

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNA

IN RE: : **Orphans' Court Division**
:
ADOPTION OF C.R.B., :
:
Minor child : **No. 5454**

Opinion issued 6 November 2000

OPINION AND ORDER

In this case the mother and maternal grandparents of the child, C.B, have petitioned this court to terminate the rights of C.B.'s father, M.B. We decline to do so for three reasons. First, the petitioners have not shown by clear and convincing evidence that the statutory provisions for termination under 23 Pa.C.S.A. § 2511(a)(1) have been met. Second, we find that termination would not be in C.B.'s best interest. And finally, we believe the petitioners are abusing the statute by proposing an adoption that is essentially a sham, in order to terminate Father rights.

Findings of Fact

In 1993, while living in Washington state, Mother had a sexual relationship with a man named G.B. who was Father's business partner. That relationship ended shortly before she began a sexual relationship with Father, in October 1993. She learned she was pregnant in December 1993, and promptly told Father. She also disclosed her former sexual relationship with G.B. and explained that she would not know who the father of her child was until after

the birth, when the physicians could determine the approximate date of conception by backdating.

The timing of the pregnancy was not good for Mother or Father. Mother was in the midst of a divorce, as well as bankruptcy proceedings. She had primary custody of twin boys from her marriage, was essentially destitute, and planned to return to live with her parents in Montoursville, Pennsylvania. Father was recently divorced and had just started a new business. He was forty years old, had one daughter who was about five years old, and did not want another child. He suggested that she have an abortion, but Mother refused. She moved to Montoursville in January 1994 and took refuge in the home of her parents, R.P. and M.P. (hereinafter "Grandparents). Before leaving Washington, she provided Father with Grandparents' address and phone number, which have not changed since that time.

C.B. was born on 14 July 1994. Mother notified Father that he must be the father because the child looked like him and was conceived in November 1993, when Mother was having sex exclusively with Father. Father did not indicate any interest in his son, and the two parents had no contact for the next few years. Knowing Father's lack of interest in his child, Mother did not encourage him to be involved in C.B.'s life, nor did she seek child support initially. In fact, she did not even name a father on C.B.'s birth certificate.

Meanwhile, Mother made the best of her situation and got on with her life, attending college so that she could obtain a teaching job. Her parents cared for C.B. as if he were their own son. They fully engaged in all the responsibilities of parenting him and formed a very close bond with him. They also supported him financially to a great extent. In August 1996

Mother and her three children moved out of Grandparents' home to a nearby apartment. Grandparents continued to care for C.B. on an almost daily basis, and have continued to purchase food, clothing, and other items for him. In August 1997, Mother and her children moved to a nearby home on Pearl Boulevard, purchased by Grandparents. Throughout the entire time since C.B.'s birth, Grandparents have continued to assist Mother in raising him. Before the termination petition was filed, C.B. frequently spent nights at Grandparents' home; since the filing of the petition for termination, C.B. has slept there every night.

Mother received food stamps and public health insurance after moving to Montoursville. Because she applied for this assistance before C.B. was born, the Welfare Office did not inquire about child support from the father. That changed in 1977, when she had to re-qualify for assistance and the Welfare Office forced her to name the father and seek child support from him. Father denied paternity, which resulted in DNA testing that showed a 99.72% probability he was the father. Father continued to deny paternity, insisting that the other candidate, G.B., be tested as well. A paternity trial eventually led to a finding of paternity on 25 November 1997, which Father appealed and lost. After the resolution of the paternity issue Father began making child support payments and has continued through the present time. Initially the money was deducted from his paycheck. After he left his employment and started his own business in late 1999; however, he was responsible for sending the payments directly to Mother. These payments, as well as C.B.'s unreimbursed medical expenses, have not always been made on time, but Father has generally met his financial obligations.

In November 1998, Mother telephoned Father out of the blue to ask whether he would like to begin a relationship with C.B. She took this step because C.B., who was four years old at the time and knew nothing about Father, had been asking about his father and had been telling his friends his father lived in China. Father, caught off guard, told her he was not sure whether he wanted to communicate with C.B., and said he would have to think about it. On 6 December 1998 he wrote her a letter stating that he still harbored resentment toward her for the intrusion into his life the pregnancy had caused him, but that he was nonetheless interested in establishing a relationship with C.B. Mother, a little put off by his admitted hostility, nevertheless decided to give him a chance. The parents exchanged addresses and phone numbers and began communicating through e-mail to plan how to introduce Father into C.B.'s life.

In April 1999, Mother told C.B. about Father and the father and son talked on the phone a couple of times before Father came to Montoursville for a visit on 23 May 1999, a Saturday. He drove from Detroit, and arrived in the late afternoon. The three went out to dinner and spent most of the next day together going to lunch, a movie, and a park. Father gave C.B. a special coin and a gym bag in which to carry his soccer gear. C.B. gave Father a candle he had selected. Throughout the visit C.B. was excited, curious, and in awe of his father. C.B. called him "Dad" and talked about him a lot after he left. Soon after Father returned home he sent C.B. money to buy a pair of soccer shoes, which was meant to be an early birthday present.

Within a week or two after his return to Michigan Father's daughter, L.B., came to stay with him for most of that summer. Although he planned on telling her about C.B., Father decided to wait at the urging of his ex-wife, who convinced him the girl was not ready for the news. To prevent L.B. from inadvertently learning about C.B., he asked Mother to have C.B. call him on his 800 number at work. This arrangement did not work out very well, as C.B. frequently called at a very busy time of day when Father could not talk for very long or was unavailable. Nevertheless, phone contact continued to some extent, although not as often as C.B. would have liked.

In September 1999, Father left his job at the Detroit Free Press and started his own business. It was a very busy time for him, and he phoned C.B. about once a month. Often these conversations were rather short, as C.B. had a short attention span and the two still did not know each other very well. C.B. grew disappointed and upset. Initially, he asked his mother why his father didn't call more often. Mother made excuses for him. Eventually, C.B. stopped talking about Father as much, and began to tell people his father had returned to China.

In November 1999, at C.B.'s initiative, Mother sent Father an e-mail, attempting to revitalize the relationship between father and son. Father sent C.B. Christmas gifts that year, and continued his sporadic telephone calls, although he called more often.

About this time the parents became embroiled in an e-mail argument over finances, which continued for the next few months and culminated in a heated phone call in March 2000. Throughout this period Father continued to call C.B. several times a month. He was

not always successful; when no one answered the phone, he left messages on the answering machine. C.B. grew more disillusioned, telling his mother after one phone conversation that because his father did not know him, they had nothing to talk about.

After the March phone fight Mother, tired of battling over finances and generally frustrated by the entire situation, gave up on the relationship. In April 2000 she changed her phone number to an unlisted number and consulted an attorney to seek termination of Father's parental rights. The attorney suggested giving Father the opportunity to voluntarily relinquish his rights. Mother fully expected him to do so, since it would relieve him of his support obligation which he seemed to resent so much. She therefore returned the Easter gifts Father sent in mid-April. Surprisingly enough, Father refused to relinquish his rights. Apparently, Mother's attorney then explained that under Pennsylvania law, an adoption must be contemplated before Father's rights could be terminated. Mother had no man in her life and did not envision having another romantic relationship until after her children were grown. With no proposed replacement father in hand, it appears that Mother decided to voluntarily relinquish her own rights and have her parents adopt C.B., so that Father's rights could be terminated.

The request for voluntary relinquishment apparently lit a fire under Father, who consulted an attorney who began to negotiate on his behalf for regular weekly phone contact between father and son. In early July Father told Mother, via e-mail, that he wanted a new beginning, and that he wanted to plan a visit to Pennsylvania for himself and L.B., who was anxious to meet C.B. He also asked her to suggest a birthday gift for C.B. Mother did not

respond, at the advice of her attorney. Father's parents indicated an interest in meeting C.B., and offered to fly him and Mother to their home in Michigan.

C.B. was represented at the hearing by a guardian ad litem who, at the close of the proceedings, recommended termination.

Conclusions of Law

1. The petitioners have failed to establish by clear and convincing evidence that M.B.'s parental rights to C.B. may be terminated pursuant to 23 Pa. C.S.A. §2511(a)(1).
2. Termination of M.B.'s parental rights would not best serve the needs and welfare of C.B.

DISCUSSION

Termination of parental rights is an issue of constitutional dimensions because of the fundamental right of an individual to raise his or her own child. Therefore, in proceedings to terminate parental rights the petitioner must prove by clear and convincing evidence that the statutory criteria have been met. Santosky v. Kramer, 455 U.S. 745 (1982); In Re T.R., 502 Pa. 165, 465 A.2d 642 (1983). The grounds for involuntary termination in Pennsylvania are set forth at 23 Pa. C.S.A. §2511. They reflect the strong conviction of the people of this Commonwealth that the family unit is of primary importance, and that government disruption is

warranted only in exceptional circumstances. The evidence presented at the hearing has led this court to conclude that this is not an exceptional circumstance.

I. Grounds for Termination

The petitioners have asked the court to terminate Father's parental rights under 23 Pa. C.S.A. §2511(a)(1), which permits termination when:

The parent by conduct continuing for a period of at least six months immediately preceding the filing of the petition has either evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties.

Parental duties are multifaceted. The Pennsylvania Superior Court has addressed the issue in In re Shives, 363 Pa. Super. 225, 525 A.2d 801, 802 (1987):

There is no simple or easy definition of parental duties. Parental duty is best understood in relation to the needs of a child . . . These needs, physical and emotional, cannot be met by a merely passive interest in the development of the child . . . the parental obligation is a positive duty which requires affirmative performance.

A non-custodial parent also has a duty to exert himself to take and maintain a place of importance in the child's life. In re Adoption of M.J. H., 348 Pa. Super. 65, 501 A.2d 648 (1985). The parent must demonstrate a continuing interest in the child and make a genuine effort to maintain communication and association with the child. In re Adoption of McCray, 460 Pa. 210, 331 A.2d 652 (1975).

Once a court has determined that a parent has not performed his or her parental duties, the court must then examine the individual circumstances of the case and evaluate any

explanation offered to determine whether involuntary termination is clearly warranted. In re E.S.M., 424 Pa. Super. 296, 622 A.2d 388 (1993). Parents, however, are expected to exhibit reasonable firmness in attempting to overcome any barriers that may be confronting them. Id.

The statute focuses on the six month period preceding the filing of the petition for termination, and the court may not consider any efforts by the parents that are first initiated subsequent to the filing of the petition. 23 Pa. C.S.A. Section 2511(b). However, the Superior Court has advised that the six month time period should not be applied mechanically. In In the Interest of A.P., 692 A.2d 240, 245 (Pa. Super. 1997), the Superior Court stated: “This is not to say, however, that a court cannot or should not consider the whole history of a given case. . . . a court must consider the individual circumstances of each case.” To be legally significant, however, post-abandonment conduct must be steady and consistent over a period of time, contribute to the psychological health of the child, must demonstrate a serious intent on the part of the parent to recultivate a parent-child relationship, and must demonstrate a willingness and capacity to undertake the parental role. The parent wishing to reestablish his parental responsibilities bears the burden of proof on this issue. In re D.J.S., 737 A.2d 283, 296 (Pa. Super. 1999), citing In re Hamilton, 379 Pa. Super. 274, 549 A.2d 1291, 1295 (1988).

The six month period at issue in this case is from 21 January 2000 until 21 July 2000. After carefully considering the testimony, we conclude that Father’s conduct does not rise to the level at which termination is permitted under the statute. To begin with, we note that after

the first three months of this period, Mother essentially prevented Father from contacting C.B. She suddenly changed her phone number to an unlisted number and returned the Easter gifts Father sent—a clear indication that she was preventing further contact between father and son.

During the three months preceding Mother's obstructive conduct Father called C.B. several times each month, as his phone records show. He also sent C.B. a package of Easter gifts, which Mother returned, and continued paying child support. Although Father certainly could and should have done more to foster a relationship between himself and his son, these actions are not insignificant and cannot be dismissed, especially given the distance separating the two and the fact that this father and son had known each other for less than a year, and had only met once.¹

Subsequent to mid-April 2000, Father could not phone C.B. because he did not have Mother's phone number. Although he knew Grandparents' phone number, he understandably did not call there because he knew Grandparents were hostile toward him. He did not send letters or e-mail to C.B. because the boy could not yet read and given Mother's hostility, he could not rely on her to read them to him accurately. Indeed, since she had sent back the Easter gifts he could have reasonably concluded that she would not read them to him at all.

¹ We realize the lack of a relationship prior to May 1999 was Father's fault, but here we are simply evaluating his conduct within the relevant statutory period, and attempting to view the situation from Father's vantage point. He was an outsider coming into the life of his son, and understandably felt somewhat uncomfortable and awkward.

Thwarted in his attempts for direct contact with C.B., Father immediately sought an attorney to help him secure his parental rights. Correspondence shows that the parents' attorneys were negotiating over regular phone contact before the petition for termination was filed.

Regarding his conduct after the six month period, Father has opposed termination, which in itself shows a desire and willingness to cultivate a closer parent-child relationship with C.B. and to undertake his parental role. Moreover, we found Father credible when he testified that he sincerely intends to devote more time to C.B. and develop a closer relationship with him.

In short, after considering the evidence, we find that the petitioners have failed to show by clear and convincing evidence that Father has refused or failed to perform his parental duties; therefore, his rights cannot be terminated under 23 Pa. C.S.A. §2511(a)(1).

II Needs and Welfare of the Child

Even if this court had found that the termination of Father's parental rights was warranted under the Act we would decline to do so because termination would not serve C.B.'s developmental, physical and emotional needs and welfare. *See* 23 Pa. C.S.A. §2511(b).

The term "needs and welfare" refers to both tangible and intangible needs. The intangible needs of a child include love, comfort, security, and closeness. *In re Matsock*, 416 Pa. Super. 520, 611 A.2d 737, 747 (1992). When considering the needs and welfare, it is

also important for the court to consider the bond between the parent and the child because severance of a strong parental bond can have a detrimental impact on a child. Matsock, supra.

Initially, we note that there is little evidence of the existence of a strong emotional bond between Father and C.B. The two have met only once, and have talked by phone no more than a few dozen times. Nonetheless, we believe that a bond has been established, albeit a weak one. But more importantly, there are other considerations which lead us to conclude that termination would be contrary to C.B.'s best interests.

In determining C.B.'s best interests in this case, we need to compare his situation if the termination is granted with his situation if the termination is not granted. After conscientiously exploring this question, there is no doubt in this court's mind that C.B. will be better off without the termination.

This is not a case where a child has been deprived of essential care and parental rights must be terminated so that he may be adopted by individuals who will adequately meet his physical and emotional needs. C.B. is and will be well cared for whether or not Father's rights are terminated. C.B. has a wonderful, loving mother and wonderful, loving maternal grandparents. All three of these individuals will remain in his life no matter what our decision on the termination turns out to be. In fact, the evidence clearly showed that there will be little change in C.B.'s life if Father's rights are terminated and Grandparents adopt him. Mother will still act as his mother and Grandparents will still act as his grandparents.

The petitioners attempted to argue that if the adoption takes place C.B. will receive

more financial support from Grandparents, but the court remains unconvinced that is the case. Grandparents, who are evidently well to do, have already contributed large sums to C.B.'s support, have established a trust fund for him, and have set up a college fund. No doubt they will continue to be generous to him, whether or not they officially adopt him. Neither are we persuaded by the argument that C.B. will benefit from being one of Grandparents' legal heirs.² Grandparents, like all individuals, have the right to make out a will and leave their assets to whomever they wish, including C.B., whether or not he is their legal child.

In fact, neither Mother nor Grandfather nor Grandmother could point to any concrete, significant manner in which adoption would benefit C.B.. Rather, it appears that little if anything would change in C.B.'s life if he were adopted by Grandparents—except, of course, that Father will no longer be around. And so it becomes necessary to analyze whether C.B. benefits from his relationship with his father, or whether he is harmed by it.

If Father had had his druthers, he would probably never have seen or heard from Mother or C.B. after she moved to Pennsylvania in January 1994. Apparently, that would have suited Mother and Grandparents just fine, for they obviously did not want or need Father. Even after Father was forced to pay child support, he was evidently content to send his money each month and go about his merry way without ever knowing the child he was supporting.

It was C.B. himself who threw a stone into these calm waters by ardently asking

² Grandparents have five other children.

questions about his father and expressing a desire to know him. It was only due to C.B.'s intense interest that Mother decided to contact Father. She did so because she sincerely believed it would be in C.B.'s best interest for him to know Father—or at least she was open minded enough to give him the opportunity of demonstrating that such a relationship would be beneficial to C.B.

In any case, the door was opened and Father walked in. At first, all involved were pleased with the outcome. The first visit went well: C.B. was excited and happy to at last have a father, Mother was encouraged, and even Father appears to have been happy with his new relationship with his son. Unfortunately, the euphoria did not last. Reality set in, and Father's commitment to C.B. took a back seat to the demands of his busy life. Although C.B. and Father spoke by phone at least once or twice a month, this was not enough to satisfy C.B., whose hopes were dashed as he realized that his long-lost father was not all he dreamed of, and that they would probably not have a close relationship.

The testimony clearly showed that Father let C.B. down. However, there was absolutely no evidence that C.B. was psychologically damaged by the experience, or that he would be harmed by continuing to have a relationship with Father. On the contrary, it is likely that C.B. wants and needs a father as much as ever, and that whatever contact he can have with Father will be of benefit to him.³

³ It is regrettable that the guardian ad litem apparently did not interview C.B. to attempt to determine his feelings on this crucial issue, nor did she offer an opinion as to whether C.B. in might be damaged by a continuing relationship with Father.

In fact, we are inclined to believe that C.B. might be harmed by severing the relationship with the father whom C.B. has longed for and finally found. If C.B.'s feelings have been hurt because he did not have enough contact with his father, what will happen when he has none at all? What will his mother and grandparents tell him? Either they will have to say that Father does not ever want to see or talk to him again, which would certainly be devastating, or they will tell him the truth, in which case C.B. will surely wonder why his mother and grandparents have ousted his father from his life. For even though C.B. has been disappointed in Father, this court is not convinced that he is so angry and hurt that he never wants to hear from his father again. In fact, it is much more reasonable to assume he is hurt because he desperately wants to hear from his father. Locking Father out of his life can only add to this hurt. C.B. has a definite psychological need for a father, and this court is not about to deprive him of the only candidate likely to ever fulfill that role.

Unfortunately, C.B.'s plight is no different from that of countless other children whose fathers do not maintain an active role in their daily lives. Those children survive, and so will C.B. There was no evidence he is emotionally fragile or has any psychological problems that would prevent him from accepting the situation and dealing with it. Unless fortune is extremely good to him, he will learn all too soon that life is not always as we wish it to be, and that people whom we love frequently fail us. Hopefully, he will learn that the best way to react is to appreciate and enjoy the good aspects of life and accept the bad. It will be up to Mother and Grandparents to teach him to value whatever time he spends with his father, rather than resenting the time he does not.

Moreover, we believe that Father intends to do better. We found his testimony on his intentions credible, largely because he did not burden and bore the court with flowery proclamations of his love for C.B. or vows to magically turn into a model father, like many candidates for termination routinely do. He readily admitted the difficulties he faces because of the distance between Pennsylvania and Michigan, and explained the relationship he envisioned having with C.B.: lots of phone contact, visits on some holidays, and summers spent with himself and Lillian at his home. This is a lot more paternal attention than many children receive in our society, and certainly better than none at all. Although Father will probably never be as close to C.B. as everyone would like, he will probably maintain regular phone contact, begin written contact when C.B. is able to read, and see C.B. in person several times a year. As C.B. grows older and is able to fly by himself, he will probably spend summers and some vacations with his father, as Father's daughter does. Additionally, the evidence showed that L.B. is eager to meet her half-brother, and that Father's parents want to establish a relationship with him, as well. All of this would certainly be beneficial to C.B.

In short, when we weigh the pros and cons of termination, we end up with two mathematical equations:

1. C.B.'s life with termination = mother + maternal grandparents
2. C.B.'s life without termination = mother + maternal grandparents
+ father + half-sister + paternal grandparents

There is no doubt in our mind that the second situation would better serve C.B.'s best

interests.

III. Abuse of the Act

Pennsylvania's Adoption Act has been interpreted to prevent one parent from petitioning to terminate the rights of another parent unless an adoption is contemplated. In re B.E., 474 Pa. 139, 377 A.2d 153 (1977). Moreover, a grandparent or other non-spouse of the parent may not adopt a child while either parent retains his or her parental rights. Adoption of K.M.W., 718 A.2d 332 (Pa. Super. 1998).

As the testimony unfolded it became clear to this court that the proposed adoption by Grandparents is nothing more than a sham—an idea cooked up for the sole purpose of terminating Father's rights. There is no indication that Mother ever considered relinquishing her parental rights to C.B. until her attorney explained the law to her. Mother has no husband or beau in tow, nor does she intend to acquire one in the foreseeable future. Therefore, the only way to terminate Father's rights is for Grandparents to adopt C.B. And so it was that these three adults formed a conspiracy to oust Father from C.B.'s life.

This court cannot allow this scheme to succeed, for although it does not violate the letter of the law, it certainly violates the spirit of the law. The reason for the prohibition against termination without adoption is obvious: the purpose of the involuntary termination provisions of the Adoption Act is not to punish an ineffective or negligent parent. Rather, it is to dispense with the need for parental consent to adoption when, by choice or neglect, a parent has failed to meet the continuing needs of a child. In re B.E., *supra*, at 145. Termination of parental

rights permits a child and the adoptive parent or parents to establish a new parent-child relationship through adoption. Id.

No new relationship would be established by this proposed adoption. In fact, it would bring about little change in C.B.'s life. Grandfather, who is 79 and testified from a hospital bed, stated that he does not want to change C.B.'s lifestyle, and that C.B. would not reside exclusively in Grandparents' home, but would also stay at his mother's house—in effect, C.B. would maintain the same living arrangements as before the proposed adoption. Grandfather did indicate that he would feel he had more control over what happens to C.B. and would explore educational possibilities, but these statements are far too vague and meaningless to hold much weight. Grandmother, who is 76, testified that she wants to adopt C.B. because she could continue to provide a safe and loving relationship and family for him, and because it was a joy and a pleasure to care for him. These reasons are equally vague and unconvincing, nor do they constitute a new benefit for C.B. which he is not already enjoying. Mother did no better in offering reasons for the adoption, and in fact stated that her role in C.B.'s life will not change; she will continue to act as his mother. Mother even blatantly stated that only the legal papers will change.

The reason all three adults have failed to justify the proposed adoption is because their real goal is not the adoption—it is the termination of Father's rights, and that is a blatant misuse of the Adoption Act. Obviously, Grandparents are hostile to Father; the testimony showed they have been ever since learning he was the father. As for Mother, although she was upbeat about Father's involvement at the start, she eventually turned sour and now

harbors many negative feelings toward him, largely as a result of the financial arguments she has had with him and the difficulty she encountered in obtaining the child support he owed.

This court cannot sanction Father's tardiness in paying child support, nor his failure to take an active part in C.B.'s life, and his counsel's elaborate attempts to justify his failures were misguided. The petitioners' attorney has accurately pointed out his shortcomings and duly heaped scorn upon him, and the guardian ad litem chimed in during her closing comments. We add our voice to this chorus, and we hope Father takes heed. Nonetheless, as discussed earlier, we believe that having Father in C.B.'s life is better than having no father—especially when there is no other candidate to take his place.

Grandfather has been a model grandfather, and no doubt will continue to be one. However, he is not a father, and will not become one if the adoption goes through. Similarly, Grandmother is a model grandmother, and will remain a grandmother in deed, even if she becomes his legal mother. In short, the proposed adoption would amount to mere paper shifting that would remove C.B.'s father from his life, with no one to replace him and no benefit to offset the deficit. That leaves C.B. with a net loss, and amounts to a violation of the Adoption Act.

We also note that permitting the petitioners to sidestep the Adoption Act in this manner could open the door to further abuses. For instance, it would be a simple matter for Grandparents, once they have adopted C.B., to voluntarily relinquish their parental rights in order for Mother to adopt C.B. and again become his legal mother. Because she would not need a husband in order to adopt in that situation, this game of musical parents would be a

simple way to escape the statutory restrictions. Thus one phony adoption could easily lead to another, and the prohibition against parents terminating each other's rights would be rendered meaningless. That is the danger of permitting termination motivated by anger or vengeance, and that is why we cannot permit it here.

Mother and Grandparents dearly love C.B. and want the best for him. Therefore, we recommend that they overlook their hard feelings toward Father and support his participation in C.B.'s life. C.B. wants and needs a father. Father may not be the best father in the world, but he is better than no father at all and may well improve with time and a little support from them.

ORDER

AND NOW, this ____ day of November, 2000, for the reasons discussed in the foregoing opinion, the Petition for Involuntary Termination of Parental Rights is dismissed.

BY THE COURT,

Clinton W. Smith, P.J.

cc: Dana Stuchell Jacques, Esq., Law Clerk
Hon. Clinton W. Smith
Randi Wenger Dincher, Esq.
Jeffrey Yates, Esq.
Katherine Shimer, Esq.
Gary Weber, Esq.