

C.G.,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
v.	:	
	:	
J.H.	:	No. 1733 MDA 2016

Appeal from the Order entered September 22, 2016
in the Court of Common Pleas of Centre County,
Civil Division, No(s): 2015-4710

BEFORE: MOULTON, SOLANO and MUSMANNO, JJ.

CONCURRING OPINION BY MUSMANNO, J.: **FILED OCTOBER 11, 2017**

While the Majority sets forth a comprehensive analysis of the issue of standing in this case, I write separately to convey my concerns regarding the trial court’s evidentiary hearing in this matter. From the trial court’s Opinion, it is apparent that the court applied a custody “best interests” standard, rather than considering the factors relevant to a standing challenge asserted through preliminary objections.

I additionally note that, while the Majority properly relied on our Supreme Court’s decision in **T.B. v. L.R.M.**, 786 A.2d 913, 916 (Pa. 2001), it may be time to re-visit the issue of the appropriate standard and presumptions to be applied in determining standing where a child is born during a same-sex relationship. I question whether treating C.G. as a “third party” is appropriate where, as here, the parties lived together following a

commitment ceremony;¹ Child was conceived during the parties' relationship; and the parties subsequently lived together with Child for over five years.

¹ At that time, same-sex marriage was not recognized under Florida law. If C.G. were male, standing would not be an issue because C.G. would have been considered to be a "parent."