

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

K.L.T.	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
M.I.G.R., AND T.B.	:	
	:	
	:	No. 539 EDA 2026
APPEAL OF: T.B.	:	
	:	

Appeal from the Order Entered January 21, 2026
In the Court of Common Pleas of Northampton County Civil Division at
No(s): C-48-CV-2021-01862

BEFORE: LAZARUS, P.J., MURRAY, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY LAZARUS, P.J.:

FILED SEPTEMBER 9, 2026

T.B. (Father) appeals *pro se* from the order, entered in the Court of Common Pleas of Northampton County, granting M.I.G.R. (Mother) sole legal custody of J.B. (born 7/11) and J.G. (born 8/13) (collectively, Children), granting paternal grandmother, K.L.T. (Grandmother),¹ limited visitation with Children up to two times per year following her successful completion of virtual family relationship reunification therapy, and granting Father no custodial rights while imprisoned, but permitting him to file a modification petition “when his circumstances change.” Custody Order, 1/21/26, at ¶ 2. After careful review, we affirm.

* Retired Senior Judge assigned to the Superior Court.

¹ Grandmother has also filed an appeal from the custody order at 341 EDA 2026.

Father is currently incarcerated at SCI-Mahoney in Frackville, Schuylkill County, after entering a *nolo contendere* plea in February 2025 to terroristic threats. **See** 18 Pa.C.S.A. § 2706(a)(1). The conviction was based upon allegations contained in a PFA petition filed by Mother in August 2021. **See** N.T. Pre-Trial Motions Hearing, 8/28/25, at 25-28. Father was sentenced to 12-24 months' incarceration; the sentence was ordered to run concurrent with a five-to-ten year prison sentence on a persons not to possess firearm conviction. **See** 18 Pa.C.S.A. § 6105(a)(1). Father's minimum release date is September 26, 2026. **See Commonwealth v. Barr**, CP-48-CR-0000061-2022 (Northampton County).

Mother moved to Jacksonville, Florida, in February 2023, and was residing in a third-floor three-bedroom, two-bathroom apartment in Sanford, Florida,² at the time of the instant custody trial. Children, who have special needs,³ have been living with Mother in Florida, with Children's half-siblings

² Mother testified that she relocated from Jacksonville to Sanford, Florida, in May 2025. **See** N.T. Custody Trial, 10/30/25, at 47.

³ J.B. has been diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) and also has mental health issues that resulted in two suicide attempts while he was in Grandmother's care. J.G. has been diagnosed with ADHD and autism. Both J.B. and J.G. suffer from a congenital blood disease that manifests as a G6P enzyme deficiency and can cause extreme fatigue. **See** Trial Court Opinion, 1/21/26, at 23.

and maternal grandmother, since 2024.⁴ Grandmother resides in Northampton County.

In 2014, Grandmother had partial physical custody of Children *via* “grandparents’ rights.”⁵ Custody Opinion, 1/21/26, at 2. From 2014 until

⁴ Both Lehigh and Northampton Children and Youth Services (CYS) have had extensive involvement with this family due to, *inter alia*, Mother alleging Children were sexually abused while in Grandmother’s and Father’s care, Grandmother alleging Children were abused while in Mother’s care, and Children being left in Grandmother’s care with an unattended firearm present. There have been no indicated or founded abuse reports regarding Mother or Grandmother. **See** Exhibit Court 4 (email from Lehigh County CYC paralegal noting five valid GPS matters in Lehigh and Northampton Counties concerning Mother, Grandmother and Father, all listed as alleged perpetrators as to J.B. for, *inter alia*, “Child Sexually Acting Out,” “Substance Use by Child,” and “Lack of Caregiver and Conduct by Parent Placing Child at Risk”); **id.** (letter to Grandmother from Lehigh County CYC caseworker indicating report concerning alleged child abuse by third party regarding J.G. is “unfounded”); **id.** (letter from Lehigh Valley CYC caseworker informing Father that alleged child abuse by Mother regarding J.B. is “unfounded”).

⁵ The Custody Act provides two separate provisions for grandparents seeking custody of their grandchildren. Pursuant to section 5324, a grandparent can seek “any form of physical or legal custody” if they “stand *in loco parentis* to the child.” 23 Pa.C.S.A. § 5324(2). Also, a grandparent who does not stand *in loco parentis* to the child may file an action for any form of physical custody or legal custody as follows:

(i) [where his or her] relationship with the child began either with the consent of a parent of the child or under a court order;

(ii) [where he or she] assumes or is willing to assume responsibility for the child; and

(iii) when one of the following conditions is met:

(A) the child has been determined to be a dependent child under 42 Pa.C.S. Ch. 63 (relating to juvenile matters);

(Footnote Continued Next Page)

2019, primary physical custody of Children was with either Mother or Father.⁶ In 2019, Grandmother sought primary physical custody of Children in Lehigh County. After a custody hearing held on December 31, 2019, the Honorable Douglas G. Reichley entered an order granting Grandmother's petition, giving her primary physical and sole legal custody of Children. The order also granted Mother partial supervised physical custody and permitted Father to see Children while in Grandmother's custody. In April 2021, a custody conference was held before a master; the master modified the 2019 custody order by appointing a guardian *ad litem* for Children.

On May 22, 2021, the custody matter was transferred after the court found that "Northampton County is the more appropriate forum pursuant to Pa.R.C.P. 1915.2(c)."⁷ Order, 3/2/21. On August 31, 2021, Mother filed the

(B) the child is substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity; or

(C) the child has, for a period of at least 12 consecutive months, resided with the grandparent, excluding brief temporary absences of the child from the home, and is removed from the home by the parents, in which case the action must be filed within six months after the removal of the child from the home.

Id. at § 5324(3)(i-iii).

⁶ On January 10, 2018, Father's then-wife, T.B., was granted intervenor status in the custody matter. On February 20, 2019, the court found T.B. to be *in loco parentis*, granted T.B. sole legal and physical custody of Children, and gave her the discretion to permit Mother or Father visitation with Children.

⁷ Under Rule 1915.2(c):

(Footnote Continued Next Page)

aforementioned PFA petition against Father alleging that Father had shot at Mother and Children and “almost killed [them]” at Mother’s uncle’s house. **See** PFA Petition, 8/31/21. That same day, the court entered a temporary PFA order against Father on behalf of Mother and Children. **See** Temporary PFA Order, 8/31/21, at ¶ 13.⁸ The PFA order superseded any prior child custody order and awarded Mother temporary legal and physical custody of Children. **See id.** at ¶ 5. The order stated that until the final PFA hearing, Father “shall have no partial physical custody/visitation rights” with regard to Children. **Id.** Finally, the order “remain[ed] in effect until August 31, 2022[,], or until otherwise modified or terminated by this court after notice and hearing.” **Id.** at ¶ 12. Father was subsequently arrested and detained on

The court at any time may transfer an action to the appropriate court of any other county where the action could originally have been brought or could be brought if it determines that it is an inconvenient forum under the circumstances and the court of another county is the more appropriate forum. It shall be the duty of the prothonotary of the court in which the action is pending to forward to the prothonotary of the county to which the action is transferred certified copies of the docket entries, process, pleadings[,], and other papers filed in the action. The costs and fees of the petition for transfer and the removal of the record shall be paid by the petitioner in the first instance[,], to be taxable as costs in the case.

Pa.R.C.P. 1915.2(c).

⁸ Grandmother and Father contend that Mother’s friend attempted to shoot Father. **See** Custody Opinion, 1/21/26, at 10. At the final PFA hearing, Grandmother and Father offered video evidence to prove that Father was not the shooter. However, the court found the evidence “inconclusive” and far from “obvious.” **Id.** at 11.

criminal charges arising out of the events forming the basis for the PFA petition.

On February 28, 2024, Grandmother filed a petition to modify custody, seeking primary physical and sole legal custody of Children. In March 2025, the Honorable Katherine B.L. Platt was assigned to hear the custody matter due to a full bench recusal by the judges of the Northampton County Court of Common Pleas.⁹

On February 25, 2025, Father entered a *nolo contendere* plea to terroristic threats based on the allegations contained in Mother's PFA petition. **See** N.T. Pre-Trial Motions Hearing, 8/28/25, at 25-28. **See Commonwealth v. Barr**, CP-48-CR-0000061-2022 (Northampton County). Father was incarcerated the entire time the PFA petition was pending and at the time of the instant custody trial; he had not spoken to or seen Children during his incarceration.

On August 28, 2025, the court held a pre-trial hearing where the court ruled on various outstanding motions and also made a determination that the PFA matter against Father would be tried and adjudicated before the custody trial. On August 29, 2025, the trial court entered an order stating, *inter alia*, that no evidence regarding incidents prior to Judge Reichley's December 31, 2019 custody order will be admissible at the custody hearing. **Id.** at 2.

⁹ The record does not reveal why the full bench recused from the matter.

On October 29, 2025, Judge Platt held the final PFA hearing and, ultimately, found that Father had perpetrated abuse against Children by “placing them in fear of imminent bodily injury,” 23 Pa.C.S.A. § 6102(a), and granted Mother primary physical custody of Children. **See** PFA Final Order, 9/29/25, at ¶ 5. The court’s order granted Mother a one-year final PFA order that remains in effect until October 2026.¹⁰ **Id.** at ¶ 13. The order also states that the custody provisions in paragraph 5 of the order are “temporary[, that e]ither party may initiate custody proceedings pursuant to the custody statute[, and that a]ny valid custody order entered after the final [PFA] order supersedes the custody provisions of this order.” **Id.** at ¶5.

The following day, Judge Platt held a custody trial at which Mother was physically present and Father participated remotely *via* video link from prison. Grandmother did not attend the custody hearing, having emailed the court on the morning of the October 30th to tell it that one of Mother’s friends had intimidated her the day before at the PFA hearing and, as a result, “she did not feel safe and would not be appearing in [c]ourt.” Custody Opinion, 1/21/26, at 5 n.2

Children, who were 12 and 14 years old at the time of the custody trial, expressed their preferences *in camera* to the trial judge, telling her that they did not want to have any contact with either Grandmother or Father. **See**

¹⁰ The court granted Grandmother intervenor status for the PFA hearing, despite the fact that she was not a party to the PFA proceedings. Grandmother was permitted to present evidence on Father’s behalf, as well as her own, at the PFA hearing.

N.T. Custody Trial, 10/30/25, at 144, 146, 161-63, 170, 176. While the court found the Children's "preference[s] w[ere] stated articulately and adamantly," it only gave those preferences "some" weight. Custody Opinion, 1/21/26, at 25.

Ultimately, on January 21, 2026, the court entered a final order awarding Mother sole legal and primary physical custody of Children and granting Father no custodial rights while imprisoned, but noting that "when [Father's] circumstances change, he is not precluded from filing a [p]etition for [m]odification in any jurisdiction where th[e custody] order is docketed or registered." Custody Order, 1/21/26, at ¶ 2.¹¹

Father filed a timely notice of appeal and contemporaneous concise statement of errors complained of on appeal. **See** Pa.R.A.P. 1925(a)(2)(i). Father presents the following issues for our consideration:

- (1) Whether the trial court erred and abused its discretion by denying [Father] meaningful appellate review where [Father] was deprived of access to the certified record.
- (2) Whether the trial court abused its discretion by failing to properly consider and apply the custody factors set forth in 23 Pa.C.S.[A.] § 5328.
- (3) Whether the trial court erred by relying on a temporary [PFA o]rder without conducting an independent evidentiary analysis.
- (4) Whether the trial court abused its discretion by relying on an incomplete and one-sided record.

¹¹ The order also grants Grandmother limited visitation with Children up to two times per year following her successful completion of virtual family relationship reunification therapy with court-appointed therapist, Numra Yaqub, PhD, LMHC, LPC.

- (5) Whether the trial court improperly treated [Father's] incarceration as a determinative factor in its custody determination.

Appellant's Brief, at 7-8.

In reviewing a custody order, our scope is of the broadest type and our standard is abuse of discretion. We must accept findings of the trial court that are supported by competent evidence of record, as our role does not include making independent factual determinations. In addition, with regard to issues of credibility and weight of the evidence, we must defer to the presiding trial judge[,] who viewed and assessed the witnesses first-hand. However, we are not bound by the trial court's deductions or inferences from its factual findings. Ultimately, the test is whether the trial court's conclusions are unreasonable as shown by the evidence of record. We may reject the conclusions of the trial court only if they involve an error of law, or are unreasonable in light of the sustainable findings of the trial court.

D.K. v. S.K., 102 A.3d 467, 478 (Pa. Super. 2014) (citation omitted).

Moreover,

[t]he abuse of discretion standard is highly deferential to the trial court. The evidentiary record of a custody appeal will often support a conclusion different than the one reached by the lower court. In a custody appeal, the[mere] fact that a trial court could have found for the appellant is not a sufficient basis to reverse the court's decision. Deference must be given to the trial court, who viewed the parties, the witnesses, and the evidence firsthand. **D.K.**, 102 A.3d at 478. It is not the role of this Court to "re-find facts, re-weigh evidence, and re-assess credibility." **Wilson v. Smyers**, 284 A.3d 509, 520 (Pa. Super. 2022) (citation omitted). Our role is simply to review the record in light of the trial court's findings. We must accept the findings of the trial court, so long as those findings are supported by competent evidence of record. **Wilson**, 284 A.3d at 515. Deferential though it is, this standard of review permits this Court to make our own inferences and deductions. "Ultimately, the test is whether the trial court's conclusions are unreasonable as shown by the evidence of record." **D.K.**, [102 A.3d] at 478.

Carrero v. Lopez, 300 A.3d 494, 501 (Pa. Super. 2023).

In his first issue on appeal, Father contends that he was denied access to certain sealed documents in the certified record, including exhibits and transcripts, as well as the trial court's opinion. **See** Appellant's Brief, at 15. As a result, he asserts, he has been unable to "challeng[e] a decision without knowledge of the evidence upon which it was based." **Id.** at 21.

In response to an "Application for Relief" filed by Father, our Court entered an order directing the Superior Court Prothonotary to transmit to Father a copy of the trial court's Rule 1925(b) opinion and the certified trial court docket from the certified record filed in this Court on April 8, 2026. **See** Per Curiam Order, 4/17/26. Although the trial court confirmed that it mailed the parties a copy of the trial judge's opinion, this Court also sent Father a copy of the trial court's opinion and the certified docket. Our Court did not receive anything indicating that these documents were undeliverable to Father in prison.

Moreover, Father has included in his reproduced record on appeal a copy of the trial court's Rule 1925(a) opinion. **See** Appellant's Reproduced Record, at 55-91. Finally, because our Court sent Father those documents he requested and specifically designated in his application for relief, and he has not proven otherwise, we find that he has not been "deprived [] of meaningful appellate review." Appellant's Brief, at 15.

In his next issue on appeal, Father asserts that the trial court abused its discretion by “failing to comply with 23 Pa.C.S.A. § 5328.”¹² Appellant’s Brief, at 22. Other than generally stating that the court failed to make specific findings and analyze evidence under each of the 5328(a) factors, Father makes no substantive arguments. Accordingly, we find the issue waived. **See** Pa.R.A.P. 2119 (failure to develop adequate argument in appellate brief may result in waiver of claim).¹³

¹² While Judge Platt’s custody opinion does not use the same subsection numbers listed in § 5328(a), she, in fact, uses the correct version of the statute. **Cf. Curtis v. Curtis**, --- A.3d ---, (Pa. Super. 2026 filed July 7, 2026) (where trial court misapplied law by using outdated version of statute instead of amended custody factors, this Court vacated custody order and remanded for new trial applying correct statutory factors). Additionally, Judge Platt’s opinion does not specifically have a separate header for factor 5328(a)(15); however, she does discuss and consider the fact that maternal grandmother “has mental health issues” and that, although she lives in the home with Children both day and night and performs caregiving functions for them, she recognizes that it “is not an ideal child-care arrangement.” Custody Opinion, 1/21/26, at 20; **see also id.** at 16 (court acknowledging Children are “very fond of their [maternal] grandmother, despite her mental health challenges”); **id.** at 8 (noting maternal grandmother, with her “mental health challenges . . . is very much a party of their family picture”). Moreover, there was testimony elicited at trial regarding maternal grandmother, her mental and physical health, and the duties she is tasked with as it relates to Children. **See** N.T. Custody Trial, 10/30/25, at 74, 95-97, 99-100, 134-35, 143, 156-58, 165, 172-73. Under these circumstances, we find that Judge Platt has appropriately considered the enumerated subsection 5328(a) factors and based her custody decision on those considerations. **See A.V. v. S.T.**, 87 A.3d 818, 823 (Pa. Super. 2014) (citations and quotation marks omitted).

¹³ Even if we did not find this issue waived, we would find no merit to Father’s issue that the court did not do a proper analysis of the custody factors under subsection 5328(a). **See** Custody Opinion, 1/21/26, at 7-28 (court discussing each custody factor and explaining in what favor findings weigh against or for each party).

In his next issue, Father argues that the trial court improperly relied upon the temporary PFA order “as a custodial baseline.” Appellant’s Brief, at 24. As the trial judge notes her Rule 1925(a) opinion:

I do not condone or even comprehend the process that permitted a “[t]emporary” [PFA o]rder to be in effect for over four (4) years. But[,] despite my misgivings as to how that delay affected the parties, that was the *status quo* at the time of the custody trial. To have disregarded the circumstances in place at the time the parties were before me would be revisionist history, and not conducive to discerning the present day best interests of the [C]hildren.

Trial Court Opinion, 4/14/26, at 8.¹⁴ While the almost-four-year delay in finally deciding the PFA matter is no doubt unusual, the court dealt with the procedural anomaly in an even-handed and balanced way and always kept the best interests of Children in mind.

Contrary to Father’s contention, the court did not “rely” on the temporary PFA order in coming to its final custody determination. Rather, the court recognized that the safety of the Children would be of paramount importance in its custody determination and concluded that a final hearing on the merits of Mother’s PFA petition against Father should necessarily occur

¹⁴ The trial court determined that despite the nearly-four-year delay, Mother was still entitled to a final PFA hearing, **see id.** at 33, based on the fact that it was not unusual to continue PFA orders on a rolling basis while criminal charges are pending, **id.** at 31, where Father would not have had contact with Children during that time period based on his convictions, **id.** at 32, and where the issue of abuse bore directly on a custody determination. **Id.** at 33. **But see Mills v. Dunham**, --- A.3d --- (Pa. Super. filed July 30, 2026) (affirming trial court’s denial of continuance request in PFA matter and rejecting *per se* rule that pending criminal charges will always outweigh other circumstances that PFA court must consider in ruling on motion for continuance of final PFA hearing).

prior to the custody trial in order to fully analyze the custody factor under subsection 5328(a)(2)—“[t]he present and past abuse committed by a party or member of the party’s household, which may include past or current protection from abuse or sexual violence protection orders where there has been a finding of abuse.” 23 Pa.C.S.A. § 5328(a)(2). We find the court’s decision reasonable, especially in light of the fact that the custody statute specifically requires a court give “substantial weighted consideration” to the factors that deal with safety of the child and any violent or assaultive behavior committed by a party. **See id.** at § 5328(a).

To the extent that Father is asking this court to “independently reassess” the underlying allegations in Mother’s PFA petition, Appellant’s Brief, at 26, that it not a proper function of an appellate court’s review of a custody order. **See** Trial Court Opinion, 4/14/26, at 27 (Father improperly challenging findings made in connection with final PFA order which was not appealed). If Father wanted to challenge the final PFA order, he needed to appeal that decision. Thus, we find it waived.

In his next issue, Father asserts that the certified record is incomplete, defective, and unreliable. **See** Appellant’s Brief, at 29. Specifically, he claims that the record does not include transcripts from a September 2020 trial and an October 2025 hearing, and that “a transcript dated February 1, 2023, [is] not reflected in the docket.” **Id.** Father fails to explain what occurred at these hearings and trials and how the omission of these transcripts prejudiced him

or bore on the court's ultimate custody determination. Thus, we find this issue waived. **See** Pa.R.A.P. 2119.

Father next argues that the trial court abused its discretion by relying on his incarceration and treating it as a "determinative factor," rather than conducting an individualized analysis under subsection 5328 in coming to its custody decision. Appellant's Brief, at 31. Again, Father fails to cite to anywhere in the record where the court relied upon his incarcerated status as the primary reason for its custody order. In fact, the court carefully considered each of the subsection 5328 factors in its analysis and rendered a reasonable custodial arrangement. **See** Custody Opinion, 1/21/26, at 7-28 (court discussing each custody factor and explaining in whose favor findings weigh against or for); **see also** Trial Court Opinion, 4/14/26, at 31 (trial judge noting "review of the record demonstrates [judge's] effort to be respectful to [Father and Grandmother] and give them as much latitude as possible given their status as self-represented litigants").

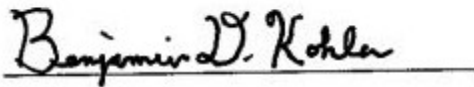
Finally, Father alleges that the trial court abused its discretion by rendering findings that were based on an "incomplete and one-sided record." Appellant's Brief, at 32. Father claims that the "trial court's findings were derived from an evidentiary record that was fundamentally flawed . . . [and that t]he court relied heavily upon a single text message and the uncorroborated testimony of [Mother]." **Id.**

In his Rule 1925(b) statement, Father does not mention anything about a text message that the trial court relied upon "as the central basis for its

findings.” ***Id.*** at 34. Father does allege in his Rule 1925(b) statement that the court relied upon an incomplete and one-sided factual narrative concerning the August 30, 2021[] incident,” Rule 1925(b) Statement, 2/13/26, at 2. However, again, he is referring to the alleged shooting incident Mother averred in the PFA petition. As we stated earlier, if Father wished to challenge the basis for the PFA, he should have appealed from that final order. ***See Cheema v. Cheema***, --- A.3d --- (Pa. Super. 2026 filed Aug. 5, 2026) (unpublished memorandum decision) (appeal dismissed where Father attempted to appeal separate PFA order, but current appeal was only from custody order).¹⁵

Order affirmed.

Judgment Entered.

A handwritten signature in black ink that reads "Benjamin D. Kohler". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 9/9/2026

¹⁵ Pa.R.A.P. 126(b) (non-precedential decisions filed after May 1, 2019, may be cited for persuasive value).