

*In the Interest of: G.M.K., a Minor*

2021 Pa.Super. 121

June 14, 2021

Before: Bowes, Dubow, Stevens

Opinion by: Bowes

This matter regards the custody of GMK, a child with substantial mental health challenges that often manifests in violent behavior. The Superior Court affirmed the lower court's decision to grant the Maternal Uncle custody of the child. Both of the child's parents were unable to properly care for him, so he was ultimately placed with his uncle. The uncle was diligent and involved in the child's care, but due to the extensive care that he needed, the child was often moved to various facilities to try and meet his mental health needs over the course of many months. Ultimately, after an extrajudicial meeting, the juvenile court conducted a status hearing in September 2020 where various witnesses and mental health professionals testified. At the end of the hearing, the Court ordered that the child to be returned to the legal and physical custody of the uncle. The Clinton County Children and Youth Services ("CCCYS") appealed. In making its decision, Superior Court noted that CCCYS was, more or less, asking it to re-weigh evidence and/or re-assess evidence from the lower court. Superior Court refused to do so, indicating that the lower court's decision was consistent with the available evidence, and the credibility determinations are left to the trial court. Further, Superior Court believed the lower court's decision sufficiently considered the child's wellbeing and safety to be paramount.

*In the Interest of: S.D., a Minor*

*In the Interest of L.D., a Minor*

2021 Pa.Super. 126

June 14, 2021

Before: Bowes, Dubow, Stevens

Opinion by: Bowes

The parents of the children in these two consolidated cases appealed the trial court's decision to terminate their parental rights to the children, and to the court's order to change the permanency goal from reunification to adoption. The Court first entered an order changing the children's permanency goal to adoption on the dependency dockets, thereafter Children and Youth Services filed petitions to terminate the parents' parental rights which were granted on the adoption docket. The parents both argued on appeal that Children and Youth Services failed to present clear and convincing evidence to warrant termination of parental rights, the lower court made an error of law and abused its discretion in determining that terminating their rights serves the needs of the children, and there was no clear and convincing evidence that CYC made reasonable efforts to assist in reunification. Their appeal was quashed. The lower court entered separate orders on the adoption docket for each child. In response, the parents jointly filed separate notices of appeal for each termination order, but listed both the adoption and dependency dockets on their notices. After a review of the relevant case law, Superior Court ruled that as the parents wished to challenge both the termination orders on the adoption docket, and the goal change orders on the dependency dockets, they were required to file a notice of appeal from each order for each child on each docket. Per the relevant case law, filing a notice of appeal that fails to comply with required procedures results in the quashal of the appeal. The Superior Court issued

Rules on the parents requesting them to demonstrate that they were not appealing two separate orders under one notice of appeal. Unfortunately, their explanation revealed that they were combining the various cases into one appeal. There was no evidence in the record that they were misinformed or misled as to the proper procedure for appeal. The silence of the trial court on appellate procedure does not constitute a break down in the court process.

*Jagnow v. Jagnow*

2021 Pa.Super. 133

June 29, 2021

Before: Bowes, Dubow, Stevens

Opinion by: Bowes

Wife appealed from an equitable distribution order for the marital property in her divorce matter. The Superior Court affirmed the decision of the trial court. The relevant facts are that each party had a pension (and each agreed during their marriage to select a single life annuity, which means the other would not have any survivor benefits in the event the beneficiary died). The husband's monthly pension benefit was a fair amount less than that the wife was entitled to receive. The parties ultimately stipulated to divide the marital property, with the exception of their respective pensions, equally between them. At a hearing, a divorce master ruled that their pensions would also be divided equally. A QDRO was ultimately prepared and adopted by the divorce master. The QDRO, and divorce master's decision, indicated that when the husband passes away, his portion of the wife's pension is to be paid to husband's estate, and it was to this that wife took exception and appealed. In making its ruling, Superior Court pointed out that there are generally two ways for a court to equitably divide a pension: (1) award a percentage of the marital portion of the value of the pension to the party earning it, and offset the marital value of this pension with other marital assets at equitable distribution; or, (2) retain jurisdiction until the pension is collected, at which point the pension is divided according to the court's order. Notably, the wife did not raise the issue that a portion of her pension should revert to herself upon husband's death prior to the QDRO. The court opined that had she done so, perhaps the court would have ordered a division under the first method noted above as opposed to the second it actually chose. The court also believed the wife's argument that the parties waived survivor's benefits, and therefore husband should not get her share upon his death, was really one of contract as opposed to equitable distribution. Ultimately, wife was unable to offer any authority or argument that the way the divorce master divided wife's pension was an error of law or abuse of discretion, and should be treated differently from any other marital property subject to division.