

**[J-118-1999]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**WESTERN DISTRICT**

RANDALL A. CHARLES,	:	No. 11 W.D. Appeal Docket 1999
	:	
Appellee	:	Appeal from the Order of Superior Court
	:	entered on March 13, 1998 at 501PGH97
	:	affirming the Order entered on February
v.	:	26, 1997 by the Court of Common Pleas
	:	of Allegheny County, Family Division at
	:	No. FD95-10556
RICHARD STEHLIK,	:	
	:	
Appellant	:	
	:	ARGUED: September 14, 1999
	:	

**CONCURRING OPINION**

**MR. CHIEF JUSTICE FLAHERTY**

**DECIDED: JANUARY 19, 2000**

I concur in the affirmance of the award of custody to appellee, but write separately to express that I favor the approach to custody determinations set forth in my concurring opinion in Ellerbe v. Hooks, 490 Pa. 363, 371-74, 416 A.2d 512, 515-17 (1980), which was followed by a plurality of this court in Rowles v. Rowles, 542 Pa. 443, 668 A.2d 126 (1995). That approach discards the presumption that a parent has a prima facie right to custody against third parties and substitutes a standard requiring that custody be determined by a preponderance of the evidence, weighing parenthood as a strong factor for consideration. Id. at 447, 668 A.2d at 128.