Philadelphia Bar Association
Family Law Section Meeting Minutes

Meeting of June 1, 2015
Chair, Lee Schwartz, unable to attend meeting;
Bad weather; Less than 15 attendees, excluding speakers.

I. Welcome & Intro: Meeting commenced at 12:07 p.m. by Ann M. Funge, Secy.

II. Corrections or Additions to Minutes: None.

III. Announcements

a. Four new full-time custody masters have been appointed: Samantha Fowler, Esquire (Judge Ford’s soon-to-be former law clerk), Christine Godwin-Pierce, Esquire, Martha Mbuy, Esquire, and William Schenk, Esquire (Judge Murphy’s soon-to-be former law clerk). This brings the # of custody masters up to 9. Currently 5 are in place with 2 vacancies, so the new appointments reflect an addition of 2 masters. The new masters will start w/in the next 3-4 weeks. The positions are full-time, so Judges Ford and Murphy will be getting new law clerks. Announcements will be made as information is obtained. This information also was circulated via the Section’s listserv.

b. The Honorable Michael Fanning’s father, Frank, passed away on May 29, 2015. Information regarding the services was relayed and also circulated via Section listserv.

IV. Programs:

a. Arlene Segal, MS, of SOWN, an organization dedicated to, in large part, helping grandparents who are the primary caretakers of their grandchildren, spoke briefly to acquaint us with her organization. It is a community resource with two physical locations, one in Manayunk and one in North Philly, and telephonic support for all other locations. Importantly, it assists regardless of income and helps with issues ranging from counseling and support groups for grandparents raising their grandkids to school and health care, the gamut. Their primary goal is to create stability and keep grandfamilies together. Arlene’s phone # is 215.487.3000. Her email is aseagal@sown.org. The organization’s website is www.sown.org.

b. Lauren Fine, Esquire, and Joanna Visser Adjoian, Esquire of the Youth Sentencing and Re-Entry Project (YSRP) spoke. They described their organization, its background, its purpose, and its operations. Their mission is to provide support to attorneys at criminal decertification (criminal trial as a child vs. an adult) and sentencing hearings as well as to the young defendants and their families, both during incarceration and upon release. Essentially, they seek to mitigate on behalf of children caught up in the adult criminal justice system. The presentation was very interesting and compelling.
They’re looking to make attorneys aware of this organization so it can provide help, if possible, as well as seeking volunteers and other support throughout the legal community. Their handouts are attached here. The Project’s phone # is 215.804.9093. Its office is located at 1900 Market Street, Phila. Lauren’s email address is lfine@ysrp.org.

V. Committee Reports:

a. None.
b. June 2015 Case Law Summaries are attached hereto. Thanks, Sara Slocum!
c. Asked Master Dan Sulman, the only court attendee, and other attendees if anyone wanted to make announcements. Molly Callahan, as Legal Director at Women Against Abuse, announced that they are planning a presentation on the brand new Protection from Sexual Violence or Intimidation Act. The statement goes into effect on July 1, 2015. More information will be forthcoming.

VI. Good & Welfare: Reminder to attend the Bar Assn’s Bench-Bar Conference in October; our Section’s two Masters’ Programs and lawyer for Treyvon Martin’s family look especially appealing.

Next Section Meeting: Monday, July 6, 2015, Noon, Philadelphia Bar Association, 1101 Market St., 11th Fl.

Next Executive Committee Meeting: Thurs., June 18, 2015, Noon, 1101 Market St, 11th Fl.

Respectfully submitted,

Ann M. Funge, Esq.
Secretary

Attachments:
YSRP Handouts
June 2015 Case Law Summaries courtesy of Sara Slocum, Esq.
What Is YSRP?

The Youth Sentencing & Reentry Project (YSRP) is a Philadelphia based nonprofit organization that supports youth facing charges in the adult criminal justice system and the lawyers who represent them. Our services begin as close to arrest as possible, and continue during the court process, through incarceration and reentry.

WANT FREE HELP WITH YOUR DFJ CASE?

What Can YSRP Provide?

YSRP will work with your client and his or her family members to develop mitigation evidence pre- and post-decertification and sentencing. This includes:

- collecting records
- meeting with your client’s family/support system
- creating an initial reentry plan
- referring your client to existing community services
- developing a thorough mitigation report, including information on available placements and treatment options

Who Works for YSRP?

Directors Lauren Fine & Joanna Visser Adjoian are attorneys with experience in juvenile and criminal justice, at:

- Juvenile Law Center
- Penn Law School
- Federal District Courts (EDPA and DNJ)
- Pennsylvania Coalition for the Fair Sentencing of Youth
- PACDL

www.ysrp.org
Youth Sentencing & Reentry Project (YSRP)

Introductory Information

Background

The Youth Sentencing & Reentry Project (YSRP) is a Philadelphia based nonprofit organization dedicated to improving outcomes for youth in the adult criminal justice system. YSRP provides support to attorneys at decertification and sentencing, and to youth and their families throughout incarceration and upon release from prison. Our unique approach applies the capital mitigation framework to advocacy on behalf of children facing adult sentences, and considers reentry into the community before sentencing even occurs.

Scope of YSRP Cases

YSRP supports attorneys representing young people (charged under the age of 18) who are facing Direct File Juvenile charges and whose cases are pre-decertification hearings. We would also be interested in supporting attorneys representing young people facing certification hearings, and are open to working with retained attorneys in cases where the family can demonstrate financial need.

Parameters of YSRP’s work

Although the Directors of YSRP are attorneys, we do not enter our appearances in individual cases or otherwise act in the capacity of lawyers representing your clients. Instead, we serve as a member of the defense team and mitigation specialist, to focus on all aspects of the client’s representation and outcomes that do not relate to the underlying facts or charges in the present case. In other words, YSRP will work with your clients and their family members to develop mitigation evidence pre- and post-decertification and sentencing.

Process for working with YSRP

With each accused child with whom we work, our process takes three stages. During stage one, we conduct a mitigation investigation, which entails talking to parents, teachers, social workers, coaches, doctors, and anyone else who can help paint a full picture of the child’s life. This information is provided to the young person’s defense attorney so that the sentencing judge can consider more than the moment in which the child committed a punishable offense, leading to a more thoughtful and rehabilitative sentence. During stage two, while the child is incarcerated, we work with the young person to develop a reintegration plan. As we help the young person take the initial steps necessary to carry out the plan while incarcerated, we continue to act as an informed and accessible resource for family members. Finally, stage three entails working with
the young person upon release and serving as a consistent source of support as youth navigate the reintegration process.

In practice, our process involves the following specific steps:

1) For each case, the individual attorney and YSRP sign Engagement Letter outlining the scope of the relationship between the parties.
2) YSRP reaches out to young person/client and any known family members, contacts or other potential sources of support, such as a social worker. We obtain signed releases from the young person’s guardian to seek school and medical records.
3) Pre-decertification hearing, YSRP writes a mitigation report for the attorney to submit to the Court on behalf of the client.
4) Pre-sentencing, in either the juvenile or adult criminal justice system, YSRP submits a sentencing report for the attorney to submit to the Court on behalf of the client.
5) Throughout the court and incarceration processes, YSRP maintains contact with the client and with members of his or her support network, including making home visits, prison/jail/ placement visits and helping support network members access existing community resources.
6) Throughout the court and incarceration processes, YSRP helps the young person consider his or her options for upon returning to the community from placement or incarceration, and reaches out to existing community resources to make referrals and establish opportunities.
7) Throughout the court, incarceration and reintegration processes, YSRP staff and volunteers are available for family members or other support network members to answer questions or help them navigate the court and justice systems.
8) Upon the resolution of the client’s case in either juvenile or criminal court (or both), YSRP will send a case closure letter to the Attorney and the Attorney will provide YSRP with brief feedback on the process of working together, through a short form that will be emailed to the Attorney to fill out online.

Qualifications of YSRP Leadership

Co-Directors and Co-Founders Lauren Fine and Joanna Visser Adjoian are Philadelphia-area attorneys with experience in juvenile and criminal justice advocacy. Fine is a former Zubrow fellow at Juvenile Law Center and federal law clerk, and is a graduate of Yale University and Duke School of Law. Visser Adjoian formerly served as associate director and staff attorney for the Toll Public Interest Center at the University of Pennsylvania Law School, as a Penn Law postgraduate fellow at the Juvenile Law Center, and as a federal law clerk. She received both her undergraduate and law degrees from the University of Pennsylvania. Both Fine and Visser Adjoian serve on the steering committee of the Pennsylvania Coalition for the Fair Sentencing of
Youth, and Visser Adjoian serves as Co-Chair of the Philadelphia Bar Association’s Public Interest Section’s Legal Rights of Children Committee and on the Board of Directors of the Philadelphia Student Union.

Details and Logistics

- **Cost to Court-Appointed Attorneys**
  - YSRP does not require any funding from the attorneys with whom we work.

- **Needs from Court-Appointed Attorneys**
  - The assigned attorney(s) agree(s) to work collaboratively with YSRP in its mitigation investigation and reentry planning efforts.
    - This includes, but is not limited to: prompt responses regarding record collection, assistance in setting meetings with the client and his/her family or other supports, and corresponding with the court on mitigation-related matters.
  - As part of the defense team, work conducted by YSRP is covered by the attorney’s malpractice insurance.
  - By engaging YSRP for the provision of services at no cost, each attorney will agree to provide short (1 paragraph) written testimony about the services that YSRP provided and the impact those services had on the Case, through a short survey that YSRP will send upon the termination of the attorney’s legal representation.
New Nonprofit Supports Children in Adult Criminal-Justice System

BY LAUREN FINE
AND JOANNA VISser ADJOIAN
Special to the Legal

In Pennsylvania, children can be charged as adults as young as age 10, and Pennsylvania imprisons more children for the rest of their lives without the possibility of parole than any other state in the country, which imprisons more children than any other country in the world. A new Philadelphia-based organization—the Youth Sentencing & Reentry Project (YSRP)—was created to support these children prosecuted in the adult criminal system and the lawyers who represent them by providing technical assistance for defense attorneys at sentencing and by supporting youth and their loved ones through the time the young people are released from prison.

The Youth Sentencing & Reentry Project aims to humanize the sentencing and reintegration process for children in Philadelphia’s adult criminal-justice system. Through the dissemination of best practices and hands-on support to criminal defense practitioners in individual cases, YSRP serves to enhance the capacity of criminal justice system actors to approach sentencing and reentry through a child-specific lens. YSRP will do this by drawing from and helping attorneys present to the sentencing court research about adolescent brain development and recent U.S. Supreme Court jurisprudence. Specifically, the court in Miller v. Alabama, 567 U.S. (2012), has recognized that children “are more vulnerable ... to negative influences and outside pressures,” including from their family and peers; they have limited “control[ over] their own environment” and lack the ability to extricate themselves from horrific, crime-producing settings.” If convicted, children in the adult system often face lengthy prison sentences, such as life without parole, as well as the collateral consequences of adult convictions, which create barriers to success in education, employment and housing opportunities. YSRP strives to reduce recidivism among youth who become involved in the adult criminal-justice system by obtaining more rehabilitative services for them at sentencing and by beginning the process of preparing for reintegration into the community before a child even receives his or her sentence.

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FINe
LAUREN FINE is the co-executive director of the Youth Sentencing & Reentry Project (YSRP) and a 2014 Echoing Green Black Male Achievement fellow, in partnership with the Open Society Foundations. She is a former Zeisler fellow at the Juvenile Law Center and federal law clerk, and is a graduate of Yale University and Duke University School of Law.

The child’s attorney with information at sentencing that he or she otherwise may not have had. YSRP derives its sentencing advocacy model from the death-penalty context, where investigators develop mitigation reports for use during the penalty phase of a capital trial. In essence, YSRP seeks to apply key aspects of the mitigation framework from capital defense practice to advocacy on behalf of children facing sentences in the adult criminal-justice system. As a nonprofit, YSRP will provide these investigative services free of charge to appointed and retained counsel in cases where children are facing adult charges.

Post-sentencing, while a youth is incarcerated, YSRP staff and volunteers will remain a resource for the child’s parents and caregivers, as well as teachers, social workers, coaches, doctors and others who can help provide a fuller account of the young person’s life before a crime was committed, providing...
before a young person goes to prison.

We co-founded the YSRP this summer. Visser Adjoian most recently served as the associate director for the Toll Public Interest Center at the University of Pennsylvania Law School, and Fine was a Zubrow fellow at the Juvenile Law Center. We started YSRP after being selected along with the leaders of 11 other organizations—out of nearly 3,000 applicants—to receive 18 months of seed funding and foundational leadership and business development support through the Echoing Green Black Male Achievement Fellowship, supported by the Open Society Foundations. Echoing Green fellows include the founders of Teach for America, City Year, College Summit, Citizen Schools, One Acre Fund and SKS Microfinance.

We look forward to contributing to the Philadelphia legal community with this innovative new program, and look forward to communication from attorneys and others interested in working with the Youth Sentencing & Reentry Project. For more information, see www.ysrp.org or contact Fine at lfine@ysrp.org or Visser Adjoian at jvisseradjoian@ysrp.org.
RECENT PA. APPELLATE COURT FAMILY LAW SLIP OPINIONS

June 2015

Summarized by Sara L. Slocum, Esquire

1. **Moser v. Renninger**, Berks, 1065 MDA 2014  
   (Pa. Super. 5/1/15)

   Estate appeals order denying exceptions and ordering estate to pay APL  
   to Wife. Affirmed. The issue was whether the support action should be abated  
   by Husband’s death. The support action was brought prior to Husband’s death. The Court  
   held that Wife was entitled to support from the time of filing until the time of his death. Memorandum opinion by Bowes joined by Donohue and Allen.

   (Pa. Super. 5/1/15)

   B.M. appealed contempt order. Appeal dismissed for failure to follow  
   Rules of Appellate Procedure. Memorandum opinion by Ford Elliott joined by Olson  
   and Wecht.

3. **In the Interest of M.L.L.**, Montgomery, 2779 EDA 2014  
   (Pa. Super. 5/1/15)

   Father appealed termination order. Expert testimony on bonding analysis  
   not required. Child in foster care majority of life and no bond with Father existed. Both  
   parents failed to address chid’s special needs and failed to make any progress towards  
   a permanency plan. Memorandum opinion by Panella joined by Ott and Jenkins.

   (Pa. Super. 5/4/15)

   Father appeals PFA order. Affirmed. Father argued insufficient evidence  
   of reasonable fear. 8 year old child’s testimony that she was crying, felt sad and  
   thought she was going to fall out of the top bunk was sufficient to show reasonable fear  
   of serious bodily injury. Memorandum opinion by Ford Elliott joined by Olson and  
   Wecht.
   (Pa. Super. 5/5/15)

   Father appeals child support order. Affirmed. Father’s expenses were totally paid by his new wife. Trial court deviated 100% due to the substantial income in Father’s household. Superior Court held that monetary gifts are not income, but can be considered when deviating from the guidelines. Evidence that Father can afford the amount of support ordered. Memorandum opinion by Ford Elliott joined by Bowes and Donohue.

   1306 MDA 2014 (Pa. Super. 5/5/15)

   Father appeals order granting primary physical custody to Maternal Grandparents. Affirmed. Grandparents stood in loco parentis as child lived with them for 12 months. All factors considered. Father is unable to adequately parent and factors weighed in favor of grandparent custody. Memorandum opinion by Mundy joined by Stabile and Fitzgerald.

   (Pa. Super. 5/5/15)

   Wife appeals order modifying a term of the parties’ Property Settlement Agreement. Affirmed. Mutual mistake existed as to the nature of Husband’s Tier 1 and Tier 2 Pensions at the time the parties agreed Wife would receive 100%. Mistake was first learned when the Pension Administrator was called regarding the documents needed to provide for the transfer. Wife’s argument that the whole agreement must be revised failed because the trial court’s revision put Wife in the position upon which they had negotiated that she would receive only the portion entitled to the former spouse. Wife’s counterclaim for mistake in the duration of alimony failed because two witnesses or one witness with corroborating evidence is required to establish mistake and Wife’s testimony was the only evidence. Memorandum opinion by Bowes joined by Donohue and Allen.
   (Pa. Super. 5/6/15)

   Father appeals primary custody award to Mother. Affirmed. No abuse of discretion. Children thriving in current arrangement and court credited Mother's testimony. Memorandum opinion by Ford Elliott joined by Olson and Wecht.

   (Pa. Super. 5/6/15)

   Father appeals termination order. Affirmed. Analysis was proper considering Father's issues with PTSD and failure to meet goals. Memorandum opinion by Donohue joined by Shogan and Strassburger.

    (Pa. Super. 5/6/15)

   Father appeals order granting Mother's relocation with primary custody. Affirmed. All factors considered. Child was close to Mother and Mother demonstrated the economic benefits of the move. Not an error where court failed to allow Father to question the child where attorneys submitted questions and judge asked those questions. Memorandum opinion by Ott joined by Wecht and Jenkins.

    (Pa. Super. 5/6/15)

   Wife appeals equitable distribution award. Affirmed. Wife provided no evidence or law to show abuse. Memorandum opinion by Bender joined by Stabile and Platt.

    (Pa. Super. 5/6/15)

   Father appeals order reducing his partial physical custody and sealing record of children's testimony. Affirmed. Evidence supported reduction where the children's relationship with Father continued to deteriorate and they did not want to see him. Memorandum opinion by Strassburger joined by Bowes and Olson.
(Pa. Super. 5/7/15)

Mother appeals involuntary termination decree. Affirmed. Child bonded with maternal grandparents and meeting child’s needs. Mother did not demonstrate an ability to remedy circumstances that led to placement now or in the future. Mother could not maintain sobriety and did not see child since January 2014. Memorandum opinion by Donohue joined by Shogan and Strassburger.

(Pa. Super. 5/7/15)

Mother appeals involuntary termination decree. Affirmed. Mother abused illegal drugs during pregnancy and made minimal efforts to seek sobriety after. Mother failed to attend doctor’s appointments or inquire about child’s development or learn when to feed or diaper change the child. Memorandum opinion by Donohue joined by Shogan and Strassburger.

15. **In the Interest of S.K.**, Delaware, 2576 EDA 2014
(Pa. Super. 5/8/15)

Mother appeals goal change to adoption. Affirmed. Child placed in foster care for more than 6 months and counsel failed to object to not receiving summary identifying all witnesses prior to hearing at the hearing itself. Memorandum opinion by Bowes joined by Jenkins and Platt.

(Pa. Super. 5/8/15)

Father appeals order granting him partial physical custody for one week in summer and shared legal. Affirmed. Mother lives in Montana and Father in Pennsylvania. Cost was a significant issue and the children desired to stay in Montana, and did not want a relationship with Father. Court found it was in the best interest of the children to remain in Montana even though Mother relocated without Father’s consent or approval 4 years prior. Best interest is paramount. Memorandum opinion by Panella joined by Ott and Jenkins.
   (Pa. Super. 5/8/15)

   Pro se Father appeals denial of petition to modify child support and termination orders. Affirmed. Arrears accrued prior to incarceration and prison wages may be attached. Memorandum opinion by Ott joined by Wecht and Jenkins.

   (Pa. Super. 5/8/15)

   Father appeals denial of his contempt petition and order finding his petition frivolous and entering attorney’s fees. Affirmed. No legal support for objection. Mother acted in accordance with Father’s request then Father filed for contempt in her doing so. Court agreed it was a frivolous claim. Memorandum opinion by Shogan joined by Wecht. Strassburger filed concurring and dissenting opinions. Strassburger dissents and would remand for additional counsel fees against Father because appeal basis was without law or fact.

   (Pa. Super. 5/8/15)

   Mother appeals order transferring custody to Father. Affirmed. Although children initially came into custody due to sexual assault by uncle, Court found that Mother failed to parent by failing to address the child’s routine medical needs and Mother had substantial abuse issues. Father available to provide proper parental care and control. Memorandum opinion by Bowes joined by Donohue and Allen.

   (Pa. Super. 5/8/15)

   Father’s pro se appeal without any basis in law or fact. Memorandum opinion by Bowes joined by Donohue and Allen.
21. **In Re: Adoption of Q.R.T.,** Northumberland, 1590 MDA 2014  
(Pa. Super. 5/8/15)

Father appeals termination order. Affirmed. Child placed after dropped on pavement by intoxicated Mother. Father was contacted but did not go to the hospital. He did not provide any evidence of complying with service plan. Father incarcerated until 2017. Visits initially occurred with Father subsequently failed to complete paperwork to allow them to continue. No bond with Father. Memorandum opinion by Panella joined by Olson and Ott.

22. **In the Interest of L.F.,** Philadelphia, 2709 EDA 2014  
(Pa. Super. 5/11/15)

Father appeals termination orders. Affirmed. Father was aware of goals and was minimally compliant, attended only 1 visit per week, stopped counseling and never demonstrated an ability to keep children safe from Mother. Memorandum opinion by Bender joined by Lazarus and Fitzgerald.

23. **In the Interest of J.D.C.,** Philadelphia, 3208 EDA 2014  
(Pa. Super. 5/11/15)

Father appeals termination orders. Affirmed. Physical abuse allegations resulted in a stay away order. DHS had custody due to Mother’s failure to care for children. Father eventually convicted of sex offenses. Father made no effort to inquire about children, remained incarcerated and children bonded with foster parents. Memorandum opinion by Ford Elliott joined by Stabile and Fitzgerald.

24. **In Re: A.C.,** Somerset, 1420 WDA 2014  
(Pa. Super. 5/11/15)

CYS appeals denying petition to terminate parents’ rights. Reversed and remanded to terminate. Trial court declined to terminate rights of Mother because Father's rights were being preserved. Court found an abuse of discretion premise is contrary to law in Burns case. Neither parent cooperated with their drug treatment goals, child became uncomfortable around both parents, Father was incarcerated and child bonded with foster parents. Memorandum opinion by joined by Bender joined by Mundy. Lazarus concurs stating that the Court relied on In Re: D.C., which was subsequently overturned. Therefore, he would not agree that the trial court abused its discretion.
   (Pa. Super. 5/12/15)

   Father appeals order denying his contempt petition against Mother and  
   petition to modify directing custody order remain in effect subject to limited revisions.  
   Affirmed. All factors considered and found that Mother did not purposefully exclude  
   Father from medical or educational decisions. Memorandum opinion by Mundy joined by  
   Stabile and Fitzgerald.

   (Pa. Super. 5/12/15)

   Father appeals contempt of custody order and awarded Mother with  
   additional time. Affirmed in part, vacated in part. Father was in contempt for failure to  
   return the child at scheduled times. Court erred in awarding make up time without  
   considering best interest factors and/or without a petition to modify pending. Memorandum opinion by Bender joined by Mundy and Stabile.

27. **In the Interest of N.A.**, Philadelphia, 2440 EDA 2014  
   (Pa. Super. 5/13/15)

   DHS appeals order finding children not dependent. Court held that res  
   judicata does not apply because proper question is whether the child is presently  
   without proper care. Collateral estoppel also does not apply because facts and  
   circumstances change between hearings. Past acts not sufficient to show dependency.  
   DHS failed to meet its burden. Memorandum opinion by Bender joined by Lazarus and  
   Fitzgerald.

   (Pa. Super. 5/14/15)

   Parents appeal termination orders. Affirmed. Maternal grandmother was  
   the child’s primary care giver for 2+ years. Mother’s mental health issues prevented her  
   from caring for the child. Father also had mental health issues and was living in  
   Virginia. Child bonded with maternal grandmother. Memorandum opinion by Gantman  
   joined by Shogan and Fitzgerald.
29. **In Re: B.G.K.,** Allegheny, 2047 WDA 2014  
   (Pa. Super. 5/15/15)

   Mother appeals termination order. Affirmed. Mother tested positive for  
   crack cocaine at birth. Mother was incarcerated several times and disappeared several  
   times upon release. Child in custody since birth, bonded with foster parents. Memorandum opinion by Panella joined by Lazarus and Strassburger.

30. **C.S. v. T.S.,** Blair, 1700 WDA 2014  
   (Pa. Super. 5/15/15)

   Mother appeals denied request to modify custody. Affirmed. No change  
   since entry of initial order. Mother’s mental health issues and judgment previously  
   considered and resulted in the entry of previous order. No reason to modify custody. Memorandum opinion by Bender joined by Mundy and Stabile.

   (Pa. Super. 5/18/15)

   Mother appeals order denying petition to relocate to Florida. Affirmed.  
   Trial court weighted child’s need for stability and Mother’s efforts to thwart Father’s  
   relationship with the child. A claim that the trial court mis-weighed the factors does not,  
   in itself, create reversible error. No error in not awarding discovery of medical records  
   where those records are privileged. Court did not comply with Rule 1915.4(d) by  
   issuing an order and opinion 2 months after trial; however, no abuse because no  
   prejudice was suffered. Memorandum opinion by Bowes joined by Donohue and Stabile.
(Pa. Super. 5/18/15)

Mother appeals order directing the conference officer to recalculate child support. Affirmed. Income based on actual earnings proper where there is increased opportunity for advancement and security, negligible perquesites properly excluded, dividends paid on stock and employer 401k contributions properly included and $200 per month addition for paramour’s household contributions proper. Memorandum opinion by Gantman joined by Mundy and Jenkins.

(Pa. Super. 5/18/15)


34. **In the Interest of MJAS**, Lehigh, 3418 EDA 2014  
(Pa. Super. 5/20/15)

Child appealed denial of dependency petition asking court to adjudicate child who is pregnant and in care of Health & Human Services so she can apply for Special Immigrant Juvenile Status. Affirmed. Court based its decision on the credibility of a child (near 18). No evidence that her parents are unavailable or unfit. Memorandum opinion by Donohue joined by Shogan and Strassburger.

(Pa. Super. 5/20/15)

Father appealed termination decree. Affirmed. Incarcerated prior to birth, had a long history of criminal conduct and would not be released until 2017. Child had bonded with foster parent. Memorandum opinion by Gantman joined by Ford Elliott and Jenkins.
   (Pa. Super. 5/2015/15)

   Father appealed child support order. Affirmed. Father waived his claim by failing to order the transcript. Memorandum opinion by Ford Elliott joined by Shogan and Wecht.

   (Pa. Super. 5/21/15)

   Father appealed support order. Affirmed. $9K earning capacity appropriate considering Father’s past working history, education and health. No abuse in assigning Mother an earning capacity where she had significant child care responsibilities. Memorandum opinion by Panella joined by Ott and Musmanno.


   Mother appeals termination orders. Affirmed. Mother failed to complete Family Service Plan for reunification. Mother was dismissed from treatment for continuing to reside with Father whom she had restraining orders against and for failure to attend intake. Memorandum opinion by Gantman joined by Allen and Musmanno.

39. **M.D.S. v. N.M.S. n/k/a N.M.M.**, York, 57 MWDA 2014  
   (Pa. Super. 5/22/15)

   Mother appeals order awarding Mother primary and Father partial physical custody. Affirmed. All factors considered. No abuse to increase Father’s time. Order crafted to prevent future contempt issues by requiring Father to provide his work schedule. Memorandum opinion by Bender joined by Allen and Wecht.

40. **In Re: Adoption of E.M.S.**, Westmoreland,  
   2072 WDA 2014 (Pa. Super. 5/22/15)

   Mother appeals termination orders. Affirmed. Mother had a pattern of incarceration including time children were in placement and failed to remedy her drug abuse problem. Children bonded with foster parents. Memorandum opinion by Panella joined by Lazarus and Strassburger.
41. **A.L.-S. v. B.S.** Lawrence, 1808 WDA 2014  
(Pa. Super. 5/27/15)

Mother appealed denial of request that Lawrence County exercise jurisdiction in custody. Reversed and remanded. Ohio was original state of parties in custody action. However, jurisdiction now belongs to Pennsylvania under 23 Pa. C.S.A. § 5421. Pennsylvania is the home state of the child as all parties live in Pennsylvania, have done so for the last 6 months and have significant connections to the state. Award of counsel fees to Father not appropriate as Mother’s filings were correct, therefore not vexatious. Memorandum opinion by Bender joined by Lazarus and Mundy.

42. **DeBoer v. Pott**, Dauphin, 1476 MDA 2014  
(Pa. Super. 5/27/15)

Husband appeals order denying counsel fees, costs and expenses related to a spousal support order. Reversed and remanded. Prenuptial Agreement found to be valid and prevented either party from filing for support if they were not disabled. Wife filed for spousal support. Agreement contained a provision providing that if either party incurs an expense related to the enforcement of the Prenuptial Agreement the non-prevailing party will pay attorney’s fees, costs and expenses. Husband therefore was entitled to reasonable attorney’s fees. Remanded to determine amount of reasonable fees. Memorandum opinion by Gantman joined by Mundy and Jenkins.

43. **In Re: J.Z. and M.Z.**, Lancaster, 2126 MDA 2014  
(Pa. Super. 5/27/15)

Mother and Father appeal adjudication of children as dependents. Affirmed. Children in custody 16 months. Parents continually missed appoints for children, concerns over drug use and overall failure to complete Family Service Plan. Memorandum opinion by Bowes joined by Allen and Lazarus.
44. **In the Interest of C.M.H.**, Susquehanna, 2090 MDA 2014  
   (Pa. Super. 5/27/15)  

   Father appeals termination order. Affirmed. Father incarcerated and  
   failed to maintain a relationship with the child while in jail and when released.  
   Memorandum opinion by Bowes joined by Donohue and Allen.

45. **In Re: Adoption of C.B.K.**, Northumberland,  

   Father appeals termination orders. Affirmed. Father had not seen  
   children in more than a year, was $6,000 in child support arrears and children bonded  
   with stepfather. Memorandum opinion by Gantman joined by Mundy and Jenkins.

46. **Morgan v. Morgan**, Franklin, 1421 MDA 2014  
   (Pa. Super. 5/28/15)  

   Father appealed denial of motion to strike child support enforcement  
   orders. Affirmed and remanded for calculation of counsel fees. Father has repeatedly  
   abused the court system with frivolous filings. Memorandum opinion by Mundy joined  
   by Stabile. Fitzgerald concurs.

   2072 MDA 2014 (Pa. Super. 5/28/15)  

   Paternal grandparents appeal order denying their request for partial  
   physical custody. Reversed and remanded. Judge initially refused to follow custody  
   statute and on appeal was remanded to issue a decision according to the factors. This  
   second appeal followed. Court found no citation to law, an unthorough consideration to  
   the factors and conclusory statements against the evidence. Remanded to enter interim  
   orders as final. Memorandum opinion by Gantman joined by Mundy and Jenkins.
   (Pa. Super. 5/28/15)

   Mother appeals order denying her petition to vacate requirement that she make monthly recoupment payments for an overpayment of child support. Affirmed. No evidence of extraordinary cause. Memorandum opinion by Donohue joined by Shogan and Strassburger.

   (Pa. Super. 5/28/15)

   Mother and Father appeal court’s order allocating child and spousal support. Claims related to spousal support are interlocutory. Insufficient facts in record to support that Father was the nurturing parent. Record supports determination that Father should be assigned as an earning capacity. Remand only for recalculation of Father’s net monthly income. Memorandum opinion by Bowes joined by Allen and Lazarus.

50. **In the Interest of L.H.M.T.**, Centre, 1971 MDA 2014
   (Pa. Super. 5/29/15)

   Mother appeals denial of motion to transfer dependency proceedings to Ohio. Affirmed. UCCJEA applies to dependency proceedings. Ohio refused jurisdiction over the child based on evidence that Mother lived in Pennsylvania. Mother claimed Ohio was the home state because the child was born there. Evidence supported the trial court’s finding that Mother lived in Pennsylvania. Memorandum opinion by Bender joined by Allen and Wecht.