

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

MARIEL ADAMS,	:	
Appellant	:	No. FC-20-20486
	:	
v.	:	
	:	Superior Court No. 1191MDA2020
JUSTIN HASSELMAN,	:	
Appellee	:	APPEAL

Date: October _____, 2020

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

Mariel Adams (hereinafter referred to as "Appellant") files this appeal following the issuance of the Trial Court's Orders docketed on September 1, 2020¹ and September 11, 2020.² The Notice of Appeal was timely filed on September 10, 2020. Appellant timely filed her concise statement on October 1, 2020, which contained seven (7) matters complained of on appeal. Pursuant to the Trial Court's request to indicate which Order gives rise to each matter complained of on appeal, Appellant filed an amended concise statement on October 6, 2020. The only matter complained of arising out of the September 11, 2020 Order is matter number seven, which states: "The court erred in failing to conduct a competency hearing properly to find the child competent."

¹ The September 1, 2020 Order was issued by the Honorable Joy Reynolds McCoy who has issued a separate Opinion on this date addressing the matters complained of on appeal that arise out of the September 1, 2020 Order.

² In her Notice of Appeal, Appellant states that she is appealing the Trial Court's Order of September 3, 2020. However, an Order of Court docketed on September 3, 2020 does not exist. Based upon her statement of matters complained of, the Trial Court believes that the Appellant intended to appeal the Order docketed on September 11, 2020, which was entered following a competency interview held on September 3, 2020 with the minor child. The Trial Court is of the opinion that this appeal should be dismissed because Appellant has appealed a non-existing Court Order and the appeal was filed prior to the Order being docketed on September 11, 2020. If the Superior Court is inclined to reach a decision on the merits, the September 11, 2020 Order should be affirmed for the reasons set forth herein.

Prior to commencing the hearing in this matter, the Trial Court interviewed the minor child in the presence of the parties' legal counsel. The interview was conducted on the record before a Court Reporter. The Trial Court spoke with the child for several minutes regarding various topics. The minor child was very outgoing and talkative. In speaking with the minor child, who is four years old, it was clear to the Trial Court that the child lacked maturity to answer questions accurately and truthfully and that the child could be easily influenced to provide desired answers. For example, the following exchanges took place between the Trial Judge and the child:

Q: Do you remember being at the courthouse the other day?

A: Yeah. We're going to another house where me and Riley can sleep.

Q: Do you remember having to talk to another Judge that day?

A: Yeah.

Q: And do you remember what you told her that day?

A: Yeah.

Q: Can you tell me that? If you don't remember it's okay. You don't have to remember everything.

A: I don't know.

Q: You don't know? Okay. Do you know what type of things you were talking about with her?

A: Yeah.

At this point, Counsel for Plaintiff interjected and explained that the child never spoke with a judge at any other point. *See September 3, 2020 transcript at page 9, lines 4-25.*

Q: Do you understand what court is?

A: Yea.

Q: What is court?

A: I don't know.

See September 3, 2020 transcript at page 12, lines 3-6.

In addition to the above examples, the subject of conversation with the minor child constantly changed as the minor child would abruptly change topics. While this is

common and expected with a four-year-old, it reflected the immaturity of the minor child and the unreliability of her testimony. The Trial Court's September 11, 2020 Order should be affirmed and Plaintiff's appeal denied. In addition to the above, the September 11, 2020 Opinion and the hearing transcript of September 3, 2020 are considered the Opinion of the Court in support of said Order. The Opinion and transcript provide a comprehensive analysis of the Trial Court's decisions and findings of fact.

BY THE COURT,

Ryan M. Tira, Judge

RMT/ads

cc: Superior Court (Original +1)
Erica Trimble (Court Reporter)
Mary Kilgus, Esquire
Michael Morrone, Esquire
Hon. Joy Reynolds McCoy
Gary Weber, Esquire