

The Pennsylvania Supreme Court’s Sua Sponte Recusal of a County Court

“[S]top fooling around with the Appellate Courts...,” warned a judge in Clinton County, Pennsylvania, during a questionably conducted custody hearing.

This was just one of the many disturbing incidences in a long and contentious custody and involuntary termination of parental rights battle with an equally upsetting background history.

The Clinton County Court of Common Pleas entered a decree involuntarily terminating Mother’s parental rights of her daughter in favor of Father and Stepmother. Mother appealed this decree. The Pennsylvania Superior Court affirmed the decree finding that the impediments she faced did not invalidate the abandonment of her daughter for the statutory period of six months. Mother appealed this decision to the Pennsylvania Supreme Court.

The Court began its analysis by announcing that its standard of review in an involuntary termination of parental rights case is abuse of discretion, which is determined by competent evidence. While the Court provided a thorough recitation of the facts, it never answered the question of whether competent evidence supported the decree.

Although Stepmother took no formal action demonstrating a change to her intent to adopt, the Court gave much credence to the trial court’s supplements to the certified record (orders reflecting letters written by Stepmother) during the pendency of the appeal to the Superior Court, which showed such a change. Noting that in Pennsylvania, involuntary termination of parental rights by a parent is only cognizable when there is an intent to adopt by a stepparent, the Court realized the potential mootness of this case.

The Court did not reach the merits, and because it determined that a finding of mootness could not be made on the current record, it remanded to the trial court for an immediate evidentiary hearing about Stepmother's intention to adopt.

Rather than ending its analysis at that point, the Court took up the matter of recusing the trial court. The Court displayed harsh criticism for the termination judge, CYS, and the custody judge. It listed eight incidences that demonstrated the custody judge's antagonism toward Mother indicating that they at best showed an "appearance of impropriety":

1. Permitted and entertained ex parte communications from Father regarding L.J.B. and Mother;
2. Ignored repeated warnings from CYS regarding the falsity of Father and Stepmother's allegations of sexual abuse by Mother;
3. Without provocation criticized Mother's conduct over the "past ten years," when at that point L.J.B. was only five years old;
4. Stated that Mother "dumped" L.J.B. on Father while [running] off and abandon[ing L.J.B.];
5. Stated that information placed on an advocacy website by Mother (and/or Grandmother) was "garbage . . . and if you continue to publish this kind of stuff, you'll never see this child again.";
6. Advised Father to have Mother jailed "the next time you find her in Clinton County," due to Mother's alleged failure to pay child support;
7. Advocated to Father that he seek termination of Mother's parental rights; and
8. Failed to enforce orders barring further pelvic examinations of L.J.B. against Father/Stepmother.

Relying on its explicit constitutional authority, the Court on its own accord ordered the recusal of both judges from any further proceedings in this case, regardless of the parties, for the protection of this child. Because these were the only two commissioned judges in Clinton County, the Court directed that the case be appointed to another county.