

**[J-106-2010] [OAJC: Baer, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

IN RE: ADOPTION OF L.J.B.	: No. 42 MAP 2010
	:
	: Appeal from the Order of the Superior
	: Court entered on March 10, 2010 at No.
	: 1097 MDA 2009 which affirmed the
APPEAL OF: C.L.F., NATURAL	: Decree of the Court of Common Pleas of
MOTHER,	: Clinton County, Orphan’s Court Division,
	: entered on May 27, 2009 at No. 21-2008
	:
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	:
	: SUBMITTED: October 15, 2010

CONCURRING AND DISSENTING OPINION

MADAME JUSTICE TODD

DECIDED: April 29, 2011

This Court has designated the instant case as a “fast-track” appeal, reflecting this Court’s philosophy that matters involving children should be resolved as expeditiously as possible and without undue delay. Here, the record suggests that Mother has not seen L.J.B. in almost five years, and a remand for further proceedings, as proposed by the Opinion Announcing the Judgment of the Court (“OAJC”), undoubtedly will prolong even further the uncertainty which has plagued both Mother and L.J.B. Accordingly, while I agree with the OAJC that, where there is evidence to suggest that an action has become moot, the preferred approach generally is to resolve that question by remand or otherwise before addressing the merits, in my view, a remand is inappropriate in the instant case.

Based on my exhaustive review of the record in the instant case, I join the views of Justice Orié Melvin and Justice Eakin, as set forth in their respective Dissenting Opinions, that there is substantial and sufficient evidence to support Mother’s claim that her efforts to

maintain contact with L.J.B. were continually frustrated by Father. Moreover, I agree with Justice Orié Melvin that the Superior Court erred in failing to properly consider such evidence, focusing solely on Mother's failure to seek court intervention, rather than the totality of the circumstances, as required. Given this record, and in light of our self-imposed charge to resolve matters involving children expeditiously, I see no reason to further delay resolution of this matter by remanding to the trial court for determination of mootness, and would simply reverse the order of the Superior Court.

I do, however, join in the OAJC's determination that, based on the peculiar facts and procedural history of this matter, any further proceedings with regard to L.J.B. should be presided over by a new jurist from a different judicial district, as appointed by the Administrative Office of Pennsylvania Courts.