

SUPERIOR COURT OF PENNSYLVANIA

Michael L. Layton-Herron v. Kaylee M. Litke

2026 Pa. Super. 15 · No. No. 764 MDA 2025 · Decided January 29, 2026

SUMMARY

The Pennsylvania Superior Court affirmed a custody order awarding the father sole legal custody over the child’s medical decision-making, including vaccination decisions, while otherwise providing for shared legal and physical custody. The court held that the mother waived her constitutional and statutory arguments by failing to raise them timely in the trial court. It also concluded that religious-liberty protections did not prevent the court from acting in the child’s best interests when the child’s health was implicated.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	Stabile, J.; Sullivan, J.; Bender, P.J.E.
JURISDICTION	Pennsylvania Superior Court
DECIDED	January 29, 2026
DOCKET	No. 764 MDA 2025
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mother appealed from a final custody order awarding the parents shared legal and shared physical custody, but awarding Father sole legal custody over the child's medical decision-making.
STANDARD OF REVIEW	Constitutional issues are reviewed de novo with plenary scope. Custody orders are reviewed for a gross abuse of discretion; the appellate court defers to supported factual findings and the trial court's credibility and weight determinations, but may reject legal conclusions that are erroneous or unreasonable.
PRECEDENTIAL VALUE	published
PARTIES	Kaylee M. Litke v. Michael L. Layton-Herron

TOPICS

- child custody
- family law procedure
- free exercise clause
- preservation of error
- standard of review

PRACTICE AREAS

family law

constitutional law

appellate procedure

health law

QUESTIONS PRESENTED

1. Whether awarding Father sole legal custody over the child's medical decisions violated Mother's rights under Article I, Section 3 of the Pennsylvania Constitution because of her asserted religious objections to vaccination.
2. Whether the trial court abused its discretion or erred as a matter of law in awarding Father authority to make vaccination and other medical decisions.
3. Whether Mother's challenge under 28 Pa. Code § 23.84(b) was preserved.
4. Whether the trial court properly considered and weighed the custody factors under 23 Pa.C.S.A. § 5328(a) in awarding shared physical custody and sole medical decision-making to Father.
5. Whether Mother preserved a claim based on the recommendation that Father undergo a psychological evaluation.

HOLDINGS

1. Mother waived her Article I, Section 3 constitutional arguments because she did not expressly raise them in the trial court and first asserted them in her Rule 1925 concise statement. Even if preserved, the constitutional claim would fail because a parent's religious-liberty rights do not prevent the state from restricting parental authority when necessary to protect a child's physical health and welfare.
2. Mother waived her argument that 28 Pa. Code § 23.84(b) supplied a religious exemption from vaccination because she raised the issue for the first time in a post-trial motion for reconsideration.
3. The trial court did not abuse its discretion or commit an error of law in considering the factors under 23 Pa.C.S.A. § 5328(a), awarding shared physical custody, and granting Father sole medical decision-making authority.
4. Mother waived any claim that the trial court should have ordered a psychological evaluation of Father because she did not request the evaluation within the fifteen-day period specified in the interim custody order.

KEY QUOTATIONS

“The right to practice religion freely does not include the liberty to expose the community or the child to communicable disease or the latter to ill health or death.” (10-11)

“As with all custody-related matters, the Pennsylvania courts’ “paramount concern is the best interest of the child involved.”” (13)

“We do not believe that a passing observation in Dr. Gransee’s report is a sufficient analogue to a formal request submitted by a party to litigation.” (27)

FACTUAL BACKGROUND

The parties conceived their child after a single date and had difficulty communicating and co-parenting before and after the child's birth. Father sought custody after the child's birth, and the parents initially shared legal custody while Mother had primary physical custody. The child was unvaccinated because Mother believed vaccinations were not medically necessary and expressed concerns about their safety, while Father supported vaccination based on medical and safety concerns. After considering the statutory custody factors, the trial court awarded Father sole medical decision-making authority and otherwise ordered shared physical custody.

PROCEDURAL HISTORY

Father filed a custody complaint in the York County Court of Common Pleas seeking shared legal and primary physical custody. After an interim order awarded the parents shared legal custody and Mother primary physical custody, the trial court conducted a custody hearing and entered a final order granting shared physical custody and Father sole authority over medical decisions. Mother appealed, challenging the custody findings, the medical-decision allocation, constitutional issues concerning religious objections to vaccination, the applicability of a regulatory religious exemption, and the handling of a psychological evaluation recommendation.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Barnett, 121 A.3d 534, 544 n.3 (Pa. Super. 2015)
- Commonwealth v. Brown, 52 A.3d 1139, 1145 n.4 (Pa. 2012)
- Commonwealth v. Wint, 730 A.2d 965, 967 (Pa. Super. 1999)
- Commonwealth v. Santiago, Commonwealth v. Santiago, 209 A.3d 912, 919 (Pa. 2019)
- In re F.C. III, 2 A.3d 1201, 1212 (Pa. 2010)
- Hinkal v. Pardoe, 133 A.3d 738, 746 (Pa. Super. 2016)
- Prince v. Massachusetts, 321 U.S. 158, 166-67 (1944)
- Matter of Cabrera, 552 A.2d 1114, 1118 (Pa. Super. 1989)
- Moss Rose Mfg. Co. v. Foster, 314 A.2d 25, 26-27 (Pa. Super. 1973)
- In re A.J.R.-H., 188 A.3d 1157, 1175-76 (Pa. 2018)
- Stange v. Janssen Pharms., Inc., 179 A.3d 45, 64 n.7 (Pa. Super. 2018)
- Meyer-Chatfield Corp. v. Bank Fin. Servs. Grp., 143 A.3d 930, 938 n.4 (Pa. Super. 2016)
- Rabatin v. Allied Glove Corp., 24 A.3d 388, 391 (Pa. Super. 2011)
- Rogowski v. Kirven, 291 A.3d 50, 60-61 (Pa. Super. 2023)
- King v. King, 889 A.2d 630, 632 (Pa. Super. 2005)
- Hanson v. Hanson, 878 A.2d 127, 129 (Pa. Super. 2005)
- E.B. v. D.B., 209 A.3d 451, 460, 468 (Pa. Super. 2019)
- J.R.M. v. J.E.A., 33 A.3d 647, 652 (Pa. Super. 2011)
- A.V. v. S.T., 87 A.3d 818, 823 (Pa. Super. 2014)

- R.M. v. J.S., 20 A.3d 496, 513 n.15 (Pa. Super. 2011)
- Gerber v. Gerber, 487 A.2d 413, 416 (Pa. Super. 1985)

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