

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

ELIZABETH QUINN	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
MICHAEL G. PERONE	:	
	:	
Appellant	:	No. 1484 EDA 2026
	:	
	:	
	:	
v.	:	
	:	
	:	
DAWN DANIELS	:	

Appeal from the Order Entered March 3, 2025
In the Court of Common Pleas of Lehigh County Civil Division at No(s):
2024-FC-1255

BEFORE: BOWES, J., OLSON, J., and STEVENS, P.J.E.*

MEMORANDUM BY BOWES, J.:

FILED OCTOBER 22, 2026

Michael G. Perone ("Father") appeals *pro se* from the custody order regarding his son, M.A.P., born in May of 2014, which awarded Elizabeth Quinn, M.A.P.'s paternal grandmother ("Grandmother"), sole legal and primary physical custody.¹ We affirm.

* Former Justice specially assigned to the Superior Court.

¹ We note that Father has represented himself throughout these proceedings.

In Father's prior appeal, this Court set forth the factual and procedural history of this case as follows:

On December 13, 2024, Grandmother filed a complaint for custody seeking sole legal and sole physical custody because [M.A.P.] was subjected to abuse and neglect in Father's household, and [M.A.P.]'s mother ["Mother"] is deceased At the time Grandmother filed the complaint, [M.A.P.] was living with Grandmother while Father was in prison awaiting sentencing for assaulting his girlfriend, intervenor, [Dawn Daniels ("Girlfriend")]². M.A.P.] began living with Grandmother in August of 2024, after M.A.P. called Grandmother's other son, G.O., Jr., and reported being physically abused by [Girlfriend]. G.O., Jr., immediately went to [Girlfriend]'s residence with his father, G.O., Sr., where [Girlfriend], who claimed [M.A.P.] was being unruly, told G.O., Jr., G.O., Sr.,[] and Grandmother to take [M.A.P.] into their care.

E.Q. v. M.G.P., 358 A.3d 657, 2026 WL 575380, at *1 (Pa.Super. 2026) (non-precedential decision) (cleaned up).

The trial court held a hearing on March 3, 2025, to determine whether Grandmother had standing. Father, Grandmother, and Girlfriend each appeared *pro se* and testified. By order entered the following day, the trial court found that Grandmother had standing to file the custody action under 23 Pa.C.S. § 5324(3) (addressing the standing of grandparents who do not

² The record reveals Father was arrested on the criminal charge involving his physical assault of Girlfriend on July 6, 2024, and he remained in prison throughout the underlying custody matter. **See** N.T. Custody Trial, 7/1/25, at 148-49. In addition, Father testified to his extensive criminal history that included pleading guilty to charges of, *inter alia*, attempted homicide in 1999, for which he was sentenced "to [ten] to [thirty] years" and released in 2009. **Id.** at 147. Further, in 2016, Father pled guilty to charges involving assault and "mutual combat." **Id.**

stand *in loco parentis* to a child). Among other motions, Father filed a petition to modify or vacate the court's standing determination as to Grandmother. The court held another hearing on May 28, 2025, during which Father, Grandmother, and Girlfriend again testified. The trial court determined that Girlfriend had standing to intervene pursuant to § 5324(2) because she stood *in loco parentis* to M.A.P. and denied Father's petition challenging Grandmother's standing to seek custody. Father timely appealed. This Court docketed Father's appeal but quashed it upon concluding that the order was interlocutory and unappealable. **E.Q.**, 2026 WL 575380, at *1 n.2.

Thereafter, the trial court held a custody trial on July 1, 2025, "at which all parties were present and self-represented." ³ **Id.** at *1. Grandmother testified, and she presented as witnesses Gerri Kay, the intake supervisor at Lehigh County Children and Youth Services ("CYS"); G.O., Jr.; and G.O., Sr. Father testified and called his fourteen-year-old daughter, M.P. Girlfriend testified on her own behalf. Finally, the trial court interviewed M.A.P. *in camera*. On July 11, 2025, the trial court "awarded Grandmother sole legal custody and primary physical custody of [M.A.P.], with up to three hours per month of professionally supervised visitation for Father if, in the sole discretion

³ We note that the standing hearings and custody trial were consolidated with those of M.A.P.'s half-brother, E.G. However, as it is not part of the instant appeal, we do not address E.G.'s custody determination herein.

of Grandmother, and after consultation with [M.A.P.], Grandmother deemed it in [M.A.P.]’s best interests.” **Id.**

Father timely appealed the final custody order (“2025 Appeal”). In the 2025 Appeal, Father questioned, *inter alia*, whether the trial court erred by not providing its rationale for the order prior to the deadline to file a notice of appeal as required by the Child Custody Act (“the Act”), 23 Pa.C.S. §§ 5321-5340. **See E.Q.**, 2026 WL 575380, at *3. Upon review, this Court concluded that the trial court so erred because it did not set forth its assessment of the custody factors until it issued its Pa.R.A.P. 1925(a) opinion. As a result, we vacated the order and remanded the case to the trial court for entry of a new final custody order that timely addressed the § 5328(a) custody factors. **Id.** at *4.

On April 29, 2026, the trial court entered a new final custody order that again awarded Grandmother sole legal and primary physical custody of M.A.P. As before, the order provided for visitation with Father as follows: “In the sole discretion of Grandmother, and after consultation with [M.A.P.] to take into account [M.A.P.’s] best interests, Grandmother may, but is not required to, permit Father up to [three] hours per month of professionally supervised visits with [M.A.P.]” Order, 4/29/26, at ¶ 2. Like the prior order, Daniels was not awarded any form of custody or right to visitation. Accompanying the new final order was an opinion that addressed the custody factors set forth at 23

Pa.C.S. § 5328(a), all of which the court weighed in Grandmother's favor. **See** Trial Court Opinion, 4/29/26, at 1-10.

Father timely filed the instant notice of appeal and a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b), wherein he asserted errors pertaining only to the trial court's determination that Grandmother had standing to file the custody action pursuant to 23 Pa.C.S. § 5324(3). In response, the trial court referred this Court to its Rule 1925(a) supplemental opinion from the 2025 Appeal, which addressed Father's challenge to Grandmother's standing, as well as the opinion that accompanied the new final order.⁴

Father frames his issues in this Court thusly:

1. Did the trial court err by granting [Grandmother] standing at the March 3, 2025 hearing, without first establishing that she met all of the criteria set forth in 23 Pa.C.S. § 5324(3)?
2. Did the trial court err, by admitting into evidence, alleged text messages, supposedly from [M.A.P.]'s mother at the May 28, 2025 hearing, without them being properly authenticated?
3. Did the trial court err, by admitting into evidence, alleged text messages, supposedly from [M.A.P.]'s mother at the May 28, 2025 hearing, even though they were clearly hearsay?
4. Did the evidence of record support the trial court's determination that [Grandmother] started a relationship with the child with the consent of one of his parents?

⁴ When Father filed the 2025 Appeal, his prior appeal was still pending. Therefore, he did not assert errors regarding Grandmother's standing in his original Rule 1925(b) statement. While we granted his request to amend his statement to include challenges to Grandmother's standing, we did not reach or address them because we granted relief on other grounds.

5. Did the evidence of record support the trial court's determination that there was potential abuse, neglect or drug or alcohol abuse?

Father's brief at 5 (cleaned up).

We begin with the principles governing our review. "Threshold issues of standing are questions of law; thus, our standard of review is *de novo* and our scope of review is plenary." **M.W. v. S.T.**, 196 A.3d 1065, 1069 (Pa.Super. 2018) (cleaned up). "In child custody cases, the concept of standing is fluid and differs from the typical determination regarding whether a party has a direct interest in the outcome of litigation." **E.A. v. E.C.**, 259 A.3d 497, 501 (Pa.Super. 2021) (cleaned up). In light of the indefinite nature of standing in child custody cases, standing must be "determined based upon the facts when the issue [wa]s decided." **Id.** at 502 (citation and emphasis omitted). Here, that would be as of the May 30, 2025 order denying Father's petition to vacate the order regarding Grandmother's standing.

Generally, third parties are unable to seek custody of a child in the face of opposition from a parent. However, "the Act provides several exceptions to this rule, which apply primarily to grandparents and great-grandparents." **M.W.**, 196 A.3d at 1069 (cleaned up). As noted above, the trial court found that Grandmother had standing pursuant to § 5324(3), which confers the right to seek custody on grandparents who meet the following elements:

A grandparent of the child who is not *in loco parentis* to the child:

- (i) whose relationship with the child **began** either with the consent of **a** parent of the child or under a court order;

(ii) who assumes or is willing to assume responsibility for the child; and

(iii) when one of the following conditions is met:

(A) the child has been determined to be a dependent child under 42 Pa.C.S. Ch. 63 (relating to juvenile matters);

(B) **the child is substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity;** or

(C) the child has, for a period of at least 12 consecutive months, resided with the grandparent, excluding brief temporary absences of the child from the home, and is removed from the home by the parents, in which case the action must be filed within six months after the removal of the child from the home.

23 Pa.C.S. § 5324 (emphases added).

Although listed as five separate issues, we discern that Father is essentially challenging three aspects of the trial court's standing determination. **See** Father's brief at 10-31. First, he contends that the trial court erred in determining that the onset of Grandmother's relationship with M.A.P. began with his consent, as required by § 5324(3)(i). Second, he avers that the court erroneously relied upon inadmissible hearsay to find that Mother similarly consented to Grandmother's relationship with the child. Finally, Father argues that the record did not support the court's conclusion that M.A.P. "[wa]s substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity[.]" 23 Pa.C.S. § 5324(3)(iii)(B).

In its opinion for the 2025 Appeal, the trial court emphasized that Father's "contention that he did not **presently** consent to [Grandmother]'s relationship with [M.A.P.] is irrelevant, and [Father]'s testimony that he did not **previously** consent to a relationship between [Grandmother] and [M.A.P.] was not credible." Trial Court Opinion, 11/6/25, at 5 (emphases in original). The trial court found that Grandmother's relationship with M.A.P. began with Father's tacit consent because she "lived at [Father]'s house with [M.A.P.] for some time[.]" *Id.* at 6 (cleaned up). During the March 3 and May 28, 2025 hearings, Grandmother testified that she spent "many years" living with Father, M.A.P., and M.A.P.'s three minor siblings, who are not subjects of this appeal.⁵ **See** N.T., 3/3/25, at 16-17; **see also** N.T., 5/28/25, at 39. Thus, the certified record reflects that Grandmother's relationship with M.A.P. initially began while she was cohabiting with the child, presumably with Father's permission as the owner of the dwelling. We therefore conclude that the trial court did not err in determining that Grandmother's relationship with M.A.P. began with Father's consent, thereby satisfying § 5324(3)(i).

Father's next line of argument asserts that the trial court erred by admitting text messages into evidence during the May 28, 2025 hearing,

⁵ Grandmother clarified during the July 1, 2025 custody trial that she lived in Father's home from approximately 2016 to 2020. **See** N.T. Custody Trial, 7/1/25, at 113. There is no dispute that Father purchased his home in 2012, which he described as a "multi-unit" dwelling with "two apartments." *Id.* at 140. M.A.P. resided in Father's home throughout his life, along with his three siblings. *Id.*

which were offered by Grandmother to prove Mother's consent to Grandmother's relationship with M.A.P. **See** Father's brief at 13-18; **see also** N.T., 5/28/25, at 28-31 (Grandmother's introduction of Exhibit 1, the alleged text messages from Mother to her, and Father's objections based on authenticity and inadmissible hearsay). Since we have already determined that the trial court did not err in finding the requirements of § 5324(3)(i) met based upon Father's consent to Grandmother's relationship with M.A.P., and the statute only requires consent of one parent, we need not address whether the court relied upon improper evidence to find that Mother also consented.

In his final issue, Father argues that the evidence was insufficient to support the trial court's finding that M.A.P. "is substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity" pursuant to § 5324(3)(iii)(B). **See** Father's brief at 24. In his estimation, incarceration alone cannot support incapacity, and he claims that the record did not establish parental abuse, neglect, or abuse of drugs or alcohol. **Id.** at 24-26.

At the March hearing, Grandmother testified that M.A.P. "[wa]s scared to death of his dad[.]" N.T., 3/3/25, at 19. She explained that he had witnessed violence between Father and Girlfriend, who was the victim of assault by Father. **Id.** at 18. Additionally, Grandmother described Father's home as "disgusting." **Id.** at 17. At the May hearing, Grandmother attested to M.A.P.'s complaints that Girlfriend, who was caring for M.A.P. while Father was incarcerated, had extinguished a lit cigarette on M.A.P. and was

threatening to put him in foster care the day that G.O., Jr. and G.O., Sr., picked him up at Grandmother's request. **See** N.T., 5/28/25, at 25-26. Further, she explained that M.A.P.'s maternal grandmother implored her to extricate M.A.P. from Father's care because M.A.P. was being abused and not being fed, and that Girlfriend's daughter informed her that Father "beats them senselessly[.]" **Id.** at 21.

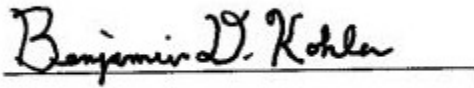
Considering this testimony, the court determined that § 5324(3)(iii)(B) had been met. Moreover, in its opinion in the 2025 Appeal, the court noted that Grandmother's standing as to this subsection was "again confirmed" at the custody trial. **See** Trial Court Opinion, 11/6/25, at 8. Specifically, M.A.P. told the court Father abused him and he observed Father and Girlfriend assaulting each other while drunk, and G.O., Jr. and G.O., Sr. testified to the circumstances surrounding M.A.P.'s removal from Girlfriend's care, corroborating Grandmother's prior testimony. **See** N.T. *In Camera* Interview, 7/1/25, at 8-10, 13, 15; N.T. Custody Trial, 7/1/25, at 25-27, 38.

Based on the foregoing, we conclude that the trial court did not err in determining that M.A.P. "[wa]s at substantial risk" due to parental abuse, neglect, and drug or alcohol abuse. **See** 23 Pa.C.S. § 5324(3)(iii)(B). Thus, Father's final issue fails.

Having determined that the trial court did not err in concluding that Grandmother had standing to file the custody action pursuant to § 5324(3), we affirm the custody order.

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: 10/22/2026