

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

IN RE: : **NO. 6582**
:
RL, III, :
:
Minor child :
:

OPINION AND ORDER

AND NOW, this 31st day of **May, 2018**, before the Court is Lycoming County Children & Youth Services' ("Agency") Petition for Involuntary Termination of Parental Rights of AB ("Mother") and RL, Jr. ("Father"), filed on January 23, 2018, with regard to RL, III ("Child"). A hearing on the Petition for Involuntary Termination of Parental Rights was held on April 30, 2018, May 8, 2018, and May 14, 2018. Mother was present and represented by Dance Drier, Esquire, and Father was represented by Jennifer Ayers, Esquire. Due to his incarceration at SCI Retreat, Father participated in the proceedings by polycom and telephone during most of the proceedings. John Pietrovito, Esquire, Solicitor for the Agency, and Angela Lovecchio, Esquire, counsel for the Child, were also present at the hearings.

It is noted that the Court received two days of testimony on April 30, 2018, and May 8, 2018. During that time, the Agency presented all of their witnesses and evidence. The parties appeared before the Court on May 14, 2018, for completion of testimony in this matter. At the commencement of the final day of testimony, Mother was not present but did participate by telephone. She advised the Court, under oath, that she was not contesting the fact that the Agency had met its statutory burden

regarding the involuntary termination of her parental rights to the Child. It is noted that Mother was represented by counsel who had the opportunity to speak privately with Mother regarding the potential consequences of her decision. The Court questioned Mother regarding her decision to no longer contest the involuntary termination of her parental rights. The Court is satisfied that Mother made the decision not to contest the fact that the Agency has met its burden in regard to the involuntary termination of her parental rights in a knowing, intelligent and voluntary manner. The Court is further satisfied that Mother understands the implication of the involuntary termination of her parental rights to the Child. Based upon the evidence presented during the first two days of testimony, the Court finds that the Agency has established by clear and convincing evidence that Mother's parental rights should be involuntarily terminated pursuant to 23 Pa.C.S. §2511(a)(1), (2), (5), and (8). The Court also finds that the Agency has established by clear and convincing evidence that the developmental, physical and emotional needs and welfare of the Child will best be served by termination of Mother's parental rights.

This Opinion and Order shall focus solely on Father, and whether the Agency has established by clear and convincing evidence that his parental rights should be terminated.

Findings of Facts

RL, III ("Child") was born on September 4, 2015. He is the child of AB, date of birth April 25, 1994, and RL, Jr., date of birth June 2, 1994.

This case originated in Union County with the filing of a Dependency Petition on March 24, 2016. Prior to the filing of the Dependency Petition, Union County became

involved with Mother and Child in December 2015 when it was requested to perform a courtesy home check by Clinton County Children and Youth Services. Clinton County CYS had provided services but had not petitioned for an adjudication of dependency despite concerns about prior incidents of domestic violence by Father, who allegedly assaulted Mother while she was 8 months pregnant with the Child. The case was opened for ongoing General Protective Services on January 21, 2016 and the Family Service Plan addressed concerns of domestic violence between Mother and her paramour, home conditions, bonding concerns, anger issues and mental health struggles. The Dependency Petition was filed due to ongoing concerns and Mother's unwillingness to cooperate with the agency's parenting advice and directives.

A hearing on the Dependency Petition was held on April 5, 2016, at which time the Union County Court found, by clear and convincing evidence, the Child to be a dependent child pursuant to 42 Pa.C.S. §6302, and was without proper care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals. At the time of the hearing, Father was incarcerated in Snyder County Prison. Legal custody remained with Mother. Physical custody remained with Mother but the Court noted that the Child was in imminent risk of placement in foster care absent preventive services.

A permanency review hearing was scheduled for June 6, 2016. However, at that time, an Order was entered transferring the matter to Lycoming County due to the fact that Mother, her paramour, and the Child had moved to Lycoming County. Father continued to be incarcerated in the Snyder County Prison. A permanency review hearing was held in Lycoming County on August 16, 2016. The Court found that there

had been moderate compliance by Mother with the permanency and noted that there continued to be domestic issues between Mother and her paramour. The Court found that there had been minimal compliance by Father with the permanency plan, in that he was incarcerated and had had no contact with the Agency, and was not a resource for the Child. The Court reaffirmed dependency and the Child remained in the legal and physical custody of Mother under the protective supervision of the Agency.

A permanency review hearing was held on October 7, 2016. During the review period, Father had been released from incarceration. However, he was re-incarcerated following a violation of a PFA entered against him on February 2, 2016. The PFA stated that Mother and Father's contact was limited to communications regarding the Child's welfare and Father's visitation schedule. All visits between Father and the Child were to be at the Selinsgrove Public Library. At the termination hearing, Father testified that the day after he was released from prison he made arrangements with Mother to see the child at the Selinsgrove Public Library. During the visit, Father and Mother had a disagreement over Mother's paramour. There was testimony that Father threatened to kill Mother and take off with the Child. Christie Peck, an Outreach caseworker with the Agency, testified that she received a phone call from Mother while the incident was occurring and advised her to leave with the Child and call the police. She further testified that in the days following the incident she saw pictures of texts and Facebook messages from Father threatening Mother. Father was re-incarcerated on September 28, 2016 and has remained incarcerated since that time. The last time Father saw the Child was on September 16, 2016. At the permanency review hearing on

October 7, 2016, the Master found that there had been no compliance by Father with the permanency plan, in that he had been briefly released from incarceration but did not contact the Agency with any updated information.

A permanency review hearing was held on December 20, 2016, and, due to insufficient time to complete the testimony, continued on December 30, 2016. At that time, the Court reaffirmed dependency of the Child and found that he was not safe in Mother's home due to ongoing domestic violence issues between Mother and her paramour. Legal and physical custody of the Child was transferred to the Agency for placement in an approved resource home. Father was incarcerated for the duration of the review period and was found to be minimally compliant with the permanency plan.

A permanency review hearing was held on February 21, 2017. Also on that date, an Order approving a change in the Child's placement was entered. The Child was placed with SVH, maternal aunt to the Child, and her husband DVH. A permanency review order was dated February 21, 2017, which was later vacated by an order dated March 9, 2017, at which time the Court found that Father, due to his continued incarceration, had been minimally compliant with the permanency plan and had made no progress towards alleviating the circumstances which necessitated the original placement.

A permanency review hearing was held on May 11, 2017, at which time the Master found that the placement of the Child in the approved kinship home continued to be necessary and appropriate. There had been minimal compliance by Father with the permanency plan and no progress towards alleviating the circumstances which

necessitated the original placement due to his continued incarceration during the length of the review period.

A permanency review hearing was held on August 29, 2017. Again, the Court found that the placement of the Child continued to be necessary and appropriate, and that Father was incarcerated for the length of the review period. Father was found to have no compliance with the permanency plan and made no progress toward alleviating the circumstances which necessitated the original placement. The Court further found that during this review period, the Agency received a letter from someone indicating he was Father's brother, but it appeared to actually be a letter from Father.

A permanency review hearing was held on November 9, 2017. Father remained incarcerated, and it was noted that he was not permitted by the Snyder County Prison to participate in the hearing due to his behavioral infractions. The Master further found that the agency had consistently sent letters to Father regarding the Child, but that Father did not respond. Father had no contact with the Agency during the review period, and was determined to have no compliance with the permanency plan and no progress toward alleviating the circumstances which necessitated the original placement. Due to the fact that Child was in the custody of the Agency and Father's whereabouts were known but he failed to maintain substantial and continuing contact with the Child for a period of six months, the Court entered an Order dated November 9, 2017, whereby it found, by clear and convincing evidence, that aggravated circumstances existed as to Father.

On January 11, 2018, Father filed a Petition for Visitation Rights. In his petition, Father alleged that the Agency denied his multiple requests for visitation with the Child

and failed to update him with information regarding the Child. Additionally, Father alleged that the Agency failed to acknowledge that he wrote to the Child every week and that his letters were not delivered to the Child, and that the Agency failed to respond to Father's forty (40) letters. Father requested that the Court order the Agency to bring the Child to SCI Retreat for visits twice a week for a minimum of three hours per visit. A hearing on Father's petition was scheduled for February 20, 2018, the time set for the permanency review hearing.

On January 23, 2018, the Agency filed a Petition for Involuntary Termination of Parental Rights based upon 23 Pa.C.S. §2511(a)(1), (2), (5), and (8). The Petition alleged that Father had been incarcerated the majority of the time the Child was in placement and that he had not written letters to his son and had not kept in contact with the Agency or inquired about updates regarding the Child. The Agency was not aware of any programs completed by Father while incarcerated and that his release date was unknown. The Petition further alleged that Father had not completed any goals on the Family Service Plans.

A permanency review hearing was held on February 20, 2018, at which time dependency was reaffirmed. The Court noted that there had been no compliance by Father with the permanency plan and no progress towards alleviating the circumstances which necessitated the original placement, in that he remained incarcerated. At the hearing, Father confirmed that he had no contact with the child since September 2016. The Court further noted that despite Father's representations that he had written numerous letters to the Agency inquiring about his son, the Agency reported that they had not received any of those letters except for two threatening letters testified to by the

Caseworker. With regard to Father's Petition for Visitation Rights, the Court requested that Bruce Anderson, Licensed Psychologist under contract with the Agency, conduct an evaluation to determine whether it would be appropriate to initiate visits between Father and the Child at the prison.

A pre-trial conference on the Agency's Petition for Involuntary Termination of Parental Rights was held on February 20, 2018, at which time a schedule for filing pre-trial statements and answers to the petition was established. Father, through his counsel, filed his Answer and Pre-Trial Memorandum on March 13, 2018. As noted above,

Discussion

The Agency argues that the basis for termination in this case may be found in 23 Pa.C.S. §2511(a)(1), (2), (5) and (8), 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.

- (8) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency, 12 months or more have elapsed from the date of removal or placement, the conditions which led to the removal or placement of the child continue to exist and termination of parental rights would best serve the needs and welfare of the child.

In order to involuntarily terminate Father'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.

Where a parent is incarcerated, the fact of incarceration does not, in itself, provide grounds for the termination of parental rights. However, a parent's responsibilities are not tolled during incarceration. The focus is on whether the parent utilized resources available while in prison to maintain a relationship with his or her child. An incarcerated parent is expected to utilize all available resources to foster a continuing close relationship with his or her children.

In re N. M. B., 2004 PA Super 311, P19 (Pa. Super. Ct. 2004) (internal citations omitted).

Father has been incarcerated for more than 28 out the 33 months the Child has been alive. In a letter dated September 12, 2017, caseworker Crystal Minnier provided Father with an update about the Child and enclosed 4 envelopes for him to write to the Child, with specific instructions that the letters should be sent to the Agency's office so that they could be properly documented and then read to the Child. (Agency Ex. 126). In that letter, Father was also reminded that being incarcerated did not prevent him from being a parent. Father was encouraged to utilize any and all services available to him,

and the caseworker recommended he discuss parenting services as well as anger management services with his counselor. A similar letter dated December 27, 2017, was sent to Father, again encouraging him to write to the Child via the Agency so that all correspondence could be properly documented and then read to the Child. (Agency Ex. 127). Additionally, the letter reminded Father that being incarcerated did not prevent him from being a parent and suggested he discuss with his counselor parenting and anger management classes that may be available to him. Although Father testified that he had been regularly sending letters to the Child, as many as 3 per week since September of 2016, he was unable to recite the address of the Agency when questioned by the Guardian Ad Litem. Furthermore, this Court found the testimony of Ms. Minnier regarding this issue to be more credible than Father. Ms. Minnier testified that Father never responded to her letters from May-November of 2017. She only received two letters written by Father to the Child, one of which was dated April 4, 2018, which is well after the Termination Petition was filed. (Agency Ex. 104 and 125). When questioned by Father's attorney about whether it was possible that Father was sending letters directly to the Child at his resource home, Ms. Minnier testified that as part of their training, resource parents are instructed to provide copies of any correspondence to the Agency to be properly documented. In fact, in many of the 14 letters introduced by the Agency, Father threatened the caseworkers and/or the Agency, but did not display more than a passive interest in the Child's health and well-being. Father never requested information about the Child's medical appointments, speech therapy, whether he was reaching developmental milestones, etc.

Writing a handful of letters to the Child is insufficient to satisfy Father's affirmative duty to establish and maintain a place of importance in the Child's life. Although he was incarcerated, Father never utilized the resources available to him. There was no testimony that he sent the Child cards or gifts for his birthday or Christmas. There was no testimony that Father sought out parenting or anger management programs in prison that would be beneficial to him if he intended to be a resource for the Child upon his release. 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 Father has failed to perform his 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 Father, 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).

Father testified that he plans to be a resource for the Child upon his release from prison. Father testified that "if all the appeals go through," he anticipates getting out of jail on October 24, 2018, which is the expiration of his county sentence. However, on February 28, 2018, Father was sentenced to 2 ½ years to 12 years in state prison. Therefore, if he is unsuccessful on his appeal, his minimum release date would not be until sometime in 2020. Ms. Minnier testified that, in order to be considered a resource for the Child, Father would need to consistently do all of the following for a minimum of six months after his release: (1) find/maintain appropriate housing, (2) schedule and attend visits with the Child, (3) participate in a psychological consult with Mr. Anderson to discuss how to create/maintain a relationship with the Child, as the Child does not know or remember Father, (4) attending counseling for anger management, and (5) provide proof of a steady source of income.

Although Father insists he will satisfy all of the requirements, his past performance, or lack thereof, indicates otherwise. "It is not enough that Father pledges to do more in the future. Once the Father has abandoned parental control through his own actions, it is not enough for him to "promise" to do better to *regain* parental control in the future." In re: J.L.C and J.R.C., 837 A.2d 1247, 1249 (Pa.Super. 2003). Father did not perform even the most minimal parental

duties for the Child when he was not incarcerated, nor did he fulfill his affirmative duty to maintain a place of importance in the Child's life while he has been incarcerated. Even if Father is released from prison in October 2018 and performs all of the above obligations without any setbacks in the following six months while he works towards reunification, the Child's permanency would be delayed an additional year *at a minimum*. Given Father's past conduct which has resulted in his incarceration and his refusal to follow the recommendations of the Agency to enable him to maintain a place of importance in the Child's life, this Court is unwilling to further delay the Child's permanency based on Father's promise that he will do more in the future.

The Court finds by clear and convincing evidence that the Agency has fulfilled 23 Pa.C.S.A. §2511(a)(2) by demonstrating Father's repeated and continued incapacity has caused the Child 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).

Similarly, to terminate parental rights pursuant to 23 Pa.C.S.A. §2511(a)(8), the following factors must be demonstrated: "(1) [t]he child has been removed from parental care for 12 months or more from the date of removal; (2) the conditions which led to the removal or 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: Adoption of M.E.P.**, 825 A.2d 1266, 1275-76 (Pa. Super. 2003); **see also** 23 Pa.C.S.A.§2511(a)(8). “Section 2511(a)(8) sets a 12-month time frame for a parent to remedy the conditions that led to the children’s removal by the court.” **In re: A.R.**, 837 A.2d 560, 564 (Pa. Super. 2003). After the 12-month period has been established, the Court must next determine whether the conditions necessitating placement persist, despite the reasonable good faith efforts that the agency supplied over a realistic time period. **Id.** In terminating parental rights under Section 2511(a)(8), the trial court is not required to evaluate a parent’s current “willingness or ability to remedy the conditions that initially caused placement”. **In re: Adoption of T.B.B.**, 835 A.2d at 396 (Pa. Super. 2003); **In re: Adoption of M.E.P.**, 825 A.2d at 1276.

As Father has been incarcerated for the duration of the time that the Child has been in placement, the conditions which necessitated the Child’s placement continue to exist. At each of the permanency review hearings for the Child, Father was found to have minimal-to-no compliance with the permanency plan and made no progress towards alleviating the conditions which necessitated the Child’s placement. Due to his incarceration, he has been unable to provide the Child with a safe, clean, stable home free from domestic violence. The Child has received those basic necessities from his resource family, along with proper medical care, therapies, love, and support which have resulted in a tremendous improvement in the Child’s behavior and developmental growth. It is clear to this

Court that termination of Father's parental rights would best serve the needs and welfare of the Child.

As the Court has found that statutory grounds for termination have been met under all four 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 bonding assessment was requested by the Agency and court ordered on February 20, 2018, in response to Father's petition filed on January 11, 2018, which requested that the Agency transport the Child to the prison for in-person visits with Father. The Court requested that Bruce Anderson, M.A., Licensed Psychologist,

evaluate whether visits with Father at SCI Retreat could be done consistent with the safety, permanency, and well-being of the child.

An assessment was conducted by Mr. Anderson on March 6, 2018. (Agency Ex. 100). An interview was conducted with the Child and his kinship care providers. Mr. Anderson noted in his assessment that he was familiar with the family, and had conducted multiple assessments on the parents and Child in the past. At the time of this assessment, the Child had been living with his kinship care family for about a year. Mr. Anderson noted that the Child had made significant developmental progress in that year. It was also noted that it was clear to Mr. Anderson that Father loved and cared for the Child, and that he had made some efforts to maintain contact from the prison by sending letters to the Child. However, 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 Father may love the Child, there is no relationship between the Child and Father. Father has been incarcerated for more than 28 out of 33 months of the Child's life. Mr. Anderson's

assessment indicated that it was unlikely that the Child would even recognize Father, and it could be traumatizing for such a young child to have to go to a state correctional institute to visit with a man that he does not know. Despite Father's testimony that he has written to the Child letters 3 times a week since 2016, the record reflects otherwise. Although Father testified that he intends to give the Child a loving and stable home when he gets out of prison and wants to establish a bond with him, this cannot overcome the fact that the child likely has no memory of Father and that there is currently no bond between the Child and the Father. When questioned by Father's counsel about whether the letters written to the Child would help keep Father's memory alive, Mr. Anderson testified that it would be possible if the Child were older and there was previously a relationship between the two. However, due to the young age of the Child and the fact that Father has been incarcerated for most of his life, Mr. Anderson testified that letters do not necessarily do much to establish and/or maintain a bond. When asked by the Guardian Ad Litem how a parent would establish a healthy bond with a child, Mr. Anderson testified that "a child develops a positive bond by being cared for 'good enough,' meaning the child is fed when hungry, changed when needed, and comforted when hurt." As Father has been incarcerated for all but 4 ½ months of the Child's life, and has failed to utilize all resources he had available to him, a bond between Father and Child has not been established. Although Father testified that "it would literally crush me" if his parental rights were terminated, the Court must consider what situation would best serve the Child's needs and welfare. Due to the Child's young age and inability of Father to perform any parental duties due to his incarceration, the

Child is unlikely to be bonded to Father. Terminating Father's parental rights will not destroy something in existence that is necessary and beneficial.

The Child is in a loving and stable home. He has shown tremendous improvement in his behavior and developmental progress. His permanency cannot and should not be delayed until Father is released from prison at some point in the future and begins to make steps towards establishing a bond and being a resource for the Child. The Child is clearly bonded with the resource parents, who are willing to offer him permanency. The Court is satisfied that termination of Father's parental rights is in the best interest of the Child.

Conclusions of Law

1. The Court finds that the Agency has established by clear and convincing evidence that RL, Jr., 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 RL, Jr., has exhibited repeated and continued incapacity, abuse, neglect or refusal which 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 him 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 child has been removed from RL, Jr.'s care for a period of at least six months, that the conditions which led to the removal or placement of the child continue

to exist, that the conditions which led to the removal or placement of the child are not likely to be remedied within a reasonable period of time, and that termination of Father's parental rights would best serve the needs and welfare of the child pursuant to 23 Pa.C.S. §2511(a) (5).

4. The Court finds that, the Agency has established by clear and convincing evidence that the child has been removed from RL, Jr.'s care for a period of twelve months or more, that the conditions which led to the removal or placement of the child continue to exist, and that termination of Father's parental rights would best serve the needs and welfare of the child pursuant to 23 Pa.C.S. §2511(a) (8).

5. The Court finds that the Agency has established by clear and convincing evidence that no bond exists between RL, Jr. and the child and that the developmental, physical and emotional needs and welfare of the child will be best served by the termination of his 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. 6582**
:
RL, III, :
:
Minor child :
:

DECREE

AND NOW, this **31st** day of **May, 2018**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of RL, Jr., held on April 30, 2018, May 8, 2018, and May 14, 2018, it is hereby ORDERED and DECREED:

- (1) That the parental rights of RL, Jr. be, and hereby are, terminated as to the child 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 child 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

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

IN RE: : **NO. 6582**
:
RL, III, :
:
Minor child :
:

DECREE

AND NOW, this **31st** day of **May, 2018**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of RL, Jr., held on April 30, 2018, May 8, 2018, and May 14, 2018, it is hereby ORDERED and DECREED:

- (1) That the parental rights of AB be, and hereby are, terminated as to the child 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 child 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