



there were significant questions as to whether the New Jersey State Prison would release Father to the custody of Lycoming County for his attendance at the termination hearing, so the Court arranged for Father's participation at the hearing by a video conference procedure, which allowed him to be present at the hearing by video communication. Father appeared in the Courtroom on a video projection screen. He was visible to the Court, his attorney, all parties and witnesses on the video screen. The Court and witnesses also were visible to Father by video throughout the proceedings. Likewise, Father could hear everything occurring in the Courtroom throughout the proceedings. The Court and all the parties in the courtroom could hear Father whenever he spoke.

After direct examination of Agency witnesses, the Court recessed the proceedings to allow Father's attorney to privately confer with him about cross-examination of each witness. The Court also granted recesses whenever Father and his attorney needed to talk privately. The Court accommodated Father's attorney's ability to talk with his client privately by recessing and closing the Courtroom to anyone other than Father's attorney, who then was able to talk with G.B. privately whenever such contact was desired. Father also was able to testify in this case by use of the video conferencing system.

#### Facts

A.B. was born on May 2, 2006. She was 23 weeks premature and testimony referred to her as a "micro preemie." She weighed 1 pound, 7 ounces at birth.

The child lived the first several months of her life at Geisinger Medical Center. As A.B.'s discharge from Geisinger approached, the medical staff became concerned because the child's mother had not spent significant time with her at the hospital to care for her

properly upon release. During the child's hospitalization Mother refused an offer of housing at the Ronald McDonald House and indicated she did not have transportation to visit the child on a regular basis. *See*, Agency, Ex. 3, Order of September 25, 2006 finding A.B. to be dependent.

Eventually A.B. was released from Geisinger Medical Center in early August 2006. The child was still on a special mix of baby formula to help her, as a premature infant, gain weight. Agency, Ex. 3. Additionally, A.B. was discharged with an apnea monitor designed to alert Mother if A.B.'s breathing became irregular. Agency, Ex. 3. Mother was instructed that the child must wear the apnea monitor 24 hours a day. Agency, Ex. 3. Father had no contact with the child during any of this time, as he was in prison.

At the time of A.B.'s discharge the child and Mother were supposed to live in the residence of N.C. However, on the day following A.B.'s discharge the Agency learned that Mother did not move into this residence but instead spent the night at the home of her then boyfriend and his grandmother. Agency, Ex. 3.

Mother also missed multiple medical appointments. The Agency secured transportation for Mother through STEP, but the STEP van arrived to pick up Mother and the child and Mother failed to appear. Agency, Ex. 3. Mother also moved with A.B. to a different home.

Eventually, Mother was persuaded to attend a medical appointment with the child, and it was learned that the child was not gaining weight. The child was diagnosed with "failure to thrive" and was immediately transported from the doctor's office to the emergency room via ambulance for admission to the pediatric unit. Upon arriving at the hospital, Mother

disconnected A.B. “from a particular machine and she and the child left the hospital against medical advice.” Agency, Ex. 3, p. 3.

The Agency obtained a Court Order for emergency custody of A.B. The Agency located A.B. and took her into custody on the same day that she left the hospital. *See*, Agency, Ex. 2 Order for Emergency Custody of September 6, 2005.

On September 22, 2006, the Court held a dependency proceeding for A.B. The Master who took testimony at this hearing found A.B. to be a dependent child and A.B. was placed in the custody of the Agency to be placed in an approved foster home. The Family Service Plan and Child Permanency Plans dated December 16, 2006 through February 16, 2007, were approved. Judge Richard Gray signed the Court Order approving the recommendations of the Family Court Master. A case review hearing was to be scheduled in 90 days. The Order was signed on September 25, 2006. *See*, Agency, Ex. 3.

The child has been in continuous placement since September 6, 2006. The child has resided with the same foster family since placement, the family of J.A. and D.A. Their family is a foster-to-adopt family and they would very much like to adopt A.B., who will be 2 years old in May 2008.

A. B. has been in placement with J.A. and D.A. since she was 4 months old. Dixie Haldeman, who has been an Agency counselor since 1972, is the caseworker involved in this case. She visits the child twice a month.

Ms. Haldeman testified that A.B. is still a “medically fragile” child and is a special-needs child. A.B. is very comfortable and happy in J.A. and D.A.’s home. She calls the foster parents Mom and Dad. Ms. Haldeman described A.B. as being warm, responsive

and cuddly with her foster parents. While A.B. is developmentally delayed with limited vocabulary, she is starting to catch up. Ms. Haldeman believes the child thinks J.A. and D.A. are her father and mother, and she believes the child loves them.

A.B. is also very bonded with J.A. and D.A.'s adopted three-year old son. Also, A.B.'s biological half-sister, who is 8 months old, is also placed in J.A. and D.A.'s home.

Ms. Haldeman noted that when Mother voluntarily terminated her parental rights to A.B. on July 3, 2007, this had no adverse affect on A.B. Ms. Haldeman filed the termination of parental rights petition as to Father on October 4, 2007. Ms. Haldeman notes that the child cries when she is not with the foster parents. Ms. Haldeman believes all the child's needs are met by the foster parents and the child is now normally gaining weight and growing. The foster parents take A.B. to all her scheduled medical appointments. They are also fully involved and cooperative with early intervention learning services provided for the child. Ms. Haldeman believes the child's best interest will be served by termination of Father's parental rights because the child now is thriving and in the child's mind the foster family is her family. She feels the child now needs the permanency of this family and that disruption of this situation would be harmful to the child.

Psychologist, Bruce Anderson, testified that he did an evaluation of A.B. and the D.A. on January 17, 2008. He spoke to the caseworker about the history of the case. He then observed the child interact with D.A. He opined the child is extremely bonded with D.A. He noted that a young child's most important age for bonding with a caretaker is 4 months – 14 months old. He also noted the importance of J.A. and D.A.'s involvement with the child's

therapists because a child can best resolve developmental delays when the caregiver follows the work of the therapist. Mr. Anderson believes that if the child is removed from the foster home she will suffer from attachment disorder and will be traumatized by such an event.

Mr. Anderson believes that Father does not have a bond with the child, because of the minimal contact he has had with the child. The only contact Father has had with the child was in attending three supervised visits with the Mother for a total of a few hours.

D.A., the foster mother, also provided testimony for the Court. She and her husband have had A.B. for approximately a year and one-half. They brought the child home from the hospital on September 11, 2006. They also have in their home an adopted son and A.B.'s younger half-sister.<sup>1</sup> A.B. is now 20 months old. A teacher and an occupational therapist come to their home to work with A.B. and the foster parents. A.B. is checked at the Geisinger Hospital every 4 months for her medical problems.

D.A. feels that she and her husband are very bonded with A.B. and A.B. cries when she is left with a babysitter. D.A. noted that A.B. is very attached to her husband, and is even closer to him than to her. A.B. interacts well with the other two children in the home. Her young son treats A.B. as a little sister. A.B.'s half-sister, age 9 months, also is close with A.B. D.A. confirmed that she and her husband very much want to adopt A.B.

The only contact D.A. has ever had with Father is when he appeared with Mother for three supervised visits with the child, which occurred in January 2007, at the Sharwell Building, which is the headquarters for the Agency. These visits were supervised by Agency staff.

---

<sup>1</sup> G.B. is not the father of the younger sister.

In responses to questions by the Court, D.A. testified A.B. is a child in need of significant attention and care as she still receives breathing treatments with a nebulizer machine, and she must work with the child everyday on fine motor skills. The foster parents also closely follow up with the child on the work of the various therapists. The child is extremely sensitive to cigarette smoke, and they have to be extremely careful about this even when they are out with the child.

Ms. Haldeman testified to Father's very limited contact with A.B. throughout A.B.'s short life. Father is from Elizabethtown, New Jersey near the Newark area. He now is in the New Jersey State Prison in Trenton, New Jersey.

Father is 28 years old. He has a significant criminal record for auto theft and drug crimes. When he was a juvenile, he was adjudicated delinquent in New Jersey for aggravated sexual assault of a female child, under age 13. He told Ms. Haldeman the child was age 11. This conviction created a ten-year Megan's Law Registration requirement for Father; and he is listed in the New Jersey Sex Offender Internet Registry. *See*, Agency Ex. 7, which contains a copy of the New Jersey Sex Offender Internet Registry.

Father was incarcerated in Lycoming County Prison in January 2006 for the offense of failing to comply with Megan's Law Registration when he moved to Pennsylvania from New Jersey.<sup>2</sup> He still was incarcerated when A.B. was born in May 2006.

On October 11, 2006, Ms. Haldeman went to the Lycoming County Prison to talk with Father. She talked with him about the things he would need to do to obtain custody

---

<sup>2</sup> Although neither side presented specific evidence about this, the Court confirmed from the court file and Adult Probation records that Father was sentenced on February 6, 2006 for the registration violation to a 1-12 month prison term with credit for time served from January 6, 2006. Father was not paroled from this sentence because he failed to provide an appropriate parole address. Thus, he served the entire sentence in prison and maxed out on January 6, 2007. He was released from the Lycoming County Prison system on January 7, 2007.

of A.B. He was advised he needed to attend parenting classes and he needed to have drug and alcohol counseling so he could provide a drug and alcohol free home for A.B. Ms. Haldeman then began to make efforts to refer Father to some local parenting classes as he would be getting out of prison in January 2007. She also advised him he could be involved in parenting classes by mail while still in prison. She encouraged Father to arrange visits with the child and to attend medical appointments with the child so he could understand the limitations within which the child lived. Ms. Haldeman also asked Father to name individuals who could be a potential resource for the child in helping him prepare a home for the child; Father named his mother and other relatives. Ms. Haldeman tried to contact these people but she could not reach them or they indicated they could not help. Ms. Haldeman also gave Father a copy of the Family Service Plan.

Father completed his prison sentence on January 7, 2007, and he was released from Lycoming County Prison. Although Ms. Haldeman encouraged Father to set up his own visitation schedule with A.B., he did not do this. However, he did come with Mother for three of her supervised visits with A.B. at the Sharwell Building in early January 2007. The Agency expressed no objection to Father appearing with Mother at these visits. Ms. Haldeman also had the opportunity to further talk with Father at these visits and she again encouraged him to set up his own visitation schedule with A.B. Ms. Haldeman also encouraged Father to obtain drug and alcohol counseling but he “argued” with her about this claiming he had no drug and alcohol issues. Ms. Haldeman gave Father a phone number where he could reach her to get back to her concerning A.B. *See also*, Agency, Ex. 8 (letter from the Agency dated January 2, 2007 asking Father to contact them upon his release from



the Lycoming County Prison) and Agency Ex. 9 (letter from the Agency to Father dated January 8, 2007 encouraging him to visit with A.B. and including a phone number for him to contact the Agency to schedule his own visitation with the child).

Despite these efforts and encouragement, Father decided to leave Pennsylvania and return to New Jersey without any notice to the Agency.<sup>3</sup>

Father disappeared in early January 2007, and Ms. Haldeman had no further contact from him. Ms. Haldeman utilized a parent locator service to attempt to find him, but was unsuccessful. She was finally able to locate Father in the New Jersey prison system in May 2007.<sup>4</sup>

In his testimony, Father acknowledged that he left Pennsylvania shortly after being released from the Lycoming County Prison on January 7, 2007. He returned to his home area in New Jersey. On January 14, 2007, shortly after returning home, he was arrested for a drug offense. Since January 14<sup>th</sup> he has been incarcerated in the New Jersey penal system, where he remains incarcerated today.

Father was first incarcerated in Union County Prison. He has been incarcerated in 4 different institutions since his January 14, 2007 arrest in New Jersey. His incarceration in New Jersey occurred only eight days after he served a max-out sentence in Lycoming County. He is currently in maximum security in the New Jersey State Prison in

---

<sup>3</sup> Father contended he left Pennsylvania to go to New Jersey to pick up his birth certificate and other papers he needed to obtain employment in Pennsylvania. The Court did not find this testimony credible because, upon questioning by the Court, it was apparent Father had no residence or housing in Lycoming County.

<sup>4</sup> The Agency wrote letters to Father in care of his mother's address in New Jersey on March 19, 2007, (Agency Ex. 11) and April 11, 2007 (Agency Ex. 12). The letters encouraged Father to contact them. After locating Father in the New Jersey prison system the Agency continued to write to him, telling him about A.B.'s progress and encouraging him to contact the Agency. *See*, Agency Ex. 13 (letter of June 20, 2007 to Father in Union County Jail), and Agency Ex. 14 (letter of October 1, 2007, to Father in the Albert Wagner Youth Correctional Facility).

in Trenton, New Jersey. He has been in this prison since September 20, 2007. He claims he is now serving a 3-year flat sentence. He is in segregation in New Jersey State Prison for alleged assault.

Father acknowledged he has received some letters from Ms. Haldeman of the Agency while in prison. He also admitted Ms. Haldeman talked with him about the child and she encouraged him to visit with the child before he left for New Jersey. He acknowledged Ms. Haldeman visited with him at the Lycoming County Prison in October 2006 and talked with him for about an hour about the child. She also discussed parenting classes and drug counseling with him, and he told her he would do those things. Father also admitted Ms. Haldeman spoke to him once by telephone while he was in the New Jersey penal system.

Father claimed he wrote eight or nine letters to the Agency while he was in prison in New Jersey.<sup>5</sup> Otherwise, he sends letters and cards for the child to Mother. He has little contact now with his own family and does not know the location of his mother. Thus, it appears Father has no family support for the foreseeable future.

Father claims he will be released from prison in New Jersey on October 31, 2008<sup>6</sup> and that he plans on coming back to Williamsport despite having no housing or employment in this area. He planned to live with Mother upon returning to Williamsport, but now she is incarcerated in state prison.

While acknowledging that Father's situation of being in prison and being in maximum security limits the things he can do in regard to parenting of A. B., the Court finds

---

<sup>5</sup> The Court does not accept Father's credibility on this issue, as the Agency did not receive any letters from him.

<sup>6</sup> Through New Jersey's inmate locator on the internet the Court obtained a New Jersey Department of Corrections record for Father which lists his projected parole eligibility date as October 31, 2008. The record lists his "projected max release date" as May 9, 2009. Thus, it appears Father is not guaranteed to be released on October 31, 2008. See attached document listed as Court Exhibit 1.

he has made no efforts to maintain contact with the Agency and further his skills during the extensive time he is in prison in Lycoming County and New Jersey.

### **DISCUSSION**

The Court is satisfied that the Agency has presented clear and convincing evidence in support of termination of Father's parental rights.

A. B. has spent almost all of her young life, outside of her stay at the Geisinger hospital, in the home of her foster parents. She is fully bonded with the foster parents as her parents. A. B. has spent somewhere between 4 to 6 hours of her life in Father's presence and obviously has no parental bond with Father.

The Court feels that the requirements for termination of 23 Pa.C.S.A. 2511(a) (1) (2), (5) and (8) are satisfied by the evidence in this case, as is §2511 (b), concerning the best interest of the child. The Court finds Sections 2511 (a) (5) and (8) are the sections of the termination statute which most clearly apply to this case.

The Court does not believe Father can remedy the reasons necessitating foster placement of A. B. for a very long time, if ever. He is currently incarcerated and will not be released until October 31, 2008 at the earliest or possibly May 2, 2009, his maximum date.

He appears to have little family support in New Jersey and no family roots in Lycoming County where he says he would like to relocate. His plan is to live with the Mother of A. B., but her rights to A. B. have been voluntarily terminated and she is now incarcerated in the Pennsylvania State Correctional system.

While in prison, Father has done little or nothing to further his parenting skills or relationship with A. B. When out of prison in January 7, 2007, despite encouragement by

the Agency, Father left Pennsylvania only to be arrested and convicted of a new crime, which has led to his latest incarceration.

A. B. is a medically fragile child who will require significant and extensive care and support. The Court cannot see Father being able to provide this needed care and support for a very long time. It would not be fair to A. B. to require her to wait in limbo for an extended period of time to see if Father can somehow make the transition to an effective and nurturing parent.

Likewise, at this time it is clear that A. B. needs the permanency of a loving secure family structure and she will be harmed if not given this opportunity. It only makes sense to allow the family, which has been her real family for all but four months of her life, to become her permanent family by adoption.

This Court has looked at many of the Appellate Court cases dealing with incarcerated parents and it does not believe these cases require a different result. While the cases make clear that incarceration does not itself provide grounds for termination of parental rights, a parent's responsibilities are not tolled during their incarceration. See In Re Adoption of McCray, 460 Pa. 210, 331 A.2d 652 (1975); In Re D.J.S., 1999 Pa.Super. 214 737 and 283 (1999); In Re N, M.B., 856 A.2d 847, 855 (Pa.Super. 2004); In the Matter of Adoption of Baby Boy v Catholic Social Services, 512 Pa. 517, 517 A.2d 1244 (1985).

Further, to the extent Father complains that he was not allowed to physically be present at the termination hearing before the Court, the Court is satisfied that his participation by video conference was done in a manner that fairly and accurately insured his participation. Father was present by video for the entire proceeding. He could see and hear

witnesses. He was able to confer with counsel privately whenever needed. He was able to fully testify himself or call witnesses. Thus, the Court sees no prejudice or unfairness to Father by the use of video conferencing at his hearing. See In the Interest of A. P., 692 A.2d 240 (Pa.Super. 1947) (denying Father's due process challenge where Father participated in termination hearing by telephone conference call.).

Finally, Father may complain that the Agency did not make appropriate efforts to preserve his parental rights. While Father may have a valid criticism that he was not named in the Agency's Family Service Plans, the evidence showed the Agency made reasonable efforts to maintain contact with Father and counsel him on what he would need to do to obtain custody of A. B.

Dixie Haldeman personally went to the Lycoming County Prison in October 2006 to counsel Father. She did this again in early January 2007 when she saw Father at the Sharwell Building. She encouraged Father to set up his own visitation schedule with A. B. in early January 2007, Pennsylvania without any notice to the Agency.

The Agency then tracked down Father in the New Jersey penal system and continued to send him letters about A. B. See Exhibits 11, 12, 13, 14 and 15. Ms. Halderman always left Father with an address and phone number to contact the Agency.

Despite these efforts, Father sent no letters or correspondence to the Agency concerning A. B. In light of this, the Court does not feel this is a case where the Agency did not try to help Father play a role in his child's life. Rather, Father must be held accountable for his own lack of effort and his responsibility for his incarceration.

In conclusion, the welfare and best interests of A. B. cry out for termination of Father's parental rights.

For these reason, the Court **GRANTED** the Agency's Termination Petition.

**BT COURT,**

---

**KENNETH D. BROWN,  
PRESIDENT JUDGE**

cc: Mark Taylor, Esquire  
Charles F. Greevy, III, Esquire  
E. J. Rymza, Esquire  
Matthew P. Golden, Edquire  
Children & Youth Services  
Work File  
Gary Weber, Esquire (Lycoming Reporter)