SWAN Legal Services Initiative

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PENNSYLVANIA SUPREME COURT

In re: Adoption of L.B.M., a Minor[1]

Date of Decision: March 28, 2017
Corrected Opinion: May 23, 2017
Cite: 84 MAP 2016

Holding:
§2313(a) of the Adoption Act mandates the appointment of counsel to represent the child in contested involuntary termination of parental rights proceedings; the appointment of a guardian ad litem (GAL), even when the GAL is an attorney, does not satisfy this requirement.

Facts and Procedural Posture:
L.B.M. and A.D.M. were adjudicated dependent and placed in the legal and physical custody of Franklin County Children and Youth Services (CYS) as a result of Mother's unstable living conditions and Father's incarceration. During the life of the dependency case, Mother was repeatedly incarcerated as a result of numerous probation violations; consequently, CYS filed a petition seeking termination of Mother's parental rights. Following a hearing, the trial court declined to terminate Mother's parental rights, finding that despite Mother's repeated periods of incarceration and her recent release from prison, Mother had obtained both housing and employment, had attended almost all of her available visits with the children, and had engaged and bonded with them. Additionally, the trial court expressed "grave concerns" about the effect that severance of the relationship would have on A.D.M., who was "extremely close" with and "desperately want[ed] to be with his Mother". Following the hearing, Mother made significant progress, and the children were scheduled to be reunited with her; however, while reunification was pending, CYS opened an investigation as to allegations of possible physical abuse following discovery of bruises on L.B.M. after they returned from a weekend visit with Mother. The investigation was unable to reveal the cause of the bruising. Reunification was subsequently delayed in order to permit A.D.M. to finish the school year. During this period, Mother was reincarcerated as a result of a housing-related probation violation; during her reincarceration, Mother participated in visitation with the children until her visiting privileges were suspended due to a drug test yielding positive results for suboxone. The GAL then filed a second petition seeking involuntary termination of Mother's parental rights, citing both Mother's reincarceration and the revocation of Mother's visiting privileges. In response, Mother filed a Motion citing §2313(a) of the Adoption Act, requesting appointment of counsel for the children, noting that the GAL's position "may be adverse to the [children's] position" and averring the necessity of independent counsel. The trial court denied Mother's motion, citing the second sentence of §2313(a)—which gives the court the discretion to appoint counsel or a GAL to represent any child who has not reached 18 years of age and is subject to any other proceeding under this part whenever it is in the best interest of the child—and noting that because the GAL had an established relationship with the children, the GAL's representation would best suit the children's interests.

[1] The original opinion in this case was previously featured in the March 2017 Legal Report.

(**In re: Adoption of L.B.M., a Minor**, cont'd.)

Following a hearing on the GAL's petition, the trial court terminated Mother's parental rights. Mother appealed the order to the Superior Court, arguing that the trial court erred in denying Mother's motion for the appointment of counsel and abused its discretion in terminating her parental rights. The Superior Court affirmed the trial court's refusal to appoint counsel in addition to the dependency GAL. Mother sought review to the Pennsylvania Supreme Court; the Supreme Court reversed.

Issues:

1. Whether continued representation of a child by a dependency GAL through a contested involuntary termination of parental rights proceeding satisfies §2313(a) of the Adoption Act and allows the trial court to dispense with the appointment of counsel to represent the child; and
2. Whether the dependency GAL can continue to serve as counsel for the child in termination of parental rights proceedings.

Rationale:

In cases involving children, the law acknowledges two separate and distinct categories of interest: a child's legal interest, which is synonymous with the child's preferred outcome, and a child's best interest, which the trial court must determine. *See* In re: Adoption of S.P., 47 A.3d 817, 820 (Pa. 2012). "Legal interest" denotes that an attorney is to express the child's wishes to the court regardless of whether the attorney agrees with the child's recommendation; "[b]est interest denotes that a guardian ad litem is to express what the guardian ad litem believes is best for the child's care, protection, safety, and wholesome physical and mental development regardless of whether the child agrees." Pa.R.J.P. 1154 (comment). While the best-interest determination belongs to the court, statutes and rules guide the court and channel its discretion. In dependency cases, where the trial court is required to appoint a guardian ad litem (GAL), the Juvenile Act mandates that the GAL must be an attorney and, as such, is authorized by statute to represent both the child's legal interest and the child's best interest by making recommendations to the court regarding the child's placement and needs, as well as advising the court of the child's wishes (if ascertainable). 42 Pa.C.S.A. §6311(a), §6311(b). §6311(b)(9) also explicitly provides that any difference between the child's wishes and the GAL's recommendations "shall not be considered a conflict of interest". 42 Pa.C.S.A. §6311(b)(9). The Adoption Act, however, prescribes a different scheme for the representation of children in termination of parental rights and adoption cases and demonstrates the General Assembly's recognition of the difference between counsel and a GAL. §2313(a) states, in pertinent part,

> The court shall appoint counsel to represent the child in an involuntary termination proceeding when the proceeding is being contested by one or both of the parents. The court may appoint counsel or a guardian ad litem to represent any child who has not reached the age of 18 years and is subject to any other proceeding under this part whenever it is in the best interests of the child. 23 Pa.C.S.A. §2313(a).

The Supreme Court noted the General Assembly's use of the word "shall" in §2313(a), in relation to the appointment of counsel to represent the child in involuntary termination proceedings, and contrasted that with the use of the term "may" in the second sentence of §2313(a), in connection with the appointment of counsel or a guardian ad litem subject to "any other proceeding".

Having determined that the trial court must appoint counsel to represent the child's legal interest in a contested involuntary termination of parental rights proceeding, the Supreme Court then turned to the determination as to whether or not the dependency GAL could serve in that role.

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(**In re: Adoption of L.B.M., a Minor**, cont'd.)

Four members of the Court held that where a conflict of interest does not exist, the GAL attorney is sufficient to protect the child's interests and serve as counsel (concurring -Saylor and Todd; dissenting opinions -Baer and Mundy). Three members of the Court disagreed and noted that while there were strong arguments in favor of allowing the GAL into service as the child's counsel for the termination proceedings (including, but not limited to the GAL's familiarity with the case, and avoiding additional financial costs and delays for new counsel's preparation for representation), they were outweighed by the potential to breed confusion for the child as well as other parties and the increased risk of confusion posed by dual representation with conflicting obligations. They concluded that the dependency GAL should not be employed as the child's counsel in termination of parental rights proceedings.

*The corrected Concurring and Dissenting opinions changed references made to what had previously been referred to as the "Majority Opinion" to remove the word "Majority," and/or replace the word "Majority" with the word "Plurality" and/or the word "Main." The corrected main/plurality opinion, issued by Justice Wecht, (joined by Justices Donohue and Dougherty) moved the following sentence in the original opinion from the end of Part II(B) (Justices Wecht, Donohue, Dougherty) to Part II(C) in the corrected opinion (Justices Wecht, Donohue, Dougherty, Chief Justice Saylor, Todd):

"To the extent that *K.M.* does not align with the majority portion of today's opinion, that decision was erroneous and is overruled."

PENNSYLVANIA SUPERIOR COURT

In re: Adoption of A.C., a Minor

Date of Decision: May 12, 2017
Cite: 1567 WDA 2016

Holding:
A pending criminal charge does not inevitably lead to a conviction and extended incapacity; therefore, without further evidence of parental incapacity or inability to remedy said incapacity, the mere existence of pending criminal charges is unlikely to meet the "clear and convincing" standard of §2511, and is insufficient to support a finding that a parent has an irremediable incapacity which would warrant termination of parental rights under §2511(a)(2).

Facts and Procedural Posture:

In July of 2014, A.C. tested positive for amphetamines and marijuana at birth due to Mother's drug use. Upon her release from the hospital, A.C. was voluntarily placed in kinship care with Mother's cousin ("Foster Mother"). Father was not listed on the birth certificate, nor did he sign an acknowledgment of paternity; Father was, however, adjudicated to be A.C.'s Father following a Domestic Relations proceeding in which he failed to attend. Neither parent attended the September 2014 adjudication hearing however it is unclear as to whether Father received notice of the proceeding. During the life of the Dependency case, in December of 2014 (approximately two months after A.C. was adjudicated dependent), Father was incarcerated in the Beaver County jail on criminal charges. During his incarceration, visits occurred at the Beaver County jail for one hour once every other week. Father claimed that he was not initially offered these visits by Beaver County Children and Youth Services ("CYS"), but that as a result of his request and efforts to obtain visitation, Father was able to maintain regular biweekly contact with A.C., as well as sent letters to and requested photographs from Foster Mother. In September of 2015 (approximately one year after the adjudication of dependency) CYS filed a Petition seeking Involuntary Termination of Parental Rights as to both Mother and Father. In November of 2015, the trial court issued an order involuntarily terminating Mother's parental rights following a hearing that Mother failed to attend. The hearing to terminate Father's parental rights was continued several times pending the outcome of the criminal trial on the charges for which Father remained incarcerated.

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(**In re: Adoption of A.C., a Minor**, cont'd.)

In March of 2016, counsel for Father filed a Motion requesting Dismissal of CYS's Petition seeking Involuntary Termination of Parental Rights on the grounds that it failed to comply with the Adoption Act in its failure to set forth specific grounds and facts alleged as the basis for seeking termination; in response, CYS filed a new petition seeking involuntary termination of parental rights as to Father under §2511(a)(1) and (2) and (b). During the same time period, Father was acquitted of the criminal charges for which he had been incarcerated during the life of the dependency case. Father was still awaiting disposition of pending criminal charges in Allegheny County. Following his release, Father complied with all of the CYS directives in the family service plan ("FSP"); he obtained a drug and alcohol evaluation (which indicated that no treatment was necessary), obtained the requisite parenting evaluation (which recommended no additional services), and obtained adequate housing with his Mother and his other children (of which he exercised shared custodial rights). Father also attended and participated in the bonding assessment (as was directed by the FSP); results indicated that the child is well bonded with Foster Mother but that a bond was forming with Father as well. Following a hearing held in September of 2016, the trial court denied CYS's Petition seeking Involuntary Termination of Father's Parental Rights; A.C.'s Guardian *ad litem* (GAL) appealed.

Issue(s):

1. Whether the trial court erred in denying termination of Father's parental rights under 23 Pa.C.S. §2511(a)(1) after determining CYS failed to meet its burden when Father was incarcerated for ten months prior to the filing of the petition for termination and failed to address whether Father exhibited reasonable firmness in maintaining his relationship with the minor child and used all available resources to preserve the parental relationship;
2. Whether the trial court erred in denying termination of Father's parental rights under 23 Pa.C.S. §2511(a)(2) where Father was facing additional felony criminal charges and possible future incarceration;
3. Whether the trial court erred in failing to find that the needs and welfare of the minor child would be best served by termination in its failure to consider the detrimental effect on the child of severing the bond between the Foster Mother and the minor child?

Rationale:

The Superior Court began its analysis related to the GAL's arguments that the trial court erred in determining that CYS had not met its burden for termination by looking to the statutory language of §2511(a)(1) and noting that "[A] court may terminate parental rights under §2511(a)(1) where the parent demonstrates a settled purpose to relinquish parental claim to a child **or** fails to perform parental duties for at least the six months prior to the filing of the termination petition." In re: Z.P., 994 A.2d 1108, 1117 (Pa. Super. 2010)(emphasis in original). Additionally, the court should consider the entire background of the case and not simply "mechanically apply the six-month statutory provision," however, "[w]ith respect to any petition filed pursuant to subsection (a)(1) … the court shall not consider any efforts by the parent to remedy the conditions described therein which are initiated subsequent to the giving of notice of the filing of petition." Id. *citing* In re: B., N.M., 856 A.2d 847, 855 (Pa. Super. 2004); 23 Pa.C.S. §2511(b); *see* In re: D.W., 856 A.2d 1231, 1235 (Pa. Super. 2004) (holding that the post-petition evidentiary restriction "applies to the entire termination analysis"). With regard to the interaction between incarceration and termination, our Pennsylvania Supreme Court has previously held that under §2511(a)(1),

> [A] parent's absence and/or failure to support due to incarceration is not conclusive on the issue of abandonment. Nevertheless, we are not willing to completely toll a parent's responsibilities during his or her incarceration. Rather, we must inquire whether the parent has utilized those resources at his or her command while in prison in continuing a close relationship with the child. Where the parent does not exercise reasonable firmness "in declining to yield to obstacles," his other rights may be forfeited. In re: Adoption of McCray, 331 A.2d 652, 655 (Pa. 1975).

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(**In re: Adoption of A.C., a Minor**, cont'd.)

In making its determination in this case, the trial court recognized that prior to his incarceration, Father "did very little to be active" in the child's life from the time of the child's birth until his incarceration in December of 2014, however, once Father was incarcerated, he maintained biweekly visitation and contact in between visitation with the child and Foster Mother, and since his release, had complied with all of the CYS directives in his FSP, and visits frequently with the child, who calls him "Daddy." The Superior Court discerned no abuse of discretion in the trial court's decision declining to terminate Father's parental rights under §2511(a)(1), as under the totality of the circumstances, CYS had not demonstrated that termination was supported by clear and convincing evidence. Additionally, the Superior Court concluded that the trial court's consideration of evidence beyond the original filing date of September 2015 was not an abuse of discretion because CYS filed an amended petition in April of 2016, and that the bulk of this evidence concerned Father's ongoing visits with A.C., which was evidence of continuing conduct initiated before the filing of the original petition.

The Superior Court then turned to the GAL's argument that as Father had been incarcerated for much of the child's life, the possibility of conviction and subsequent incarceration on Father's pending criminal charges created an "incapacity" that "cannot or will not be remedied by the parent" sufficient to support termination under §2511(a)(2). The Superior Court noted that little guidance has been offered by Pennsylvania courts on whether and how trial court's should consider the effect of possible incarceration based on criminal charges pending at the time the petition for termination is filed. The Pennsylvania Supreme Court has instructed that incarceration,

> [w]hile not a litmus test for termination, can be determinative of the question of whether a parent is incapable of providing "essential parental care, control or subsistence," and the length of remaining confinement can be considered highly relevant to whether "the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent," sufficient to provide grounds for termination pursuant to §2511(a)(2). *See* In re: E.A.P., 944 A.2d 79, 85 (Pa. Super. 2008)(*holding* termination under §2511(a)(2) supported by Mother's repeated incarcerations and failure to be present for the child, which caused child to be without essential care and subsistence for most of her life and which cannot be remedied despite Mother's compliance with carious prison programs).

Under the facts of the present case, while Father had been incarcerated on prior occasions, Father was not incarcerated when CYS filed the amended petition seeking involuntary termination of his parental rights or when the trial court denied the petition. Father had been released from custody in March of 2016 when a jury acquitted him of the charges for which he had been incarcerated, and therefore, Father's release remedied his incapacity. Additionally, with regard to the pending criminal charges, the Superior Court warned that "courts should be very cautious before employing speculation about the outcome of pending charges when analyzing a petition for termination under §2511(a)(2)," because as Father's acquittal had demonstrated, a criminal charge does not inevitably lead to a conviction and extended capacity, and the mere existence of pending criminal charges, without more, is unlikely to constitute testimony "so clear, direct, weighty and convincing as to enable the trier of fact to come to a clear conviction, without hesitance…" as is required by the "clear and convincing" evidentiary standard. The Superior Court noted that in this case, the trial court was aware of and did consider Father's pending charges and the possibility of future incapacity, and properly concluded that "[I]f Father is convicted on those charges, and has to spend time in jail, CYS may be able to show that the incapacity will not be remedied by the parent and termination may be appropriate at that time."

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(**In re: Adoption of A.C., a Minor**, cont'd.)

The Superior Court last addressed the GAL's argument that the trial court erred in failing to consider the evidence presented as to the bond between Foster Mother and the child, as well as the effect that severance of that bond may have on the child. The Court reiterated that a trial court only "engage[s] in the second part of the analysis pursuant to §2511(b) … if the court determines that the parent's conduct warrants termination of his or her parental rights," and as the trial court did not abuse its discretion in determining that CYS had failed to sustain its burden in proving termination under §2511(a), it appropriately denied CYS's petition without considering the evidence presented a to §2511(b). In re: L.M., 923 A.2d 505, 511 (Pa. Super. 2007). The Order denying involuntary termination of Father's parental rights was affirmed.

In re: M.Z.T.M.W., a Minor

Date of Decision: May 17, 2017
Cite: 1904 WDA 2016

Holding:
Where Mother failed to include an issue related to termination under §2511(b) in her Concise Statements Complained of on Appeal, conceded the sufficiency of evidence as to termination under §2511(a)(2) and argued only as to §2511(b) in her supporting brief, all issues were deemed waived for failure to preserve.

Facts:
Allegheny County Children, Youth and Families ("CYF") had a lengthy history of involvement with Mother and her eight total children dating back to 1999. M.Z.T.M.W. and M.Z.T.W. ("minor children") were Mother's seventh and eighth children; Mother's parental rights with respect to her other six children had previously been terminated. The minor children in this case came into care immediately upon discharge from the hospital due to Mother's mental health issues, parental incapacity, drug and alcohol concerns and intellectual disabilities; the children were adjudicated dependent and the court issued a finding of aggravated circumstances on the same day. CYF filed a petition seeking involuntary termination of Mother's parental rights under §2511(a)(2), (5), and (b). Following a hearing, the trial court issued an order terminating Mother's parental rights. Mother appealed. In her 1925(b) statement, Mother solely argued error under §2511(a)(2) and (5). In her subsequent "statement of questions involved" portion of her brief in support, Mother again raised the sole issue of error under §2511(a)(2) and (5); however, in the summary of the argument and argument portions of her brief, Mother conceded that CYF had presented sufficient evidence to terminate her parental rights under §2511(a)(2), and argued error only in the court's determinations under §2511(b).

Issue:
Whether the [orphans'] court abused its discretion and/or erred as a matter of law in concluding that [CYF] met its burden of proving by clear and convincing evidence grounds for the involuntary termination of Mother's parental rights under §2511(a)(2) and (5)?

Rationale:

The Superior Court began by noting that they will not review a claim unless it is developed in the argument section of an appellant's brief, and supported by citations to relevant authority. In re: W.H., 25 A.3d 330, 339 (Pa. Super. 2011) *quoting* In re: A.C., 991 A.2d 884, 897 (Pa. Super. 2010) ("[W]here an appellate brief fails to provide any discussion of a claim with citation to relevant authority or fails to develop the issue in any other meaningful fashion capable of review, that claim is waived.") The Court additionally recognized that issues not included in an appellant's statement of questions involved and concise statement of errors complained of on appeal are waived. Krebs v. United Refining Co. of Pa., 893 A.2d 776, 797 (Pa. Super. 2006) ("We will not ordinarily consider any issue if it has not been set forth in or suggested by an appellate brief's statement of questions involved, and any issue not raised in a statement of matters complained of on appeal is deemed waived.")
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(**In re: M.Z.T.M.W., a Minor**, cont'd.)

In this case, Mother waived any challenge under §2511(a)(2) and (5) by failing to develop an argument in her brief and by conceding that CYF presented clear and convincing evidence to terminate her parental rights pursuant to §2511(a)(2). Moreover, Mother's failure to include a challenge to § 2511(b) in her statement of questions involved and concise statements resulted in waiver of that issue as well. The Superior Court concluded that as Mother had failed to preserve any of her claims for review, the decrees terminating Mother's parental rights were affirmed.

PENNSYLVANIA COMMONWEALTH COURT

S.A., a minor, by her father, H.O. v. Pittsburgh Public School District

Date of Decision: May 1, 2017
Cite: 1590 C.D. 2016

Holding:
A sharpened pencil does not constitute a "weapon" as defined by the Pittsburgh Area School District's Code of Student Conduct; a pencil is not remotely comparable to the items expressly enumerated as a "weapon", namely, a "knife, cutting instrument, cutting tool, explosive, mace, nunchaku, firearm, shotgun, [or] rifle," and therefore, does not fit within the prohibitory class of objects.

Facts:
S.A., a 14-year-old student tenth grade student at Barack Obama International Academy in Pittsburgh, was charged with violating the Pittsburgh Area School District's Code of Student conduct following an incident where she stabbed a fellow student multiple times in the neck with a sharpened pencil. At the formal disciplinary hearing, S.A. claimed that she was instigated by the student, and that he touched her breasts and buttocks during a scuffle prior to her retaliation. Following the hearing, the hearing examiner issued a recommendation concluding that S.A. had violated the relevant rule related to possession of a weapon in the Code of Conduct and expelling her for a period of one year. The Board voted to expel S.A., and rejected her claim for less severe discipline. S.A., by and through her Father, filed an appeal to the trial court. The trial court reversed the decision of the Board, and reasoned that the term "weapon" as used in the Code of Conduct, and the specific items listed therein was not so broad as to encompass a pencil, and would not have afforded notice to S.A. that possession of a pencil placed her at risk of expulsion. Pittsburgh Public School District appealed, arguing that the language of the Rule was misapplied by the trial court, and that a sharpened pencil, when used to stab and injure another student in the neck, qualifies as an implement capable of inflicting serious bodily injury. In response, S.A. argued that the Rule governs the possession of certain objects; neither the intent nor the manner in which the object is used is relevant.

Issue:
Whether a sharpened pencil constitutes a "weapon" as defined by the Pittsburgh Area School District's Code of Student Conduct, thereby justifying a student's expulsion for a period of one year?

Rationale:
Rule #6 of the District's Code of Student Conduct, modeled after and required by subsections 1317.2 (a), (b), and (g) of the Public School Code of 1949. The relevant part of Rule #6 states,

> 6. WEAPONS AND DANGEROUS INSTRUMENTS:
>
> A Student shall not possess, handle or transmit a weapon while on any school property, while at any school-sponsored or approved activity or while walking or being transported in any manner to or from a school or school-sponsored activity.
>
> The term "weapon" as used in this Code of Student Conduct shall include but shall not be limited to any knife, cutting instrument, cutting tool, explosive, mace, nunchaku, firearm, shotgun, rifle, and any other tool, instrument or implement capable of inflicting serious bodily injury … P.S. §13-1317.2(a)-(b).

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(**S.A., a minor, by her father, H.O. v. Pittsburgh Public School District**, cont'd.)

In Picone v. Bangor Area School District, the Court noted that,

> The [General Assembly] then included the term "capable" in the catch-all language "any other tool, instrument or implement *capable* of inflicting serious bodily injury," suggesting the [General Assembly's] intent to include not only "other" items *designed* to inflict serious bodily injury, but also "other" items, that *even when use as intended*, can inflict serious bodily injury. Picone v. Bangor Area School District, 936 A.2d 556, 562 (Pa. Cmwlth. 2007) (emphasis in original) (*holding* am air pellet gun, although not one of the expressly enumerated items in the statute, was nonetheless a weapon because it was an instrument "capable of inflicting serious injury to an eye).

In Picone, the Court disavowed the student's argument that surrounding circumstances and his state-of-mind should be considered when determining if an object is a "weapon". In this case, the Commonwealth Court reasoned that similar to Picone, when deciding whether an object is a weapon, it is the object alone and in and of itself, and not the conduct of the person using the object, that determines whether an object is a weapon. The Court noted that contrary reasoning would, in theory, render almost any item or object possessing the capability of inflicting serious bodily injury a "weapon," despite their original inherent and functional purpose.

The Court also looked to the ancient maxims of *'noscitur a sociis'* (the meaning of words may be indicated or controlled by those words with which they are associated; words are known by the company they keep) and *esjudem generis* ('of the same kind or class') (codified in §1903(b) of the Statutory Construction Act, "General words shall be construed to take their meanings and be restricted by preceding particular words"). 1 Pa.C.S. §1903(b). The Commonwealth Court noted that *esjudem generis* "carries the day here and dictates the result," noting that the phrase "any other," as contained within Rule #6, is "situated between specific and general clauses, which strongly advises that … construction is warranted to limit the meaning of the general and broad words located in the second clause to the nature and kind of the words in the first clause." In using this doctrine, the Court reasoned that regardless of whether a pencil with a point is capable of inflicting serious bodily injury, a pencil is not a "tool," "instrument," or "implement" for purposes of Rule #6 as it is not characteristic of and does not belong to the class of enumerated weapons. Therefore, although S.A.'s conduct was "reprehensible," the trial court was correct in concluding that S.A. did not possess a weapon, as that term is defined by Rule #6.

AMENDMENTS TO THE PENNSYLVANIA RULES OF JUVENILE COURT PROCEDURE

On May 16, 2017, the Pennsylvania Supreme Court issued an Order amending Rule 1320 (Dependency: Application to File a Private Petition) and 1321 (Dependency: Hearing on Application for Private Petition) of the Pennsylvania Rules of Juvenile Court Procedure. These amendments will be effective July 1, 2017.

On May 16, 2017, the Pennsylvania Supreme Court issued an Order amending Rules 240 (Delinquency: Detention of Juvenile), 242 (Delinquency: Detention Hearings) and Rule 1242 (Dependency: Shelter Care Hearing) of the Pennsylvania Rules of Juvenile Court Procedure to preclude the waiver of detention and/or Shelter Care hearings absent stipulation/agreement by the parties subject to court review and acceptance at the time of the hearing. These amendments will be effective July 1, 2017.

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AMENDMENTS TO THE PENNSYLVANIA RULES OF JUVENILE COURT PROCEDURE

On May 11, 2017, the Pennsylvania Supreme Court issued an Order amending Rules 512 (Delinquency: Dispositional Hearings), 610 (Dispositional and Commitment Review) and 612 (Delinquency: Modification or Revocation of Probation) to require an on-the-record colloquy regarding the juvenile's post-dispositional rights, which include (but are not limited to) the availability of review of out-of-home placement pursuant to Pa.R.A.P. 1770. These amendments will be effective October 1, 2017.