

SUPERIOR COURT OF PENNSYLVANIA

Jessica L. Pearson v. Kyle Pearson

2026 Pa. Super. 42 · No. No. 1109 MDA 2025 · Decided March 4, 2026

SUMMARY

The Pennsylvania Superior Court reviewed a child-custody order awarding shared legal custody, primary physical custody to Mother, and supervised physical custody to Father subject to conditions for obtaining unsupervised and equally shared custody. The court held that the order improperly provided for an automatic future modification without a contemporaneous determination of the child’s best interests under the Child Custody Act and without the trial court reviewing the risk of harm and need for continued supervision. The court affirmed the existing custody and safety requirements in part, vacated the automatic-modification provisions, and remanded.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                          |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Superior Court of Pennsylvania                                                                                                                                                                                                                                                                           |
| WRITING FOR THE COURT | Lane, J.; Panella, P.J.E.; King, J.                                                                                                                                                                                                                                                                      |
| JURISDICTION          | Pennsylvania Superior Court                                                                                                                                                                                                                                                                              |
| DECIDED               | March 4, 2026                                                                                                                                                                                                                                                                                            |
| DOCKET                | No. 1109 MDA 2025                                                                                                                                                                                                                                                                                        |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                    |
| PROCEDURAL POSTURE    | Mother appealed from a custody order awarding shared legal custody to both parties, primary physical custody to Mother, supervised physical custody to Father, and providing that Father's custody would automatically become unsupervised and equally shared upon completion of specified requirements. |
| STANDARD OF REVIEW    | The Superior Court reviews custody orders for abuse of discretion, accepting supported factual findings and deferring to credibility determinations, but independently reviews legal conclusions and may reject conclusions that are legally erroneous or unreasonable in light of the record.           |
| PRECEDENTIAL VALUE    | published and precedential                                                                                                                                                                                                                                                                               |
| PARTIES               | Jessica L. Pearson v. Kyle Pearson                                                                                                                                                                                                                                                                       |

TOPICS

child custody

family law procedure

appellate procedure

statutory interpretation

standard of review

## PRACTICE AREAS

family law

child custody

appellate procedure

statutory interpretation

## QUESTIONS PRESENTED

1. Whether a custody order may automatically convert supervised custody into equally shared unsupervised custody upon the parent's completion of court-imposed requirements without a later determination of the child's best interests under the statutory custody factors.
2. Whether the trial court may delegate to a therapist the determination whether the parent continues to pose a risk of harm and whether supervised custody should end.

## HOLDINGS

1. A custody order may not provide for automatic modification from supervised custody to equally shared unsupervised custody upon completion of specified requirements without further trial-court consideration of the section 5328(a) custody factors and the child's best interests.
2. When supervised custody has been ordered, the parent subject to supervision must petition for review, and the trial court must review the risk of harm and need for continued supervision before modifying or terminating supervised custody.
3. The trial court may not delegate to an independently selected therapist the judicial determination whether the parent poses a risk of harm or whether supervised custody should end.

## KEY QUOTATIONS

*“Based on our review, we conclude that the portions of the subject custody order which provide for a modification of custody at some point in the future — without any further involvement by the trial court — violate sections 5323(a), 5328(a), and 5338(a) of the Child Custody Act.” (at 14-15)*

*“The language of section 5323(e)(2) unquestionably contemplates that whenever the trial court orders supervised contact with a child, such supervised contact shall continue until such time as the party over which such supervision has been imposed files a petition for a review of the risk of harm the party presents to the child and the need for continued supervision.” (at 16)*

*“As section 5323(e)(2) makes clear, it is for the trial court to determine, upon petition by the party over whom supervised contact has been ordered, the risk of harm posed to the child by the party, and to determine whether there is a need for continued supervised contact.” (at 17)*

## FACTUAL BACKGROUND

Mother and Father separated in May 2024 after marrying before the child's birth in July 2022. Mother presented evidence that Father had a volatile temper, destroyed property, used marijuana heavily, exposed the child to unsafe conditions and drug paraphernalia, and had threatened Mother and behaved inappropriately toward the child. A psychologist testified that Father's poor self-control created a risk that future physical attacks could not

be ruled out, and Father admitted to anger-related property destruction and heavy marijuana use. After a custody trial, the trial court awarded Mother primary physical custody and Father supervised custody, but provided that Father's custody would automatically become equally shared and unsupervised once he completed anger-management and therapy requirements.

## PROCEDURAL HISTORY

The York County Court of Common Pleas entered a stipulated shared-custody order in October 2024. Following Mother's petitions alleging Father's anger, substance use, unsafe conduct, and risk to the child, the trial court entered temporary and interim orders limiting Father to supervised custody, then after a June 2025 custody trial entered the July 15, 2025 order at issue. Mother timely appealed, and the Superior Court affirmed the existing custody allocations and safety requirements but vacated the provisions providing for automatic future modification without further trial-court review.

## DISPOSITION

other

## REMAND INSTRUCTIONS

The trial court must retain jurisdiction to review any petition by Father concerning the risk of harm and need for continued supervision and must independently consider the section 5328(a) custody factors and the child's best interests before any modification of custody.

## CASES CITED

- H.R. v. C.P., 224 A.3d 729, 735 (Pa. Super. 2019)
- V.B. v. J.E.B., 55 A.3d 1193, 1197 (Pa. Super. 2012)
- Landis v. Landis, 869 A.2d 1003, 1011 (Pa. Super. 2005)
- E.D. v. M.P., 33 A.3d 73, 80 (Pa. Super. 2011)
- Holler v. Smith, 928 A.2d 330, 331-32 (Pa. Super. 2007)
- Clapper v. Harvey, 716 A.2d 1271, 1275 (Pa. Super. 1998)
- Rosenberg v. Rosenberg, 504 A.2d 350, 353 (Pa. Super. 1986)
- C.W. v. K.A.W., 774 A.2d 745, 749 (Pa. Super. 2001)