

FRANCIS SNYDER

: IN THE SUPERIOR COURT OF
: PENNSYLVANIA

V.

CHRISTINA HRYHORCHUCK

Appellant

No. 1099 EDA 2026

Appeal from the Order Entered March 24, 2026
In the Court of Common Pleas of Montgomery County Civil Division at
No(s): 2024-07573

BEFORE: McLAUGHLIN, J., KING, J., and BECK, J.

OPINION BY McLAUGHLIN, J.:

FILED OCTOBER 26, 2026

Christina Hryhorchuck (“Mother”) appeals from the trial court’s custody order. She argues the court violated her due process rights when it relied on evidence that had not been admitted. We agree. We therefore vacate the custody order and remand for proceedings consistent with this opinion.

Mother and Francis Snyder ("Father") are parents to R.S., who was born in March 2023 ("Child"). In April 2024, Father filed a complaint for custody of Child. The next month, Mother filed a complaint for custody. The parties filed numerous motions. The court held a multi-day custody hearing on August 13, 2024, September 10, 2024, November 21, 2024, and March 6, 2026. In February 2025, the court ordered the parties to submit to a forensic psychological evaluation by Chloe Haaz, Psy.D. In June 2025, the court also ordered Father to undergo a substance abuse evaluation.

Neither party entered the reports of the psychological evaluations or the substance abuse evaluation into evidence, and neither provider testified as to the reports. At the final hearing in March 2026, the court admitted into evidence Father's redacted version of the report from Mother's psychological evaluation. This was not the entirety of Mother's report and did not include any part of the report from Father's evaluation.¹ The trial court stated it would

¹ At the March 2026 hearing, the parties referenced a redacted version of the report admitted at a support hearing, and Mother argued Father violated an order by submitting the redacted version to a third party:

[Father's Counsel]: Yes. It is in the support record, the 169 pages you sent me yesterday from the court stenographer [sic].

[Mother's Counsel]: I guess he is putting that in, Your Honor, as defense. It was not to be disseminated, period.

. . .

[Father's Counsel]: Their motion for sanctions purports that I submitted the entire Dr. Haaz report into the support record. I redacted it to only the credibility issues.

. . .

[Mother's Counsel]: Your Honor can weigh how you wish to weigh. My reading of the order is that it is not to be disseminated at all and it doesn't make an exception for a heavily redacted copy of said psychological evaluation.

[Father's Counsel]: That goes to the admissibility of the evidence.

THE COURT: I'll take it under consideration.

N.T., Mar. 6, 2026, at 219-21. After this exchange, the court admitted into evidence Father's Exhibit F-34, which is a redacted version of the report from Mother's psychological evaluation. It appears this exhibit was in response to
(Footnote Continued Next Page)

wait until “next week” to see what the Office of Children and Youth reported about the most recent ChildLine report. N.T., Mar. 6, 2026, at 226. It also does not appear that either party entered Mother’s medical records into evidence or that the guardian *ad litem* testified or entered an appearance at any hearing.

On March 24, 2026, the trial court entered a final custody order awarding the parties shared legal and physical custody.² The order referenced portions of Mother’s evaluation report that were not included in the redacted version admitted into evidence. In discussing the custody factors, the court “adopt[ed] the evaluator’s opinion that these parties were locked into a dysfunctional pattern of [intimate partner violence]” and discussed the findings from the psychological evaluations in depth. Trial Ct. Op., filed Mar. 24, 2026, at 2, 5-7 (“Custody Factors Op.”). It also referenced Mother’s medical records and discussed Father’s substance abuse evaluation. ***Id.*** at 5. The court further noted that the Office of Children and Youth concluded the third ChildLine report was unfounded. ***Id.*** at 3, 8. The court also found that Mother had withdrawn a fourth protection from abuse petition “in part because

Mother’s motion for sanctions for the unauthorized disclosure of confidential psychological records. ***See*** Motion for Sanctions, filed Sept. 8, 2025.

² The court also entered orders addressing the contempt motions.

the Guardian *Ad Litem* opined that she did not believe the allegations that Father abused the child.” ***Id.*** at 3; ***see also id.*** at 8.³

Mother filed a timely notice of appeal. She raises the following issues:

1. Whether the trial court committed an error of law by basing its custody determination on reports, evaluations, records, and other materials that were never introduced, authenticated, or subject to cross-examination, in violation of appellant’s due process rights and the requirement that custody determinations be based upon competent evidence of record.
2. Whether the trial court erred and abused its discretion by relying upon materials outside the certified record, thereby precluding meaningful appellate review.

Mother’s Br. at 19 (suggested answers omitted).

Mother claims the trial court erred as a matter of law when it relied on reports, evaluations, records, and other materials that had not been admitted into evidence, authenticated, or subjected to cross-examination. She points out that the court had ordered psychological evaluations and a substance use evaluation, but the reports of the evaluations had not been entered into evidence and the evaluators did not testify at the hearing. She further states the trial court relied on an “incomplete [Office of Children and Youth] investigation, medical records, and opinions attributed to a Guardian *ad Litem* despite the absence of testimony, admitted reports, or any opportunity for

³ The court admitted as an exhibit the March 4, 2026 order stating the protection from abuse petition had been withdrawn. N.T., Mar. 6, 2026, at 21-22, 25; Father’s Ex. 16.

cross-examination.” **Id.** at 22. Mother claims this violated Pennsylvania Rule of Civil Procedure 1915.8(b) and her due process rights.

Mother also claims the court erred by relying on materials outside the certified record, which precludes meaningful appellate review. She maintains that there was no opportunity for her to object or request cross-examination because the materials were not offered or admitted into evidence during the custody hearings.

We will address Mother’s issues together. “A question regarding whether a due process violation occurred is a question of law for which the standard of review is *de novo* and the scope of review is plenary.” **In Interest of S.L.**, 202 A.3d 723, 729 (Pa.Super. 2019) (quoting **Commonwealth v. Tejada**, 161 A.3d 313, 317 (Pa.Super. 2017)). “[P]rocedural due process requires, at its core, adequate notice, opportunity to be heard, and the chance to defend oneself before a fair and impartial tribunal having jurisdiction over the case.” **Id.** (quoting **S.T. v. R.W.**, 192 A.3d 1155, 1161 (Pa.Super. 2018)). “[T]he in-court presentation of evidence is a fundamental component of due process.” **Id.** (citing **M.O. v. F.W.**, 42 A.3d 1068, 1072 (Pa.Super. 2012)). Further, in “almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses.” **Id.** (citation omitted).

In addition, “[g]enerally, expert reports may not be used in child custody contests unless the author of the report testifies and is subject to cross-examination by the party adversely affected, or unless the parties

consent.” **M.O.**, 42 A.3d at 1072. Indeed, Rule 1915.8 provides that a evaluator’s report in a custody case is not evidence unless and until admitted in evidence and requires that the evaluator be subject to cross examination:

(a) The court may order the child(ren) and/or any party to submit to and fully participate in an evaluation by an appropriate expert or experts. The order, which shall be substantially in the form set forth in Rule 1915.18, may be made upon the court’s own motion, upon the motion of a party with reasonable notice to the person to be examined, or by agreement of the parties. The order shall specify the place, manner, conditions and scope of the examination and the person or persons by whom it shall be made and to whom distributed. . . .

(b) Unless otherwise directed by the court, the expert shall deliver to the court, to the attorneys of record for the parties, to any unrepresented party, and to the guardian ad litem and/or counsel for the child, if any, copies of any reports arising from the evaluation setting out the findings, results of all tests made, diagnosis and conclusions. **No reports shall be filed of record or considered evidence unless and until admitted by the court.** Any report which is prepared at the request of a party, with or without a court order, and which a party intends to introduce at trial, must be delivered to the court and the other party at least thirty days before trial. **If the report or any information from the evaluator is provided to the court, the evaluator shall be subject to cross-examination by all counsel and any unrepresented party without regard to who obtains or pays for the evaluation.**

Pa.R.Civ.P. 1915.8(a)-(b) (emphasis added).

Here, the psychological evaluation reports were never admitted into evidence and the evaluator did not testify at the hearing. The trial court cites the transcript where it states it would order the evaluations as support for the reports’ admission. Trial Ct. Op., June 9, 2026, at 2 (quoting N.T., 11/21/24,

at 46).⁴ However, pursuant to Rule 1915.8, directing the parties to undergo evaluations and admitting the reports into evidence are two separate steps. **See** Pa.R.Civ.P. 1915.8(a)-(b); **see also Ottolini v. Barrett**, 954 A.2d 610, 614 (Pa.Super. 2008) (finding the father did not waive the challenge to use of psychological reports, and finding court erred in relying on psychological reports, where reports were not entered into evidence and the evaluator was not called as a witness). Similarly, neither party entered into evidence Father's substance abuse report, Mother's medical records, or the findings from the Office of Children and Youth that the ChildLine report was unfounded.⁵ Further, we have not located testimony or statements from the guardian *ad*

⁴ The exchange was as follows:

The Court: I'll tell you right now I'm inclined to do psych evaluations on both [parties].

[Father's Counsel]: I have taken that in and out of my closing whether there should be psych evaluations, so I'm not going to oppose that.

The Court: What do you think?

[Mother's Counsel]: I want a forensic.

The Court: Okay. I'd like them to see the same person, that way it makes it a lot easier.

N.T., 11/21/24, at 46.

⁵ Mother ostensibly waived a challenge to the use of the email from the Office of Children and Youth regarding the ChildLine report because she did not object or request an additional hearing when the court noted it would wait until it heard from the Office and Children and Youth. Nonetheless, even if she waived such a challenge, remand still would be necessary because the court used the remaining unadmitted evidence without warning.

litem to support the court's assertion that the protection from abuse petition was withdrawn because the guardian *ad litem* did not believe abuse had occurred.

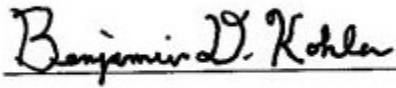
Although Mother did not raise an objection to this evidence in the trial court, Father did not attempt to admit the evaluations, records, or testimony, no witnesses testified regarding the matters, and the court did not inform the parties it intended to consider the evidence. Mother therefore had no reason to object during the hearing. Nor could she have raised the issue in a motion for post-trial relief. **See** Pa.R.Civ.P. 1915.10(d) (barring motions for post-trial relief in custody actions).

The trial court violated Mother's due process rights when it considered and relied on evidence not admitted into the record. The court relied heavily on the unadmitted evidence in reaching its custody determination. Accordingly, we vacate the order awarding custody and remand for a new custody hearing, to be held within 60 days of the date of this memorandum.⁶ **See Ottolini**, 954 A.2d at 615.

Order vacated. Case remanded. Jurisdiction relinquished.

⁶ We further note that, because the psychological reports and the other pieces of evidence are not part of the certified record, we would be unable to rely on the items to determine whether the record supported the court's factual findings or whether it erred in awarding custody. **See Brandon v. Ryder Truck Rental, Inc.**, 34 A.3d 104, 106 n.1 (Pa.Super. 2011) (stating "[i]t is black letter law in this jurisdiction that an appellate court cannot consider anything which is not part of the record in this case" and "[a]ny document which is not part of the official certified record is considered to be nonexistent, which deficiency may not be remedied by inclusion in the reproduced record" (citation omitted)).

Judgment Entered.

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

Benjamin D. Kohler, Esq.
Prothonotary

Date: 10/26/2026