

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

IN RE :
AS, : **NO. DP-16-201**
A MINOR CHILD :

DATE: September 16, 2011

OPINION AND ORDER

This opinion is written in response to a hearing held on September 6, 2011, in regards to Lycoming Children and Youth Services' (Agency) Motion for Modification of Child's Placement filed on August 30, 2011. At which time the Agency was present with counsel Mark Taylor, Esquire in the a.m. and Charles Greevy, III, Esquire in the p.m., Guardian Ad Litem David Raker, Esquire was present for the child, Mother's counsel Todd Leta, Esquire was present, Mother was not present, and Father's counsel John Smay, Esquire was present. Father was not present. The current resource parents, MJ and CJ, were present and represented by counsel Chris Williams, Esquire but were not allowed to participate as parties.

At issue is whether the minor child should be removed from her current resource home and placed into a kinship home. Neither biological parent was present however counsel for Mother relayed that she is opposed to the relocation and counsel for Father relayed that he concurs with the transfer.

By law the Agency is charged with first giving consideration to relatives in regard to placement. 62 P.S. § 1303. The Court recognizes the importance of family bonds and generally promotes kinship placement. However, the Court retains the ability to place a child with a foster family, even when willing relatives are present, when foster care is in the best interests of the child. *In Re: Adoption of G.R.L.*, 2011 PA Super 152 (citing *In Re: R.P.*, 957 A.2d 1205 (Pa.

Super. 2010). “The goal of preserving the family unit cannot be elevated above all other factors when considering the best interests of children, but must be weighed in conjunction with other factors.” *In Re: Adoption of G.R.L.*, 2011 PA Super 152 (citing *In Re: Davis*, 465 A.2d 614, 621 (1983)).

In the current case the child was a failure to thrive baby. When she first arrived at her resource home, at approximately 11 weeks old, the child could not hold her head up, she would not eat, she was undersize, and delayed in other developmental areas. Through testimony by both the Agency and the current resource parents, the Court learned that the child has thrived in her current resource home. She has grown in all aspects, she is above the fiftieth percentile in weight, she is continuing to make progress and she is getting any therapy that is needed. At the present time she is in speech therapy. There was no professional testimony presented that the child would regress if she was taken out of her current home. However, there was testimony that when she returns home after overnights with her great grand parents her schedule is disturbed, she is extremely clingy and tired.

Traditionally, “kinship care is . . . where the care provider already has a close relationship to the child.” *In re J.P.*, 998 A.2d 984, 987 n.3 (Pa.Super. 2010). In the case at hand, the relatives are the paternal great grandfather and paternal step great grandmother. The great grandparents did not have a relationship with the child prior to the child’s placement in the resource home. The child was placed in her current home on December 22, 2010; the great grandparents were not identified as a kinship home until February 26, 2011 during a family group decision making meeting. They then began weekly supervised visits on or about May 11, 2011 and progressed to overnight visits on or about July 26, 2011. The Court views the goals of kinship placement as promoting family ties and enabling the minor child to still see her

biological parents even though she does not live with them. The great grand parents in this case have no contact with the Mother or her family and the step great grand mother stated that she would have to know more about the Mother before she allowed her to visit with the child if the child were in her custody. Additionally, the great grand parents' relationship with Father is estranged. Further, while the Court is in no way discriminating based on age, the great grand father is a seventy-two (72) year old with questionable health. The Court is concerned about the health of the great grand father and his ability to keep up with the child; the child was described as being very active.

When weighing the evidence and taking into account the fact that the child has been in the current resource home since approximately December 22, 2010 and has made great strides this Court determines that it is in the best interests of the child to remain in her current home and not in the best interests of the child to re-place her.

AND NOW, this 14th day of September 2011, the Motion for Modification of Child's Placement is DENIED.

By the Court,

Joy Reynolds McCoy, Judge

JRM/frs