

MICHELLE L. KAUFFMAN, Plaintiff, vs. SCOTT D. TRUETT,
Defendant, C.P. Franklin County Branch, Domestic Relations Section,
Docket No. 1996-2876

Termination of Parental Rights — Child Support

1. Biological father's parental rights were privately terminated and children were not adopted by their stepfather until almost two (2) years later. Mother and Domestic Relations seek support child support for interim period after termination and before adoption.
2. Pending appeal of termination of parental rights, a parent is not required to pay child support because both rights and duties have been discontinued.
3. Duty to provide child support is discontinued upon termination of parental rights.
4. A plain reading of §2503(c) of the Adoption Act supports the assumption that a parent is no longer required to pay child support when his/her parental rights are terminated.

Appearances:

Jill A. McCracken, Esq., Assistant District Attorney
Barbara B. Townsend, Esq., Counsel for the Defendant

OPINION AND ORDER

WALKER, P.J., August 24, 2000

Case History

Plaintiff Michelle Kauffman and defendant Scott Truett are the natural parents of Kayla Truett, born November 5, 1992, and Kyle Truett, born September 2, 1994. The defendant's parental rights were involuntarily terminated on November 17, 1998. The termination of his parental rights was done privately, without state action. Thereafter, the children were eventually adopted by their stepfather on July 11, 2000. A nonsupport action was eventually brought against defendant on July 26, 2000, and he maintained that he should not be required to pay support for any periods beyond the termination date. Counsel for Mr. Truett and Domestic Relations submitted letters to the court for resolution of this issue.

Discussion

This case presents a novel and therefore delicate question to the court. Remarkably enough, after research it appears that the issue has not been directly addressed by our appellate courts in the Commonwealth. However, both parties have directed this court's attention to a 1991 case out of Monroe County to resolve the query. In that action, a mother's parental rights were

involuntarily terminated and she appealed that decision. *Monroe County Children and Youth Services v. Werkheiser*, 598 A.2d 313 (Pa.Super. 1991). The Superior Court reasoned that the mother was not required to pay child support pending appeal because her parental rights had been terminated, or discontinued. *Id.* at 315.

It appears that *Werkheiser* supports defendant's argument, and stands for the proposition that when a parent's rights are terminated, that parent's support obligation is necessarily absolved as well. Moreover, the language of the Adoption Act itself, if read plainly, supports that proposition.

“After hearing, which shall be private, the court may enter a decree of termination of parental rights in the case of their relinquishment to an adult or a decree of termination of parental rights and duties, **including the obligation of support**, in the case of their relinquishment to an agency.”
23 Pa.C.S.A. §2503(c) (emphasis added).

Given the plain reading of the statute and the precedent of *Werkheiser*, this court must rule in favor of defendant because his argument has sound legal support and is quite logical in theory. However, the court must also acknowledge its reluctance because the rule may not always be the most equitable in application. In instances where, as here, a child is not adopted until much later, that child is apt to suffer an unnecessary financial disadvantage. To assure that such predicaments do not happen in the future under such a rule, the system must be vigilant in providing children with adoptive parents without delay upon the termination of natural parents' rights.

An appropriate order follows.

ORDER OF COURT

August 24, 2000, having read the briefs submitted by both parties, this court hereby orders that defendant is not obligated to pay any child support accruing after the termination of his parental rights on November 17, 1998.