibling and that posed a threat to the child. Memorandum opinion by Panella joined by Olson and Platt.

7. **Rutkowski v. Stenger**, Allegheny, 506 WDA 2015
(Pa. Super. 5/3/16)

Appeal of order declaring no common law marriage. Affirmed. Conflicting testimony was presented and trial court found only Appellee's testimony to be credible. Appellant failed to prove the exchange of words in the present tense. Memorandum opinion by Ford Elliott joined by Bender and Shogan.

8. **In the Interest of S.P.**, Cambria, 1806 WDA 2015
(Pa. Super. 5/2/16)

Father appeals goal change to adoption. Affirmed. Father still requires mental health treatment and his limited intelligence prevents him from developing parenting skills. Caseworker described many issues, some effecting the safety of the children during supervised visits. Memorandum opinion by Bender joined by Panella and Fitzgerald.

**9. Gardell v. Gardell, Allegheny, 405 WDA 2015
(Pa. Super. 5/3/16)**

Wife appeals order denying Motion to Strike or Vacate Divorce Decree. Affirmed. Wife did not allege fraud or produce any new evidence regarding the validity of the Agreement. A mistake in valuing an asset is not new evidence. Memorandum opinion by Ford Elliott joined by Bender and Shogan.

**10. In the Interest of K.L., Philadelphia, 2767 EDA 2015
(Pa. Super. 5/3/16)**

Appeal of adjudication as dependent. Affirmed. Appellant stipulated to the child remaining in foster care and receiving services. No abuse of discretion. Memorandum opinion by Olson joined by Stabile and Strassburger.

**11. In Re: Adoption of H.O. and L.D., Erie, 27 WDA 2016
(Pa. Super. 5/4/16)**

Father appeals termination of parental rights decrees. Remanded to file 1925(a) opinion. Memorandum opinion by Shogan joined by Ott and Fitzgerald.

**12. In Re: Adoption of B.J.F-Z. a/k/a B.F.-Z., Allegheny,
1900 WDA 2015 (Pa. Super. 5/5/16)**

Mother appeals termination of parental rights decrees. Affirmed. Mother failed to meet FSP goals, failed to parent during supervised visits, continued to engage in domestic violence and in home services were discontinued because of Mother's non-compliance. Children bonded with foster parents. Memorandum opinion by Bender joined by Panella and Fitzgerald.

**13. In the Interest of M.F. a/k/a M.M.F., Philadelphia,
2572 EDA 2015 (Pa. Super. 5/6/16)**

Mother appeals termination of parental rights petitions. Affirmed. While Mother complied with attending parenting classes, she continued to test positive for PCP. She also denied any mental health issues and refused to comply with mental health treatment. Memorandum opinion by Ford Elliott joined by Bender and Musmanno.

**14. In Re: C.A.J., Berks, 1843 MDA 2015
(Pa. Super. 5/6/16)**

Parents appeal termination of parental rights decrees. Affirmed. Father had a long history of sexual abuse. Upon evaluation he showed signs of antisocial personality and would likely not respond to treatment. Mother continued to defend Father and refused to leave him. Memorandum opinion by Gantman joined by Bowes and Musmanno.

**15. D.W. and D.W. v. F.T. and J.T., Indiana, 1892 WDA 2015
(Pa. Super. 5/6/16)**

Maternal Grandparents appeal denial of partial physical custody. Vacated and remanded to consider all 5328(a) factors and not just the partial custody factors at 5328(c)(1). Memorandum opinion by Bender joined by Panella and Fitzgerald.

**16. R.W. v. M.S., Crawford, 1810 WDA 2015
(Pa. Super. 5/6/16)**

Mother appeals order awarding Father primary physical custody. Affirmed. Mother lived in Pennsylvania and Father lived in Alabama. Testimony made it clear that Mother did everything in her power to make it difficult for the child to spend time with Father. Mother's credibility was also impeached several times at trial. Memorandum opinion by Ford Elliott joined by Mundy and Jenkins.

**17. In the Interest of M.D.E.S., Philadelphia, 2250 EDA 2015
(Pa. Super. 5/9/16)**

Mother appeals termination of parental rights orders. Affirmed. Child brought into custody with shaken baby syndrome. Father was charged. Reunification efforts were made with Mother but they failed. No bond with Mother was witnessed. Memorandum opinion by Olson joined by Stabile and Strassburger.

**18. In the Interest of IL, Philadelphia, 1457 EDA 2015
(Pa. Super. 5/9/16)**

Father appeals finding of child abuse and adjudication of dependent. Affirmed. Mother took child to doctor and she was diagnosed with an STD. Mother and Father also tested positive for the same STD. Where there is a multiple caretaker situation, the trial court must make credibility determinations which will not be disturbed on appeal. Memorandum opinion by Ford Elliott joined by Ott and Musmanno.

**19. In Re: Adoption of G.R.C. B. a/k/a R.L.B.,
Allegheny, 1642 WDA 2015 (Pa. Super. 5/9/16)**

Mother appeals termination of parental rights. Affirmed. Mother withdrew any objection to CYS's petition. Regardless of the waiver argument, the Court held that Mother waived her claims by failing to properly develop her arguments on appeal and because there was sufficient evidence for the court to conclude the termination of parental rights was in the best interest of the children. Memorandum opinion by Panella joined by Olson and Platt.

**20. In Re: Adoption of D.J.J., Washington, 1946 WDA 2015
(Pa. Super. 5/9/16)**

Father appeals T.P.R. order. Affirmed. Father has been incarcerated for most of the last 10 years and all of the child's life. Presently incarcerated on corruption of minors where the victim was a 4 year old and may pose threat to the child. Child's needs were best served by having a forever home. Memorandum opinion by Gantman joined by Olson and Fitzgerald.

**21. In Re: Adoption of S.R., Fayette, 28 WDA 2016
(Pa. Super. 5/9/16)**

Father appeals T.P.R. Affirmed. Father failed to provide any parental duties for three years preceding the petition. Father did not demonstrate a "reasonable firmness" to overcome alleged obstacles to seeing his child. Memorandum opinion by Gantman joined by Shogan and Lazarus.

**22. D.G. v. A.Q., Centre, 1728 MDA 2015
(Pa. Super. 5/10/16)**

Mother appeals denial of relocation 2.5 hours away. Affirmed. Both parents are actively involved in the child's life. The Court found that the move would not improve the child's quality of life due to a long commute, change in school and to an area without friends or family nearby. Memorandum opinion by Ford Elliott joined by Jenkins and Platt.

**23. Tokash v. Tokash, Bucks, 879 EDA 2015
(Pa. Super. 5/11/16)**

Husband appeals from contempt order and sanctions for non-compliance with an APL order. Affirmed. Husband challenged subject matter jurisdiction after he moved to Dubai. Court concluded Wife's brief stay in Pennsylvania together with their establishing residence in Pennsylvania for voting, tax, employment and driver's license purposes was sufficient to create residency. Memorandum opinion by Gantman joined by Mundy and DuBow.

**24. HMO v. J.R.O., Berks, 1631 MDA 2015
(Pa. Super. 5/11/16)**

Father appeals award of primary custody to Mother. Appeal dismissed for failure to provide a transcript. Memorandum opinion by Ford Elliott joined by Panella and Stevens.

**25. In Re: Adoption of T.P.G., Fayette, 1689 WDA 2015
(Pa. Super. 5/11/16)**

Father appeals T.P.R. order. Affirmed. Mother divorced Father and remarried. Father knew Mother's phone number but did not visit with the child since 2012 and had no contact with her from October 2014 forward. He never paid any child support or sent gifts or letters. No bond between Father and child. Memorandum opinion by Gantman joined by Shogan and Fitzgerald.

**26. In the Interest of L.M., McKean, 1511 WDA 2015
(Pa. Super. 5/11/16)**

Mother appeals adjudication of dependent. Affirmed. Child born addicted to methadone. Father sought to give up his rights and testified about Mother's drug use often with him. Mother failed to show for several supervised visits. Mother's sobriety and living situation is very volatile. Memorandum opinion by Gantman joined by Shogan and Fitzgerald.

**27. In the Interest of K.T.B., Philadelphia, 3376 EDA 2015
(Pa. Super. 5/12/16)**

Mother appeals T.P.R. orders. Affirmed. Mother was compliant with some goals; however, she failed to obtain suitable housing and employment. Mother was offered a 10 week job training program but failed to attend. Mother's only plan was to take the children to a shelter. Memorandum opinion by Olson joined by Stabile and Strassburger.

**28. G.R., Jr. v. K.R., Bucks, 1810 EDA 2015
(Pa. Super. 5/13/16)**

Mother appeals order denying her Petition to hold Father in contempt of a custody order. Affirmed. Mother claimed Father was in violation of the right of first refusal and weekly update provision by Father coaching football during his periods of custody and not disclosing same to Mother.

The child was supervised by Father's family during games and Father had contact with the child before, during half time, and after the games.

Therefore, the child was not ever unsupervised by Father for a period of 4 hours or more.

Memorandum opinion by Olson joined by Ott and Stevens.

**29. In the Interest of C.K.F., Dauphin, 1533 MDA 2015
(Pa. Super. 5/13/16)**

Father appeals termination of parental rights order. Affirmed. Incarcerated since October 2014 and never maintained any contact with the child. Child bonded with foster parents and no bond with Father. Memorandum opinion by Panella joined by Jenkins and Lazarus.

**30. In Re: Adoption M.J., Cumberland, 1372 MDA 2015
(Pa. Super. 5/13/16)**

Mother appeals T.P.R. orders. Affirmed. Mother evaded CYS contact and refused to participate in a bonding evaluation. Mother failed to attend to the medical and dental needs of the children and was incarcerated several times. Memorandum opinion by Ford Elliott joined by Panella and Stevens.

**31. Remington v. Krohn, Allegheny, 616 WDA 2015
(Pa. Super. 5/13/16)**

Mother appeals denial of modification of child support. Agreement stated each parent would be responsible for the expenses of one child. Mother initially had a higher net monthly income than Father. Agreement further stated that it would only be modified if there was a disability, death or involuntary reduction in income by at least 50%. Mother was responsible for son's expenses. When son was having issues, she enrolled him in boarding school and he improved. Cost of tuition was twice as much as before. Mother never claimed a significant change in income - just expenses. Court, therefore, found Mother was contractually obligated for son's tuition. Memorandum opinion by Ford Elliott joined by Bender and Shogan.

32. **A.A.K. v. C. M.**, Blair, 1328 WDA 2015
(Pa. Super. 5/16/16)

Father appeals modification of custody awarding Mother primary custody during the school year. Court weighed all factors and found that a prior PFA against Mother was not an indication that she was a threat to the child. Mother was more informed of the child's medical and educational needs. Memorandum opinion by Bowes joined by Mundy and Jenkins.

33. **In the Interest of TJM**, Philadelphia, 2702 EDA 2015
(Pa. Super. 5/17/16)

Mother appeals termination of parental rights orders. Affirmed. Bond with children was not a parent-child bond. Mother did not have capacity to care for the children per expert opinion. Memorandum opinion by Olson joined by Stabile and Strassburger.

34. **R.B.H. v. L.H.-H.**, Dauphin, 1529 MDA 2015
(Pa. Super. 5/17/16)

Mother appealed 2 interim orders. Quashed as record remains open. Memorandum opinion by Panella joined by Stabile and Fitzgerald.

35. **In re: S.A.K.**, York, 979 MDA 2015
(Pa. Super. 5/17/16)

Mother appeals termination of parental rights. Vacated and remanded. Court never appointed counsel for Mother when one of Mother's goals was to treat her mental health. Memorandum opinion by Panella joined by Stabile and Fitzgerald.

36. **In Re: EC**, Lancaster, 2172 MDA 2015
(Pa. Super. 5/17/16)

Mother appeals termination of parental rights. Affirmed. Child had been out of Mother's custody for 32 months and Mother was unable to successfully address her mental health, lack of housing and relationship with Father. Memorandum opinion by Mundy joined by DuBow and Stevens.

37. **K.L.S. v. D.W.C.**, York, 1691 MDA 2015
(Pa. Super. 5/17/16)

Mother appeals child support order. Affirmed. Mother contended that withdrawals from her investment account which was established after she received an inheritance was not income. No abuse. Mother was withdrawing the income produced via dividends and capital gains. Mother was also underemployed and issuing an earning capacity was proper. Memorandum opinion by Mundy joined by DuBow and Stevens.

38. **L.D.W. v. B.E.W.**, Westmoreland, 1264 WDA 2015
(Pa. Super. 5/17/16)

Mother appeals award of primary physical custody to Father and the ability to decide which school the child would attend. Affirmed. Mother sought to relocate to Allegheny County. Father was more able to promote the child's relationship with family and siblings. The evidence of Mother's home was unsuitable for the child. Memorandum opinion by Ford Elliott joined by Bender and Shogan.

39. **W & J.M. v. R.B.**, Beaver, 2 WDA 2016
(Pa. Super. 5/17/16)

Mother appeals order awarding Paternal Grandparents partial physical custody. Affirmed. Memorandum opinion by Gantman joined by Olson and Fitzgerald.

40. **In the Interest of M.E.M.**, Philadelphia, 3655 EDA 2015
(Pa. Super. 5/19/16)

Father appeals termination of parental rights order. Affirmed. Father claimed that he did not have to perform any duties until a paternity test was taken. However, he was aware of possible paternity and did not have contact even though child was in placement. Later incarcerated. Failed to comply with goals. Memorandum opinion by Bowes joined by Mundy and Platt.

41. **R.T. v. J.T. v. C.V.**, Beaver, 1634 WDA 2015
(Pa. Super. 5/19/16)

Appeal from partial custody award to Grandmother. Affirmed. Mother complained that the order failed to identify the presumption in favor of a fit parent. Denied; presumption clearly considered. Memorandum opinion by Bowes joined by Mundy and Jenkins.

**42. In Re: Z.A.S., Bucks, 3391 EDA 2015
(Pa. Super. 5/20/16)**

Parents appeal termination of parental rights order. Affirmed. Father is disabled and in assisted living facility. He had little contact with the child. Mother is addicted to heroin. Mother failed to address goals. Memorandum opinion by Bowes joined by Lazarus and Platt.

**43. In the Interest of B.M., Luzerne, 2131 MDA 2015
(Pa. Super. 5/20/16)**

Father appeals termination of parental rights order. Affirmed. Parents were living in a hotel room unfit for children and using drugs. No contact with children since March 2015. Memorandum opinion by Panella joined by Stabile and Jenkins.

**44. M.P. v. T.M., Lawrence, 1037 WDA 2015
(Pa. Super. 5/20/16)**

Father appeals child support order. Affirmed in part. Vacated and remanded. Mother sought to modify because she could not secure more hours and signed a non-compete agreement with her previous employer. Not a material and substantial change of circumstance. Affirmed to the extent monthly net earnings were calculated. Memorandum opinion by Stabile joined by DuBow and Musmanno.

**45. Lukus v. Lepre, Susquehanna, 1690 MDA 2015
(Pa. Super. 5/23/16)**

Father appeals order terminating child support as of June 2014 instead of January. Affirmed. Child did not graduate high school until June 2014. Memorandum opinion by Ford Elliott joined by Jenkins and Platt.

**46. Bellas v. Gaughan, Lackawanna, 1721 MDA 2015
(Pa. Super. 5/24/16)**

Appeal from PFA. Affirmed. Claimed no ongoing potential for abuse; however that is not the standard. Memorandum opinion by Shogan joined by Ott and Strassburger.

- 47. In Re: SR, Lancaster, 2147 MDA 2015
(Pa. Super. 5/24/16)**

Father appeals termination of parental rights order. Affirmed. Father never met or provided parental care to the child and his incarceration and continued criminal activity warranted termination. Memorandum opinion by Shogan joined by Ott and Strassburger.

- 48. In the Interest of M.M.-G., Centre, 1921 MDA 2015
(Pa. Super. 5/24/16)**

Father appeals order terminating reunification. Affirmed. Father had a negative impact on the children's behavior and he failed to develop the skills necessary to parent. Memorandum opinion by Panella joined by Stabile and Jenkins.

- 49. In Re: A.Y.L.R., Lancaster, 1605 MDA 2015
(Pa. Super. 5/24/16)**

Father appeals termination of parental rights. Affirmed. Father failed to meet FSP goals including visits, mental health and financial responsibility. No bond with Father. Memorandum opinion by Mundy joined by DuBow and Strassburger.

- 50. In Re: A.Y.L.R., Lancaster, 1606 MDA 2015
(Pa. Super. 5/24/16)**

Mother also appealed termination of parental rights. Mother tested positive for drugs at birth and continued to have addiction issues and a long history of contact with CYD in several counties. Memorandum opinion by Mundy joined by DuBow and Strassburger.

- 51. S.P. v. M.P.-S., Lackawanna, 1688 MDA 2015
(Pa. Super. 5/24/16)**

Appeal of child support order. Affirmed. No legal argument tendered. Court will not re-weigh evidence and will defer to the Master on credibility determinations. Memorandum opinion by Ford Elliott joined by Jenkins and Platt.

**52. In the Interest of S.W., Warren, 864 WDA 2015
(Pa. Super. 5/24/16)**

Mother appeals adjudication of dependency. Affirmed. Child has medical condition and continued to fail to gain weight. Mother had a history of failing to follow medical advice and recommendation. Memorandum opinion by Ford Elliott joined by Bender and Shogan.

**53. H.M.R. v. K.M., Dauphin, 1067 MDA 2015
(Pa. Super. 5/25/16)**

Mother appeals shared custody order. Affirmed. All custody factors weighed and considered. No error in not recusing. Judge worked in an of counsel position at a firm prior to election. One of the former paralegals testified on behalf of Father. No special relationship between the Judge and witness. Memorandum opinion by Panella joined by Stabile and Fitzgerald.

**54. In Re: CMC, Blair, 1432 WDA 2015
(Pa. Super. 5/26/16)**

Mother appeals order terminating her rights so that Paternal Grandmother may adopt. Vacated and remanded. Mother claimed that her relinquishment of rights was conditioned upon a certain stipulation to continue contact with the child. Grandmother later refused contact. The relinquishment was verbal and did not conform to requirements under §2501(a) or 2501(b). Memorandum opinion by Lazarus joined by Stabile and Fitzgerald.

**55. In the Interest of A.M.P., Philadelphia, 3113 EDA 2015
(Pa. Super. 5/26/16)**

Mother appeals termination of parental rights. Affirmed. Mother failed to address her drug and alcohol problem or complete mental health treatment. Behavior at visits were often inappropriate. Memorandum opinion by Bowes joined by Mundy and Platt.

**56. Galanti v. Galanti, Berks, 1642 MDA 2015
(Pa. Super. 5/27/16)**

Wife appeals Master's equitable distribution recommendation. Affirmed. Court characterized correctly monies were income and not an asset. All factors considered in denial of alimony to Wife. Memorandum opinion by Ford Elliott joined by Jenkins and Platt.

57. **Hess v. Hess**, Lancaster, 1094 MDA 2015
(Pa. Super. 5/27/16)

Husband appeals order granting a Petition to Enforce a PSA and directing him to pay monies and attorney's fees. Affirmed. Husband was present with counsel when the agreement was entered and the record revealed that Husband understood that it would be binding. Memorandum opinion by Shogan joined by DuBow and Stevens.

58. **In Re: Adoption E.S.**, Cumberland, 1373 MDA 2015
(Pa. Super. 5/27/16)

Father appeals termination of parental rights. Affirmed. Father failed to cooperate with OCY by not attending visits, refuting a bonding analysis and not communicating. Memorandum opinion by Ford Elliott joined by Panella and Stevens.

59. **In Re: A.M.K.**, Blair, 1695 WDA 2015
(Pa. Super. 5/27/16)

Mother appeals termination of parental rights for 2 sons and order adjudicating daughter as dependent. Affirmed. Mother was neglectful of child who had glass in his foot and an infection. Mother's severe intellectual disability renders her incapable of safely providing for the children. Memorandum opinion by Bowes joined by Mundy and Jenkins.

60. **In Re: Adoption of L.B.M.**, Franklin, 1834 MDA 2015
(Pa. Super. 5/31/16)

Mother appeals termination of parental rights. Affirmed. Mother gave children to CYS because she could not obtain housing. Mother failed to obtain housing and financial security, participate in an evaluation, consistently visit with the children or comply with criminal sentencing probation. Memorandum opinion by Shogan joined by Ott.

Strassburger dissents stating Court erred by failing to appoint counsel for the children upon request of Mother.

**61. S.D.H. v. B.R.(L.), Allegheny, 1317 WDA 2015
(Pa. Super. 6/1/16)**

Father appeals termination of parental rights. Affirmed. Father has long history of drug addiction and had not seen child since 1st birthday. Also never paid child support and was jailed twice for it. Child is wheelchair bound. Mother married and had another baby with husband. Father eventually went to rehab and filed for custody and Mother counter-filed to terminate rights. 5 year history of failing to perform parental duties. No bond to preserve. Memorandum opinion by Gantman joined by Bender and Panella.

**62. E.B. v. A.D.B., Erie, 916 WDA 2015
(Pa. Super. 6/2/16)**

Mother appeals child support order. Affirmed. Parties entered into an agreement wherein Father's vacation pay would be paid to Mother to be deposited into an education account upon modification, the Court refused to uphold the agreement and included the money as income to Father since failing to include it resulted in a lower child support payment and reduces the benefit to the child in favor of putting money away for potential future education. Mother wanted both - included as income and paid to her. Doing so would result in a double dip. Memorandum opinion by Bender joined by Panella and Fitzgerald.

**63. Smith v. Coleman, Philadelphia, 1090 EDA 2015
(Pa. Super. 6/3/16)**

Father appeals Texas child support order. Order was registered in Pennsylvania. Appellant contested the underlying validity of the order. No jurisdiction in Pennsylvania. Memorandum opinion by Ford Elliott joined by Stabile and Strassburger.

**64. K.J.R. v. D.J.R., Lebanon, 2050 MDA 2015
(Pa. Super. 6/3/16)**

Father appeals denial of custody modification. Affirmed. All factors considered. Appropriate to extend Father's time but not provide him with an equally shared custody schedule. Memorandum opinion by Ford Elliott joined by Jenkins and Platt.

**65. In Re: Adoption of D.J.F., Chester, 3605 EDA 2015
(Pa. Super. 6/6/16)**

Father appeals termination of parental rights case. Vacated and remanded. Court failed to complete an analysis of whether termination would be in the best interest of the child. Remanded to determine the effect termination will have on the child. Memorandum opinion by Ford Elliott joined by Bender and Musmanno.

**66. M.T.L. v. L.P.Z., Chester, 2919 EDA 2015
(Pa. Super. 6/7/16)**

Mother appeals denial of custody relocation to Canada. Affirmed. Current order allowed Mother to spend summer in Canada subject to vacation with Father. Proper for Court to order reunification, counseling where it found that Mother's perception of abuse by Father has had an effect on one of the children. Court was permitted to research particular programs off the record. Custody evaluator opined that there would be no problems separating the children. However, the evaluator did not recommend relocation. No abuse of discretion. Memorandum opinion by Bowes joined by Olson and Strassburger.

**67. In Re: Adoption of L.C., Allegheny, 63 WDA 2016
(Pa. Super. 6/7/16)**

Mother appeals termination of parental rights. Affirmed. Mother was incapable of providing for child's needs and even failed to appear at the hearing. Expert opinion supported termination was in the child's best interest. Memorandum opinion by Shogan joined by Ott and Fitzgerald.

**68. In the Interest of M.S., Philadelphia, 3456 EDA 2015
(Pa. Super. 6/8/16)**

Father appeals termination of parental rights. Affirmed. Father was transient and drug addicted. Mother died in 2012. As a result of the trauma, they were insecure and unattached to Father. No improvement in Father over a 2 year period. Memorandum opinion by Ford Elliott joined by Stabile and Musmanno.

**69. In the Interest of K.F. a/k/a K.L.F-P., Philadelphia,
3429 EDA 2015 (Pa. Super. 6/8/16)**

Mother appeals termination of parental rights. Affirmed. Mother has schizophrenia which is difficult to manage with medications. Mother had a lack of control, predictability and violent behavior - cannot provide permanency or safety for the child. Memorandum opinion by Panella joined by Olson and Stevens.

- 70. In the Matter of E.D.W., Philadelphia, 3380 EDA 2015
(Pa. Super. 6/9/16)**

Mother appeals termination of parental rights. Affirmed. Mother brought children to Arizona to place with an adoption agency. Mother was hospitalized and the children taken into custody. Mother's mental health posed a great risk of harm to the children. Memorandum opinion by Bowes joined by Mundy and Platt.

- 71. In Re: E.B., Allegheny, 1590 WDA 2015
(Pa. Super. 6/9/16)**

Mother appeals termination of parental rights. Affirmed. Mother was incarcerated and home was in deplorable condition. Mother then failed to meet FSP goals, including completing drug, alcohol and mental health evaluations and obtaining appropriate housing. Memorandum opinion by Panella joined by Olson and Platt.

- 72. In Re: Adoption of D.S., Pike, 3281 EDA 2015
(Pa. Super. 6/10/16)**

Mother appeals termination of parental rights. Vacated and remanded. Court erred when it failed to appoint counsel for the child. Memorandum opinion by Bowes joined by Olson and Strassburger.

- 73. In Re: Adoption of H.O. and L.D., Erie, 27 WDA 2016
(Pa. Super. 6/10/16)**

Father appeals termination of parental rights. Long history of drug and alcohol problem as well as violating terms of probation. Father failed to comply with treatment and FSP goals. Memorandum opinion by Shogan joined by Ott and Fitzgerald.

- 74. In the Interest of T.G.-D. and G.G.-D., Philadelphia,
2592 EDA 2015 (Pa. Super. 6/14/16)**

Mother appeals termination of parental rights. Affirmed. Mother did not have a healthy bond with the children, no evidence of detriment by terminating and Mother failed to comply with FSP goals. Memorandum opinion by Bowes joined by Mundy and Platt.

**75. In the Interest of S.S.M., York, 2227 MDA 2015
(Pa. Super. 6/14/16)**

Father appeals termination of parental rights. Affirmed. Father failed to perform parental duties, meet goals and children were bonded with foster parents after 1 year and in placement. Memorandum opinion by Stabile joined by Platt and Strassburger.

**76. DKD v. A.L.C., Allegheny, 1276 WDA 2015
(Pa. Super. 6/15/16)**

Father appeals denial of relocation petition to Florida. Reversed and remanded. Child prescribed 36 hours per week of therapy due to special needs. Court initially ruled against Mother's relocation request but upon a Motion for Reconsideration and the presentation of new evidence changed its ruling in favor of relocation. Trial Court overlooked the stability the child would have by remaining in Pennsylvania, and Father's ability to travel during holidays due to his work with the FBI Counter Terrorism Task Force. Trial Court also disregarded Mother's pattern of behavior to thwart Father's relationship with the child. Memorandum opinion by Bowes joined by Mundy and Jenkins.

**77. In Re: Adoption of A.N.K., Northumberland, 1810 MDA 2015
(Pa. Super. 6/15/16)**

Mother appeals termination of parental rights. Affirmed. Mother and Father had a history of domestic violence. Mother had untreated mental health problems and was incarcerated after threatening to kill Father and his son with a butcher knife. Mother pled guilty to simple assault. Mother had an unhealthy bond with the child. Memorandum opinion by Shogan joined by DuBow and Stevens.

**78. In Re: Adoption of A.N.K., Northumberland, 1809 MDA 2015
(Pa. Super. 6/15/16)**

Father appeals termination of his parental rights. Father did not obtain stable housing or refrain from drinking alcohol resulting in his third DUI. Father not bonded with the child. Memorandum opinion by Shogan joined by DuBow and Stevens.

**79. In Re: Adoption of D.P.M., York, 2205 MDA 2015
(Pa. Super. 6/15/16)**

Mother appeals termination of parental rights. Affirmed. Mother made no progress in addressing her mental health issues - psychotic disorder and substance abuse. Mother repeatedly failed drug tests. Child needed permanency after 15 months in placement. Memorandum opinion by Mundy joined by DuBow and Stevens.

**80. Swinn v. Swinn, Cumberland, 1500 MDA 2015
(Pa. Super. 6/16/16)**

Husband appeals contempt order for failure to comply with an equitable distribution order. Affirmed. Court awarded Wife \$12,400 from a Fidelity 401k account. Husband failed to make the transfer upon an agreed upon date. Husband failed to comply with a Court order directing him to show proof that he had not dissipated the account. At trial he testified that he moved the money but provided no documentation that the funds were still available. He failed to comply again after the hearing. Memorandum opinion by Mundy joined by DuBow and Stevens.

**81. Jones v. Jones, Mercer, 1859 WDA 2014
(Pa. Super. 6/20/16)**

Wife appeals divorce decree. Vacated in part and remanded. The Trial Court erred in counting Wife's APL against her alimony award. No authority existed that permits fashioning an APL award as an incentive to discourage litigation - it is based on need and not to punish the other spouse. Alimony was reduced due to the perception that Wife did not proceed with due diligence. Alimony is to be awarded according to the factors and where necessary. Also nothing in the record shows Wife's delay. Memorandum opinion by Bowes joined by Olson and Stabile.

**82. Bowen v. Bowen, Montgomery, 3093 EDA 2015
(Pa. Super. 6/21/16)**

Wife appeals spousal support order. Vacated and remanded. The calculation of support and reason for deviation were not part of the record. Memorandum opinion by Ford Elliott joined by Bender and Musmanno.

**83. Zandrowicz v. Zandrowicz, Monroe, 2269 EDA 2015
(Pa. Super. 6/21/16)**

Husband appeals order enforcing PSA. Affirmed. Husband and Wife downloaded the agreement together from the internet and signed it. Agreement required Husband to pay spousal maintenance for 84 months. Wife continued to live in the house after signing the agreement and agreement provided that Husband would be responsible for all costs plus child support and spousal maintenance. Child support was also increased following the signing. Court will not modify the agreement of the parties where the language is clear. Memorandum opinion by Gantman joined by Ford Elliott and Jenkins.

**84. P.M. v. L.B.M., Delaware, 3421 EDA 2015
(Pa. Super. 6/24/16)**

Mother appeals order modifying the custody order and allowing the child to relocate to California. Affirmed. Child was totally suspended from school district for hacking and destroying the school's computer network. Mother's care pattern and ongoing exclusion of Father warranted a modification. Mother also provided the child with every single document related to custody. Father is better equipped to mentor child in technology and can afford the child the opportunity to attend school (versus cyber school in Pennsylvania). Memorandum opinion by Shogan joined by Mundy and Fitzgerald.

**85. In Re: Adoption of K.A.V., Butler, 1358 WDA 2015
(Pa. Super. 6/24/16)**

Mother appeals termination of parental rights. Affirmed. Child remained in Father's primary care post-separation. Contact with Mother diminished over time. Mother had issues of drug use and criminal activities. Mother also suffers from bipolar, PTSD, depression, OCD and anxiety disorders. Parental rights were terminated to other 3 children. No bond with Mother. Memorandum opinion by Panella joined by Olson and Platt.

**86. In the Interest of D.P., Washington, 1615 WDA 2015
(Pa. Super. 6/24/16)**

Father appeals termination of parental rights. Vacated and remanded as to §2511(b) analysis. Court noted a positive bond between Father and child but conceded that it would not be impacted based on Paternal Grandmother's verbal assertion that she would maintain ongoing contact. No such obligation exists however and should not have been considered as part of the analysis. Memorandum opinion by Gantman joined by Bender and Panella.

**87. R.C.R. v. J.D.S., Lehigh, 3659 EDA 2015
(Pa. Super. 6/27/16)**

Father appeals order dismissing his petition to rescind his acknowledgment of parental rights. Affirmed. Child born in 2013. Father signed an acknowledgment of paternity at that time. Father later tried to rescind it when Mother filed for support. Mother did disclose that she had sexual relations with another man prior to his signing. Father also engaged in a Father/Child relationship even after features began to develop which indicated the child was not his. No evidence of fraud. Memorandum opinion by Bender joined by DuBow and Stevens.

**88. In Re: J.P.C., Carbon, 719 EDA 2016
(Pa. Super. 6/27/16)**

Father appeals termination of parental rights. Affirmed. Mother and Father were addicted to heroin and convicted of attempted theft. Maternal Grandparents obtained custody. Father had no contact with the child since 2012. Mother died of drug overdose. Child has a strong bond with Maternal Grandparents. Memorandum opinion by Lazarus joined by DuBow and Stevens.

**89. In the Interest of R.M.R., Lancaster, 21 MDA 2016
(Pa. Super. 6/27/16)**

Father appeals order adjudicating child dependent and suspending his visitation. Affirmed. Family history of sexual abuse made it unsafe to return the child to either parent. Memorandum opinion by Gantman joined by Panella and Jenkins.

**90. In Re: Adoption of L.G.L.S., Bedford, 1631 WDA 2015
(Pa. Super. 6/27/16)**

Mother appeals termination of parental rights. Reversed and remanded. Mother and Father attempted suicide while child was upstairs. Mother was drug and alcohol dependent and eventually sought treatment. She was and clean and sober for 20 months at time of the hearing. Mother attempted to see the child but her efforts were thwarted by Grandmother. Mother actively called CYS, retained counsel in two states and pursued her legal rights. Order reversed. Memorandum opinion by Gantman joined by Bender and Shogan.

**91. H.Z. v. M.B., Montgomery, 2470 EDA 2015
(Pa. Super. 6/28/16)**

Appellant appeals order directing him to submit to genetic testing. Parties previously entered into a Stipulation of Discontinuance in New York when Mother originally filed for support. The Stipulation said "with prejudice." Appellant argued res judicata applied. However, new evidence will defeat a bar of res judicata. Parties presented new evidence including a picture of the child showing a resemblance to Appellant that was strong. No abuse of discretion. Memorandum opinion by Olson joined by Ott and Stevens.

**92. In the Interest of R.M.R., Lancaster, 22 MDA 2016
(Pa. Super. 6/28/16)**

Mother appeals adjudication of dependent and goal change. Affirmed. Mother failed to address drug and alcohol issues, mental health issues and child could not be safely returned due to the family history of sexual abuse. Memorandum opinion by Gantman joined by Panella and Jenkins.

**93. In the Interest of N.M.P., Philadelphia, 3657 EDA 2015
(Pa. Super. 6/30/16)**

Mother appeals termination of parental rights. Affirmed. Child brought to hospital in need of medical attention. Minimally compliant with goals. Child thriving in foster. Memorandum opinion by Ford Elliott joined by Stabile and Musmanno.

**94. In Re: Adoption of T.S.G., York, 2248 MDA 2015
(Pa. Super. 6/30/16)**

Mother appeals termination of parental rights. Mother padlocked the children in the attic. Mother was not with any objectives including visits with the children. No bond due to child's young age. Memorandum opinion by Mundy joined by DuBow and Stevens.

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