In the Interest of: L.V., a Minor
Appeal of: J.H., Mother
In the Interest of L.V-H., a Minor
Appeal of: J.H., Mother
Case numbers: 1390 EDA 2018, 1392 EDA 2018
Filed on May 3, 2019
Judges: Lazarus, Olson, Stevens
Opinion: Stevens

The Mother filed an appeal after an adverse ruling adjudicating her son and daughter dependent. Superior Court affirmed the trial court's ruling. One of the children (L.V.) had severe injuries, including 26 bone fractures, while still only an infant. The Mother denied abusing L.V. and causing the injuries. At a trial, there was extensive testimony from multiple people (including medical professionals) who concluded Mother abused the Child. As a result, the trial court adjudicated the children dependent and that the circumstances were sufficiently aggravated to not require reunification. On appeal, Superior Court disposed of a variety of procedural arguments against Mother's appeal and addressed the merits of her arguments. On appeal Mother argued that the trial court erred in not permitting her to take the child out of Philadelphia for examination by her own doctor in order for him to testify at a hearing. Superior Court ruled that it was appropriately within the trial court's discretion to reasonably limit where the child could travel for examination. Mother also argued that the court erred in not qualifying the doctor she called as a witness as an expert in various fields. Superior Court rejected this as well saying that the record does not support him to be qualified as an expert in the fields suggested by Mother. Further, Superior Court is bound to the trial court's determination of Mother's doctor's credibility. Mother sought the recusal of the trial court, but Superior Court rejected this as well as it noted that there was no abuse of discretion in failing to recuse. Most importantly, upon full review of the record, the Superior Court ruled that the trial court did not abuse its discretion when adjudicating the children dependent, and that the record supports a finding of aggravated circumstances, and no abuse of discretion regarding the same, especially since visitation was still permitted. Relatedly, Superior Court ruled that suggesting making reunification conditional on her confession that she abused the child was not tantamount to extortion.

R.L. v. M.A.
2019 PA. Super. 145
Case No.: 2740 EDA 2018
Filed on May 3, 2019
Judges: Olson, Dubow, Stevens
Opinion: Dubow

This case involves a custody matter that arose out of a lesbian relationship. The parties were in a romantic relationship and, based on that, M.A. received artificial insemination using R.L's brother's sperm. The couple eventually broke up and had an informal custody arrangement for some time where R.L. had the child every other weekend. Eventually a complaint for custody was filed and, per the same, R.L. was granted *in loco parentis* status and custody of the child on an alternating weekly basis. M.A. appealed and argued that R.L. did not present clear and convincing evidence to warrant shared custody. While a biological parent has the scales tipped hard toward

her in a custody matter, that does not preclude a non-biological parent to have custody of the child or require that person to prove the biological parent is "unfit." Instead, all the non-biological parent has to prove is that the custody she seeks is in the best interests of the child. Superior Court, after review of the record, ruled that the trial court's decision is supported by the record. Further, Superior Court pointed out that the scales only tip heavily in favor of a biological parent in cases where primary custody is sought as opposed to merely shared custody. The "best interests" standard is still the touchstone of any custody case.

E.B. v. D.B.
2019 PA. Super. 146
Case No.: 1080 WDA 2018
Filed on May 6, 2019
Judges: Shogan, Kunselman, Strassburger
Opinion: Strassburger

This is an *extensively* litigated custody matter that has taken place over a course of about 15 years, and has involved innumerable motions and petitions. Father appealed a trial court decision reducing his custodial time. On appeal, Father argued that the trial court erred in substantially modifying a somewhat long standing custody arrangement with an interim order following a conference (and not a trial). As a final order was entered, Father's arguments regarding the interim order were moot, however, Superior Court did agree with Father that taking primary custody away from him without a full hearing (or explanation for the same) on an interim basis deprived him of due process and unfairly created a new *status quo* leaving him in the unenviable position of trying to fight to regain his custody as opposed to argue to preserve what he already has. Unfortunately for Father, Superior Court felt that relief for Father was impossible to achieve as it could not yet again change the order to correct the error, especially as the "best interests" standard controls regardless. Next, Superior Court could not find that the trial court abused its discretion by giving Mother expanded custody based on the well-reasoned preferences of a teenaged daughter. In contrast, Superior Court ruled that the trial court's dismissal of Father's contempt petitions without reason was an abuse of discretion. Similarly, Superior Court remanded for a more detailed order as the trial court only used a form order despite the complexity and history of this case which requires a specifically tailored order. Finally, Superior Court remanded the case back to trial court to rule on Father's request to reopen the record for additional evidence which it dismissed without reason.

H.M.H. on behalf of Minor, L.M.H. v. D.J.G.
Appeal of H.M.H.
2019 PA Super 156
Case No.: 980 WDA 2018
Filed on May 13, 2019
Judges: Gantman, Shogan, Murray
Opinion: Shogan

This matter involves an appeal from a denial of a Protection from Abuse order ("PFA"). H.M.H. attempted to secure a PFA on behalf of her 13 year old daughter against her daughter's 15 year old first cousin who allegedly sexually assaulted

L.M.H (the aforesaid daughter). Due significant delays, the trial court elected to follow its "best practices policy" and requested H.M.H. to provide an offer of proof to justify her pursuit of the PFA. The trial court dismissed H.M.H.'s petition for a PFA ruling she had failed to present a *prima facia* case of abuse per her offer of proof. On appeal to Superior Court, that Court ruled in H.M.H.'s favor indicating that the controlling statute requires an evidentiary hearing for a petition for a PFA and a simple "offer of proof" is statutorily insufficient. In saying that, Superior Court intimated that H.M.H. did meet her burden in presenting an offer of proof regardless. Next, Superior Court disagreed with the trial court's ruling that a first cousin does not constitute a family member under the terms of the applicable statute. Instead, Superior Court ruled that a first cousin falls within the umbrella of consanguinity for a PFA. As a result, Superior Court remanded the case back to trial court for a proper PFA hearing.