

**[J-62-2024] [MO: McCaffery, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT**

IN THE INTEREST OF: S.W., A MINOR	:	No. 14 WAP 2024
	:	
APPEAL OF: S.W., MINOR, AND	:	Appeal from the Order of the
ALLEGHENY COUNTY OFFICE OF	:	Superior Court entered March 13,
CHILDREN, YOUTH AND FAMILIES	:	2024, at No. 22 WDA 2023,
	:	Vacating and Remanding the Order
	:	of the Court of Common Pleas
	:	Allegheny County Juvenile Division
	:	entered November 8, 2022, at No.
	:	CP-02-DP-0000729-2020.
	:	
	:	ARGUED: October 8, 2024

DISSENTING OPINION

JUSTICE MUNDY

DECIDED: APRIL 25, 2025

The question before the Court is one of pure statutory interpretation, namely whether Section 6336.1(a) of the Juvenile Act, 42 Pa.C.S. § 6336.1(a), abrogates the judicially created prospective adoptive parent exception. Finding the statute unambiguously does not abrogate this exception, I am constrained to dissent.

“The object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly.” 1 Pa.C.S. § 1921(a); *see also Commonwealth v. Lehman*, 31 A.3d 1034, 1044 (Pa. 2024). “When the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.” 1 Pa.C.S. § 1921(b). “A statute is ambiguous when there are at least two reasonable interpretations of the text.” *A.S. v. Pa. State Police*, 143 A.3d 896, 905-06 (Pa. 2016). As such, our review of the issue must begin, and in my view end, with the language of Section 6336.1(a), which states

The court shall direct the county agency or juvenile probation department to provide the child's foster parent, preadoptive parent, relative providing care for the child or a potential kinship care resource ... with timely notice of the hearing. The court shall provide the child's foster parent, preadoptive parent or relative providing care for the child the right to be heard at any hearing under this chapter. The court shall provide a potential kinship care resource with the right to be heard during a scheduled hearing or a separate dispositional hearing, but only as to the individual's qualifications to provide kinship care. Once a potential kinship care resource has had an opportunity to address the court, the court shall render a decision as to whether the potential kinship care resource may receive notice or participate in future hearings under this chapter. **Unless a foster parent, preadoptive parent, relative providing care or a kinship care resource for a child has been awarded legal custody pursuant to section 6357 (relating to rights and duties of legal custodian), nothing in this section shall give the foster parent, preadoptive parent, relative providing care or a potential kinship care resource for the child legal standing in the matter being heard by the court.**

42 Pa.C.S. § 6336.1(a) (emphasis added).

The section begins by providing certain caregivers, including preadoptive parents, with the right to notice and to be heard at dependency proceedings. *Id.* It then provides potential kinship care resources with the right to a hearing, but only as to their qualifications for kinship care. In addition to setting forth these rights, Section 6336.1(a) provides that unless the caregivers have been awarded legal custody, “nothing in this section shall give” them legal standing. *Id.* When read in the context of Section 6336.1(a) as a whole, the only reasonable interpretation of the statement “nothing in this section,” is that it is referencing the section’s granting of the rights to notice and to be heard, which immediately proceeds it. See *Commonwealth v. Office of Open Records*, 103 A.3d 1276, 1285 (Pa. 2014) (“[S]tatutory language must be read in context, that is, in ascertaining legislative intent, every portion of statutory language is to be read together and in conjunction with the remaining statutory language[.]” (internal quotations omitted)). As such, reading the “nothing in this section” language to abrogate the judicially created

prospective adoptive parent exception, which is not referenced “in this section[.]” is unreasonable. Such an interpretation only serves to create an ambiguity where one does not exist in order to invoke other principles of statutory interpretation in an attempt to ascertain the General Assembly’s perceived intent. See *Hunt v. Pennsylvania State Police*, 983 A.2d 627, 631-32 (Pa. 20009) (“Only when words of a statute are ambiguous should a court seek to ascertain the intent of the General Assembly through consideration of the various factors found in Section 1921© [of the Statutory Construction Act].”).

Since I find Section 6336.1(a) unambiguously does not, in any way, impact the prospective adoptive parent exception, let alone abrogate the exception it fails to mention,¹ I respectfully dissent.

¹ My interpretation of Section 6336.1(a) should not be construed as an endorsement of the prospective adoptive parent exception or, more recently, the Superior Court’s application of this exception in *Interest of M.R.F., III*, 182 A.3d 1050 (Pa. Super. 2018) (finding placement parents had an expectation of adoption even though the trial court denied the petition to terminate mother’s parental rights, increased mother’s visitation with the child, and the permanency goal remained reunification).