

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CATHERINE EDWARDS,	§	
	§	No. 524, 2004
Respondent Below,	§	
Appellant,	§	Court Below--Family Court of
	§	the State of Delaware, in and
v.	§	for Kent County in File No.
	§	03-12-1 TK.
TRACY L. COOPER and JOHN	§	
N. COOPER,	§	
	§	
Petitioners Below,	§	
Appellees.	§	

Submitted: May 9, 2005
Decided: May 23, 2005

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 23rd day of May 2005, it appears to the Court that:

(1) This is an appeal from an order of the Family Court terminating parental rights with respect to a child born July 25, 2003 (“the Child”). The appellees, Tracy L. Cooper and John N. Cooper (“the Coopers”), filed the petition to terminate the parental rights of the appellant, Catherine Edwards, the Child’s mother, and James Gregory Wells, the Child’s father.¹ The Coopers

¹It appears from the record that the Child and the Coopers are second cousins. See Del. Code Ann. tit. 13, § 1104 (identifying persons eligible to petition for the termination of parental rights).

also filed a petition for adoption, which is pending before the Family Court. The Child has resided with the Coopers since August 25, 2003.

(2) In September 2003, Wells was charged with several offenses, including attempted murder, stemming from his alleged assault on the three-week old Child.² The Child sustained serious injuries as a result of the assault and was hospitalized for nearly a month. Wells eventually pled guilty to several offenses, including Assault in the First Degree, and is serving a prison sentence.³

(3) In September 2003, the Family Court granted temporary custody and limited guardianship of the Child to the Coopers. Soon after, Edwards left Delaware and went to Ohio where she remained, off and on, until May 2004. In May 2004, Edwards was arrested on forgery charges and was returned to Delaware where she was detained at the Stevenson House on a violation of probation.

(4) In December 2003, the Coopers filed the petition to terminate Edwards' and Wells' parental rights. The Family Court appointed Gregory

²Wells was also charged with having raped and assaulted Edwards, who was sixteen years old.

³*See State v. Wells*, Del. Super., Cr. ID Nos. 0307019531, 0308002490, 0403025060, Vaughn, J. (Aug. 23, 2004) (sentencing Wells to thirty-two years at Level V, suspended after fifteen years, followed by one year at Level IV and probation).

Morris, Esquire (“Counsel” or “Edwards’ Counsel”), to represent Edwards in the termination proceeding.

(5) On October 12, 2004, the Family Court held a hearing on the petition for termination of parental rights at which Edwards appeared with her counsel. By order dated November 10, 2004, the Family Court terminated Edwards’ parental rights and those of Wells. Edwards directed Counsel to file a notice of appeal from the termination decision, which he did on December 1, 2004.

(6) Counsel has not filed Edwards’ opening brief, which was due to be filed on or before April 4, 2005. Instead, prior to the deadline for filing the brief, Counsel has filed a motion seeking to withdraw as counsel on the basis that Edwards is a fugitive whose whereabouts are unknown.

(7) According to Counsel, Edwards has been a fugitive since early December 2004 when she removed her ankle bracelet and absconded from Level IV home confinement. Counsel does not know where Edwards is, and Edwards has not responded to Counsel’s attempts to contact her. According to Counsel, “there is no indication that [Edwards] will be voluntarily turning herself in or that she will [be] apprehended in the near future.” Counsel states that he is unable to pursue the appeal without Edwards’ assistance.

(8) By notice dated April 12, 2005, the Clerk directed Edwards' Counsel to show cause why this appeal should not be dismissed on the basis that Edwards is a fugitive and has forfeited her right to pursue this appeal.⁴ In his response to the notice to show cause, Counsel argues that the appeal should not be dismissed on that basis because the matter on appeal is not related to the matters underlying Edwards' fugitive status.⁵ As an alternative to dismissal, Counsel requests that the Court permit him to withdraw and grant Edwards additional time to file a pro se opening brief. In their responses to Counsel's response to the notice to show cause, the Coopers and the Child's guardian *ad litem* argue that the appeal should be dismissed on the bases that Edwards is a fugitive and has failed to diligently prosecute the appeal.

(9) Under all of the circumstances of this case, we conclude that Edwards has abandoned any claims in this appeal from the termination of her parental rights. Edwards' voluntary absence has made it impossible for

⁴*See Davis v. Division of Child Support Enforcement*, 1995 WL 319186 (Del. Supr.) (stating that a fugitive from justice "lacked standing to invoke the rules, processes and jurisdiction of this Court"); *Schmidt v. Schmidt*, 610 A.2d 1374 (Del. 1992) (stating that if a litigant "decides to work outside the judicial process he forfeits his entitlement to such process"); *Crawford v. State*, 94 A.2d 603, 604 (Del. 1953) (stating that "a fugitive from justice, while he remains a fugitive, has no right to the appellate procedures provided for those who rely upon the orderly course of justice").

⁵According to Counsel, Edwards is subject to an outstanding capias out of Family Court and an unexecuted arrest warrant obtained by the Dover police.

Counsel to diligently prosecute the appeal that was filed on Edwards' behalf and at her direction. The Court cannot permit Edwards to frustrate the appellate process and the orderly administration of justice, when it is clear that the undue delay caused by her voluntary absence is prejudicial to the Child whose best interests are of paramount importance.⁶

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that this appeal is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁶*See* Del. Code Ann., tit. 13, § 1115 (providing that the paramount objective of the best interest of the child should be achieved without undue delay in a termination of parental rights proceeding).