

2026 PA Super 231

IN THE INTEREST OF: D.E., A MINOR	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
APPEAL OF: J.E., FATHER	:	
	:	
	:	
	:	
	:	
	:	No. 910 MDA 2026

Appeal from the Order Entered May 15, 2026
In the Court of Common Pleas of Snyder County Juvenile Division at
No(s): CP-55-DP-0000005-2025

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

OPINION BY MURRAY, J.:

FILED: OCTOBER 16, 2026

J.E. (Father), biological father of D.E. (a son born in November 2024) (Child), appeals from the order granting Snyder County Children and Youth Services' (CYS) motion for a finding of aggravated circumstances, based on Father's conviction of aggravated assault – bodily injury to a child (AA).¹ In this appeal, Appellant challenges the juvenile court's determination that CYS timely filed its aggravated circumstances motion. After careful review, we affirm.

* Retired Senior Judge assigned to the Superior Court.

¹ 18 Pa.C.S.A. § 2702(a)(8). Under the Juvenile Act, aggravated circumstances exist if, *inter alia*, the "parent of the child has been convicted of" a felony under 18 Pa.C.S.A. § 2702, "where the victim was a child[.]" 42 Pa.C.S.A. § 6302.

On May 23, 2025, CYS filed a dependency petition alleging that Child suffered serious physical neglect, and numerous physical injuries, while in the care of Father and O.B. (Mother) (collectively, Parents). **See** Dependency Petition, 5/23/25, at 2-3. According to CYS, on April 28, 2025, medical staff reported that Child had sustained fractures to his ribs, as well as a broken foot. **Id.** at 3. CYS alleged that during a criminal investigation, Father “confessed to squeezing [C]hild and hearing popping sounds on numerous occasions since [C]hild was born.” **Id.**; **see also id.** (averring that Mother detailed several instances of domestic abuse perpetrated by Father, one of which “involved [Mother] holding [Child] and [F]ather shoving [M]other”). In its dependency petition, CYS did not allege the existence of aggravated circumstances. **See** 42 Pa.C.S.A. § 6334(b)(1)(i) (providing that “[a]n allegation of aggravated circumstances may be brought” in a dependency petition).

The juvenile court conducted a shelter care hearing, after which the court ordered that Child be removed from Parents’ home and placed in foster care. Juvenile Court Order, 5/23/25, at 1-2. On May 28, 2025, following a hearing, the juvenile court adjudicated Child dependent, and ordered that legal and physical custody of Child remain with CYS. Juvenile Court Order, 5/28/25, at 1-2. Parents did not appeal.

On March 12, 2026, CYS filed a motion requesting that the juvenile court enter a finding of aggravated circumstances as to Father. Motion for

Aggravated Circumstances Finding, 3/12/26. CYS alleged that “Father pled guilty to, and was sentenced by [o]rder dated March 3, 2026, to [AA].” ***Id.*** at 2; ***see also id.***, Exhibit A (Father’s sentencing order, reflecting that the trial court sentenced Father to 22 to 84 months in prison for AA, and that Father received an aggregate prison sentence of 3 to 14 years).

On May 13, 2026, the matter proceeded to a hearing, at which Father was represented by court-appointed counsel. Child, who was approximately one-and-one-half years old at the time, did not appear, but was represented by his court-appointed guardian *ad litem* (GAL).^{2, 3} At the hearing, CYS requested that the juvenile court take judicial notice of documents filed in Father’s criminal case, including the information, guilty plea colloquy, and sentencing order. N.T., 5/13/26, at 2-3. Father conceded that the court was permitted to take judicial notice of the proffered documents, but argued that

² In a dependency case, “a divergence of opinions between [a child’s] legal interests and best interests presents a conflict that necessitates the appointment of separate counsel” ***Interest of J.F.***, 308 A.3d 1252 (Pa. Super. 2024) (citations and quotation marks omitted). However, “if the preferred outcome of a child is incapable of ascertainment because the child is very young and pre-verbal, there can be no conflict between the child’s legal interests and his or her best interests[.]” ***In re T.S.***, 192 A.3d 1080, 1092 (Pa. 2018).

³ Child’s GAL did not file a motion asking the court to find the existence of aggravated circumstances, and did not formally join CYS’s motion. ***See*** 42 Pa.C.S.A. § 6334(b)(2) (“The existence of aggravated circumstances may be alleged by the county agency or the child’s attorney.”).

CYS's motion was untimely under Pa.R.J.C.P. 1702.⁴ **Id.** at 3. According to Father, "everyone knew about [Father's AA] conviction in early February,"⁵ and CYS did not file its motion for a finding of aggravated circumstances until March, beyond the 21-day filing deadline prescribed by Rule 1702. **Id.** at 4; **see also id.** (Father requesting the juvenile court deny CYS's motion due to the untimeliness of its aggravated circumstances motion).

Following argument, the juvenile court concluded that CYS timely filed its motion, reasoning that Father's AA conviction was not finalized until the trial court sentenced him. **Id.** at 8. The juvenile court took "judicial notice of the plea and sentence of [Father,]" and found that aggravated circumstances existed. **Id.; see also** Aggravated Circumstances Order, 5/15/26 (finding aggravated circumstances existed, and directing that "[n]o efforts are to be made to ... reunify [] Child with [] Father.").⁶ Father timely filed a notice of

⁴ Pennsylvania Rule of Juvenile Court Procedure 1702 provides that "[a] motion for a finding of aggravating circumstances shall be filed with the clerk of courts by the county agency as soon as possible[,] but no later than twenty-one days from the determination by the county agency that aggravated circumstances exist." Pa.R.J.C.P. 1702.

⁵ Father's criminal docket sheet reflects that he entered his guilty plea on January 6, 2026. In his brief, Father argues that CYS "knew of [Father's plea], at the latest, on February 4, 2026, as noted in a Permanency Review Order issued that day and filed February 6, 2026." Father's Brief at 10; **see also** Permanency Review Order, 2/6/26, at 3.

⁶ **See** 42 Pa.C.S.A. § 6341(c.1) ("If the court finds from clear and convincing evidence that aggravated circumstances exist, the court shall determine whether or not reasonable efforts to prevent or eliminate the need for
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appeal and contemporaneous Pa.R.A.P. 1925(a)(2)(i) concise statement. On July 1, 2026, the juvenile court filed a Rule 1925(a) opinion.

Father raises a single issue for our review: “Did error occur where the [juvenile] court granted a motion for [a] finding of aggravated circumstances, over the objection of Father, [] and despite the fact that the motion was untimely?” Father’s Brief at 4 (capitalization and punctuation modified).

Initially, we acknowledge our well-settled standard of review of a juvenile court’s decision in a dependency case:

The standard of review in dependency cases requires an appellate court to accept the findings of fact and credibility determinations of the juvenile court if they are supported by the record; but it does not require the appellate court to accept the juvenile court’s inferences or conclusions of law. As such, we review for an abuse of discretion.

Interest of M.G., 331 A.3d 703, 716 (Pa. Super. 2025) (citations omitted); ***see also Interest of C.B.***, 357 A.3d 1015, 1027 (Pa. Super. 2026) (“[W]e must exercise our independent judgment in reviewing the court’s determination, as opposed to its findings of fact, and must order whatever right and justice dictate.” (citation omitted)).

Instantly, Father concedes that his conviction of AA “fits the definition of aggravated circumstances pursuant to 42 Pa.C.S.[A. §] 6203.” Father’s

removing the child from the home or to preserve and reunify the family shall be made or continue to be made”); ***id.*** § 6351(b) (providing that “no new or additional reasonable efforts” to preserve and reunify a family are required if the court has “determined that aggravated circumstances exist”).

Brief at 8; **see also id.** at 10 (Father stating that, “[q]uite obviously, aggravated circumstances existed at the time of” his AA conviction). According to Father, however, “[w]hile the surface issue involves a finding of aggravated circumstances, the matter is actually one of statutory interpretation.” **Id.** at 7.

Father contends that the juvenile court erred by concluding CYS’s aggravated circumstances motion was timely-filed, because the event which triggered CYS’s filing deadline (*i.e.*, Father’s conviction) was his guilty plea, and not his judgment of sentence. **Id.** at 8. In support of his argument, Appellant cites several criminal and administrative statutes defining a “conviction” as a plea or finding of guilt, as opposed to a subsequent imposition of sentence.⁷

⁷ **See** Father’s Brief at 8-10 (citing (1) 204 Pa. Code § 91.38 (for purposes of attorney discipline, and in accordance with an attorney’s professional obligation to report misconduct, defining a “conviction” as “any guilty verdict, whether after trial by judge or jury, or finding of guilt, and any plea of guilty or *nolo contendere* that has been accepted by the court, whether or not sentence has been imposed”); (2) 75 Pa.C.S.A. § 6501(a) (stating that “[f]or the purposes of” the Vehicle Code, “a conviction includes a plea of guilty, a plea of *nolo contendere*, a finding of guilty by a court or an unvacated forfeiture of bail or collateral deposited to secure a defendant’s appearance in court”); (3) 42 Pa.C.S.A. § 9718.2(c) (stating that “reasonable notice of the Commonwealth’s intention to proceed under [the mandatory sentencing statute for repeat sexual offenders] shall be provided after conviction and before sentencing”); (4) 18 Pa.C.S.A. § 6102 (stating that under Chapter 61 of the Crimes Code, a “conviction” is defined as “a finding of guilty or the entering of a plea of guilty or *nolo contendere*, whether or not judgment of sentence has been imposed”); (5) 42 Pa.C.S.A. § 9799.12 (stating that under Subchapter H of the Sexual Offender Registration and Notification Act (42
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Father further argues that CYS's failure to satisfy the timing requirements of Pa.R.J.C.P. 1702 and 42 Pa.C.S.A. § 6334(b)(2) constituted a fatal defect:

While [Rule] 1702 mentions only county agencies, [Section] 6334(b)(2) authorizes the filing of aggravated circumstances by both [county] agencies and attorneys for children. Notably, the provision [of Section 6334(b)(2)] requiring action within 21 days is applied only to [county] agencies and not attorneys. ... Reading the words of [Rule 1702 and Section 6334(b)(2)], it is clear that the invocation of a three-week deadline upon [county] agencies is mandatory and imperative. Had the legislature intended otherwise, it would have authorized the ability to file without a time limit, as it did for the attorneys of children.

Father's Brief at 10-11 (paragraph break omitted); **see also id.** at 11 (arguing that "[p]rejudice occurred by the granting of [CYS's aggravated circumstances m]otion, as it permitted []CYS to cease efforts at reunifying Father and Child").

Finally, Father suggests that the juvenile court's determination that CYS timely filed its aggravated circumstances motion runs counter to the public policy underlying the Juvenile Act. **Id.** at 11. Father points out that the "philosophy of the dependency system dictates that [county] agencies should move as quickly as possible." **Id.** at 12. Consequently, Father argues, county agencies have "every right to file motions for finding[s] of aggravated

Pa.C.S.A. § 9799.10 *et seq.*), "unless the context clearly indicates otherwise[,] the word "convicted" "[i]ncludes conviction by entry of plea of guilty or *nolo contendere*, conviction after trial or court martial and a finding of not guilty due to insanity or of guilty but mentally ill").

circumstances[,] within 21 days[,] against parties who enter [guilty] pleas for designated offenses.” ***Id.***

CYS and Child’s GAL (collectively, Appellees)⁸ respond that Section 6334(b)(2) does not require a county agency to file an aggravated circumstances motion “within [21] days of a *conviction* or guilty plea. Rather, the statute requires that the [a]gency file the motion ‘as soon [as] possible but no later than 21 days **from the determination by the county agency that aggravated circumstances exist.**” Appellees’ Brief at 4-5 (quoting 42 Pa.C.S.A. § 6334(b)(2)) (italics and bold in original).

Appellees point out that following entry of his plea, “Father had the option to ask to withdraw his guilty plea.” ***Id.*** at 5 (citing ***Commonwealth v. Randolph***, 718 A.2d 1242, 1243 (Pa. 1998) (“[A]lthough there is no absolute right to withdraw a guilty plea, properly received by the trial court, it is clear that a request made before sentencing should be liberally allowed.” (citation and ellipsis omitted))). Appellees agree with the juvenile court that CYS reasonably believed that aggravated circumstances did not exist until Father was sentenced: “While a [guilty] plea may constitute a conviction, [CYS] certainly presented a stronger argument that aggravated circumstances

⁸ Appellees filed a joint brief, referred to herein as Appellees’ Brief. Mother’s court-appointed counsel submitted a letter indicating that Mother takes no position in the instant appeal.

existed following sentencing, after which it became significantly more difficult to withdraw a plea.” **Id.**

Alternatively, Appellees contend that even if CYS’s motion was untimely, the fact that Section 6334(b)(2) imposes no filing deadline on a child’s attorney “supports the notion that any timing defect ... is procedural and prejudice-based.” **Id.** at 6; **see also id.** (observing that “Father was provided notice, counsel, an opportunity to be heard, and a full hearing to adjudicate the issue of aggravated circumstances.”).

As the matter before us calls for the interpretation of statutory text, we acknowledge our standard of review:

In matters involving statutory interpretation, our standard of review is *de novo*, and we apply a plenary scope of review. **Steets v. Celebration Fireworks, Inc.**, 335 A.3d 1076, 1089 (Pa. 2025). We focus on the text of a statute to ascertain its purpose and meaning, as it is the best available evidence of the General Assembly’s intent. **Id.**; **see also Commonwealth v. Spence**, 91 A.3d 44, 46 (Pa. 2014) (“Generally, the best indication of the General Assembly’s intent may be found in the plain language of the statute.”). When clear and unambiguous, our rules of construction forbid circumvention of the text “under the pretext of pursuing its spirit.” **Steets**, 335 A.3d at 1089 (quoting 1 Pa.C.S.[A.] § 1921(b)).

In ascertaining legislative intent, the words of a statute must be read with an understating of the context in which they appear, as this Court “does not dissect statutory text and interpret it in a vacuum.” **Commonwealth v. Kingston**, 143 A.3d 917, 924 (Pa. 2016). Thus, we ascertain the meaning of words both within their immediate context and with due consideration of their place in the overall statutory scheme, which at times may narrow the plain meaning of a term that may carry varied meanings outside of those contexts. **See A.S. v. Pa. State Police**, 143 A.3d 896, 906 (Pa. 2016). Thus, although a dictionary definition may be adequate for most interpretative tasks, we must be

mindful that in “law as in life, ... the same words, placed in different contexts, sometimes mean different things.” **Yates v. United States**, 574 U.S. 528, 537 (2015).

In re Chester Water Auth. Tr., 349 A.3d 892, 913 (Pa. 2026) (citations modified).

“The General Assembly has instructed courts to ascribe the ‘common and approved meaning’ to its chosen words and phrases, unless the word or phrase is technical, has acquired a peculiar and appropriate meaning, or is expressly defined in the statute.” **Commonwealth v. Clayborne**, 356 A.3d 187, 200 (Pa. Super. 2026) (quoting 1 Pa.C.S.A. § 1903(a)); **see also Commonwealth v. Gamby**, 283 A.3d 298, 307 (Pa. 2022) (explaining that when a word or phrase is not defined in a statute, “this does not *ipso facto* render the phrase ambiguous”; and that in determining the “common and approved usage” of a word or phrase, the Supreme Court “has on numerous occasions engaged in an examination of dictionary definitions.” (citations omitted)); **Goodwin v. Goodwin**, 280 A.3d 937, 944 (Pa. 2022) (“[O]ther interpretive rules of statutory construction are to be utilized only where the statute at issue is ambiguous[.]” (citation omitted)). “When the parties read a statute in two different ways and the statutory language is reasonably capable of either construction, the language is ambiguous.” **Reibenstein v. Barax**, 286 A.3d 222, 229 n.20 (Pa. 2022) (citation omitted).

Significantly, “[t]his Court may not add provisions that the General Assembly has omitted unless the phrase is necessary to the

construction of the statute.” *Carmen Enterprises, Inc. v. Goldin*, ____ A.3d ____, 2026 WL 1659716, *28 (Pa. Super. 2026) (citation omitted). “We may not add words or phrases in construing a statute unless the added words are necessary for a proper interpretation, do not conflict with the obvious intent of the statute, and do not in any way affect its scope and operation.” *Commonwealth v. Garner*, 301 A.3d 462, 468 (Pa. Super. 2023) (citation omitted).

Here, the parties advance competing arguments concerning the event that triggers a county agency’s deadline to file a motion for a finding of aggravated circumstances. Accordingly, we set forth the relevant statutes and Rule of Juvenile Court Procedures.

As it is pertinent to our analysis, we recite the Juvenile Act’s definition of aggravated circumstances in full:

“Aggravated circumstances.” Any of the following circumstances:

- (1) The child is in the custody of a county agency and either:
 - (i) the identity or whereabouts of the parents is unknown and cannot be ascertained and the parent does not claim the child within three months of the date the child was taken into custody; or
 - (ii) the identity or whereabouts of the parents is known and the parents have failed to maintain substantial and continuing contact with the child for a period of six months.
- (2) The child or another child of the parent has been the victim of physical abuse resulting in serious bodily injury, sexual violence or aggravated physical neglect by the parent.

(3) The parent of the child **has been convicted** of any of the following offenses where the victim was a child:

(i) criminal homicide under 18 Pa.C.S. Ch. 25 (relating to criminal homicide);

(ii) **a felony under 18 Pa.C.S. § 2702 (relating to aggravated assault)**, 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) or 3125 (relating to aggravated indecent assault).

(iii) A misdemeanor under 18 Pa.C.S. § 3126 (relating to indecent assault).

(iv) An equivalent crime in another jurisdiction.

(4) The attempt, solicitation or conspiracy to commit any of the offenses set forth in paragraph (3).

(5) The parental rights of the parent have been involuntarily terminated with respect to a child of the parent.

(6) The parent of the child is required to register as a sexual offender under Subchapter H of Chapter 97 (relating to registration of sexual offenders) or to register with a sexual offender registry in another jurisdiction or foreign country.

42 Pa.C.S.A. § 6302 (emphasis added).

Section 6334 sets forth a petitioner's pleading requirements, and establishes a filing deadline that applies only to county agencies:

(b) Aggravated circumstances.—

* * *

(2) The existence of aggravated circumstances may be alleged **by the county agency or the child's attorney**. If the **county agency reasonably believes that aggravated circumstances exist**, it **shall** file the appropriate petition **as soon as possible but no later**

than 21 days from the determination by the county agency that aggravated circumstances exist.

(3) A petition for dependency or a permanency hearing that alleges aggravated circumstances shall include a statement of the facts the county agency or the child's attorney intends to prove to support the allegation. A criminal conviction shall not be required to allege the existence of aggravated physical neglect or physical abuse resulting in serious bodily injury or sexual violence committed by the parent.

Id. § 6334(b)(2), (3) (emphasis added).

Related Rule of Juvenile Court Procedure 1702 largely tracks the language of Section 6334(b)(2) regarding a county agency's filing deadline, providing as follows:

A motion for a finding of aggravating circumstances **shall** be filed with the clerk of courts **by the county agency as soon as possible but no later than twenty-one days from the determination by the county agency that aggravated circumstances exist.**

Pa.R.J.C.P. 1702 (emphasis added).⁹

⁹ We note that, unlike 42 Pa.C.S.A. § 6334(b)(2), Pa.R.J.C.P. 1702 does not contain the phrase "reasonably believes." Reading the Rule and statute together, however, we have no difficulty concluding that the county agency's "determination," described in Rule 1702, must be "reasonable," as set forth in Section 6334(b)(2). ***See In re Three Pa. Skill Amusement Devices***, 358 A.3d 385, 408 n.122 (Pa. 2026) ("[S]tatutes that are *in pari materia* may be construed together, so that inconsistencies in one statute may be resolved by looking at another statute on the same subject." (citation omitted)); ***see also Lohmiller v. Weidenbaugh***, 469 A.2d 578, 580 (Pa. 1983) (stating that statutes and rules of court relating to the same subject matter "must be read *in pari materia* so that effect can be given to both" (citations omitted)). To omit reasonableness from the county agency's determination would obviate the prescription, found in both the Rule and statute, that the county agency
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A review of the above authorities plainly reveals that a county agency's "reasonable belie[f]" that aggravated circumstances exist triggers the agency's obligation to file its motion. **See** 42 Pa.C.S.A. § 6334(b)(2); Pa.R.J.C.P. 1702. Here, however, of the numerous bases for asserting the existence of aggravated circumstances, CYS solely and specifically pleaded Father's conviction of AA. **See** Motion for Aggravated Circumstances Finding, 3/12/26, at 2.¹⁰ Therefore, to give effect to Section 6302 in its entirety, it is likewise plain that the event that triggered CYS's filing deadline in the instant case was its "reasonable belie[f]" that Father was "convicted" of AA. **See *Commonwealth v. Gurung***, 239 A.3d 187, 191 (Pa. Super. 2020) ("Courts are to presume 'that the Generally Assembly intends the entire statute to be effective and certain.'" (quoting 1 Pa.C.S.A. § 1922(2)); **see also *id.*** at 192 (noting that in interpreting a statute we must start from the premise "that the legislature placed every word, sentence and provision in the statute for some purpose" (citation omitted)).

Having identified that CYS's "reasonable belief" that Father had been "convicted" of AA was the event that triggered CYS's filing deadline in the

act "as soon as possible," and would permit a county agency to unreasonably delay its determination that aggravated circumstances exist.

¹⁰ CYS's aggravated circumstances motion is a form document that lists, *seriatim*, each definition of aggravated circumstances, with corresponding checkboxes. **See generally** Motion for Aggravated Circumstances Finding, 3/12/26.

instant case, we turn to the parties' opposing definitions of "convicted" to determine whether the term is ambiguous as it is used in Section 6302.¹¹

Father correctly observes that numerous statutes use the term "convicted," and its permutations, to connote a plea or adjudication of guilt, without a corresponding judgment of sentence. **See** n.6, *supra*. Indeed, our Supreme Court has similarly construed the terms. **See, e.g., Commonwealth v. Coleman**, 285 A.3d 599, 608 (Pa. 2022) (for purposes of sentencing enhancement for those "previously [] convicted at any time of murder," defining "convicted" as "to find or declare guilty of an offense or crime by the verdict or decision of a court or other authority" (citations omitted)); **Commonwealth v. Beasley**, 479 A.2d 460, 464 (Pa. 1984) (defining "conviction" as a guilty verdict for purposes of aggravating circumstances necessary for imposition of capital punishment in subsequent murder case).

However, our review discloses¹² that in other instances, our appellate courts have understood the term "conviction" to require a judgment of sentence. **See, e.g., Commonwealth v. Kimmel**, 565 A.2d 426, 428 (Pa. 1989) ("When the term 'conviction' is used in a statute, it means the

¹¹ The Juvenile Act does not define "convicted."

¹² The only legal authority Appellees present in support of their conclusion that CYS "presented a stronger argument that aggravated circumstances existed following sentencing" is **Randolph, supra**. Appellees' Brief at 5.

ascertainment of the guilt of the accused and judgment thereon by the court[.]” (citation and some quotation marks omitted); ***Commonwealth v. Minnich***, 95 A. 565, 567 (Pa. 1915) (“When the law speaks of conviction, it means judgment, and not merely a verdict, which, in common parlance, is called a conviction.” (quoting ***Smith v. Commonwealth***, 14 Serg. & Rawle 69, 70, 1826 WL 2217, at *2 (Pa. 1826))); ***see also Coleman***, 285 A.3d at 614-16 (Donohue, J., concurring) (detailing the historical tension between the differing definitions of “convicted” and “conviction”; noting that “[o]ver the years, [the Supreme] Court has attributed to the word ‘convicted’ ... a ‘popular’ as well as a ‘technical’ meaning”; explaining the “popular” definition of “convicted” “refers to a guilty verdict,” and the “technical” definition of “convicted” “has been understood as a judgment or sentence upon the finding of guilt.” (citations omitted)); ***Commonwealth v. Thompson***, 106 A.3d 742, 767 (Pa. Super. 2014) (Bowes, J., concurring) (same).

In its most recent interpretation of the word “convicted,” the ***Coleman*** Court largely resolved this historical tension by assigning to “convicted” its common and approved usage. In ***Coleman***, the appellant argued that the mandatory sentencing provision of 42 Pa.C.S.A. § 9715(a)¹³ does not apply “where the offenses and the deaths were simultaneous[.]” ***Id.*** at 605.

¹³ Section 9715(a) provides, in pertinent part, that “any person convicted of murder of the third degree in this Commonwealth who has previously been convicted at any time of murder or voluntary manslaughter in this (Footnote Continued Next Page)

The ***Coleman*** Court rejected the appellant's argument and, pertinent to the instant case, ascribed to the word "convicted" its "plain and ordinary meaning":

The word "convicted" or "convict" means "to find or declare guilty of an offense or crime by the verdict or decision of a court or other authority." [Webster's Third New International Dictionary, 1798 (3d ed. 1993)] at 499; ***see also* BLACK'S LAW DICTIONARY**[,] 421-22 (11th ed. 2019) (**defining "convict" as "to prove or officially announce (a criminal defendant) to be guilty of a crime after proceedings in a law court; specif., to find (a person) guilty of a criminal offense upon a criminal trial, a plea of guilty, or a plea of *nolo contendere* (no contest)"**). In view of these definitions, the first portion of the key phrase in Section 9715(a) (*i.e.*, "who has previously been convicted") dictates that the sentencing enhancement applies to any person convicted of third-degree murder who has been found or proven guilty of murder before in time.

Id. at 608 (emphasis added; brackets omitted); ***see also id.*** at 608 n.5 (responding to Justice Donohue's concurring opinion, and questioning "whether a 'technical' definition of 'conviction' clearly remains....").

Here, in its Rule 1925(a) opinion, the juvenile court explained its rationale for concluding that CYS timely filed its aggravated circumstances motion:

[Father] was sentenced for [AA] on March 3, 2026. CYS determined that on March 3, 2026, [] an aggravate[ed] circumstance existed. On March 12, 2026, CYS filed a motion for [a] finding of aggravate[ed] circumstances. According to [CYS], "We didn't have a basis to file for aggravate[ed] circumstances

Commonwealth or of the same or substantially equivalent crime in any other jurisdiction shall be sentenced to life imprisonment...." 42 Pa.C.S.A. § 9715(a).

until the [criminal] case was completed. The case wasn't completed until the [trial c]ourt issued sentence." N.T., 5/13/26, at 5. Th[e juvenile c]ourt agrees.

To be clear, the [21]-day filing period does not commence from the time that [Father] entered his plea or from the time of his sentencing. It commenced from the time of "the determination by the county agency that aggravated circumstances exist." Pa.R.J.C.P. 1702; **see also** 42 Pa.C.S.A. § 6334(b)(2). The record reflects that the determination was made by CYS on March 3, 2026, and that CYS filed the [aggravated circumstances] motion on March 12, 2026. This was well within the [21]-day filing period, and thus timely.

Juvenile Court Opinion, 7/1/26, at 3 (unpaginated) (punctuation and some citations modified; record citation added).

Upon review, we conclude the juvenile court erred by determining that CYS timely filed its aggravated circumstances motion. As explained above, under the facts of this case, CYS's obligation to file an aggravated circumstances motion commenced when it reasonably believed that Father was convicted of AA. Accepting the juvenile court's analysis, *i.e.*, that the 21-day filing deadline commenced solely upon CYS's "determination" that aggravated circumstances exist, would permit a county agency to ensure compliance with Rule 1702 and Section 6334(b)(2) by declining to formalize its determination until a date of its own choosing, and render the 21-day deadline a nullity. **See Gurung**, 239 A.3d at 191.¹⁴

¹⁴ Indeed, CYS elected to assert the existence of aggravated circumstances based upon Father's AA conviction, despite alleging in its original dependency petition (filed May 23, 2025) that Father "confessed to squeezing [C]hild and (Footnote Continued Next Page)

Further, we conclude that CYS's determination that Father was not "convicted" of AA until the trial court imposed sentence was unreasonable. As the **Coleman** Court held, the "plain and ordinary" meaning of "convicted" is "to find or declare guilty of an offense or crime by the verdict or decision of a court or other authority." **Coleman**, 285 A.3d at 608 (citation omitted). The competing "technical" definition, which requires a sentence *in addition* to a finding of guilt, cannot be applied to Section 6302 without reading into the statute a sentencing requirement the legislature did not include. Section 6302's definition of aggravated circumstances, premised on a parent being "convicted" of an enumerated offense, contains no sentencing provision, and we may not add what the legislature omitted. **See Garner**, 301 A.3d at 466 ("[W]e may not add provisions that the General Assembly has omitted unless the phrase is necessary to the construction of the statute." (citation omitted)). Consequently, we discern no ambiguity in Section 6302's use of "convicted."¹⁵

hearing popping sounds on numerous occasions since [C]hild was born." Dependency Petition, 5/23/25, at 3; **see also** 42 Pa.C.S.A. § 6302 (providing that aggravated circumstances exist where "[t]he child or another child of the parent has been the victim of physical abuse resulting in serious bodily injury, sexual violence or aggravated physical neglect by the parent.").

¹⁵ Even if "convicted," as used in Section 6302, were ambiguous, our analysis of the term as used in the Adoption Act would resolve any ambiguity in favor of our conclusion. **See In re Davis**, 465 A.2d 614, 625-26 (Pa. 1983) ("The Adoption Act and the Juvenile Act are *in pari materia* and must be construed together as one act to accomplish the common purpose."); **see also Kozol v. Kozol**, 97 A.3d 767, 771 (Pa. Super. 2014) (observing that *in pari materia* construction of statutes may only be employed "where the terms of the statute (Footnote Continued Next Page)

At the aggravated circumstances hearing, counsel for CYS did not dispute Father's assertion that "everyone knew about [Father's AA] conviction in early February [2026.]" N.T., 5/13/26, at 4. The certified record further reflects that the juvenile court's February 6, 2026, permanency review order acknowledged that Father pled guilty to AA on January 6, 2026. **See** Permanency Review Order, 2/6/26, at 2. Consequently, CYS's 21-day filing deadline commenced, at the latest, on February 6, 2026, when the juvenile court entered its order. **See** 42 Pa.C.S.A. §§ 6302, 6334(b)(2); Pa.R.J.C.P. 1702; **Coleman**, 285 A.3d at 608. Because CYS did not file its aggravated circumstances motion until March 12, 2026, thirteen days beyond the 21-day deadline set forth in Rule 1702 and Section 6334(b)(2), the juvenile court's determination that it was timely was erroneous.

to be construed are ambiguous." (citation and quotation marks omitted)). In **Interest of M.E.**, 283 A.3d 820, 831 (Pa. Super. 2022), the appellant argued the orphans' court erred in terminating his parental rights under 23 Pa.C.S.A. § 2511(a)(9)(ii) (providing as grounds for termination that the "parent has been convicted of ... a felony under 18 Pa.C.S.A. § 2702 (relating to aggravated assault)"), because his conviction followed a *nolo contendere* plea. In rejecting the appellant's argument, we explained that "where, as here, a statute attaches legal consequences to the mere fact of a conviction, proof of a conviction, even if it followed a *nolo contendere* plea, is enough to satisfy the statute." **Id.** (citation omitted). We concluded, therefore, that the county agency "satisfied its burden by presenting evidence of the *nolo* plea" **Id.** (citation omitted). Consequently, if any ambiguity existed in Section 6302's use of the word "convicted," we would construe the term as meaning a plea or finding of guilt, consistent with **Interest of M.E.**'s analysis of a statute in the Adoption Act containing language nearly identical to Section 6302.

Having determined that the juvenile court erred in finding CYS's aggravated circumstances motion timely, we next consider whether that error entitles Father to relief. Father argues that the 21-day deadline imposed by Rule 1702 and Section 6334(b)(2) is "mandatory and imperative"; that its violation requires denial of the motion; and, alternatively, that "[p]rejudice occurred by the granting of the [m]otion, as it permitted [C]YS to cease efforts at reunifying Father and Child." Father's Brief at 11.¹⁶

Instantly, the juvenile court opined that its consideration of CYS's aggravated circumstances motion, if deemed untimely, was nevertheless permissible:

Even if [CYS's aggravated circumstances] motion was untimely, th[e juvenile c]ourt [was] not precluded from considering it. While it is a requirement that the motion for [a] finding of aggravated circumstances "shall" be filed within the [21-]day period, the word "shall" can be "mandatory or imperative" or it may be "directory and permissive." **See Tyler v. King**, 496 A.2d 16, 19 (Pa. Super. 1985). "[I]t has long been the rule in Pennsylvania that the word "shall," although usually mandatory or imperative when used in a statute, may nonetheless be directory or permissive depending upon the Legislature's intent." **Id.** Discerning the legislature's intent involves reviewing the provision at issue as well as "the entire act, its nature, object and purpose." **Id.**

Reviewing the [21-]day period at issue here, the absence of a penalty in the event of noncompliance certainly suggests that this time period is directory, as opposed to mandatory. **See J.L. v. Com. Dep't of Pub. Welfare**, 575 A.2d 643, 646-47 (Pa.

¹⁶ We note that Father cites only Rule 1702 and Section 6334(b)(2) in support of his argument that CYS's untimely filing mandated denial of the motion. Our review discloses no authority dispositive of the issue.

Cmwlth. 1990).¹⁷ A review of the “nature, object and purpose” of the Juvenile Act confirms it. **See Tyler**, 496 A.2d at 19; **see also** 42 Pa.C.S.A. § 6301(b)(1.1) (defining the purpose of the Juvenile Act, *inter alia*, as providing “for the care, protection, safety and wholesome mental and physical development of children coming within the provisions of this chapter.”). ... [D]ismissing such a []motion as untimely would not serve the purposes of the Juvenile Act. **Indeed, ignoring an uncontested judicially noticeable fact, such as [Father’s] felony conviction [of AA], would be contrary to the purposes of the Juvenile Act.** Nor would postponing the consideration of such a motion have made any sense given the basis for the motion was an uncontested judicially noticeable fact.

In addition, [Father] has not proffered that he has been prejudiced from consideration of the motion. The absence of any prejudice to [Father] is another factor supporting the conclusion that the [21-]day filing period is directory as opposed to mandatory. **See J.L.**, 575 A.2d at 647[(“Given the absence of prejudice to Petitioner as well as the absence of a penalty for noncompliance, we decline to strictly enforce the 90-day time period at issue so as to render [the Department of Public Welfare’s] decision on the merits of Petitioner’s request ineffective.”)].

Juvenile Court Opinion, 7/1/26, at 3-4 (some citations modified; footnote added). For the reasons that follow, we agree with the juvenile court that it was permitted to consider CYS’s aggravated circumstances motion, despite its untimeliness.

Our Supreme Court has observed that,

[w]hile both mandatory and directory provisions of the Legislature are meant to be followed, the difference between a mandatory and directory provision is the consequence for non-compliance: a

¹⁷ “Commonwealth Court decisions do not bind this Court, but we may consider them as persuasive authority.” **Edwards v. Norfolk S. Ry. Co.**, 337 A.3d 525, 531 n.5 (Pa. Super. 2025) (citation omitted).

failure to strictly adhere to the requirements of a directory statute will not nullify the validity of the action involved.

Pennsylvania Democratic Party v. Boockvar, 238 A.3d 345, 378 (Pa. 2020) (citation omitted).

“Except when relating to the time of doing something, statutory provisions containing the word ‘shall’ are usually considered to be mandatory, **but it is the intention of the legislature which governs, and this intent is to be ascertained from a consideration of the entire act, its nature, its object and the consequences that would result from construing it one way or the other.”** ***Francis v. Corleto***, 211 A.2d 503, 509 (Pa. 1965) (quoting ***Pleasant Hills Borough v. Carroll***, 125 A.2d 466, 468 (Pa. Super. 1956) (*en banc*)).

Fishkin v. Hi-Acres, Inc., 341 A.2d 95, 97-98 (Pa. 1975) (emphasis added; citation and punctuation modified); **see also *MERSCORP, Inc. v. Delaware Cty.***, 207 A.3d 855, 866 (Pa. 2019) (“Whether a particular statute is mandatory or directory does not depend upon its form, but upon the intention of the Legislature[.]” (citation omitted)); ***Commonwealth v. Kowell***, 228 A.2d 50, 52 (Pa. Super. 1967) (“When relating to the time of doing something, ‘shall’ has usually been considered directory.” (citations omitted)).

Section 6301 sets forth the purposes of the Juvenile Act, in pertinent part, as follows:

(b) Purposes.--This chapter shall be interpreted and construed as to effectuate the following purposes:

* * *

(1.1) To provide for the care, protection, safety and wholesome mental and physical development of children coming within the provisions of this chapter.

* * *

(4) To provide means through which the provisions of this chapter are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced.

42 Pa.C.S.A. § 6301(b)(1.1), (4). Indeed, we have stated that “the focus of the Juvenile Act is on the dependent child, as opposed to parents[.]” ***Interest of K.M.***, 305 A.3d 116, 121 (Pa. Super. 2023) (citation omitted).

Consonantly, we have recognized that in determining whether aggravated circumstances exist in a dependency case, “the focus is not on the rights of the parents; instead, the children’s safety, permanence, and well-being take precedence.” ***Interest of L.V.***, 209 A.3d 399, 418 (Pa. Super. 2019) (citation and brackets omitted); ***see also In re R.P.***, 957 A.2d 1205, 1219 (Pa. Super. 2008) (“The court need not find the existence of aggravated circumstances as to a particular party. ... This is so ... because the focus is not on the rights of the [p]arents; instead, the children’s safety, permanence, and well-being take precedence.” (citation omitted)).

We have further observed that “[o]ur legislation favors more expeditious adoptions; thus, when aggravated circumstances exist and the court determines reunification efforts need not be continued, [the county agency] may proceed directly to change the child’s permanency plan goal to adoption and terminate parental rights.” ***In re A.H.***, 763 A.2d 873, 878 (Pa. Super. 2000).

In view of the Juvenile Act's emphasis on the safety and well-being of children, we have explained that

[n]ot all due process protections attendant to adult criminal proceedings are applicable in the dependency context because dependency proceedings are not purely adversarial and traditional concepts of *parens patriae*, and the focus on the unity of the family and the best interest of the child, are sufficiently important to avoid hindering the court with procedural and technical limitations. Even though a fit parent has a substantive due process right to the care, custody and control of [his] children, broadly speaking, the state, acting pursuant to its *parens patriae* power, has a compelling interest in safeguarding children from various kinds of physical and emotional harm and promoting their wellbeing.

Interest of M.Y.C., 230 A.3d 500, 510 (Pa. Super. 2020) (citations, quotation marks, and brackets omitted; some capitalization modified); ***see also id.*** at 505 n.6 (noting that "the rule governing amendment of dependency petitions allows such amendment '[a]bsent prejudice to any party[.]'" (quoting Pa.R.J.C.P. 1334(A)(2))).

Significantly, "the Rules [of Juvenile Court Procedure] provide that procedural errors should be fatal to a dependency matter only in rare circumstances." ***In Interest of H.K.***, 172 A.3d 71, 78 (Pa. Super. 2017).

Rule 1126 (Defects in Form, Content, or Procedure), provides that

[A] child shall not be released, nor shall a case be dismissed, because of a defect in the form or content of the pleading or a defect in the procedures of these rules, unless the party raises the defect prior to the commencement of the adjudicatory hearing, and the defect is prejudicial to the rights of a party.

Pa.R.J.C.P. 1126 (emphasis added); **see also see also** Pa.R.J.C.P. 1101 (stating that the Rules of Juvenile Court Procedure “are intended to provide for the just determination of every dependency proceeding and effectuate the purposes stated in the Juvenile Act, 42 Pa.C.S. § 6301(b).”); **Weidenbaugh**, 469 A.2d at 580 (statutes and rules of court relating to the same subject matter “must be read *in pari materia* so that effect can be given to both” (citations omitted)).¹⁸

Here, based on the foregoing authority, we conclude that the juvenile court was not required to deny CYS’s untimely aggravated circumstances motion absent a showing of prejudice. Neither Rule 1702 nor Section 6334(b)(2) identifies any consequence for a county agency’s failure to move for a finding of aggravated circumstances within the prescribed filing deadline, “suggest[ing]” that the provisions were “intended to be directory, as opposed to mandatory, in nature[.]” **J.L.**, 575 A.2d at 646. Engrafting a mandatory penalty into a statute, where none appears, would require this Court to unnecessarily “add [a] provision[] that the General Assembly has omitted” **See Garner**, 301 A.3d at 466.

¹⁸ We observe that while both Rule 1126 and Rule 1702 appear under the “Dependency Matters” heading of the Rules of Juvenile Court Procedure, Rule 1126 does not squarely address a situation where, as here, a procedural defect occurs in a *post*-adjudicatory hearing addressing a county agency’s motion for a finding of aggravated circumstances. Nevertheless, we view the import of Rule 1126 as illustrative of the broader principle that procedural defects in dependency matters “should be fatal ... in rare circumstances.” **Interest of H.K.**, 172 A.3d at 78.

Moreover, a mandatory construction would contravene the intent of the Juvenile Act, which is to provide “for the care, protection, safety and wholesome mental and physical development of children coming within [its] provisions,” and to “provide a means through which the provisions of [the Juvenile Act] are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced.” 42 Pa.C.S.A. § 6301(b)(1.1), (4). **Accord Interest of H.K.**, 172 A.3d at 78 (“[T]he Rules [of Juvenile Court Procedure] provide that procedural errors should be fatal to a dependency matter only in rare circumstances.”).

We reiterate and emphasize that “the focus of the Juvenile Act is on the dependent child, as opposed to parents,” **Interest of K.M.**, 305 A.3d at 121, and that in the aggravated circumstances context, specifically, “the focus is not on the rights of the parents; instead, the children’s safety, permanence, and well-being take precedence.” **Interest of L.V.**, 209 A.3d at 418. A mandatory construction of the 21-day deadline would run counter to these purposes, as it would require juvenile courts to deny aggravated circumstances motions that are days or weeks late, regardless of the consequences to the child, and without consideration of whether the parent suffered any prejudice by the untimely filing. A construction more consistent with the stated purposes of the Juvenile Act, and the overall statutory and procedural scheme outlined above, is that a county agency’s untimely

aggravated circumstances motion will entitle a parent to relief where that procedural defect prejudiced the parent.¹⁹

Accordingly, we hold that to be entitled to relief for a county agency's failure to timely file an aggravated circumstances motion, a parent must demonstrate that he or she suffered prejudice.

Instantly, Father was provided notice of the aggravated circumstances hearing and was afforded the opportunity to contest the allegation presented in CYS's motion with the assistance of court-appointed counsel. Father fails

¹⁹ Our conclusion is further supported by the fact that Section 6334(b)(2) permits both county agencies and children's attorneys to file aggravated circumstances motions, but imposes a filing deadline only on county agencies. **See** 42 Pa.C.S.A. § 6334(b)(2). A mandatory construction of Section 6334(b)(2)'s filing deadline would categorically bar a county agency's untimely filing, while a child's attorney could file a motion at any time.

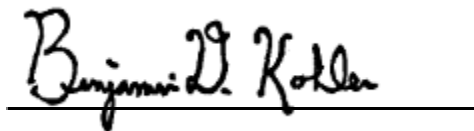
Moreover, while no precedential decisions have addressed this issue, we have recognized the applicability of a prejudice requirement involving procedural defects in at least two unpublished memoranda. **See Interest of L.R.M.**, 358 A.3d 694, 2305 EDA 2025 (Pa. Super. 2026) (unpublished memorandum at 19 n.7) (deeming waived mother's challenge to the juvenile court's finding of aggravated circumstances in the absence of a motion from CYS, but noting that, if preserved, "we do not discern any prejudice to [m]other...."); **Interest of K.V.T.**, 311 A.3d 613, 728-730 WDA 2023 (Pa. Super. 2023) (unpublished memorandum at 13, 15) (addressing "a procedural irregularity [that] occurred with respect to [one of mother's three children], in that CYS neglected to file a dependency petition naming him until June 2, 2023, at which point it was immediately granted based upon the evidence already adduced at the May 25, 2023 hearing"; applying a prejudice standard in determining that mother "failed to allege or demonstrate how the proceedings would have been materially impacted if a separate dependency petition had been properly filed with respect to [one of the children]."); **see also** Pa.R.A.P. 126(b) (unpublished non-precedential memorandum decisions of this Court, filed after May 1, 2019, may be considered for their persuasive authority).

to allege how the aggravated circumstances hearing would have been materially impacted if CYS had filed its motion 13 days earlier, within the 21-day period set forth in Section 6334(b)(2) and Rule 1702. Indeed, Father readily concedes that “[q]uite obviously, aggravated circumstances existed at the time of” his AA conviction. Father’s Brief at 10. Contrary to Father’s assertion, our prejudice analysis must determine whether the procedural defect, *i.e.*, CYS’s *untimely filing*, prejudiced him, not the juvenile court’s *finding* that aggravated circumstances existed.

Because Father fails to demonstrate that CYS’s delay caused him any cognizable harm, the juvenile court did not err in considering CYS’s untimely aggravated circumstances motion. Accordingly, Father is entitled to no relief.

Order affirmed.

Judgment Entered.

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

Benjamin D. Kohler, Esq.
Prothonotary

Date: 10/16/2026