



THE FAMILY COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

DEPARTMENT OF SERVICES FOR)
CHILDREN, YOUTH AND THEIR)
FAMILIES (“DSCYF/DFS”),)

Petitioner,)

v.)

J----- I----- AND)
C----- I-----,)

Respondents.)

FILE NO.: CN25-05030

CASE NO.: 25-26388

In the Interest of:

E-- I----- (DOB 10/04/2017)

A----- I----- (DOB 06/27/2015)

N----- I----- (DOB 05/21/2011)

A---- I----- (DOB 09/19/2009)

CASE HISTORY:

Ex Parte Order: 12/02/2025

PPH Order: 12/12/2025

PRESENT FOR THE HEARING

Cynthia Hurlock, Esq., DAG

Evan Szarenski, Esq., DAG

J----- I-----, Mother

Stephanie Reid, Esq., Mother’s Attorney

Lauren McCrea, Esq., Mother’s Attorney

C----- I-----, Father

Frances Ratner, Esq., Father’s Attorney

Megan Mahle, Esq. Father’s Attorney

Casey Pav, Esq., Child Attorney

Jennifer Kline, Esq., Child Attorney

PRE-TRIAL HEARING ORDER

The Court held a Pre-Trial Hearing on April 10, 2026, in the interests of E-- I-----
- (“E--”) (D.O.B. 10/04/2017), A----- I----- (“A-----”) (D.O.B. 06/27/2015), N----- I-----
----- (“N-----”) (D.O.B. 05/21/2011), and A---- I----- (“A----”) (D.O.B. 09/19/2009)
(collectively, “the children”). All counsel and the parents, J----- I----- (“Mother”) and
C----- I----- (“Father”), appeared.

Ms. Hurlock represented that the State is willing to accept stipulations from the parents to dependency. Father's stipulation will be based on his lack of stable housing, and Mother's will be based on her lack of housing and inability to provide appropriate medical care for the children. Parents' counsel acknowledged that, notwithstanding the stipulations, DSCYF/DFS may provide additional reunification services for other areas of concern. In addition, the parties agreed to the joint submission of specific medical, DFS, and other records for the Court to review.

The children's attorneys, however, oppose the parents' stipulations to dependency, arguing that they are a party and must agree before the Court can rely on a stipulation to dependency at the Adjudicatory Hearing. Pursuant to 13 *Del. C.* § 2512, the Court must either make a finding or accept the agreement of the parties that, "as to each parent, the child is dependent, neglected or abused."¹ The Court is not persuaded by the children's attorneys' argument that the stipulation cannot proceed without their consent. The role of a child attorney is to represent a child's best interests.² But because "[t]he child is not the mere creature of the State,"³ children's best interests are no longer "the prime and overriding consideration" in dependency cases.⁴ It is the State's petition that initially defines the issues in a dependency case, and it is the State that decides whether to dismiss or proceed to an Adjudicatory Hearing. Although the children are indeed parties to these proceedings, it is the State that has the burden to justify such intervention with a showing of unfitness as to each parent.⁵

With respect to the parents, enshrined in the Constitution is the recognition that they have fundamental rights and liberties to the care, custody, and control of their children.⁶ Such rights may not be abrogated except "for the most compelling reasons necessary to correct or protect a child from circumstances which directly threaten or

¹ 13 *Del. C.* § 2512(b) (emphasis added).

² 29 *Del. C.* § 9007A(c).

³ *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (plurality opinion) (quoting *Pierce v. Soc'y of Sisters*, 268 U.S. 510, 535 (1925)).

⁴ *E.g.*, *Cline v. Hartzler*, 227 A.2d 210, 212 (Del. 1967).

⁵ *In re Truselo*, 846 A.2d 256, 269 (Del. Fam. Ct. 2000) (citing *Newmark v. Williams*, 588 A.2d 1108, 1116 (Del. 1991)).

⁶ *Santosky v. Kramer*, 455 U.S. 745, 753 (1982); *see also Troxel*, 530 U.S. at 65.

affect the minor's physical or emotional health.”⁷ “The State and its agencies are not in the business of determining or otherwise interfering with the parent-child relationship on any less substantial grounds.”⁸ In other words, the statutory requirement for a threshold finding of unfitness serves to protect the rights of parents, *not* the rights of children. Only after the door is unlocked by an initial adjudication of dependency, abuse, or neglect does the Court make findings directly related to whether it is in a child’s best interests to be in state custody.⁹ Consequently, the Court must address the parents’ constitutional rights before addressing the child’s interests, and the right to waive those rights by stipulating to dependency, abuse, or neglect belongs exclusively to the parents.¹⁰ The requirement that all parties must agree to a stipulation of dependency is best understood as referring to the parties *to that stipulation*: the State, which bears the burden of proof, and the parents, who are entering the agreement and thereby waiving their constitutional rights.

Although a stipulation to dependency clearly has an impact on the children’s lives, neither their significant procedural rights in the case nor their obvious interests at stake makes them parties to that initial agreement. As there is some inevitable overlap between parental fitness and children’s interests, the children’s attorneys surely can present evidence relevant to either or both throughout the pendency of these proceedings. Here, while the Court will not limit the children’s attorneys’ ability to present witnesses, the Court will require them to evaluate which of their proposed witnesses may remain relevant to these proceedings once the parents’ stipulations to dependency are accepted by the Court.

Lastly, if the children’s attorneys ascertain that the children’s wishes conflict with the attorneys’ position, they have an obligation to notify the Court of any potential conflict pursuant to 29 *Del. C.* § 9007A(c)(15). The Court presumes that, collectively,

⁷ *In re Burns*, 519 A.2d 638, 645 (Del. 1986) (quoting *Daber v. Div. of Child Protective Servs.*, 470 A.2d 723, 726 (Del. 1983)).

⁸ *Daber*, 470 A.2d at 726.

⁹ 13 *Del. C.* § 2512(b)(2).

¹⁰ *Cf. Mills v. Trans Caribbean Airways, Inc.*, 272 A.2d 702, 703 (Del. 1970) (“The general rule is that one person may not assert the constitutional rights of another”).

the children do not oppose reunification, but any conflict or discrepancy in that position between counsel and the children shall be addressed with the Court. If one child has a different position from the other children, or, alternatively, if the children's attorneys take conflicting positions about the best interests of the different children, the Court will ensure that each child has representation that corresponds to their individual needs, best interests, and wishes.

Accordingly, at the Adjudicatory Hearing on **April 20, 2026**, the Court will hear the parents' stipulations to dependency, testimony about the children's status and best interests, and the reasonable efforts made by DSCYF/DFS to prevent removal and finalize the permanency plan. The Court will also address scheduling and any other matters that arise during the hearing. In terms of a Dispositional Hearing, the Court may use one of the dates previously scheduled for the multi-day Adjudicatory.

IT IS SO ORDERED.

April 14, 2026

/ Eliza M. Hirst /
ELIZA M. HIRST, JUDGE

Written Order Issued:04/14/2026
EMH

xc: File, Parties, Counsel
Counsel, OCA Mailbox & DFS via e-mail
Respondent via regular mail
Date mailed/e-mailed: 04/14/2026