

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

IN THE INTEREST OF: : **Orphans' Court**
:
S.W., S.W., and H.W., :
:
Minor children : **No. 5235**

Opinion Issued 01/25/01

OPINION
Issued Pursuant to Pa. R.A.P. 1925(a)

The parents in this termination proceeding have appealed this court's denial of their Petition to Open.¹ This decision was made pursuant to In re Adoption of T.M.F., 392 Pa. Super. 598, 573 A.2d 1035 (1990), in which the Pennsylvania Superior Court stated clearly and unequivocally that no collateral attack on a termination determination is permitted.

The parents have argued that an exception to T.M.F. should be made because of their particular allegations of ineffectiveness of counsel. The holding in T.M.F., which also addressed a claim of ineffectiveness of counsel, allows for no exceptions and in light of the strong opinion issued in that case, this court has no authority to create an exception.

Since the parents disagree with T.M.F., their real fight is with the Superior Court—not with us. For the record, however, we fully agree with T.M.F. and applaud the

¹ The parents' rights were terminated after a two day hearing and a forty page opinion issued by this court on 7 September 1998. The Superior Court affirmed the termination in a 27-page opinion issued on 29 December 1999. The Supreme Court subsequently denied the parents' Petition for Allowance of Appeal

Superior Court's detailed analysis and sound explanation of why no collateral attack should be permitted in termination cases.

BY THE COURT,

Clinton W. Smith, P.J.

cc: Charles F. Greevy, Esq.
Matthew Golden, Esq.
Michael Wiley, Esq.
Gary Weber, Esq.