IN THE SUPERIOR COURT OF PENNSYLVNIA – MIDDLE DISTRICT

HEIDI BRUSH,	:	
Appellant	:	
	:	No. 952 MDA 2021
v.	:	No. 1126 MDA 2021
	:	(Consolidated)
	:	
LELAND FELDMAN	:	IN CUSTODY
Appellee	:	**CHILDREN'S FAST TRACK**

APPELLEE'S APPLICATION FOR LEAVE TO FILE A POST-SUBMISSION COMMUNICATION

Pursuant to Pa.R.A.P. 2501(a), Appellee Leland Feldman, pro se, hereby moves for leave to file this post-submission communication.

1. On July 22, 2021 the Appellant, Heidi Brush, had a Notice of Appeal Docketed with the Superior Court of Pennsylvania in regards to the instant matter. On October 27, 2021 the Appellant filed a Brief regarding the instant matter with the Superior Court. On November 15, 2021 the Appellee, Leland Feldman, filed a Brief regarding the instant matter with the Superior Court. On November 22, 2021 the Appellant filed a Reply Brief with the Superior Court.

2. The Appellee requests that the Court take into consideration the decision written by Pennsylvania Court of Appeals Judge Bowes in regards to the case of ***K.D. v. E.D.***, 2021 PA Super 224 - Pa: Superior Court 2021 (Appendix A), which was filed on November 16, 2021, a day after the Appellee filed his Brief with the Superior Court. A copy of the above decision is attached to this Post-Submission Communication. It should be noted that like the instant matter before the Court, the recently decided case of ***K.D. v. E.D.*** is also a custody case, required a decision regarding the coordinate jurisdiction rule and had a full bench recusal at the trial court level (albeit, in Wayne County).

3. It is the Appellee's opinion that the following passages, precedents, and cases stated in the attached case of ***K.D. v. E.D***, 2021 PA Super 224 - Pa: Superior Court 2021 are applicable to the instant matter:

> a. "Significantly, however, "the coordinate jurisdiction rule does not bar a judge at a later and different procedural stage of the case from overruling another judge's decision . . ., even on an identical legal issue and even where the record is unchanged." ***Xtreme Caged Combat v. Zarro***, 247 A.3d 42, 47 (Pa.Super. 2021). As articulated by our High Court, the "general prohibition against revisiting the prior holding of a judge of coordinate jurisdiction . . . is not absolute." Zane supra at 29 (citations omitted)."

b. "Pursuant to the Child Custody Act, a custody order may be modified at any time, provided the modification is in the best interest of the child. See 23 Pa.C.S. §5338(a) ("Upon petition, a court may modify a custody order to serve the best interest of the child."); 23 Pa.C.S. §5328 (relating factors to determine child's best interest). As we explained in ***Holler v. Smith***, 928 A.2d 330, 331–32 (Pa.Super. 2007), "[c]ustody matters are a special creature. . . . Unlike other actions which have a clear beginning, middle, and end, custody orders may be repeatedly modified.""

4. The Appellee believes that the recently decided case of ***K.D. v. E.D.*** 2021 PA Super 224 - Pa: Superior Court 2021, will assist this Court in its analysis of this matter.

5. The Appellee believes that the precedents of ***Holler v. Smith***, 928 A.2d 330, 331–32 (Pa.Super. 2007), ***Xtreme Caged Combat v. Zarro***, 247 A.3d 42, 47 (Pa.Super. 2021) and ***Zane v. Friends Hosp.***, 836 A.2d 25, 29 (Pa.2003) which were referenced by the Court in its Opinion in the case of ***K.D. v. E.D.*** 2021 PA Super 224 - Pa: Superior Court 2021, will assist this Court in its analysis of this matter.

6. The Appellee requests that the Court take into account the fact that the Appellee is a pro se litigant in making its decision regarding whether to accept the Appellee's post-submission communication, as legal research is significantly

harder and more time consuming for the Appellee than it would be for a licensed Attorney, as is the challenge for the Appellee to comply with all Court and Brief rules that are applicable in the totality of this matter. The Appellee cites ***Womer v. Hilliker***, 908 A.2d 269, 276 (Pa. 2006) ("procedural rules are not ends in themselves, and that the rigid application of our rules does not always serve the interests of fairness and justice").

WHEREFORE, the Appellee respectfully requests that it be permitted to make this Post-Submission Communication to alert the Court to the recent, relevant decision of ***K.D. v. E.D.*** 2021 PA Super 224 - Pa: Superior Court 2021 and the other relevant decision as stated above.

Respectfully submitted,

Leland C. Feldman

Leland C. Feldman
[redacted]

IN THE SUPERIOR COURT OF PENNSYLVANIA – MIDDLE DISTRICT

HEIDI BRUSH, *Appellant*	:	NO. 952 MDA 2021 NO. 1126 MDA 2021 (CONSOLIDATED)
vs.	:	
LELAND FELDMAN *Appellee*	:	IN CUSTODY **CHILDREN'S FAST TRACK**

PROOF OF SERVICE

I, Leland C. Feldman, hereby certify that I am this day serving two (2) copies of the foregoing Post Submission Communication upon the person and in the manner indicated below which service satisfies the requirements of Pa. R.A.P. 121:

Via: Email and First Class Mail:
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Respectfully Submitted,

Leland C. Feldman, pro se

[redacted]

Date: January , 2022

APPENDIX

A

2021 PA Super 224

K.D.	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
Appellant	:	
v.	:	
E.D.	:	No. 1883 EDA 2020

Appeal from the Order Entered October 5, 2020
In the Court of Common Pleas of Wayne County Domestic Relations at No(s): 336-2015 DR

BEFORE: BOWES, J., STABILE, J., and MUSMANNO, J.

OPINION BY BOWES, J.: **FILED NOVEMBER 16, 2021**

K.D. ("Mother") appeals from October 5, 2020 order that modified the custody arrangement with E.D. ("Father") to provide him supervised therapeutic visitation[1] with their three youngest children. We affirm.

The relevant facts and procedural history as follows:

> The instant custody case has a lengthy and complicated history. [K.D] and [E.D.] are the natural parents of four (4) children, [Jo].D., age 18, J.D., age 14, [Sh].D., age 11, and S.D., age 7. The only children applicable to the instant matter are the three minor children[.] The parties have been separated since April of 2015, and Father has not seen the three minor children since that time. [Pursuant to an order entered on July 2015, Mother exercises sole legal and primary physical custody of the children.] . . . Mother has made many allegations of physical, mental, and

[1] Pursuant to the Child Custody Act, "visitation" is subsumed by the definitions of partial physical custody, shared physical custody, and supervised physical custody. ***See*** 23 Pa.C.S. § 5322(b). As the parties and the trial court periodically utilize the term in their respective briefs and opinions, we refer to "visitation" where it is necessary to maintain continuity.

> sexual abuse by Father with regards to the children. The eldest child, [Jo].D., . . . has resided primarily with Father since January of 2020 and has recanted all of his allegations regarding sexual abuse by Father.

Trial Court Opinion, 12/4/20, at 1.

Two of the foregoing points require further discussion. First, the allegations of physical and emotional abuse relate to Father's use of corporal punishment as a means of disciplining the children in accordance with the practices of No Greater Ministries, also referred to as the Pearl Family Ministries, which Mother and Father followed as active members. Second, while Father initially informed Mother that he viewed child pornography on the Internet, he subsequently learned that the website disclosure statement indicated that the actors where at least eighteen years old. In this vein, we note that the police ultimately closed their child pornography investigation, which included the confiscation of the family's computer, without filing any pornography-related charges against Father.

On April 5, 2016, Father filed a petition to modify the July 2015 custody order so that he could exercise supervised partial physical custody with the three youngest children. A custody master was appointed, and during the ensuing evidentiary hearings, the parties presented, *inter alia*, the testimony of one mental health professional, Robert Gordon, Ph.D., two social workers, Heather Evans and Chris Charleton, and Leatrice Anderson, Esquire, the guardian *ad* litem ("GAL"). By stipulation, the master also considered a prior evaluation prepared by then-court-appointed custody evaluator Judith Munoz.

Dr. Gordon recommended supervised visitation, but the remaining professionals did not believe that supervised visitation was appropriate at that time. Except for one social worker, Ms. Evans, who viewed supervised visitation as the re-victimization of the children, none of the remaining professionals opined that supervised visitation should be precluded outright. As the Honorable Raymond Hamill subsequently summarized in granting Mother's exceptions to the master's recommendation for supervised physical custody, the qualified objections to Father's supervised visitation with the three youngest children were as follows: (1) Ms. Munoz was "open to reunification counseling" but recommended that Father participate so that the children do not feel that their concerns were unheeded; (2) Mr. Charleton "estimated that it would take one and one-half to two years before supervised visitation might be helpful;" and (3) noting the "unity and solidarity" among the children, the GAL pronounced "I cannot conclude that separating the two or three youngest children to implement visitation is in any of their best interests at this time." Trial Court Opinion, 1/11/18, at 5-6 (cleaned up).

Following the evidentiary hearings and the submission of briefs by Mother and Father, the master filed a report and recommendation granting partial relief. Specifically, the custody master recommended that Father participate in clinically-supervised visitation with the two youngest children.

As noted *supra*, Mother filed exceptions to the master's recommendation, which Judge Hamill granted. Essentially, Judge Hamill

concluded that, "[w]hile the allegations of sexual abuse were deemed unfounded," in light of Father's failure to address his severe mental and moral deficiencies and lack of insight into how those deficiencies affected his children, it was not appropriate for Father to engage in clinically supervised visits with the two younger children at that juncture. Trial Court Opinion, 1/11/18, at 13. He reasoned,

> The professionals who have been involved since the onset of this matter in 2015, Heather Evans, Chris Charleton, and Attorney Leatrice Anderson, all concluded that supervised visitation would not be in the children's best interest **at this time**. Ms. Munoz testified that to do this reunification counseling sought, Father must take responsibility or we are putting the children in a situation where they will feel like what they have said does not matter. Additionally, evidence from trial established that now, after years of therapy, the older two children are getting to the point where they are starting to recover from the trauma. The fact that Father would even propose that the children be taken out of the care of these professionals who have been treating them for years demonstrates his moral deficiency and his lack of concern for the children's best interests.
>
> It is the opinion of this Court that, after taking into consideration all of the evidence – the allegations of physical, sexual, and emotional abuse, Father's confirmed use of corporal punishment, and threats to endanger himself and family members to keep such punishment secret — the record rises to a showing that Father is severely mentally or morally deficient as to constitute a grave threat to the welfare of the children. Further, Father has shown no insight into how his conduct has affected and harmed his children. While the allegations of sexual abuse were deemed unfounded, and therefore makes the case at bar fall somewhere between the factual analyses employed in ***In re C.B.*** [861 A.2d 287 (Pa.Super. 2004)] and ***Rosenberg***, [504 A.2d 350 (Pa.Super. 1986)], this fact alone **is not dispositive that it is an appropriate time** for Father to engage in clinically supervised visits with the two younger children.

Id. (emphases added). We affirmed. ***K.D. v. E.D.***, 195 A.3d 1020 (Pa.Super. 2018) (unpublished memorandum).

More than three years after filing his first modification petition, on July 26, 2019, Father filed a second petition for the modification of the existing custody order pursuant to 23 Pa.C.S. § 5338(a). Referencing his completion of psychological and psychiatric evaluations and ongoing psychological counseling, Father asserted that he addressed the deficiencies that formed the basis of Judge Hamill's decision to deny the first petition. Thus, noting these accomplishments, Father sought to modify the custody arrangement to permit periods of supervised partial physical custody with the minor children. Subsequent to Father's filing his modification petition, then seventeen-year-old Jo.D. recanted the allegation of sexual abuse against Father, re-kindled the parent-child relationship, and moved into Father's residence.[2]

The custody matter was specially assigned to the Honorable Kelly A. Gaughan of Pike County (hereinafter referred to as the "trial court") because

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[2] Throughout her brief, Mother assails the trial court for acknowledging Jo.D's recantation because she believes that the trial court insisted that his recantation was not at issue in its decision relative to the younger children. In reality, however, the court stated that the recantation was **not its central focus** but was relevant to determine the best interest of the children in relation to Father's motion for supervised visitation. Thus, despite Mother's persistent declarations to the contrary, the trial court did not feign to ignore Jo.D.'s recantation entirely. Rather, the court stated the precise basis for its consideration of that uncontested fact and concluded that Mother's proffered authority regarding recantations generally was not relevant. ***See*** N.T., 9/17/20, at 153-54.

of the "Full Bench Recusal" by the Wayne County judges. ***See*** Trial Court Order, 1/30/20, at 1. Judge Gaughan ordered a fresh custody evaluation by Ronald Esteve, Ph.D. and appointed a new GAL, Shannon Muir, Esquire, to represent the best interests of the three youngest children. Dr. Esteve completed a comprehensive custody evaluation that ultimately recommended periods of supervised therapeutic custody, and Attorney Muir issued a forty-eight page report, including eleven pages of analysis and recommendations, which the trial court ordered sealed with the exception of counsel.

During the ensuing five-day evidentiary hearing, the trial court considered, *inter alia*, Dr. Esteve's custody evaluation and supporting testimony, and the *in camera* interview with the two older children at issue, J.D. and Sh.D. In addition, the court heard testimony from Steven M. Timchack, Psy.D, Father's current therapist, the parties' respective experts, and the GAL.

On October 2, 2020, upon consideration of the sixteen custody factors delineated in Pa.C.S. § 5328(a), which we discuss *infra*, the trial court entered the above-referenced order that, *inter alia*, awarded Father therapeutic supervised partial physical custody of J.D., Sh.D., and S.D. under the directions of Honesdale Behavioral Health. Emphasizing the urgency of the situation, the trial court also outlined the expectations of cooperation between the respective parties, and the continued reporting requirements among the

GAL and the mental health professionals in anticipation of a review hearing on February 22, 2021.

This timely appeal followed. Mother asserted thirty-one issues in the concise statement of errors complained of on appeal that she filed contemporaneously with the notice of appeal pursuant to Pa.R.A.P. 1925(a)(2)(i). The trial court addressed Mother's litany of issues in its Rule 1925(a) opinion and the matter is ready for our review.

Mother presents three questions for our review:

> 1) Did the trial court err as a matter of law or abuse its discretion in wholly disregarding and altering the 2018 fully adjudicated factual findings of Judge Hamill in this case, upheld by this Court on appeal, in violation of the doctrines of *res judicata*, collateral estoppel, and the coordinate jurisdiction rule?
>
> 2) Did the trial court err as a matter of law or abuse its discretion in determining that there was no objective evidence of abuse by [Father], making inferences and conclusions that are not supported by the evidence presented at trial and the previous factual findings of the court?
>
> 3) Did the trial court err as a matter of law or abuse its discretion in finding that it was in the best interests of the children to have therapeutic supervised visitation with their father where the evidence demonstrated that [Father] still presented a grave threat to the minor children?

Mother's brief at 6.

Since the trial court styled the October 2, 2020 order as an "interim custody order" and scheduled a review hearing for February 2021, we must first address whether this appeal is proper. An appeal "may only be taken from: 1) a final order or one certified by the trial court as final; 2) an

interlocutory order as of right [Rule 311]; 3) an interlocutory order by permission; or 4) a collateral order [Rule 313]." ***Estate of Considine v. Wachovia Bank***, 966 A.2d 1148, 1151 (Pa.Super. 2009); ***See*** Pa.R.A.P. 341(a). Stated another way, "an appeal properly lies only from a final order unless otherwise permitted by rule or statute." ***G.B. v. M.M.B.***, 670 A.2d 714, 717 (Pa.Super. 1996)(citations omitted). As the instant order is neither collateral to the underlying litigation nor an interlocutory order that is appealable as of right or permission, we must determine whether it is a final order notwithstanding the "interim" designation.

Pursuant to Pennsylvania Rule of Appellate Procedure 341(b)(1), a final order is any order that disposes of all claims and of all parties. In ***G.B.***, ***supra***, we explained that a child custody order is final and appealable "only if it is both: 1) entered after the court has completed its hearings on the merits; and 2) intended by the court to constitute a complete resolution of the custody claims pending between the parties." We continued, "this holding will protect the child from the protraction of custody litigation through repetitive appeals while still allowing prompt and comprehensive review of custody determinations. It will also support judicial economy and efficiency and uphold the integrity of the trial court's process in deciding custody matters." ***Id.***

As we stated in ***J.M. v. K W***, 164 A.3d 1260, 1263 (Pa.Super. 2017) (*en banc*), "until the trial court has rendered its best-interest determination on the merits, an interim custody order is ephemeral and subject to further

modification upon petition." Thus, an order that is intended to determine the parties' temporary status during ongoing custody litigation, and is not entered following a full evidentiary hearing, is not a final order. ***G.B. supra*** at 719 citing ***Williams v. Thornton***, 577 A.2d 215 (Pa.Super. 1990).

Instantly, the trial court's interim custody order was temporary in name only. The order was entered following a full evidentiary hearing and the court's extensive consideration of the statutory factors, and it constitutes the trial court's final determination as to Father's petition to modify custody. As the February 2021 review hearing was only to hone the court-ordered therapeutic process and confirm the parties' participation, it had no bearing on the best interest analysis or the merits of Father's petition. Hence, it is external to the underlying custody determination which meets the requirements of Rule 341. ***See Cady v. Weber***, 464 A.2d 423, 426. Accordingly, this appeal is proper and we address the merits of Mother's assertions.

Mother's first argument is that the trial court abused its discretion in discounting Judge Hamill's 2018 finding that Father perpetrated child abuse. To be clear, despite investigations by both the police and the child protective service agency, there is no determination of abuse in this case pursuant to

the Child Protective Services Law ("CPSL").[3] Indeed, Mother's principal assertion that the trial court misstated Father's status as a perpetrator of abuse misses the mark. Pursuant to the CPSL, an "Unfounded report" is one which was not determined to be "Indicated" by a county agency or "Founded" based on a criminal proceeding or a judicial adjudication that is typically in accordance with the Juvenile Act or the Protection From Abuse Act. ***See*** Pa.C.S. § 6303 (defining "Founded report," "Indicated report," and Unfounded report"). Thus, notwithstanding Mother's repeated protestations in the case at bar, there is no "Substantiated child abuse" report in this case, *i.e.*, "Child abuse as to which there is an indicated report or founded report." ***Id.*** (defining "Substantiated child abuse").

Nevertheless, Mother's arguments are predicated upon Judge Hamill's proclamation of abuse, made in considering whether visitation was appropriate. Specifically, Judge Hamill concluded that "Father subjected his children to a pattern of sexual, physical, and emotional abuse for many years before the parties' separation in 2015." Trial Court Opinion, 12/4/20, at 12. Essentially, she conflates Judge Hamill's finding that Father constituted a threat to the children under the purview of the Child Custody Act with a substantiated finding of abuse under the CPSL.

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[3] While Wayne County Children and Youth Services made an initial finding of abuse as to Jo.D., that determination was subsequently overturned. N.T., 9/14/21, at 11.

The three-faceted contention that the trial court was bound by Judge Hamill's finding embraces *res judicata*, collateral estoppel, and the coordinate jurisdiction rule. Specifically, Mother asserts that, in granting the instant petition for modification, the trial court disregarded Judge Hamill's factual findings from 2018, reversed the determination that Father subjected the children to abuse, and overruled the 2018 order denying the prior petition to modify. Mother's brief at 12-13. She concludes that, despite recognizing that Father's status as a perpetrator of abuse "must be treated as established,[the trial court] unabashedly rejects the 2018 evidentiary findings." ***Id***. at 14-15. As we discuss *infra*, Mother's assertions concerning the effect of Judge Hamill's prior custody decision are unconvincing. For the following reasons, none of the doctrines the Mother invokes controls our disposition.

Application of the doctrines of *res judicata* and collateral estoppel is a question of law requiring *de novo* review and the scope of review is plenary. ***Weinar v. Lex***, 176 A.3d 907, 915 (Pa.Super. 2017). The trial court addressed these aspects of Mother's arguments collectively in its Rule 1925(a) opinion, reasoning that child custody is fluid and trial courts are free to modify custody orders where modification serves a child's best interest in light of the best interest factors outlined in 23 Pa. C.S. §5328. Essentially, the court concluded that modification was warranted "based upon competent evidence" presented during the five–day hearing because "the facts and circumstances surrounding this matter have changed significantly in the past four years.'"

(cleaned up). Trial Court Opinion, 12/4/20, at 3. The trial court further surmised that it was "free to modify an existing custody order, even if the facts previously litigated are treated as established, if it believes that the modification will serve the best interests of the child." ***Id.*** While we agree with the trial court's discussion of the relevant law and its ultimate conclusion, we address Mother's arguments relative to the three doctrines *seriatim* because each doctrine impacts this case differently.

Res judicata, *i.e.*, claim preclusion, blocks the re-litigation of a previously litigated claim or cause of action when a former suit possess four elements of commonality: "(1) the identity of the thing sued upon; (2) the identity of the cause of action; (3) the identity of the persons and parties to the action; and (4) the identity of the quality or capacity of the parties suing or being sued." ***In re N.A.***, 116 A.3d 1144, 1148-49 (Pa.Super. 2015). Furthermore, "[t]he dominant inquiry under those elements, then, is whether the controlling issues have been decided in a prior action, in which the parties had a full opportunity to assert their rights."

As it relates to *res judicata*, Mother posits that,

> because [Father's] petition for modification of custody included no new issues related to whether the abuse had or had not occurred, that issue was subject to *res judicata* as it had already been decided in the 2018 proceeding in which the parties had an opportunity to appear and fully assert their rights, including on appeal.

Id. at 18 (cleaned up). Hence, she asserts that, absent demonstrating a change of circumstances, Father cannot seek to disturb Judge Hamill's determination of abuse. No relief is due.

Notwithstanding the fact that Mother phrases this claim as an "issue" concerning whether Father was a perpetrator of abuse, the doctrine of *res judicata* relates to claim preclusion, *i.e.*, whether Father can reassert a petition for modification years after Judge Hamill denied a similar petition. This claim fails because, regardless of any determination concerning the **issue** of Father's conduct prior to 2018, the trial court simply was not bound by Judge Hamill's 2018 order so long as the instant modification serves the best interest of the children.

Pursuant to the Child Custody Act, a custody order may be **modified at any time**, provided the modification is in the best interest of the child. ***See*** 23 Pa.C.S. §5338(a) ("Upon petition, a court may modify a custody order to serve the best interest of the child."); 23 Pa.C.S. §5328 (relating factors to determine child's best interest). As we explained in ***Holler v. Smith***, 928 A.2d 330, 331–32 (Pa.Super. 2007), "[c]ustody matters are a special creature. . . . Unlike other actions which have a clear beginning, middle, and end, custody orders may be repeatedly modified."

Furthermore, contrary to Mother's assertion, the essential issue in deciding whether to modify custody is **not** whether a petitioner has demonstrated a change of circumstances. ***See Karis v. Karis***, 544 A.2d

1328 (Pa. 1988) ("we hold that a petition for modification of a partial custody to shared custody order requires the court to inquire into the best interest of the child regardless of whether a 'substantial' change in circumstances has been shown."); ***see also Hutchinson v. Hutchinson***, 549 A.2d 999 (Pa.Super.1988) (changed circumstances are no longer required for court to review child custody orders.). Indeed, as explained in the legislative committee comment accompanying the custody modification provisions in the Child Custody Act, § 5338(a) is the codification of the High Court's holding in ***Karis, supra***. 23 Pa.C.S. § 5338, Jt. St. Govt. Comm. cmt.-- 2010 ("Subsection (a) codifies the standard used in ***Karis v. Karis,*** 518 Pa. 601, 544 A.2d 1328 (1988), where the Supreme Court held that 'a petition for modification of a partial custody to shared custody order requires the court to inquire into the best interest of the child regardless of whether a 'substantial' change of circumstances has been shown.'").

The authority that Mother cites in support of her argument in favor of the application of *res judicata* is either Commonwealth Court precedent or predates § 5338. ***See*** Mother's brief at 16-18. As it is beyond peradventure that we are not bound by precedential decisions of the Commonwealth Court, and the Child Custody Act unequivocally reaffirms that the focus of a custody modification is upon the child's best interest rather than circumstantial changes, Mother's contrary assertions are unpersuasive. ***Buttaccio v. Am. Premier Underwriters, Inc.***, 175 A.3d 311, 319 (Pa.Super. 2017); 23

Pa.C.S. § 5338, Jt. St. Govt. Comm. cmt.-- 2010. Thus, for all of the foregoing reasons, the doctrine of *res judicata* did not preclude the trial court's consideration of Father's petition for modification filed in 2019. The only salient issue before the trial court concerned whether Father's 2019 entreaty served the best interests of J.D., Sh.D., and S.D. based upon contemporary evidence.

Next, we address Mother's argument relative to collateral estoppel, which bars the re-litigation of a previously litigated issue. ***Vignola v. Vignola***, 39 A.3d 390, 393 (Pa.Super. 2012). We examine the following factors to determine whether the doctrine applies: (1) whether the issue is identical to an issue that was decided in a prior adjudication; (2) whether there was a final judgment on the merits; (3) whether it involves the party against whom the plea was asserted in the prior adjudication; (4) whether the party against whom it is asserted has had a full and fair opportunity to litigate the issue in question in a prior action; and (5) whether the determination in the prior proceeding was essential to the judgment. ***Id***.

Again, Mother's argument implicates the trial court's finding that "There are currently no indicated, founded or substantiated findings of either sexual or physical abuse of a child of record against Father." ***See*** Opinion and Order, 10/2/20 at 2. She asserts that the trial court effectively reconsidered the issue concerning "whether [Father] physically, sexually, and emotionally abused the children," which is a previously adjudicated fact determined by