

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN THE INTEREST OF: J.L., A MINOR

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: E.L., FATHER

Appellant

No. 84 MDA 2014

Appeal from the Order of December 16, 2013
In the Court of Common Pleas of Tioga County
Civil Division at No.: 64 DP 2012

BEFORE: DONOHUE, J., WECHT, J., and STRASSBURGER, J.*

JUDGMENT ORDER BY WECHT, J.:

FILED JULY 03, 2014

E.L. ("Father") appeals the December 16, 2013 order that denied his request to reinstate visitation with his daughter, J.L. ("Child"), who was born in December 2011. The trial court has asserted that it erred in denying Father's request. Accordingly, we remand the case.

Child was found to be a dependent child on November 7, 2012, because Child was without proper care. On December 10, 2012, the Tioga County Department of Human Services ("DHS") filed a petition to suspend visitation between Father and Child after Father was arrested for aggravated assault when he attacked and seriously injured L.P. ("Mother"). The trial court temporarily granted the petition pending a hearing.

* Retired Senior Judge assigned to the Superior Court.

On January 24, 2013, DHS supervisor, Lynell Cromley, testified regarding the facts surrounding Father's attack on Mother. Notes of Testimony ("N.T."), 1/24/2013, at 7-8. Father admitted to committing the assault. **Id.** at 30. At the close of the hearing, the trial court continued its order suspending visitation between Father and Child.

Father filed petitions to reinstate visitation on July 17, 2013, and November 25, 2013. The trial court denied both petitions on July 18, 2013 and December 16, 2013, respectively. On January 7, 2014, after the second denial of his request, Father filed a notice of appeal and a statement of errors complained of on appeal. On January 31, 2014, the trial court filed an opinion in which it stated:

Upon review of the transcripts prepared from hearings dating back to the initial emergency hearing wherein visitation with [F]ather was initially suspended, the court can find no justification for denying his request to reinstate the visits.

* * *

Based on the current state of the record, the court does not feel that [F]ather poses a grave threat to [Child]. Since the current goal is reunification, that is the standard by which we must approach Father's request.

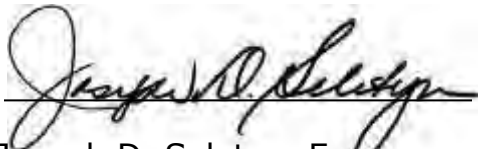
Trial Court Opinion ("T.C.O."), 1/31/2014, at 1, 2 (citing ***In the Int. of C.B. and A.L.***, 861 A.2d 287 (Pa. Super. 2004)). Child's guardian *ad litem* concurred with this assessment. Guardian *ad litem*'s Brief at 1-2.

The trial court requested that this Court remand the case to allow the court to update the record and to make a new determination. T.C.O. at 2.

We agree with the trial court's statement of the applicable standard. Upon our review of the record, we agree with the trial court that the evidence did not support a finding that Father constituted a grave threat to the Child. **See *In re C.J.***, 729 A.2d 89, 96 (Pa. Super. 1999) (affirming visits with incarcerated parents when no on the record findings that the parents were a grave threat or parents "unfit to see" the children). Therefore, we remand the case so that the trial court may reconsider Father's motion.

Case remanded. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 7/3/2014