

In the Interest of: T.J.J.M., A Minor
Superior Court of Pennsylvania
No.: 2807 EDA 2017, and 28 EDA 2017
Non-Precedential Decision
May 18, 2018
Before: Ott, McLaughlin, and Ransom
Memorandum by: Ott

This is a parental termination matter where the Father filed an appeal from a trial court decision involuntarily terminating his parental rights and changing the placement goal to adoption with regard to his daughter. The child was born prematurely with controlled substances in her system. As a result, the child was placed into the care of DHS and the case was assigned the placement goal of reunification. The Father put forth a lot of effort to see his daughter, but he faced challenges in doing so due to his incarceration for a time, his work schedule and commute, the availability of the child, and the lack of cooperation and accommodation from CUA. Due to his difficulty in spending time with his daughter, DHS filed to involuntarily terminate his parental rights and for a goal change despite the support the father had from the guardian *ad litem* and the challenges cited above. Superior Court ultimately ruled in Father's favor for a variety of reasons briefly summarized below. Superior Court found that the trial court did not follow the clear language of the relevant statute, namely 42 Pa.C.S. Section 6351. The trial court failed to provide a likely date for the assigned goal to be achieved (contrary to Section 6351(f)(5)). The goal change hearing occurred after the child was in placement for ten months, which is less than the time period required by Section 6351(f)(9). Furthermore, the trial court granted termination on grounds other than those argued by DHS at the hearing. Additionally, the court ruled that the application of 42 Pa.C.S. Section 2511(a)(1), which provides grounds to involuntarily terminate parental rights on the basis of failing to perform parental duties for six months' time immediately preceding the filing of the petition, is not to be applied mechanically, but is to be applied and construed in the light of the totality of the circumstances. The trial court failed to do this. Finally, Superior Court simply concluded that DHS failed to establish by clear and convincing evidence that the challenges faced by father that impeded his ability to parent cannot or will not be remedied. As a result of the above, the Court vacated the trial court's order for a goal change, remanded the case for a new permanency order and a new hearing for the same, and vacated the termination decree.