

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

D.M.P. and B.D.P.,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellants	:	
	:	
v.	:	
	:	
C.M.Y., C.L. and ARMSTRONG COUNTY	:	
CHILDREN YOUTH AND FAMILIES	:	
SERVICES	:	No. 806 WDA 2012

Appeal from the Order entered April 20, 2012,  
in the Court of Common Pleas of Armstrong County,  
Civil Division, at No. 2010-1198-CIVIL

IN THE INTEREST OF: C.L.,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
	:	
APPEAL OF: D.M.P. and B.D.P.	:	
	:	
Appellants	:	No. 1028 WDA 2012

Appeal from the Order entered May 31, 2012,  
in the Court of Common Pleas of Armstrong County,  
Civil Division, at No. CP-03-DP-0000238-2007

IN THE INTEREST OF: C.L.,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
	:	
APPEAL OF: D.M.P. and B.D.P.	:	
	:	
Appellants	:	No. 1029 WDA 2012

Appeal from the Order entered May 31, 2012,  
in the Court of Common Pleas of Armstrong County,  
Civil Division, at No. CP-03-DP-0000238-2007

BEFORE: MUSMANNO, WECHT and COLVILLE\*, JJ.

MEMORANDUM BY MUSMANNO, J.:

Filed: January 11, 2013

D.M.P. ("Aunt") and her husband, B.M.P. ("Uncle") (collectively, "Appellants"), the maternal aunt and uncle of C.L. ("Child"), appeal from the April 20, 2012 Order sustaining preliminary objections to Appellants' Amended Custody Complaint as to Child, and dismissing that Amended Custody Complaint. Aunt and Uncle further appeal from the May 31, 2012 Order ruling that they were the foster parents of Child, and denying their emergency Petition to intervene and Motion for a stay of the dependency proceedings concerning Child. Finally, Aunt and Uncle filed an appeal of the permanency review Order entered on May 31, 2012, changing Child's placement goal to return to C.M.Y. ("Mother"). We affirm.

We address these appeals together, as they are interrelated. In its Opinion, the trial court set forth the factual background and procedural history of these appeals as follows.

[Child] (born [in March . . . 2005, age 7) is the daughter of [Mother and C.L. ("Father")]. She resided with ... Appellants . . . from July 2008 to June 6, 2012. Mother resides in Pittsburgh, Pennsylvania, and Father currently is incarcerated in a Pennsylvania State Correctional Institution.

[Child] resided with Mother for over three years after her birth. Because of allegations of neglect and drug abuse against Mother, a Juvenile Dependency Petition was filed by Armstrong County Children, Youth and Family Services ("CYF") on December 11, 2007. After a hearing on the petition, [Child] was adjudicated dependent on January 3, 2008. Pursuant to this

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\*Retired Senior Judge assigned to the Superior Court.

[c]ourt's Order, [Child] remained in the custody of Mother under the protective supervision of CYF. On May 23, 2008, CYF filed a Motion for Disposition Hearing, which was held on July 15, 2008. At the hearing, the parties entered a Consent Order of Adjudication and Disposition, pursuant to which [Child] was removed from Mother's residence and moved to Appellants' residence, with an allowance for visitations by Mother.

The [c]ourt held a permanency [review] hearing on October 22, 2008, after which the [c]ourt entered an Order maintaining the living arrangement established by the July 15, 2008 Order. The permanency plan/placement goal was reunification with Mother. [Child] continued to reside with Appellants at their residence in Cowansville, Pennsylvania, and Mother continued to participate in scheduled visitations. Appellants were not paid as foster parents and do not believe they were foster parents until CYF forced them to receive compensation as such in March 2011. Appellants cared for [Child] by:

- a. providing housing;
- b. providing care as to clothing, food, pre-school, church, extra-curricular activities and paying for day care; and
- c. providing love and stability.

Appellants did not file a Petition to Intervene as third parties to the dependency proceeding, allegedly because CYF assured them that the permanency goal was adoption and that they did not need to seek counsel.

CYF has maintained protective custody of [Child] since January 3, 2008. Several additional permanency hearings were held in 2011, after which a concurrent permanency plan of adoption was established. On December 8, 2011, CYF filed a Motion for Change of Placement and Return of the Child to the Legal and Physical Custody of Mother. CYF concluded that Mother had "fully satisfied the Permanency Plan" and "had made full progress in addressing the circumstances that led to the placement of the child."

Trial Court Opinion, 7/23/12, at 1-3.

The trial court explained the Amended Complaint for custody, filed by Aunt and Uncle, as follows:

Prior to the filing of CYF's Motion for Change of Placement, Appellants filed a Complaint for Custody ... in which they sought sole legal and physical custody of [Child]. Mother filed preliminary objections to the Complaint, contending that Appellants lacked standing[,] as foster parents[,] to seek custody of [Child] while CYF still had protective custody. The [c]ourt sustained the preliminary objections without prejudice ..., granting Appellants 10 days' leave to file an Amended Complaint containing allegations of fact establishing their standing to sue for custody. Appellants filed their Amended Complaint ... in which they again requested that the [c]ourt award them primary physical and shared legal custody of [Child].

Both CYF and Mother filed preliminary objections to the Amended Complaint, again challenging Appellants' standing to sue for custody[,] while CYF maintained protective custody of [Child]. They argued that Appellants, as foster parents, are third parties and have no standing to sue for custody. Appellants contended that they stood *in loco parentis* to [Child], and therefore had standing to sue for custody.

At the hearing on the preliminary objections, [Mother] confirmed the allegations of the Amended Complaint regarding [Appellants'] provision for [Child's] day-to-day needs, which included providing [Child] with food, clothing, daycare when necessary, and furniture, and also teaching [Child] life skills, taking her to doctor's appointments, helping her participate in extra-curricular activities, and supporting her educational needs. All of these services undisputedly were provided after [Child] was adjudicated dependent in January 2008. In 2010, Appellants also attended foster-parenting classes for six to eight weeks, believing that adoption of [Child] would be the next step in the process. [Aunt] also confirmed that she and her husband had not received compensation as foster parents until March 2011 and had refused to renew their official status as foster parents since December 2011.

[The trial court] sustained the preliminary objections filed by Mother and CYF, holding that Appellants did not stand *in loco parentis* as foster parents.

Trial Court Opinion, 7/23/12, at 3-5.

The trial court, therefore, ruled that, since Appellants were not *in loco parentis* to Child, they lacked standing to pursue custody. Trial Court Opinion, 4/20/12, at 14. Accordingly, the trial court sustained the preliminary objections, and dismissed the Amended Custody Complaint in its April 20, 2012 Order. Aunt and Uncle timely filed an appeal of the April 20, 2012 Order (Docket No. 806 WDA 2012), along with their Concise Statement of Errors Complained of on Appeal pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b) (Docket No. 806 WDA 2012).

After Appellants appealed the Order dismissing their Amended Custody Complaint, the trial court denied the emergency Petition to intervene and Motion to stay the dependency proceedings. Trial Court Order (Petition to Intervene/Motion to Stay), 5/31/12. The trial court directed the placement of Child with Mother in its permanency review Order entered on the same date. Trial Court Order (Placement), 5/31/12. Appellants timely filed Notices of appeal from the trial court's Order denying their emergency Petition to intervene and Motion to stay (Docket No. 1028 WDA 2012), and from the permanency review Order (Docket No. 1029 WDA 2012). Appellants properly filed Concise Statements of errors complained of on appeal.

In their brief on appeal from the dismissal of their Amended Custody Complaint, Appellants raise the following claim for our review:

Whether the court erred and committed an abuse of discretion in denying [Appellants] standing to pursue a complaint for custody of the child when they stood in loco parentis to the child[?]

Appellants' Brief at 4.

In their appeal of the Order denying their Petition to Intervene/Motion to Stay, Appellants present the following claims for our review:

I. Whether the court erred and committed an abuse of discretion in denying [Aunt and Uncle] standing to intervene in the dependency proceedings when they stood in loco parentis to the child[?]

II. Whether the court erred and committed an abuse of discretion in granting the Agency's request to change placement of Child[?]

Appellants' Brief at 7.<sup>1</sup>

Appellants assert that the trial court erred by denying them standing to pursue their claims, both as to custody of Child and as to their standing to intervene in the juvenile proceeding regarding Child. Appellants contend that the trial court failed to consider that they stood *in loco parentis* to Child, and were not foster parents at the times relevant to the proceedings, so that they were not precluded by case law from *in loco parentis* status. Moreover,

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<sup>1</sup> We observe that Appellants have waived any challenge to the trial court's denial of their Motion to stay the dependency proceedings by their failure to raise the issue in the Statement of Questions Involved presented in their appellate brief. ***See Krebs v. United Refining Co.***, 893 A.2d 776, 797 (Pa. Super. 2006) (stating that appellant's failure to raise an issue in the Statement of Questions Involved portion of the brief on appeal results in waiver of the issue); ***see also*** Pa.R.A.P. 2116(a). Even if Appellants had presented the issue, however, we would conclude that it lacks merit.

Appellants claim that the trial court lacked information with regard to the best interests of Child because of their absence.

Our standard and scope of review of a trial court's order sustaining preliminary objections are as follows:

Preliminary objections, the end result of which would be dismissal of a cause of action, should be sustained only in cases that are clear and free from doubt. The test on preliminary objections is whether it is clear and free from doubt from all of the facts pleaded that the pleader will be unable to prove facts legally sufficient to establish his right to relief. To determine whether preliminary objections have been properly sustained, this court must consider as true all of the well-pleaded material facts set forth in appellant's complaint and all reasonable inferences that may be drawn from those facts.

***Chester County Children and Youth Services v. Cunningham***, 636 A.2d 1157, 1158 (Pa. Super. 1994) (citations omitted).

This Court has explained,

"When no issues of fact are raised, the court shall dispose of the preliminary objections as a matter of law on the basis of the pleadings alone." ***Matter of D.L.S.***, 420 A.2d 625, 626 (Pa. Super. 1980). Where preliminary objections raise issues of fact, however, the Rules of Civil Procedure provide that "the court shall consider evidence by depositions or otherwise." Pa.R.C.P. 1028(c)(2); ***see also Deyarmin v. Consol. Rail Corp.***, 931 A.2d 1, 14 (Pa. Super. 2007) ("[I]f an issue of fact is raised by preliminary objections . . . the [trial] court may not reach a determination based upon its view of the controverted facts, but must resolve the dispute by receiving evidence thereon through interrogatories, depositions or an evidentiary hearing.") (citation omitted).

***R.M. v. J.S.***, 20 A.3d 496, 508-09 (Pa. Super. 2011). "This Court will reverse the trial court's decision regarding preliminary objections only where

there has been an error of law or abuse of discretion.” *Clemleddy Constr., Inc. v. Yorston*, 810 A.2d 693, 696 (Pa. Super. 2002).

“[T]he question of standing is whether a litigant is entitled to have the court decide the merits of the dispute or of particular issues.” *Silfies v. Webster*, 713 A.2d 639, 642 (Pa. Super. 1998). An issue regarding the standing to participate in dependency proceedings is a question of law warranting plenary review, and our standard of review is *de novo*. *In re J.S.*, 980 A.2d 117, 120 (Pa. Super. 2009) (citing *In re L.C., II*, 900 A.2d 378, 380-81 (Pa. Super. 2006)).

We have stated that, “[a]s a general rule, third parties, other than grandparents, usually do not have standing to participate as parties in child custody actions. An exception to this general rule exists when the third party stands *in loco parentis* to the child.” *Morgan v. Weiser*, 923 A.2d 1183, 1186 (Pa. Super. 2007). The issue of Appellants’ standing to proceed on their amended custody complaint is governed by section 5324 of the new Child Custody Act (“Act”), 23 Pa.C.S.A. § 5324, which provides in relevant part, as follows:

**§ 5324. Standing for any form of physical custody or legal custody.**

The following individuals may file an action under this chapter for any form of physical custody or legal custody:

\* \* \*

(2) A person who stands *in loco parentis* to the child.



\* \* \*

23 Pa.C.S.A. § 5324.<sup>2</sup>

In *Morgan*, we explained:

[*I*]n *loco parentis* is a legal status and proof of essential facts is required to support a conclusion that such a relationship exists. Furthermore, the phrase "*in loco parentis*" refers to a person who puts oneself in the situation of a lawful parent by assuming the obligations incident to the parental relationship without going through the formality of a legal adoption. The status of *in loco parentis* embodies two ideas; first, the assumption of a parental status, and, second, the discharge of parental duties. The rights and liabilities arising out of an *in loco parentis* relationship are, as the words imply, exactly the same as between parent and child. The third party in this type of relationship, however, [cannot stand] *in loco parentis* in defiance of the parents' wishes and the parent/child relationship.

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The *in loco parentis* basis for standing recognizes that the need to guard the family from intrusions by third parties and to protect the rights of the natural parent must be tempered by the paramount need to protect the child's best interest. Thus, while it is presumed that a child's best interest is served by maintaining the family's privacy and autonomy, that presumption must give way where the child has established strong psychological bonds with a person who, although not a biological parent, has lived with the child and provided care, nurture, and affection, assuming in the child's eye a stature like that of a parent. Where such a relationship is shown, our courts recognize that the child's best interest requires that the third party be granted standing so as to have the opportunity to

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<sup>2</sup> The trial court properly found that the new Child Custody Act, which took effect on January 24, 2011, was applicable because Appellants filed the Amended Custody Complaint on February 23, 2012, and the trial court did not hold an evidentiary hearing. **See C.R.F. v. S.E.F.**, 45 A.3d 441, 443-445 (Pa. Super. 2012).

litigate fully the issue of whether that relationship should be maintained even over a natural parent's objections.

**Morgan**, 923 A.2d at 1186 (quoting **Liebner v. Simcox**, 834 A.2d 606, 609-10 (Pa. Super. 2003)).

The trial court provided the following analysis of the existing statute and case law regarding in *loco parentis*.

The legal phrase "*in loco parentis*" is used to describe a person who puts himself or herself "in the situation of a lawful parent without going through the formality of a legal adoption." **Liebner v. Simcox**, 834 A.2d 606, 609 (Pa. Super. Ct. 2003) (citations omitted). There are two aspects to the concept of *in loco parentis* status: assumption of parental status and discharge of parental duties. **In re: C.M.S.**, 884 A.2d 1284, 1288 (Pa. Super. Ct. 2005). "The rights and liabilities arising out of an *in loco parentis* relationship are, as the words imply, exactly the same as between parent and child." **T.B. v. L.R.M.**, 786 A.2d 913, 917 (Pa. 2001) (citations omitted). "The third party in this type of relationship, however, cannot place himself *in loco parentis* in defiance of the parents' wishes and the parent/child relationship." **Id.** "An important factor in determining whether a third party has standing is whether the third party lived with the child and the natural parent in a family setting, irrespective of its traditional or nontraditional composition, and developed a relationship with the child as a result of the participation and acquiescence of the natural parent." **Liebner**, 834 A.2d at 610 (quotations omitted). The assumption of parental status therefore must be predicated on the natural parent's agreement to a permanent placement of the child with the third party. **In re: C.M.S.**, 884 A.2d at 1288 (citing **In re: W.C.K.**, 748 A.2d 223, 230, 231 (Pa. Super. Ct. 2000)).

In circumstances where a current or former foster parent asserts *in loco parentis* standing to seek custody of a minor child, Pennsylvania appellate courts consistently have held that status as a foster parent does not confer standing to seek

custody of minor children, even where the foster parents provide for the day-to-day needs of the children and seek to adopt them. **See *In re G.C.***, 735 A.2d 1226, 1228 (Pa. 1999).<sup>[FN]</sup> In ***In re: G.C.***[,] the Supreme Court of Pennsylvania reviewed and reaffirmed the reasoning behind Pennsylvania's long-standing rule that foster parents do not, by virtue of their status as foster parents, stand *in loco parentis* to the minor children for whom they provide care. The Court, citing the Superior Court's decision in ***In re Adoption of Crystal D.R.***, 480 A.2d 1146 (Pa. Super. Ct. 1984), stated as follows:

The [CYF] agency, while transferring physical custody to the foster parents, remains responsible for the care of the child, and may at any time be required by the child's interests to regain physical custody and terminate the foster parent's relationship to the child.

The law transfers "care and custody" to the agency, . . . but day-to-day supervision of the child and his activities, and most of the functions ordinarily associated with legal custody, are the responsibility of the foster parent. Nevertheless, agency supervision of the performance of the foster parents takes forms indicating that the foster parent does not have full authority of a legal custodian. Moreover, the natural parent's placement of the child with the agency does not surrender legal guardianship: the parents retain authority to act with respect to the child in certain circumstances.

The [L]egislature has provided that the relationship between the foster parents and the child is by its very nature subordinate both to the relationship between the agency and the child and to the relationship between the child and the child's parents.

Foster parents may not by pleading their love for the child escape their legal status. For in defining the foster parents' status as subordinate both to the agency's and to the child's parents' [*sic*], the Legislature has in no sense acted arbitrarily. Quite to the contrary, the foster parents' status reflects the Legislature's conviction that if possible, a child should grow up with its parents. When under the Juvenile Act a child is found dependent, the

court may transfer to the agency only “temporary legal custody” of the child. 42 Pa.C.S. § 6531[*sic*](a)(2).

We are persuaded by the overwhelming analysis of the Superior Court regarding the uniquely limited and subordinate, state-created, agency-maintained, foster parent/child relationship established through the Legislative scheme, that foster parents lack standing to seek or contest custody of their foster children.

***Id.*** at 1228-[1230][.] [***S***]***ee also In re: N.S., K.G., P.A.***, 845 A.2d 884, 887-88 (Pa. Super. Ct. 2004) (foster parent did not stand *in loco parentis* to minor children because her rights were subordinate to those of Children and Youth Agency, which had primary physical and legal custody to provide for the care of the children); ***accord In re D.K.***, 922 A.2d 929, 933 (Pa. Super. Ct. 2007) (where foster parent who provided foster care for children after dependency proceedings began had also been acting as a parent for the children for most of their lives prior to the initiation of the dependency proceedings, court granted *in loco parentis* standing to the foster parents to maintain an action for custody); ***P.T. & K.T. v. M.H.***, 953 A.2d 814-816 (Pa. Super. Ct. 2008) (aunt and uncle of dependent child granted standing to participate in dependency proceedings but not to bring a separate custody action in family court).

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<sup>FN</sup> The Pennsylvania Supreme Court’s decision in ***In re[:]*** ***G.C.***, which affirmed the Superior Court’s finding that foster parents lack standing in custody cases, was split evenly between the six justices hearing the case. The Superior Court’s decision was affirmed because of a lack of a majority. To the extent that the plurality opinion affirming the Superior Court’s decision is not binding precedent, we find the reasoning and underlying caselaw on which it is based to be sound, persuasive, and dispositive in this case.

Trial Court Opinion, 4/20/12, at 8-11 (footnote in original).

Here, the trial court rejected the argument that Appellants had not acted as foster parents during much of the time that they cared for Child.

As the trial court stated,

the particular terminology used to describe their relationship does not change the fact that [Appellants] have not alleged in their Amended Complaint that they assumed any parental status or performed any parental duties prior to CYF's involvement in late 2007 and early 2008. [Appellants] admit that CYF had protective legal and physical custody of [Child] for the entirety of her stay with them. We do not doubt that [Appellants] care very deeply for [Child] and have provided her with excellent care over the past several years. However, given the fact that Appellants' *legal* relationship with [Child] has always been controlled by and subservient to that of CYF, we are constrained to conclude that [Appellants] lack standing to bring their Amended Complaint for Custody.

There is no dispute that [Child] was placed with [Appellants] with the consent of both [] Mother and CYF. At the time of the placement, [Child] had already been adjudicated dependent for approximately six months. Although at times it appears that CYF included a concurrent permanency goal of "adoption" in [Child's] permanency plan, it is clear that the primary goal has always been [Child's] reunification with [] Mother. Thus, despite the fact that [] Mother consented to [Child's] placement with Appellants in July 2008, there are no allegations or [any] evidence of record suggesting that [] Mother intended to place [Child] permanently with [Appellants] and relinquish her parental rights.

There are also no allegations or [any evidence of record] indicating that [Appellants] performed any parental duties or assumed any parental status with regard to [Child] prior to July 2008. Although [Appellants] describe at length and in great detail the care that they have provided for [Child], we cannot base our decision on our approval or adulation of [Appellants'] care for their niece. Our decision is based exclusively on [Appellants'] legal status. We find that the undisputed facts of this case indicate that, whether labeled as "foster parents," "kinship caretaker," or "pre-adoptive parents," [Appellants] have always been and remain third parties to these proceedings and do not have *in loco parentis* standing to sue for custody of [Child].

Trial Court Opinion, 4/20/12, at 11-13 (footnote omitted) (emphasis in original).

After a careful review of the record, the statutory law, and the controlling cases, as aptly discussed by the trial court, we discern no abuse of discretion on the part of the trial court in ruling that Appellants lacked *in loco parentis* standing to seek custody of Child. We further discern no abuse of the trial court's discretion in sustaining the preliminary objections, and dismissing Appellants' Amended Custody Complaint.

Next, in denying Appellants' Petition to Intervene in and to stay the dependency proceedings, the trial court relied on the decision in *In re J.S.* In *In re J.S.*, the trial court granted permission to intervene in dependency proceedings to the paternal aunt and uncle of the subject child, who were the child's foster parents. The Allegheny County Office of Children Youth and Families filed an appeal, along with the child's mother. *In re J.S.*, 980 A.2d at 120. This Court reversed the trial court's permission for intervention, finding a lack of standing. *Id.* at 122.

The grounds for standing in dependency proceedings are narrow.<sup>[FN]</sup> "Only a 'party' has the right to participate, to be heard on his or her own behalf, to introduce evidence, and/or to cross-examine witnesses." [*In re L.C. II*, 900 A.2d at 381.] In *In re L.C., II*, this Court identified the only three classes of individuals that are conferred standing to participate, introduce evidence, be heard on their own behalf, and cross-examine witnesses during a dependency hearing: "(1) the parents of the juvenile whose dependency status is at issue; (2) the legal custodian of the juvenile whose dependency status is at issue, or (3) the person whose care and control of the juvenile is in question." We further explained, "These categories logically

stem from the fact . . . the court has the authority to remove a [dependent] child from the custody of his or her parents or legal custodian, [and] [d]ue process requires that the child's legal caregiver . . . be able to participate and present argument in the dependency proceedings." *Id.*[]

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<sup>FN</sup> As CYF accurately observes, Foster Parents did not stand *in loco parentis* because their status as foster parents was subordinate to CYF, who maintained legal custody and was primarily responsible for the child's care and custody. *In re N.S.*, 845 A.2d 884, 887 (Pa.Super. 2004); *In re Adoption of Crystal D.R.*, 480 A.2d 1146, 1151-52 (Pa.Super. 1984).

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Herein, Foster Parents do not fall within any of the foregoing definitions of a "party". They are not [the child's] parents. They are not the child's legal custodian — it is beyond argument that CYF has maintained legal custody of [the child] since the adjudication of dependency .... Finally, Foster Parents are not the people whose care and control is in question; herein, it is Mother and Father whose care is being challenged. Accordingly, Foster Parents do not have standing in the underlying dependency proceeding. *See In re L.C., II, supra; See also In re F.B.*, 927 A.2d 268, 273 (Pa. Super. 2007) (holding, "Since appellees do not fit in any of these three categories, they did not have standing. . . . [T]hey are not entitled to . . . participate, to be heard on his or her own behalf, to introduce evidence, and/or to cross-examine witnesses.").

*In re J.S.*, 980 A.2d at 122 (footnote in original).

In this case, the trial court correctly recognized that

Appellants have no independent right to intervene as foster parents, and to the extent that their Petition to Intervene is based on a claim of *in loco parentis* status, we concluded that Appellants did not stand *in loco parentis* to [Child] specifically because their custodial rights have always been subordinate to those of CYF.

Trial Court Opinion, 7/23/12, at 7.

After a careful review of the record in this matter and consideration of the controlling statutory and case law, we cannot conclude that the trial court abused its discretion. As this Court emphasized in *In re J.S.*, there is a narrow class of persons entitled to participate in dependency proceedings. We are constrained to conclude that the trial court did not abuse its discretion in determining that Appellants, as foster parents, did not meet the requirements to intervene in the dependency proceedings.

Accordingly, we affirm the Order sustaining the preliminary objections to, and dismissing, Appellants' Amended Custody Complaint, and the Orders denying Appellants' Petition to intervene and Motion to stay the dependency proceedings, and returning Child to Mother.

Orders affirmed.