

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

IN THE INTEREST OF

**A.H.,
A MINOR CHILD**

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**No. 5979
ORPHANS COURT DIVISION**

**OPINION IN SUPPORT OF ORDER IN COMPLIANCE WITH RULE 1925(a)
OF THE RULES OF APPELLATE PROCEDURE**

The Appellant appeals this Court's Opinion and Order dated December 17, 2007, granting Lycoming Children and Youth Services' (Petitioner) Petition for Involuntary Termination of Parental Rights of W.H. (Appellant) and S.H. as to A.H. (Child). The Court notes that a Notice of Appeal was timely filed on January 11, 2008, and that a Concise Statement of Matters Complained of on Appeal was then filed on January 31, 2008. The Appellant raises two issues on appeal; the Court will address each issue *seriatim*.

Whether the Court erred in concluding that the non-accidental trauma was caused by W.H.

Appellant argues in his concise statement of matters complained of on appeal, that there was not clear and convincing evidence that he was the perpetrator of the non-accidental trauma to Child.¹ On January 25, 2007, Child was in the custody and control of Appellant and S.H., Child's mother. That morning, Children & Youth case worker Melissa Young², made a home visit and noted that at the time Child was fine. Shortly before 2 p.m., Child was taken to the

¹ The Court references the Honorable Kenneth D. Brown's May 24, 2007 Opinion in support of its March 15, 2007 Order, where the Court found Child dependent. In that Opinion Judge Brown found no basis for S.H.'s argument that there was not clear and convincing evidence for the Court to find that she was in fact the perpetrator of the non-accidental trauma to Child. This case is still on appeal to the Superior Court.

² Melissa Young has worked with the family since 2005; however, the Agency has been working with the parents since 1999 when E.D. was born.

Emergency Room by ambulance and was unresponsive. At the hospital, Child was seen by Dr. Martin, who opined that Child had bleeding on the brain that occurred at two different times, one that day and another at an earlier time and that the injuries were of a non-accidental nature. While the Court cannot say whether Appellant or S.H. caused Child's injuries, at best Appellant would have had awareness of S.H. mishandling the child. Further, Appellant was uncooperative in assisting Petitioners, Doctors, and Law Enforcement Officials with the investigation in determining the cause of Child's injuries. The Court believes the best case scenario for Appellant is that he is more willing to protect his spouse than his child.³

Whether the Court's findings were not supported by the evidence as to Appellant's ability to properly care for Child and maintain a stable and suitable residence

The Court's rationale for the aforementioned challenged findings can be found in its December 17, 2007 Opinion and Order and the Court will therefore rely on that Opinion for purposes of the instant appeal.

³ See Judge Brown's May 24, 2007 Opinion in support of its March 15, 2007 Order, where the Court found Child dependent.

Conclusion

As none of the Appellant's contentions appear to have merit, it is respectfully suggested that the Court's Opinion and Order of December 17, 2007 be affirmed.

By the Court,

Dated: _____

Nancy L. Butts, Judge

xc: John Gummo, Esq.
Robin Buzas, Esq.
Charles F. Greevy, III, Esq.
Matthew Golden, Esq. (GAL)
Children & Youth
Hon. Nancy L. Butts
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