

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA
ORPHANS' COURT DIVISION**

IN RE: : **NO. 6547**
:
JW :
AW, :
:
Minor children :

OPINION AND ORDER

AND NOW, this 18th day of **August, 2017**, before the Court is Lycoming County Children & Youth Services' ("Agency") Petition for Involuntary Termination of Parental Rights of MW ("Mother"), filed on May 1, 2017. WF ("Father") signed a Consent to Adoption on February 23, 2017. A Petition to Confirm Consent was filed on May 1, 2017. A hearing on the Petition to Confirm Consent was held on July 12, 2017, at which time Father's rights were voluntarily terminated. A hearing on the Petition to Involuntary Terminate Mother's Parental Rights was held on August 15, 2017. Mother was present and represented by Trisha Hoover Jasper, Esquire. John Pietrovito, Esquire, Solicitor for the Agency, and Angela Lovecchio, Esquire, counsel for the children, were also present at the hearing.

Findings of Facts

AW ("A.W.") and JW ("J.W.") (collectively, "Children") were born August 1, 2016. They are the children of MW, date of birth July 23, 1989, and WF, date of birth January 28, 1958.

Lycoming County Children & Youth Agency (“Agency”) has an extensive history with Mother. Mother voluntarily terminated her rights to her first child on May 13, 2016. At the time of the birth of A.W. and J.W., Mother was under the supervision of the Lycoming County Adult Probation Office. Mother resided in an approved mental health group home and was not permitted under the terms of her probation to move from that home. She was not able to have the Children reside with her in that group home. Based on the Children being without proper parental care or control, which placed their health, safety, or welfare at risk, emergency custody of A.W. and J.W. was granted by the undersigned shortly after their birth on August 1, 2016.

An Application for Emergency Protective Custody was filed on August 2, 2016, and a Shelter Care hearing was held on August 4, 2016, at which time the Agency’s request for physical and legal custody of the Children was granted. The Court found that allowing the Children to remain in the home would be contrary to their welfare. Mother requested that her own mother, JW(GM), be awarded physical custody of the Children. The Agency investigated JW(GM)’s home and opposed this request due to the fact that a member of the household had a previous indicated CYS report, there were no bedrooms for the Children, and the home conditions were not acceptable.

A Dependency Petition was filed on August 8, 2016. After a hearing was held on August 11, 2016, the Court found by clear and convincing evidence that A.W. and J.W. were dependent children pursuant to 42 Pa.C.S. §6302, and were without proper care or control. The Court granted the Agency the legal and physical custody of the Children for continued placement in an approved resource home. The Court further noted that a psychological evaluation was completed on August 31, 2015, by Bruce Anderson, a

licensed psychologist contracted through the Agency, wherein Mr. Anderson found it would not be appropriate for Mother to have the care of a child/children on her own. As Mother had been living in a group home and had been involved with Adult Probation for a period of time, the Court requested Mr. Anderson complete an updated evaluation of Mother to determine if she had progressed at all, and whether his position on her abilities to care for children had changed.

On August 26, 2016, DNA testing was performed on DS, who was named by Mother as the biological father of A.W. and J.W. On August 31, 2016, it was reported that the probability of paternity was 0%, and DS was excluded as the biological father of the Children. On October 25, 2016, DNA testing was performed on WF. On November 1, 2016, it was reported that the probability of paternity was 99.9998% and WF was determined to be the biological father of A.W. and J.W.

A Permanency Review Hearing was held on November 15, 2016. The Hearing Officer found that Mother had minimal compliance with the child permanency plan, in that Mother participated with Outreach services through the Agency and that she visited with the Children. During this review period, Mother attended 30 out of 39 possible visits with the Children. (Exhibit 8). However, the Hearing Officer found that at the visits, Mother was often preoccupied with her personal life, and had to be repeatedly instructed on how to safely handle the Children and care for them. The evidence presented established that Mother could not properly care for the Children on her own without the constant supervision of a member of the Agency. Mr. Anderson opined that Mother had a minimal bond with the Children and was not likely to make progress in her parenting skills, and if she was not going to gain custody of the Children, her visits

should be reduced to one time per week. The Hearing Officer further found that Mother had made minimal progress toward alleviating the circumstances which necessitated the original placement, in that she continued to reside in a group home which did not permit children, and that she continued to struggle to meet the Children's basic needs during the visits. The placement of the Children in the home of BN and KN continued to be necessary and appropriate.

On February 23, 2017, Father signed a Consent to Adoption of the Children. He participated in a final visit with the Children.

On March 21, 2017, a Permanency Review hearing was held. During the review period, Mother was removed from the mental health group home due to not following rules and not working on goals, as well as for stealing food from other residents. Mother began residing in a personal care home. When Mother was removed from the group home, she did not consistently attend her scheduled visits with the Children, and the Court did not find the excuses she offered for missing visits to be credible. During this review period, Mother attended 9 out of 18 scheduled visits. (Exhibit 9). Mother cancelled 7 out of the final 8 visits during this review period. The Court also noted at that time, Mother's personal hygiene declined and she began a relationship with a man named BD, which caused the Court significant concern due to domestic violence and control issues between them. The Court found that Mother had made no progress toward alleviating the circumstances which necessitated the original placement, in that she continued to reside in a personal care home and was unable to meet the Children's basic needs. At the review hearing, Mother indicated that she wished to be reunified with her Children, and the Court urged her to attend all her scheduled visits with the

Children. However, the Court did express concern that, based upon Mr. Anderson's prior evaluation and the reports of the Agency workers, Mother continued to be preoccupied with her personal life during the visits and there continued to be safety issues for the children even while others were supervising the visits. The Court found that the placement of the Children continued to be necessary and appropriate and ordered that physical and legal custody of the Children remain with the Agency.

On May 1, 2017, a Petition for Involuntary Termination was filed pursuant to 23 Pa. C.S. § 2511(a)(1),(2), and (5) regarding Mother's and Father's rights to the Children. Also on May 1, 2017, a Petition to Confirm the Consent signed by Father on February 23, 2017. An Answer was filed on behalf of Mother on May 2, 2017. A pretrial conference was held on July 12, 2017. The Court also held a hearing on July 12, 2017, regarding the Petition to Confirm Consent and entered a decree voluntarily terminating Father's rights to A.W. and J.W. The hearing on the Agency's Petition for Involuntary Termination of Mother's Parental Rights was scheduled for August 15, 2017. A Petition for Permanency Hearing and Change of Goal was filed by the Agency on July 27, 2017, requesting that the Court reaffirm the Children's dependency and change the goal from Reunification to Adoption.

On August 15, 2017, a hearing was held with regard to the Petition for Involuntary Termination of Parental Rights, as well as a Permanency Review Hearing. Linda Bloom, Mother's former Targeted Case Manager through Lycoming/Clinton MH/ID Program, testified that she began working with Mother in April 2016. She further testified that throughout her time working with Mother, she believed that Mother did not possess the ability to advocate for herself, and did not follow through with any suggestions or

guidelines. She testified that Mother experienced incredible difficulties taking care of even the most basic of her own needs, such as brushing her teeth, combing her hair, and ensuring that her clothes were clean. Mother reported being victimized by her own mother and Ms. Bloom assisted Mother in changing the payee of Mother's public benefits from her mother to a licensed, bonded agency. Despite Mother's poor treatment by her own mother, Ms. Bloom testified that Mother had indicated that she intended for her mother to care for the Children. Ms. Bloom's report, marked as Exhibit 2 and admitted into evidence, indicated that Mother's "focus on her immediate wants outweighed her ability to think through needs in a logical fashion."

Bruce Anderson, Licensed Psychologist contracted through the Agency, performed multiple evaluations on Mother. Counsel for the Agency, counsel for Mother, and counsel for the Children stipulated that Mr. Anderson is qualified as an expert in the areas of (1) evaluating parental capability/capacity, (2) evaluating parent/child bonds and resource parent/child bonds, and (3) expressing an opinion regarding the best interest of a child in a termination of parental rights case. Mr. Anderson first evaluated Mother in 2010, at which time he found her to have a full-scale IQ of 66, which placed her in the mild range of intellectual disability. Mr. Anderson performed a comprehensive evaluation on Mother in August 2015, regarding her parental rights to her first child. At that time, Mr. Anderson indicated that he did not feel Mother would ever be able to care for a child on her own and strongly recommended that she not be awarded full custody of a child in the future. Mr. Anderson's evaluation dated August 31, 2015, was marked as Exhibit 1 and admitted into evidence. Mother's Agency caseworker requested Mr.

Anderson reevaluate Mother to determine whether there had been any change in Mother's ability to parent in the two years since Mr. Anderson's first evaluation.

Mr. Anderson testified that his opinion had not changed, and that he feels very strongly that Mother is incapable of parenting a child without the constant help of another competent adult. Mr. Anderson's current evaluation, which was marked as Exhibit 5 and admitted into evidence, indicated that Mother has demonstrated significant difficulty maintaining her own home or apartment, and her self-care remained poor. Additionally, Mr. Anderson's report also indicated that, despite Mother stating that she loved the Children and wanted to obtain full custody of them, her infrequent attendance at scheduled visits with them evidenced that she lacked an emotional bond with them. Mr. Anderson testified that he did not feel that Mother would ever be able to care for a child on her own and recommended that her parental rights be terminated.

In addition to the evaluation on Mother, on June 29, 2017, Mr. Anderson also conducted an evaluation on BN and KN, with whom A.W. and J.W. have resided since their discharge from the hospital following their birth. Mr. Anderson testified that the Children are very attached to their resource parents and it would be emotionally traumatic for the Children to be removed from their current placement.

On cross examination, Mr. Anderson testified that he had not observed Mother with the Children. He indicated that it is clear that Mother loves the Children. However, Mr. Anderson testified that what is important is that the Children are bonded with the resource parents. When questioned by counsel for the Children, Mr. Anderson testified that, because of her intellectual disability, she functions cognitively in the 8 to 10 year old range, and that this is not likely to change. Because of this, he expressed concerns

that the Children's safety may be at risk if they were placed in Mother's care without constant help from another competent adult. He further testified that he believed it was in the Children's best interest to terminate Mother's parental rights.

Mary Wilson, Mother's Outreach caseworker, testified that she received the referral in November of 2016, and her goals were to help Mother with parenting/nurturing, and to observe Mother's visits with the Children. Ms. Wilson testified specifically regarding Mother's visits during the most recent review period. There were 21 visits available to Mother, and she attended only 6 of them. (Exhibit 10). Mother cancelled or no-showed her weekly visits from May 1, 2017, through July 17, 2017. Ms. Wilson testified about some very serious concerns she had while supervising the visits that Mother did attend, including one instance where instead of Mother getting off the floor and physically retrieving J.W., she grabbed him by the leg and dragged him across the carpet to pull him closer to her. Ms. Wilson testified that this action by Mother visibly upset the CASA worker who was also present for the visit. Ms. Wilson further testified that Mother does not know how to identify the twins, despite their obvious differences in size, if J.W. is not wearing the helmet medically necessary to correct his misshapen skull. Additionally, Ms. Wilson testified that Mother is easily distracted during the visits she does attend, and often focuses more on her own personal life than developing skills to properly parent the Children. According to Ms. Wilson, Mother does not respond when Ms. Wilson looks her in the eye and attempts to tell her what is going well with the visits and areas in which she could improve. Ms. Wilson has not seen any improvement in Mother's ability to ensure the safety of the Children, and that their needs according to their developmental stage simply do not register with Mother.

When cross examined by counsel for Mother, Ms. Wilson testified that Mother did properly change one of the Children's diapers during a recent visit. However, there was an incident where Mother stepped away to wash her hands and briefly left the child unattended on the changing table, creating a safety risk. Ms. Wilson testified that Mother attended the last 4 visits of the review period. However, during these visits, A.W. has become extremely upset when the resource parent leaves the room and immediately begins to cry. Ms. Wilson described him as being hysterical, and Mother is unable to console him, even with prompts by the caseworkers supervising the visits. Ms. Wilson testified that only when the resource parent returns does A.W. stop crying.

KN, the Children's resource mother, testified that the Children have been with their family since they were released from the hospital, and that, without hesitation, she and her husband would adopt A.W. and J.W. if Mother's parental rights were terminated. KN testified that during the visits, she transfers the Children directly to Mother, and Mother asks the same basic questions such as "when was their last bottle/diaper change?" KN testified that at the end of the visits, Mother does not volunteer any information and KN must rely on the Agency workers to relay any necessary information to her. KN expressed concerns about the last four visits that Mother attended, and how the Children's anxiety when she left the room physically manifested itself. KN testified that the when she picks him up at the end of the visit at 4:00 p.m., A.W. is hysterical and soaked in sweat, continues to sob in the car, and does not fully relax until around 6:30 p.m. She further testified that J.W. takes even longer, and usually takes until bedtime to return to his normal demeanor.

KN testified that both Children have medical issues. J.W. has a condition which resulted in him being required to wear a helmet to reshape his skull. He also has torticollis. Both Children have been diagnosed with Reactive Airway Disease. This requires the use of nebulizers as needed. Both Children meet with a physical therapist, and the resource parents must work independently with the Children each day to improve their mobility and coordination. It is clear to the Court that BN and KN are deeply committed to the Children.

Crystal Minnier, the Agency's ongoing Caseworker assigned to the case, testified that she has been involved with Mother since the birth of her first child. Ms. Minnier indicated that the Children were taken into care shortly after their birth, as there were significant concerns about Mother's ability to care for them based upon their experience with Mother and her first child, as well as the fact that Mother lived in a group home and could not reside there with the Children. The Agency did a diligent search and sent out letters in an attempt to find kinship care for the Children, but received no response other than Mother's mother, who was unable to rectify the issues which prevented her from being a foster parent. When the identity of the Children's Father was confirmed, the Agency also sent letters to his side of the family but received no responses from individuals who would be appropriate caretakers for the Children.

Ms. Minnier testified that Mother struggles to take care of herself, and the struggle intensified when Mother was kicked out of her mental health group home for not making progress and not following rules. Ms. Minnier testified that when she moved to the personal care home, Mother attendance at the visits with the Children significantly decreased. Ms. Minnier maintained contact with Mother, even when she was not visiting

with the Children for several months at a time. Ms. Minnier testified that Mother would often inquire about her first child, to whom she had voluntarily relinquished her parental rights, but seldom asked about A.W. and J.W.

Ms. Minnier testified that Mother does not have an understanding of the Children's needs. When she attended the visits, she was unable to stay on task, often getting bored or appearing uninterested in learning how to properly care for and nurture the Children. In Ms. Minnier's opinion, Mother saw the Children as "doll babies," and the responsibilities required to fulfill the needs of the Children were not real to her. Ms. Minnier testified that Mother's inability to care for the Children was not deliberate, but rather a product of her mental health issues and her own troubled upbringing.

On cross examination, Ms. Minnier testified that she believes Mother does love the Children, and that she has been cooperative with the Agency in that she has never been nasty or disrespectful to the workers. However, Ms. Minnier has seen no changes or improvements in her ability to safely and competently care for the Children.

Mother briefly testified at the hearing. She testified that she believes that she will be able to take care of A.W. and J.W. because she has learned a lot, and "because she is good at changing diapers, good at giving them bottles, and good at holding them." While on the witness stand, Mother appeared very child-like. It was evident to the Court that Mother's mental health and intellectual disability placed her in the 8-10 year old range of social, emotional, and developmental maturity testified to by Mr. Anderson. It is clear to the Court that Mother loves the Children. However, it is equally clear to the Court that Mother would not be able to care for the Children, and address their growing and changing needs without the constant help of another competent adult.

Discussion

The Agency argues that the basis for termination in this case may be found in 23 Pa.C.S. §2511(a)(1), (2), and (5), which provides as follows:

§2511. Grounds for Involuntary Termination

(a) GENERAL RULE.--The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds:

- (1) The parent by conduct continuing for a period of at least six months immediately preceding the filing of the petition either has evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties.
- (2) The repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent.
- (5) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency for a period of at least six months, the conditions which led to the removal or placement of the child continue to exist, the parent cannot or will not remedy those conditions within a reasonable period of time, the services or assistance reasonably available to the parent are not likely to remedy the conditions which led to the removal or placement of the child within a reasonable period of time and termination of the parental rights would best serve the needs and welfare of the child.

In order to involuntarily terminate Mother's parental rights, the Agency must prove by clear and convincing evidence one of the above subsections of 23 Pa.C.S.A. §2511(a).

A court may terminate parental rights under Section 2511(a)(1) where a parent demonstrates a settled purpose to relinquish parental claim to a child **or** fails to perform parental duties for at least six months prior to the filing of the termination petition. **In the Interest of C.S.**, 761 A.2d 1197, 1201 (Pa. Super. 2000) (emphasis added). The Court should consider the entire background of the case and not simply:

mechanically apply the six month statutory provision. The court must examine the individual circumstances of each case and consider all

explanations offered by the parent facing termination of his . . . parental rights, to determine if the evidence, in light of the totality of the circumstances, clearly warrants the involuntary termination.

In re: B.N.M., 856 A.2d 847, 855 (Pa. Super. 2004), appeal denied, 582 Pa. 718, 872 A.2d 1200 (2005) citing **In re: D.J.S.**, 737 A.2d 283, 286 (Pa. Super. 1999).

In determining what constitutes parental duties, the Pennsylvania Supreme Court has said:

There is no simple or easy definition of parental duties. Parental duty is best understood in relation to the needs of a child. A child needs love, protection, guidance, and support. These needs, physical and emotional, cannot be met by a merely passive interest in the development of the child. Thus, this Court has held that the parental obligation is a positive duty which requires affirmative performance. This affirmative duty encompasses more than a financial obligation; it requires continuing interest in the child and a genuine effort to maintain communication and association with the child. Because a child needs more than a benefactor, parental duty requires that a parent "exert himself to take and maintain a place of importance in the child's life."

With these principles in mind, the question whether a parent has failed or refused to perform parental duties must be analyzed in relation to the particular circumstances of the case. A finding of abandonment, which has been characterized as "one of the most severe steps the court can take," will not be predicated upon parental conduct which is reasonably explained or which resulted from circumstances beyond the parent's control. It may only result when a parent has failed to utilize all available resources to preserve the parental relationship.

In re: Burns, 379 A.2d 535, 540 (Pa. 1977)(citations omitted). "When a child is in foster care, this affirmative duty requires the parent to work towards the return of the child by cooperating with the Agency to obtain rehabilitative services necessary for them to be capable of performing their parental duties and responsibilities." **In re: G.P.-R.**, 2004 Pa. Super. 205, 851 A.2d 967, 977.

The Court finds that for a period of at least six months prior to the Agency's filing of the Petition to Terminate Mother's parental rights, Mother has failed to perform parental duties on behalf of the children. Mother has only visited the children sporadically during the time the children have been in placement, and at one point went nearly three months without attending a scheduled visit. Mother has done almost nothing to perform parental duties on behalf of the children. Although cooperative with the Agency in the fact that she is not disrespectful or hostile to the workers, Mother has made no progress in being able to successfully attend to the Children's needs despite the services of the caseworkers in the Ongoing Unit and the Outreach Unit. Mother struggled to learn how to perform even the most basic of parental tasks, such as proper feeding, holding, and changing techniques. Mother demonstrated no ability to anticipate when these essential parental duties should be done, and had to be constantly prompted by Agency workers supervising the visits to perform them. The Court hereby finds by clear and convincing evidence that the Agency has fulfilled the requirements of 23 Pa.C.S.A. §2511(a)(1) in that Mother has failed to perform her parental duties for at least six months prior to the filing of the termination petition.

To satisfy the requirements of Section 2511(a)(2), the Agency must demonstrate that Mother, through:

- (1) [R]epeated and continued incapacity, abuse, neglect or refusal; (2) such incapacity, abuse, neglect or refusal has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being; and (3) the causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied.

In re: Adoption of M.E.P., 825 A.2d 1266, 1272 (Pa. Super. 2003.)

Under Section 2511(a)(2), “[t]he grounds for termination [of parental rights] due to parental incapacity that cannot be remedied are not limited to affirmative misconduct. To the contrary, those grounds may include acts of refusal as well as incapacity to perform parental duties”. **In re: A.L.D.**, 797 A.2d 326, 337 (Pa. Super. 2002) (citations omitted). “Moreover, an agency is not required to provide services indefinitely if a parent is either unable or unwilling to apply the instruction given.” **Id.** at 340. “Parents are required to make diligent efforts towards the reasonably prompt assumption of full parental responsibilities. ... [A] parent’s vow to cooperate, after a long period of uncooperativeness regarding the necessity or availability of services, may properly be rejected as untimely or disingenuous.” **Id.**, quoting ***In re J.W.***, 578 A.2d 952, 959 (Pa. Super. 1990).

There was an abundance of testimony regarding Mother’s inability to properly attend to her own basic needs, including her hygiene, and her inability to advocate for herself in order to protect herself from being taken advantage of or abused. There was even more testimony regarding Mother’s inability to properly attend to the needs of young children. As testified to by Bruce Anderson, Mother’s intellectual disability causes her to function cognitively as a child in the 8 to 10 year old range. This, coupled with an upbringing where she was not properly nurtured and therefore lacks the ability/instinct to nurture others, has led the Court to find that Mother’s incapacity would cause the Children to be without proper parental care necessary for their physical and emotional well-being. Moreover, this incapacity has been present since before the Children’s birth, and according to Mr. Anderson, is likely to be permanent.

The Court is concerned about Mother's interactions with the Children at the visits in which she attended, based on the testimony of several of the witnesses. Mother has had to be continuously prompted to perform even the most basic parental duties, and does not take direction from the supervisors well. Because Mother has so infrequently attended visits, she does not retain any of the instructions they provide her regarding how to properly, and gently, handle the Children so that they feel safe and comfortable. During the visits that she attends, Mother appears preoccupied with her own personal life and quickly loses focus on spending time with the Children. Mother truly has no understanding of the different stages that children go through developmentally, nor how to appropriately respond to their present, and changing, needs. The Court was particularly swayed by Mr. Anderson's testimony that Mother's incapacity will not change in the future, and that she will never be able to adequately care for the Children without the constant presence of another competent adult. The Court finds by clear and convincing evidence that the Agency has fulfilled 23 Pa.C.S.A. §2511(a)(2) by demonstrating Mother's repeated and continued incapacity has caused the children to be without essential parental control or subsistence necessary for their physical and mental well-being.

"Termination of parental rights under Section 2511(a)(5) requires that: (1) the child has been removed from parental care for at least six months; (2) the conditions which led to removal and placement of the child continue to exist; and (3) termination of parental rights would best serve the needs and welfare of the

child.” **In re: K.J.**, 936 A.2d 1128, 1134 (Pa. Super. 2007). In the present case, the children have been in the legal and physical custody of the Agency since shortly after their birth on August 1, 2016, and in placement since their release from the hospital on August 3, 2016. The Petition for Involuntary Termination of Parental Rights was filed on May 1, 2017. As of the date of the filing of the Petition, the children had been in care approximately 9 months. The issues which initially led to the placement/removal of the children from Mother’s care still exist, as Mother does not possess the capability/capacity to independently parent the Children without another competent adult present at all times. Despite the efforts of the Agency, Mother continues to struggle with meeting her own needs, and has made no progress in alleviating the conditions which necessitated placement. As discussed above, due to Mother’s mental health, intellectual disability, and poor upbringing, these conditions are likely to never be rectified.

The Court finds by clear and convincing evidence that the Agency has fulfilled the first two factors of 23 Pa.C.S.A. §2511(a)(5), as the Children had been removed from Mother’s care for 9 months at the time of the filing of the Petition for Involuntary Termination, and that the conditions which led to the original removal of the Children still continue to exist to date. The Court also finds by clear and convincing evidence that the termination of Mother’s parental rights would best serve the needs and welfare of the Children. Currently, the Children are residing in a home with their resource parents and their 10 year old daughter. These are the only parents that the Children have ever known. The Children have made tremendous progress while in the care of this family, but they still

present some significant health challenges. In their current home, they are constantly nurtured and provided with everything they need to grow up happy, healthy, and safe. The family with which the Children are placed and who ultimately wish to adopt them are able to offer the Children the stability and security that Mother is incapable of providing.

As the Court has found that statutory grounds for termination have been met under all three subsections of 23 Pa. C.S.A. §2511(a) contained in the Petition to Involuntarily Terminate Parental Rights, the Court must now consider the following:

23 Pa.C.S. § 2511(b) OTHER CONSIDERATIONS.—The Court in terminating the rights of a parent shall give primary consideration to the developmental, physical and emotional needs and welfare of the child. The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent. With respect to any petition filed pursuant to subsection (a)(1), (6) or (8), the court shall not consider any efforts by the parent to remedy the conditions described therein which are first initiated subsequent to the giving of notice of the filing of the petition.

The Court must take into account whether a bond exists between the child and parent, and whether termination would destroy an existing, necessary and beneficial relationship. **In the Interest of C.S.**, *supra*, at 1202. When conducting a bonding analysis, the Court is not required to use expert testimony. **In re: K.K.R.-S.**, 958 A.2d 529, 533 (Pa. Super. 2008) (citing **In re: I.A.C.**, 897 A.2d 1200, 1208-1209 (Pa. Super. 2006)). “Above all else . . . adequate consideration must be given to the needs and welfare of the child.” **In re: J.D.W.M.**, 810 A.2d 688, 690 (citing **In re: Child M.**, 681 A.2d 793 (Pa. Super. 1996), appeal denied, 546 Pa. 674, 686 A.2d 1307 (1996)). A

parent's own feelings of love and affection for a child do not prevent termination of parental rights. **In re: L.M.**, 923 A.2d 505, 512 (Pa. Super. 2007).

Before granting a petition to terminate parental rights, it is imperative that a trial court carefully consider the *intangible* dimension of the needs and welfare of a child--the love, comfort, security and closeness--entailed in a parent-child relationship, as well as the tangible dimension. Continuity of relationships is also important to a child, for whom severance of close parental ties is usually extremely painful. The trial court, in considering what situation would best serve the children's needs and welfare, must examine the status of the natural parental bond to consider whether terminating the natural parents' rights would destroy something in existence that is necessary and beneficial.

In the Interest of C.S., supra., at 1202 (citations omitted).

In the present case, the Court feels strongly that although Mother may love the Children, there is no bond between her and the Children. Due to the young age of the Children and the fact that they have been in placement since their release from the hospital, BN and KN are the only family A.W. and J.W. have ever known. Since the Children were declared dependent, Mother has attended only 47 of the 80 visits offered. (Exhibit 11). At the visits, the Children do not gravitate towards her. In fact, in the most recent visits, the Children have displayed extreme anxiety when KN leaves the room, and for several hours following the visits. Termination of Mother's parental rights will not destroy an existing and necessary bond because the Court does not feel as though there exists a bond between the Children and Mother. To the contrary, it is evident to the Court that the Children are extremely bonded to BN and KN, and BN and KN are extremely bonded to the Children. If efforts were continued to reunify A.W. and J.W. with Mother and the Children were to be removed from their current home, it would be traumatic to them.

The Court is satisfied that termination of Mother's parental rights is in the best interest of the Children.

Conclusions of Law

1. The Court finds that the Agency has established by clear and convincing evidence that MW, by conduct continuing for a period of at least six months immediately preceding the filing of the petition has refused or failed to perform parental duties pursuant to 23 Pa.C.S. §2511(a)(1) .

2. The Court finds that the Agency has established by clear and convincing evidence that MW, has exhibited repeated and continued incapacity, abuse, neglect or refusal which has caused the children to be without essential parental care, control or subsistence necessary for their physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by her pursuant to 23 Pa.C.S. §2511(a)(2).

3. The Court finds that, the Agency has established by clear and convincing evidence that the Children have been removed from Mother's care for a period of at least six months, that the conditions which led to the removal or placement of the Children continue to exist, that the conditions which led to the removal or placement of the Children are not likely to be remedied within a reasonable period of time, and that termination of Mother's parental rights would best serve the needs and welfare of the Children pursuant to 23 Pa.C.S. §2511(a) (5).

4. The Court finds that the Agency has established by clear and convincing evidence that no bond exists between MW and the Children and that the developmental, physical and emotional needs and welfare of A.W. and J.W. will be best served by the termination of her parental rights pursuant to 23 Pa.C.S. §2511(b).

Accordingly, the Court will enter the attached Decree.

By the Court,

Joy Reynolds McCoy, Judge

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA
ORPHANS' COURT DIVISION**

IN RE: : **NO. 6547**
: :
JW : :
AW, : :
: :
Minor children :

DECREE

AND NOW, this 18th day of **August, 2017**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of MW, held on August 15, 2017, it is hereby ORDERED and DECREED:

- (1) That the parental rights of MW be, and hereby are, terminated as to the children above-named;
- (2) That the welfare of the child will be promoted by adoption; that all requirements of the Adoption Act have been met; that the children may be the subject of adoption proceedings without any further notice to the natural mother.

NOTICE TO NATURAL PARENTS

PENNSYLVANIA ADOPTION MEDICAL HISTORY REGISTRY

This is to inform you about an adoption law provision relating to medical history information. As the birth parent of a Pennsylvania born child who is being, or was ever adopted in the past, you have the opportunity to voluntarily place on file medical history information. The information which you choose to provide could be important to this child's present and future medical care needs.

The law makes it possible for you to file current medical information, but it also allows you to update the information as new medically related information becomes available. Requests to release the information will be honored if the request is submitted by a birth child 18 years of age or older. The law also permits that the court honor requests for information submitted by the adoptive parents or legal guardians of

adoptees who are not yet 18 years of age. All information will be maintained and distributed in a manner that fully protects your right to privacy.

You may obtain the appropriate form for you to file medical history information by contacting the Adoption Medical History Registry. Registry staff are available to answer your questions. Please contact them at:

Department of Public Welfare
Pennsylvania Adoption Information Registry
P.O. Box 4379
Harrisburg, PA 17105-17111
Telephone: 1-800-227-0225

Medical history information forms may also be obtained locally by contacting one of the following agencies:

1. County Children & Youth Social Service Agency
2. Any private licensed adoption agency
3. Register & Recorder's Office
4. Online at www.adoptpakids.org/Forms.aspx

By the Court,

Joy Reynolds McCoy, Judge