

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

IN RE: : **NO. 6310**
 :
CJG, :
 :
a minor child, :

**OPINION IN SUPPORT OF THE ORDER OF OCTOBER 29, 2012, IN
COMPLIANCE WITH RULE 1925(a)(2) OF THE RULES OF APPELLATE
PROCEDURE**

This Court has reviewed the Statement of the Matters Complained of on Appeal filed by the biological Father, CLS, on November 20, 2012. The Opinion and Order of October 29, 2012 is a comprehensive accounting of the evidence presented, findings of facts, and analysis. The Court relies on that Opinion and Order for this appeal. The findings of the Court are supported by the Transcript and exhibits of the hearing held on October 12, 2012.

The Court will briefly address Father's sole matter complained of on appeal.

Father asserts:

“The Court erred in determining that clear and convincing evidence existed to show that Defendant had a settled purpose to relinquish a parental claim under 23 Pa. Cons. Stat. § 2511 (a)(1).”

23 Pa. C.S. § 2511 (a)(1) in entirety states:

(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.

(emphasis added). The Court found that Mother met her burden through clear and convincing evidence that Father had refused and or failed to perform parental duties; in fact Father never performed parental duties. As Father failed so glaringly on the parental duties portion of the statute the Court did not address the relinquishing portion of the statute.

Mother did present clear and convincing evidence that for a continuing period of at least six months immediately preceding the filing of the petition Father evidence a settled purpose of relinquishing his parental claim. The minor child in question was born on June 6, 2006. In the six and a half (6 ½) years the child has been alive Father saw the boy approximately ten times with the last visit being in November of 2008 when Father and Mother arranged for a visit at the mall. The last contact with Father was through Mother's Husband in July 2011 when Father was approached regarding relinquishing his paternal rights. Even though Father testified that he wanted to be a part of his son's life his actions over the years and six months immediately preceding the filing of the petition evidence far different intent. N.T. October 12, 2012, p. 55.

As Mother met her burden of proving through clear and convincing evidence the elements of 23 Pa. C.S. § 2511 (a)(1) the appealed should be dismissed and the Court's Order of October 29, 2012 affirmed.

By the Court,

Joy Reynolds McCoy, Judge