

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,  
PENNSYLVANIA**

<b>LISA RITTER,</b> <b>Plaintiff</b>	:	<b>FC-18-21330</b>
	:	
<b>vs.</b>	:	<b>CIVIL ACTION-LAW</b>
	:	
<b>DESIREE HELM,</b> <b>Defendant</b>	:	
	:	
<b>vs.</b>	:	<b>Petition to Intervene</b>
	:	
<b>STEVE and LOIS BENNETT,</b> <b>Interveners</b>	:	
	:	

**OPINION**

**AND NOW**, this 25<sup>th</sup> day of January, 2021, this matter is before the Court on a Petition to Intervene filed by Steve and Lois Bennett who are the paternal grandparents of two of the children involved in this case, L.B. and B.B. They have no blood relation to the third child involved in this case, X.H. Plaintiff, Lisa Ritter, is the maternal grandmother of all three children. Defendant, Desiree Helm, is the mother of all three children. Tyrone O’Connell is father to X.H. and Levi Bennett is father to L.B. and B.B.

A hearing on the Petition to Intervene was held on December 1, 2020 at which point all above-captioned parties were present and had no objection to the intervention. However, because Petitioners are not biologically related to X.H., the Court questioned the Petitioners legal authority to allow them to intervene. Counsel for the Petitioners was given seven (7) days to provide the Court with additional legal authority which would allow them to intervene in a custody matter relating to a child to whom they are not biologically related. As of the date of this Opinion, the

Court has not received any additional information or authority from the Petitioners' Counsel and will therefore rule on the matter. There are two statutes that address standing for physical and legal custody of a child – 23 Pa.C.S.A. §§ 5324 and 5325. As the Petition does not indicate under which section it was filed, the Court will analyze the facts of this case under both as it relates to X.H. only. Section 5325 states as follow:

“In addition to situations set forth in section 5324 (relating to standing for any form of physical custody or legal custody), grandparents and great-grandparents may file an action under this chapter for partial physical custody or supervised physical custody in the following situations . . . .” 23 Pa.C.S.A. § 5325. This section is clearly inapplicable as Petitioners are not the biological grandparents or great-grandparents of X.H.

Section 5324 states as follows, in relevant part:

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

- (1) A parent of the child.
- (2) A person who stands in loco parentis to the child.
- (3) A grandparent of the child who is not in loco parentis to the child . . .
- (4) Subject to paragraph (5), an individual who establishes by clear and convincing evidence all of the following:
  - (i) The individual has assumed or is willing to assume responsibility for the child.
  - (ii) The individual has a sustained, substantial and sincere interest in the welfare of the child. In determining whether the individual meets the requirements of this subparagraph, the court may consider, among other factors, the nature, quality, extent and length of the involvement by the individual in the child's life.
  - (iii) Neither parent has any form of care and control of the child.**

23 Pa.C.S.A. 5324 (emphasis added).

Again, subsections (1) and (3) are inapplicable because Petitioners are not the biological parents or grandparents of X.H. Petitioners have made no allegations, either in their Petition or by testimony, that they stand in loco parentis to X.H. and therefore, subsection (2) is likewise inapplicable. This leaves subsection (4) as the only other option under which Petitioners could intervene. Pursuant to the current Court Order dated November 29, 2018, X.H.'s mother and father both have shared legal custody of X.H. Additionally, mother has physical custody of X.H. as she and Ms. Ritter can agree and father has physical custody of X.H. every other Sunday and as he and Ms. Ritter can agree. It is clear, therefore, that both parents have at least some form of care and control of X.H. Subsection (4)(iii) thereby fails. Because the Court finds that both parents have care and control of X.H., it will not analyze the remaining requirements of subsection (4). The Court must deny the Petition to Intervene as to X.H. as the Petitioners do not have standing to do so.

**ORDER**

**AND NOW**, this 22<sup>nd</sup> day of **January, 2021**, for the reasons set forth above, the Petition to Intervene is **GRANTED** as to L.B. and B.B. but is **DENIED** as to X.H. The Prothonotary shall ensure the caption in this matter is reflected accordingly. This matter shall be scheduled for a custody conference in the Lycoming County Family Court.

By the Court,

\_\_\_\_\_  
Ryan M. Tira, Judge

RMT/ads

cc: Michael Morrone, Esquire  
Lisa Ritter – 87 Peterman Lane, Hughesville, PA 17737  
Desiree Helm – 1513 Fox Hollow Road, Williamsport, PA 17701  
Tyrone O’Connell – 2173 Mosser Ave., Williamsport, PA 17701  
Levi Bennett – Lycoming County Prison  
April McDonald, CST  
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