

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

IN RE: TERMINATION OF PARENTAL : IN THE SUPERIOR COURT OF
RIGHTS TO I.R.M., A MINOR : PENNSYLVANIA

APPEAL OF: S.K.M, MOTHER

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: No. 1309 EDA 2026

Appeal from the Decree Entered April 20, 2026
In the Court of Common Pleas of Lehigh County Orphans' Court at No(s):
A2023-0070

IN RE: TERMINATION OF PARENTAL : IN THE SUPERIOR COURT OF
RIGHTS TO E.T.M.M., A MINOR : PENNSYLVANIA

APPEAL OF: S.K.M, MOTHER

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: No. 1310 EDA 2026

Appeal from the Decree Entered April 20, 2026
In the Court of Common Pleas of Lehigh County Orphans' Court at No(s):
A2023-0071

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

MEMORANDUM BY FORD ELLIOTT, P.J.E.: **FILED SEPTEMBER 9, 2026**

S.K.M. ("Mother") appeals from the decrees involuntarily terminating her parental rights to her children, I.R.M. (born 7/2011) and E.T.M.M. (born 7/2019) (together, "Children"). Mother's counsel, Kathryn A. Williams, Esquire, has filed a petition to withdraw pursuant to ***Anders v. California***,

* Retired Senior Judge assigned to the Superior Court.

386 U.S. 738 (1967), and **Commonwealth v. McClendon**, 434 A.2d 1185 (Pa. 1981).¹ We vacate the termination decrees, deny counsel's application to withdraw, and remand with instructions.

Due to our disposition, a lengthy recitation of the facts is unnecessary. Briefly, after a hearing, the Court of Common Pleas of Lehigh County Orphans' Court terminated Mother's parental rights to Children on April 20, 2026. Mother timely appealed and this Court *sua sponte* consolidated Mother's appeals. **See** Pa.R.A.P. 513.

Prior to reaching the merits of the appeals, as a preliminary matter, we must first address Children's rights to counsel in the termination proceedings. **See *In re Adoption of K.M.G.***, 240 A.3d 1218, 1224, 1235-36 (Pa. 2020) (holding that appellate courts must review *sua sponte* whether trial court appointed counsel to represent child's legal interests in contested termination proceedings and, in event that same attorney was appointed to represent child's best interests and legal interests, whether trial court determined there was no conflict between these interests prior to making appointment); **see also *In re Adoption of A.C.M.***, 333 A.3d 704, 707-08 (Pa. Super. 2025).

Here, the court appointed Brian Eves, Esquire, to serve as E.T.M.M.'s legal counsel and David Crosson, Esquire, to serve as Children's guardian *ad*

¹ **See *In re V.E.***, 611 A.2d 1267, 1275 (Pa. Super. 1992) (extending ***Anders*** briefing requirements to termination-of-parental-rights appeals involving parents represented by court-appointed counsel); ***In re X.J.***, 105 A.3d 1, 3 (Pa. Super. 2014) (same).

litem and as I.R.M.'s legal counsel. Thus, I.R.M. had one attorney serving in a dual capacity at the termination hearing, whereas E.T.M.M. had two attorneys. The certified record reflects that, in emails sent between counsel and the court's staff prior to the hearing, Attorney Crosson indicated that Children expressed opinions about the outcome of the termination case sufficient for him to recommend that I.R.M. could proceed represented by one attorney whereas E.T.M.M. required two separate attorneys at the termination hearing. Nevertheless, the court never independently determined on the record that there existed no conflict such that Attorney Crosson could represent I.R.M. in both capacities; the court never expressly found whether I.R.M.'s preferences conflicted with I.R.M.'s best interests.² **See A.C.M.**, 333 A.3d at 708 (holding that courts may not delegate to counsel responsibility to determine whether conflict in dual representation exists). That structural error requires that we remand for further proceedings, necessitating an express finding by the Orphans' Court as to whether such a conflict existed.³

² We have previously emphasized that trial courts and the parties should clearly identify where such findings were made in the trial court. **See A.C.M.**, 333 A.3d at 709 n.3 ("[I]nformation regarding compliance with **K.M.G.** should be prominently featured in the trial court's opinion and the briefs on appeal. This Court should not, as it had to in the instant matter, page through a lengthy record hoping to find evidence of compliance.").

³ Although the court appointed separate attorneys to serve as E.T.M.M.'s legal counsel and guardian *ad litem*, we hesitate to reach the merits of this appeal as to Mother's parental rights to E.T.M.M., alone, as we emphasize the interrelated nature of Children's termination cases and leave open the possibility—without reaching the merits ourselves—that the Orphans' Court (*Footnote Continued Next Page*)

See, e.g., Interest of R.D., 2026 WL 1757004, 1661-62 EDA 2025 (Pa. Super., filed June 18, 2026).

Upon remittal of the record on remand, consistent with **K.M.G., A.C.M.**, and 23 Pa.C.S. § 2313, we direct the Orphans' Court to hold a hearing and determine, within thirty days of remand of the certified record,⁴ whether there exists a conflict between I.R.M.'s best interests and legal interests that would prevent Attorney Crosson from representing both interests simultaneously. **See K.M.G.**, 240 A.3d at 1234-36; **A.C.M.**, 333 A.3d at 709. If the Orphans' Court determines that no conflict exists between I.R.M.'s best interests and legal interests, then it shall re-enter its decrees terminating Mother's parental rights to Children, which decrees will constitute final appealable orders. **See A.C.M.**, 333 A.3d at 709. If the Orphans' Court determines that there is a conflict between I.R.M.'s best interests and legal interests, then it shall appoint separate legal counsel for I.R.M. and conduct a new termination hearing as to both Children. **See id.**

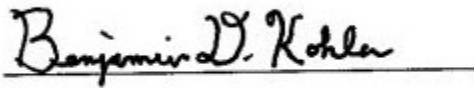
orders a new hearing and thereafter reaches a different result upon remand. **See** N.T. Hearing, 3/9/26, at 64-65 (Lehigh County Children and Youth Case Manager Andrea Hayes testifying that Children have always been placed together throughout life of case); **see also Pilon v. Pilon**, 492 A.2d 59, 60 (Pa. Super. 1985) ("It has always been a strong policy in our law that in the absence of compelling reasons to the contrary, siblings should be raised together whenever possible.").

⁴ As this case is designated a Children's Fast Track case, we emphasize that the court should act swiftly on remand.

Based on our disposition, we deny Attorney Williams's application to withdraw from Mother's representation.

Decrees vacated. Application to withdraw denied. Case remanded for further proceedings consistent with this decision. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 9/9/2026