

RECENT PA. APPELLATE COURT FAMILY LAW SLIP OPINIONS

May 2014

Summarized by David I. Grunfeld, Esquire

1. **In Re: C.S.M.F.**, Alleg., 1662 WDA 2013
(Pa. Super. 4/7/14)

Siblings appealed denial of dependency petition for 7-year-old brother. Vacated and remanded - standing under Juvenile Act. Opinion by Bowes joined by Donovan and Stabile.

2. **In the Interest of: N.J.**, Phl., 1918 EDA 2013
(Pa. Super. 4/7/14)

Father appealed termination order. Affirmed due to safety issues, incapacity, no bond. Memorandum opinion by Fitzgerald joined by Allen and Mundy.

3. **Ford v. Ford**, Del., 1296 EDA 2013
(Pa. Super. 4/7/14)

Wife appealed denial of her petition to set aside PSA incorporated in divorce decree. Affirmed - no error because values of property not set forth, no fraud alleged. Memorandum opinion by Donohue joined by Ford Elliott and Jenkins.

4. **D.D.D. v. J.D.S.**, Erie, 1728 WDA 2013
(Pa. Super. 4/7/14)

Mother in Texas appealed denial of her preliminary objections to Father's custody complaint seeking primary custody relocation back to here. Affirmed - clause in prior agreement retained jurisdiction here. Memorandum opinion by Platt joined by Ford Elliott and Donohue.

5. **In Re: D.A.T.**, Alleg., 1509 WDA 2013
(Pa. Super. 4/7/14)

Mother appealed termination order. Affirmed due to medical safety, parenting issues, bond with foster parents. Memorandum opinion by Wecht joined by Ford Elliott and Bowes.

6. **In Re: J.T.F.**, Alleg., 1411 WDA 2013
(Pa. Super. 4/8/14)

Father appealed termination order. Affirmed due to incarceration, no parental duties, bond with foster parents. Memorandum opinion by Wecht joined by Ford Elliott and Bowes.

7. **B.E. v. D.N.**, Del., 1894 EDA 2013
(Pa. Super. 4/9/14)

Mother appealed custody order to Father. Affirmed - no error in finding of alienation, not helped by therapy. Memorandum opinion by Ott joined by Ford Elliott and Strassburger.

8. **In the Interest of: K.H.B.**, Phl., 2672 EDA 2013
(Pa. Super. 4/9/14)

Mother appealed termination order. Affirmed due to substance abuse, no bond, incapacity. Memorandum opinion by Ford Elliott joined by Donohue and Jenkins.

9. **Snyder v. Snyder**, Col., 1578 MDA 2013
(Pa. Super. 4/11/14)

Husband appealed divorce and E.D. order. Affirmed - no error in finding no separation before filing of divorce complaint, despite sleeping apart, or in finding wife's earning capacity for calculation of alimony, or in finding of residence valuation. Memorandum opinion by Mundy joined by Donohue and Allen.

10. **R.E.R. v. L.S.**, Cumb., 2003 MDA 2013
(Pa. Super. 4/11/14)

Maternal grandmother (mother deceased) appealed order giving her partial physical custody and Father primary. Affirmed - all factors considered, presumption of fit parent not overcome. Memorandum opinion by Allen joined by Donohue and Mundy.

11. **In the Interest of: A.C.**, Lanc., 1425
and 1426 MDA 2013 (Pa. Super. 4/11/14)

Great aunt appealed placement of children out of her home. Quashed - CYS had custody, so no standing; best interest on merits here. Memorandum opinion by Donohue joined by Bender and Strassburger.

12. **J.S. v. B.S.**, Dau., 2168 MDA 2013
(Pa. Super. 4/11/14)

Father appealed custody order. Affirmed as to primary to Mother - all factors considered. Vacated as to individual "safety" restrictions as breach of discretion and difficult to enforce. Memorandum opinion by Donohue joined by Bender. Concurring statement by Strassburger, who would allow Father's post-separation paramours to stay overnight during his partial custody weekends.

13. D.F.D. v. M.L.C., Alleg., 1507 WDA 2013
(Pa. Super. 4/11/14)

Father in custody case appealed order denying him court-appointed counsel. Affirmed - no right here. Memorandum opinion by Shogan joined by Olson and Wecht.

14. In the Interest of: J.M.P., Northam., 817 EDA 2013
(Pa. Super. 4/14/14)

Father appealed denial of Mother's petition to dismiss dependency adjudication. Dismissed - no standing. Judgment order by Donohue, Allen and Musmanno.

15. T.W. v. R.W., Phl., 1256-7 EDA 2013
(Pa. Super. 4/14/14)

Father appealed PFA orders. Affirmed - submitted to jurisdiction without objection. Memorandum opinion by Gantman joined by Olson and Wecht.

16. K.L. v. K.K., Leb., 2037 MDA 2013
(Pa. Super. 4/14/14)

Maternal grandmother appealed custody order to Father, and his relocation to West Virginia. Affirmed - all factors considered. Memorandum opinion by Bender joined by Donohue. Dissenting statement by Strassburger, who would find abuse of discretion based upon grandmother's prior custody.

17. **Rizk v. Bargheutt**, Dau., 898 and 914 MDA 2012
(Pa. Super. 4/14/14)

Husband appealed dismissal of his PFA petitions as to children. Affirmed as to one, vacated as to other because no hearing held within 10 days. Memorandum opinion by Bender joined by Fitzgerald. Concurring memorandum by Wecht.

18. **C.L.M. v. E.M.M.**, Blair, 1807 WDA 2013
(Pa. Super. 4/14/14)

Father appealed relocation order to Mother to South Korea. Vacated and remanded - all factors not discussed. Memorandum opinion by Stabile joined by Panella and Mundy.

19. **S.J.K. v. D.T.K.**, Wash., 590 and 1659 WDA 2013
(Pa. Super. 4/14/14)

Mother appealed custody contempt orders. Affirmed - no abuse of discretion in finding violations of clear orders. Memorandum opinion by Shogan joined by Olson and Wecht.

20. **Lazar v. Freemer**, Clear, 406 WDA 2013
(Pa. Super. 4/14/14)

Father appealed child support order. Affirmed - duty to support incapacitated adult child despite loss of government funds. Memorandum opinion by Lazarus joined by Bender and Mundy.

21. **In Re: Adoption of P.H.**, Northum., 1666
and 1667 MDA 2013 (Pa. Super. 4/15/14)

Father appealed termination orders. Affirmed due to safety issues, incarceration, declining services, bond with foster mother. Memorandum opinion by Ott joined by Gantman and Musmanno.

- 22. In the Interest of: C.M., Phl., 1906 EDA 2013
(Pa. Super. 4/15/14)**

Father appealed termination order. Affirmed due to incarceration, safety issues, no contact or bond. Memorandum opinion by Ott joined by Shogan and Platt.

- 23. In the Interest of: J.O., Phl., 2727 EDA 2013
(Pa. Super. 4/15/14)**

Mother appealed termination order. Affirmed due to safety issues, mental health, incapacity, no bond, in kinship care with siblings. Memorandum opinion by Fitzgerald joined by Bender and Shogan.

- 24. In Re: K.M.M.E., Blair, 792 and 816 WDA 2013
(Pa. Super. 4/16/14)**

Mother appealed termination order. Affirmed due to drug abuse, criminal history, non-compliance with plan, bond with foster parents. Memorandum opinion by Musmanno joined by Panella and Olson.

- 25. In the Interest of: H.R.D., Cent., 1886 MDA 2013
(Pa. Super. 4/17/14)**

Mother appealed dependency order. Affirmed - no abuse in finding injuries due to neglect or abuse, not accident. Memorandum opinion by Olson joined by Bowes and Fitzgerald.

26. **J.A.M. v. C.M.A.**, Lanc., 1887 MDA 2013
(Pa. Super. 4/17/14)

Incarcerated Father appealed custody order. Affirmed - no abuse of discretion in light of his predator status. Memorandum opinion by Olson joined by Bowes and Fitzgerald.

27. **In the Interest of: W.D.**, Leb., 2026-8,
2064-6 MDA 2013 (Pa. Super. 4/21/14)

Parents appealed goal changes from reunification to adoption. Affirmed due to safety, parenting and mental health issues. Memorandum opinion by Bender joined by Donohue and Strassburger.

28. **Kulan v. Kulan**, Bucks, 1144 EDA 2013
(Pa. Super. 4/22/14)

Mother appealed child support order. Affirmed - no error to disregard argument as to Father's earning capacity (disabled dentist) when working full time managing inherited properties. Memorandum opinion by Musmanno joined by Ford Elliott and Wecht.

29. **J.L.A. v. A.M.**, Leh., 3311 EDA 2013
(Pa. Super. 4/22/14)

Father appealed custody order to Mother. Affirmed - all factors considered, no error to deny incarcerated Father right to be present or testify by phone. Memorandum opinion by Jenkins joined by Shogan and Platt.

30. R.L. v. M.D., Montg., 2390 EDA 2013
(Pa. Super. 4/22/14)

Mother appealed shared legal and physical custody order and denial of her relocation to North Carolina. Affirmed - no abuse in finding best interest in access to both parents here, and speculative nature of move. Memorandum opinion by Ott joined by Ford Elliott and Strassburger.

31. K.B. v. R.W., West., 658 WDA 2013
(Pa. Super. 4/22/14)

Father appealed child support order. Affirmed - no error in finding of custody calculation here, or Mother having tax dependency exemption. Memorandum opinion by Wecht joined by Shogan and Olson.

32. P.J.S. v. B.C.S., West., 1424 WDA 2013
(Pa. Super. 4/22/14)

Mother appealed custody order and relocation to Texas with 14 year old son, with 13 and 11 year old sons to stay with her. Affirmed - all factors, preference and best interest evaluated. Memorandum opinion by Wecht joined by Bowes and Stabile.

33. In the Interest of: S.C., Luz., 751 and
755 MDA 2013 (Pa. Super. 4/23/14)

Father appealed termination orders. Affirmed due to incarceration, no contact or bond. Memorandum opinion by Fitzgerald joined by Bowes and Olson.

- 34. In Re: T.S.C., Lyc., 1960 MDA 2013
(Pa. Super. 4/23/14)**

Mother appealed termination order on petition by Paternal Grandmother. Affirmed due to incarceration, no contact. Memorandum opinion by Musmanno joined by Panella and Olson.

- 35. In the Interest of: P.D., Lyc., 1736-7 MDA 2013
(Pa. Super. 4/23/14)**

Parents appealed termination orders. Affirmed due to safety and parental incapacity issues. Memorandum opinion by Wecht joined by Mundy. Fitzgerald notes dissent.

- 36. In Re: J.L.B., Alleg., 1963 WDA 2013
(Pa. Super. 4/23/14)**

Mother appealed termination order. Affirmed due to mental health and parental incapacity issues, failure to comply with plan. Memorandum opinion by Donohue joined by Gantman and Fitzgerald.

- 37. In the Interest of: D.C.D., Clint., 1484 MDA 2013
(Pa. Super. 4/23/14)**

Father appealed termination order. Reversed - CYS failed to provide reasonable reunification efforts. Opinion by Donohue joined by Gantman and Stabile.

38. **In the Interest of: S.S.**, Lack., 1891 and
1959 MDA 2013 (Pa. Super. 4/24/14)

Father appealed termination order. Affirmed due to parental incapacity, substance abuse, no bond. Memorandum opinion by Olson joined by Bowes and Fitzgerald.

39. **In Re: Adoption of: A.S.**, York, 1615-16,
1634-35 MDA 2013 (Pa. Super. 4/25/14)

Mother appealed termination orders. Vacated and remanded - failure to appoint counsel. Memorandum opinion by Jenkins joined by Lazarus and Ott.

40. **In Re: B.W.**, Lyc., 1807 MDA 2013
(Pa. Super. 4/25/14)

Mother appealed denial of her petition to terminate Father's rights. Affirmed - efforts made despite PFA order and incarceration. Memorandum opinion by Donohue joined Allen and Stabile.

41. **W.P. v. J.P.**, Sch., 1955 MDA 2013
(Pa. Super. 4/25/14)

Father appealed denial of his custody contempt petition against Mother. Affirmed as to her permitted relocation to Florida not being in violation; reversed as to her not cooperating in reunification therapy as ordered. Memorandum opinion by Donohue joined by Gantman and Stabile.

42. **In the Interest of: M.J.G.**, Phl., 2869 EDA 2013
(Pa. Super. 4/28/14)

Mother appealed termination order. Remanded for bond analysis. Memorandum opinion by Ford Elliot joined by Lazarus and Wecht.

- 43. Manke v. Manke, Alleg., 1056 WDA 2013
(Pa. Super. 4/28/14)**

Husband appealed E.D. order. Affirmed - no errors based upon credibility findings. Memorandum opinion by Olson joined by Shogan and Wecht.

- 44. In the Matter of: L.Z., Phl., 473 EDA 2012
(Pa. Super. 4/29/14)**

Mother appealed dependency finding. Affirmed - claim not moot because of potential future harm to her as perpetrator of abuse, but vacated as to abuse - insufficient proof here of abuse by her or as caretaker at the time. Opinion en banc by Olson. Dissenting opinion by Panella, who would find sufficient proof of abuse.

- 45. In Re: D.A.T., Alleg., 1509 WDA 2013
(Pa. Super. 4/29/14)**

Mother appealed termination. Affirmed due to incapacity, mental health, failure to meet goals, bond with foster parents. Opinion by Wecht joined by Ford Elliott and Bowes.

- 46. R.L.C. v. J.M.C., Leh., 1961 EDA 2013
(Pa. Super. 4/29/14)**

Father appealed PFA order. Affirmed - no abuse in questioning child or finding bodily injury. Memorandum opinion by Musmanno joined by Gantman and Shogan.

- 47. Oakes v. Oakes, Del., 1552 EDA 2013
(Pa. Super. 4/29/14)**

Husband appealed PFA indirect criminal contempt order. Remanded due to uncertainty in the record as to date order expired. Memorandum opinion by Wecht joined by Gantman and Olson.

- 48. Rine v. Rine, Montour, 970 MDA 2013
(Pa. Super. 4/29/14)**

Mother appealed child support reduction and spousal support offset. Affirmed - claims waived due to insufficient brief. Memorandum opinion by Platt joined by Donohue and Ott.

- 49. In the Interest of: J.L.R., Lanc., 2167 MDA 2013
(Pa. Super. 4/29/14)**

Father appealed termination. Affirmed due to no duties, contact or bond. Memorandum opinion by Musmanno joined by Ott and Stabile.

- 50. G.M.K. v. M.C.K., Clint., 1770 MDA 2013
(Pa. Super. 4/29/14)**

Mother appealed denial of relocation to South Carolina, and transfer of custody to Father. Vacated and remanded for discussion of factors. Memorandum opinion by Allen joined by Donohue and Mundy.

51. S.L.P. v. C.R., Greene, 1645 WDA 2013
(Pa. Super. 4/29/14)

Mother appealed custody order to Father. Vacated and remanded for consideration of all factors. Memorandum opinion by Gantman joined by Ford Elliott and Olson.

52. In the Interest of: J.A.M., Lanc., 1806 and
1813 MDA 2013 (Pa. Super. 5/1/14)

Parents appealed termination order. Affirmed due to inability to care for special needs child. Memorandum opinion by Musmanno joined by Gantman and Ott.

53. H.T. v. K.T., Law., 1058 WDA 2013
(Pa. Super. 5/1/14)

Father/Husband appealed child/spousal support order. Affirmed - no errors in findings as to Mother's earning capacity, allocation or credits. Memorandum opinion by Wecht joined by Shogan and Olson.

54. D.G. v. D.B., Dau., 1610 MDA 2013
(Pa. Super. 5/2/14)

Mother appealed custody order to maternal grandmother. Vacated and remanded for analysis of standing. Opinion by Stabile joined by Gantman and Donohue.

55. P.R. v. C.R., Lack., 1447 MDA 2013
(Pa. Super. 5/5/14)

Father appealed primary custody order to Mother. Allowed to file supplementary brief because of late opinion filing by trial court. Judgment order by Platt joined by Panella and Olson.

- 56. In Re: S.R.C., Alleg., 1522 WDA 2013
(Pa. Super. 5/5/14)**

Mother appealed termination order. Affirmed due to dependent child removed by CYS, substance abuse, non-cooperation, no bond. Memorandum opinion by Allen joined by Bowes and Musmanno.

- 57. Borghot v. Borghot, Butler, 254 WDA 2013
(Pa. Super. 5/5/14)**

Wife appealed grant of Husband's motion to dismiss her divorce complaint. Affirmed due to valid Lebanese divorce decree. Memorandum opinion by Panella joined by Allen and Strassburger.

- 58. In the Interest of: T.H.R.M.T., Cent.,
2171 MDA 2013 (Pa. Super. 5/6/14)**

Mother appealed order changing goal from reunification to long-term foster care. Affirmed due to substance abuse and safety issues. Memorandum opinion by Strassburger joined by Panella and Wecht.

- 59. In Re: Adoption of: A.R.B., Northum.,
1841 MDA 2013 (Pa. Super. 5/6/14)**

Father appealed termination order. Affirmed due to incarceration, parental incapacity, bond with foster parents. Memorandum opinion by Donohue joined by Allen and Stabile.

60. **Duncan v. Hamm**, Alleg., 1678 WDA 2013
(Pa. Super. 5/6/14)

Ex-boyfriend appealed PFA order. Affirmed - reasonable fear of injury here. Memorandum opinion by Allen joined by Panella and Donohue.

61. **Girdany v. Girdany**, Blair, 1809 WDA 2013
(Pa. Super. 5/6/14)

Father appealed child support order. Affirmed - no error in holding Mother to minimum wage earning capacity here. Memorandum opinion by Allen joined by Panella and Donohue.

62. **A.M.M. v. R.L.M.**, Berks, 1985 MDA 2013
(Pa. Super. 5/7/14)

Mother appealed custody order to Father. Affirmed - no error in denying her relocation to Delco. Memorandum opinion by Donohue joined by Allen and Mundy.

63. **Kisner v. Kisner**, Brad., 2218 MDA 2012
(Pa. Super. 5/9/14)

Husband appealed denial of his petition for sanctions in E.D. case. Affirmed - no error here because of way Wife's pension was divided. Memorandum opinion by Panella joined by Olson and Platt.

**64. Rende v. Rende, Alleg., 681 WDA 2013
(Pa. Super. 5/9/14)**

Husband appealed divorce decree. Affirmed as to 55/45 split including transfer of one of Husband's retirement plans to Wife, and as to ordering Husband to pay toward Wife's counsel fees and forensic accountant. Reversed as to increase in amount and duration of alimony from master's recommendation as unsupported by the record. Memorandum opinion by Ott joined by Ford Elliott and Wecht.

**65. J.A. v. L.F-A., Alleg., 971 WDA 2013
(Pa. Super. 5/9/14)**

Husband appealed child support and A.P.L. order. Vacated and remanded - Wife's earning capacity as piano teacher too speculative. Memorandum opinion by Olson joined by Shogan and Wecht.

**66. M.O. v. T.T., Alleg., 1231 WDA 2013
(Pa. Super. 5/9/14)**

Father appealed child support order. Affirmed - no error in finding of earning capacities as to both parties. Memorandum opinion by Gantman joined by Ford Elliott and Olson.

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