

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

**IN RE:** : **NO. 6360**  
:   
**CS, JR., and** :   
**CL,** :   
:   
**minor children,** :

**OPINION AND ORDER**

**AND NOW**, this 21<sup>st</sup> day of **March, 2013**, before the Court is Lycoming County Children & Youth Services' ("Agency") Petition for Involuntary Termination of Parental Rights of Mother, ML ("Mother") filed on January 3, 2013. Father, CS, Sr., signed a Consent for the voluntary relinquishment of his parental rights on January 31, 2013. A Hearing on the Petition to Involuntarily Terminate Mother's parental rights was held on March 6, 2013. Charles Greevy, Esquire, Solicitor for the Agency, Kathryn Bellfy, Esquire, counsel for Mother, and John Pietrovito, Esquire, Guardian Ad Litem were present. Father's counsel, Melissa Clark, Esquire, was excused from the hearing.

**Finding of Facts**

CS, Jr., was born April 13, 2010. CL was born on May 25, 2011. They are the children of ML, date of birth October 25, 1991, and CS, Sr., date of birth June 17, 1991.

The Agency became involved with ML on June 26, 2010, in relation to her only child at that point, CS, Jr. There was an extensive Agency history in the past with Mother as a child throughout her adolescence. On November 5, 2010, the Agency received a call from this Court who, at the time was presiding over a custody hearing regarding the child, CS, Jr. The Court requested a caseworker come to the Court

immediately to take CS, Jr., into protective custody at that time. The basis for the Court's concern was that during the Custody Trial, both parents made it adamantly clear that CS, Jr., was not safe in the other parent's home, there was on-going conflict occurring in both parents' homes with the other individuals residing in that home, and there were serious concerns regarding the mental health of both parents as both had threatened to commit suicide within the past two weeks.

At that time, both parents were 19 years of age. CS, Jr., was in the legal and physical custody of the Agency for placement in a resource home from November 5, 2010 until November 12, 2010, due to concerns of the parents' mental health issues, parent conflict and lack of ability to co-parent.

On November 9, 2010, the Agency filed a Shelter Care Application. On November 12, 2010, a hearing was held on the Shelter Care Application. After assuring the child's safety through a safety plan and voluntary services the Court returned the child to the custody and care of both parents. In November, 2010, Mother received Outreach Services for baby basics, parenting with success and budgeting. A family group decision making meeting was held on December 15, 2010, in order to identify helpful resources for the parents who continued to have difficulty with co-parent communication.

On December 21, 2010, the Agency filed a Dependency Petition. On January 11, 2011, the Agency filed a Praecipe to Withdraw the Dependency Petition.

On May 25, 2011, CL was born. At that time, Mother refused voluntary in-home services. In June, 2011, Mother started voluntary in-home services for CL. In July, 2011,

the Agency recommended Mother work with Outreach Services on home conditions, organizational skills, employment, housing and parenting. The Agency reports reflect that Mother attended parenting with success and anger management classes at the Salvation Army. Early Headstart began in July, 2011, for both children. The Agency reports indicate that Mother met with Headstart on the porch and refused them entrance into her home and missed appointments.

On September 19, 2011, the Agency received a report describing deplorable home conditions at Mother's residence. Unannounced visits were made by the Agency to Mother's home on September 20 and 21, 2011. Mother refused the Agency's admittance into her home on both occasions. Both children, however, were seen at the maternal grandmother's apartment located in the same apartment complex.

A home visit was conducted by the Agency on September 22, 2011, at which time the caseworker felt that CL appeared extremely thin. At that time, Mother agreed to sign a release for the Agency to obtain medical records, but refused any mental health treatment for herself. CL's birth weight on May 25, 2011, was 8 pounds. During an emergency room visit on August 16, 2011, his weight was 10 pounds 8 ounces. On September 29, 2011, Mother missed a scheduled doctor's appointment for CL to address weigh concerns. The Agency, thereafter, arranged for CL to be seen by Family Medicine on September 30, 2011. At that time, CL weighed 9 pounds 8 ounces. He was thereafter admitted to the Williamsport Hospital with a working diagnosis of failure to thrive.

On October 3, 2011, an Order for Emergency Protective Custody was granted as the Court found sufficient evidence to prove that continuation or return of CL to the

home of ML was not in his best interest. Emergency custody of CL was granted to the Agency upon his discharge from the Williamsport Hospital pending a shelter care hearing.

On October 3, 2011, the Agency filed a shelter care application indicating that the child had been admitted to the Williamsport Hospital with documented failure to thrive and while there, Mother threatened to sign the child out of the hospital against medical advice. On October 4, 2011, a shelter care hearing was held. At that time, the Court found sufficient evidence to prove that continuation or return of the child to the home of Mother would not be in the child's best interest.

On October 6, 2011, the Agency filed a Petition for Dependency of CL and CS, Jr. On October 11, 2011, a dependency hearing was held in the matter of CL and CS, Jr. Both children were adjudicated dependent and placed in an Agency-approved resource home.

On January 17, 2012, a permanency review hearing was held. At the review hearing, the Court found that Mother struggles to maintain a clean home. Mother was working without Outreach Services, but refusing parenting classes. On January 17, 2012, the Court issued an Aggravated Circumstances Order finding that CL was the victim of physical abuse by Mother due to her failure to adequately feed CL. The Court ordered that efforts continue to preserve the family unit and reunify the child with Mother.

On April 10, 2012, a permanency review hearing was held. At the hearing, the Court found that Mother made some progress but was inconsistent with her cooperation with Outreach Services. During the review period, Mother demonstrated significant

mood swings during her visitation. Mother failed to follow the rules/guidelines of the visitation staff. Mother attended her first appointment with a psychiatrist to address her issues and mood swings, and to discuss medication. Mother failed to attend her second appointment. Mother completed anger management and began attending parenting with success. Mother did not allow the Agency into her home since early March, 2012, and failed to attend a WIC appointment. Mother needed to be reminded at times to feed the children during her visits.

On July 3, 2012, a permanency review hearing was held. After the hearing, the Court found that Mother was in the same position that she was at the last review hearing in April. The Court found Mother continued to have significant mood swings and difficulty during her visitation with the children. The Court further found that Mother failed to take whatever steps were necessary to deal with her mood swings and to take direction from visitation staff and work with her caseworker. Mother also failed to allow Outreach Services into her home. At the hearing, the Agency was seeking a reduction in Mother's visitation times with the children. Mother expressed to the Court that there were so many requirements placed on her by the Agency, that she was overwhelmed. The Court, therefore, prioritized for Mother two areas that the Court wished to see Mother successfully complete by the next review hearing. The first was that Mother was to schedule an appointment to get placed back on her medication and to continue to follow up with the psychiatrist and continue to take her medication as prescribed. Secondly, Mother was to successfully complete the parenting with success program. The Court did not alleviate Mother of any of the other obligations, but simply prioritized those areas

that Mother should concentrate on. The Court did reduce Mother's visitation to three days a week to allow her more time to concentrate on those things that needed to be taken care of so that her visits with her children could be positive.

On October 10, 2012, a permanency review hearing was held. At the time of the hearing, the Court found that Mother had made some improvement during the review period; however, there was a delay in her follow through with the Court's directives until immediately prior to the review hearing. Mother did complete her parenting with success program. Mother was cautioned by the Court that her case was closely approaching the children being in placement for 15 out of the past 22 months and advised her that a determination would need to be made by the Agency whether or not a petition to involuntarily terminate her parental rights would be filed. The Court stressed to Mother the importance of what occurred during the next review period and how that could ultimately impact her parental rights with her children. The Court outlined the following goals for Mother during the review period: (1) continue to attend her visits with her children; (2) follow through with the appointments with a psychiatrist for her to be placed back on medication; (3) take all medication as prescribed; (4) follow through with scheduling and attending counseling appointments to deal with anger management and any other issues she currently faces; (5) cooperate with her caseworker and keep all appointments with the caseworker; (6) cooperate with her Outreach worker and keep all appointments with her Outreach worker; (7) complete the budgeting course. The Court noted that it had seen a side of Mother that it had never seen in prior hearings and that the Court was hopeful that Mother was truly taking the seriousness of what her children are

facing and that she would make a consistent effort over the next three months towards reunification with her children.

On January 2, 2013, the Agency filed a Petition for the Involuntary Termination of Mother's Parental Rights. On January 8, 2013, a permanency review hearing was held. After a hearing, the Court found that Mother's actions over the past three months had fallen back into what had been established as her typical pattern of failing to follow through with most things. Mother was consistent with her visits; however, there was at least one visit where there were some difficulties with Mother's behavior. The Court found that Mother did not complete the goals as the Court had outlined for her in the prior Order. Though Mother attended her first appointment with her psychiatrist to be placed back on medication, she failed to follow through with the follow up appointment. At the time of the hearing, Mother again, as the Court noted had occurred many times in the past, indicated that she was taking steps to remedy the fact that she had missed her appointment and was on a waiting list to get into a psychiatrist. Mother failed to schedule and attend counseling appointments to deal with her anger management and other issues. Again, at this hearing, Mother indicated she was on a waiting list. Mother did not cooperate with her caseworker and Outreach worker and did not maintain appointments. Mother failed to complete the budgeting class as ordered by the Court. During the review period, Mother had significant instability concerning her housing. Mother briefly moved in with her boyfriend only to shortly thereafter be asked to leave as the boyfriend moved the mother of his children into the home.

On March 6, 2013 at the hearing on the Involuntary Termination of Mother's Paternal Rights the following evidence was presented. Dixie Haldeman, the Visitation Coordinator for the Agency, testified that during the time both children were in placement, Mother had the opportunity for a total of 386 visits. She attended 263 of those visits, no-showed for 16 visits and canceled 7 visits. Ms. Haldeman testified that Mother's attendance at visits was generally good and that she always provided those things necessary for the children during her visits. Ms. Haldeman's primary concern was that "mom is never predictable in response to the boys". She indicated that the children do not know what to expect from Mother as one day a particular situation may make her laugh and the next day the same situation will make her yell at the boys. Three of Mother's visits were ended by the Agency due to Mother's behavior. Mother, at times, becomes angry when the Agency staff attempts to redirect her and she becomes inappropriate and swears. Ms. Haldeman testified that, at one point, Mother was requesting periods of unsupervised visitation with the children either in her home or in the community. The Agency implemented a grading system with Mother's visits to allow her to work up to unsupervised visits. Mother was requested to have ten consecutive visits without any incidents. Mother was never able to have ten consecutive visits without incident, and therefore, never progressed beyond the observed visits. Ms. Haldeman testified that generally she is looking for a parent to grow throughout the time of their supervised visitation and to meet the basic emotional needs of their children. She did not believe Mother had accomplished this. Ms. Haldeman testified that during visits when conflict arises by Mother that CS begins to cry and yell to his Mother to not



yell at Dixie and that CL becomes withdrawn. Ms. Haldeman noted that when Mother's visits went from two hours to three hours, Mother struggled with the last hour of the visit. When the children need comforted for any reason during a visit, they will sometimes go to Mother and other times will go to visitation staff for comfort. CS refers to Mother as either "mom" or "Melissa" during the visits.

Fay Stiver, a Social Service Aide, testified that she transports the children two days a week for their supervised visitation. It is approximately 25 miles from the resource home to the visitation center. She testified that during the time she was transporting the children, that they have "grown up before her eyes". She noted that CS has gone from calling Mother "mommy" to now referring to her as "Melissa". CS now refers to his resource mother as "mommy".

Crystal Minnier, the Agency Caseworker who currently supervises this case, also testified. She testified that she began as the Caseworker in this case in July, 2012. Ms. Minnier testified to many of the things as were noted by the Court during the review hearings. Ms. Minnier testified that Mother has not accomplished anything in her service plan. She testified that though Mother is difficult, she has never been hostile to the caseworker, but instead just refuses to follow through. Ms. Minnier testified that she has seen no progress towards reunification or the possibility for reunification at any time in the near future. She specifically cited to the fact that Mother's housing continues to be unstable, there have been no improvements in Mother's parenting skills, or safety for the children, that Mother's moods continue to be up and down, that Mother has not addressed her mental health issues, including coping skills and anger management. Ms. Minnier

stated that Mother is “no further ahead than when the boys came into care”. Ms. Minnier stated that she believes Mother is fully capable of doing what needs to be done to reunify with her children, but has simply failed to follow through to do so. Ms. Minnier noted that over the months she has seen a progression from CS referring to Mother as “mommy” to “mommy Melissa” to now just “Melissa”. She indicated that this occurs at visitations, as well as medical appointments that she attends with the children and Mother.

Ann Hudak is the Court-appointed Advocate (CASA) for both children. She has been in this role since October, 2011. Ms. Hudak provided detailed written reports for each review hearing. Each report was made part of the Court record. Ms. Hudak testified that during Mother’s visits with the children, there is a lot of turmoil and confusion, especially during the third hour of the visit. She testified that in her experience with Mother, though Mother tries to do those things necessary to reunify with her children, she never follows through and always encounters problems. She always has an excuse or reason as to why she has not completed what has been requested of her.

Licensed Psychologist, Bruce Anderson, conducted a psychological evaluation of Mother. The date of the evaluation was December 19, 2011. His next contact with Mother occurred on March 4, 2013, immediately prior to the hearing on the involuntary termination of Mother’s parental rights in which he observed a visitation between Mother and the children. In his evaluation, Bruce Anderson recommended that Mother complete counseling if she was interested in doing so as he did not believe counseling is beneficial for an uncooperative participant, continue Outreach Services, improve parenting skills,

obtain a psychiatric evaluation, and possibly be placed on psychotropic medications for anger control and further indicated that if the children were returned to Mother, that Children & Youth Services remain involved for at least a year to assure their safety given Mother's tendency to get overwhelmed with her own concerns which leads to neglect of the children. Mr. Anderson did not conduct an updated evaluation of Mother; therefore, he could not provide any additional testimony as to where Mother had progressed. He did indicate that he observed a visitation between Mother and the children at which time there was nothing remarkable that he observed. Though Mr. Anderson could not provide any type of an expert opinion in regard to the bond between Mother and the children as he had not done a bonding assessment, he did indicate that the vital stage of a child's life for bonding is from 1-3 years of age.

Mother testified that she was putting money down the very next day on an apartment. It was clear from Mother's testimony that she is not realistic in regard to her housing needs. The rent for the apartment Mother indicated she would be renting was \$600.00 a month and she had arranged for the rescue workers to pay her security deposit. Mother's sole source of income, however, is SSI which she receives \$698.00 per month. The Court questions whether or not Mother will be able to afford the apartment and maintain it long term. Mother testified that she was working on obtaining a part-time job and was willing to go back to complete the budgeting course. She also indicated that she had started pursuing her GED a few weeks ago and was willing to go through the nutrition class. She indicated that she was waiting for an opening at Diakon Counseling for both an appointment with the psychiatrist and for counseling. Mother felt that she

was doing better since the last hearing and was more patient with the children and less stressed. She testified that it was hard to give the children time-outs because she did not want the children to be mad at her. Mother testified that CS sometimes calls her “Melissa” and sometimes “Mommy Melissa”.

Mother was asked why she had not done what she was asked to do regarding her children. Mother testified that she has tried and that there is no good excuse for any parent not to do what they need to do. When she was asked what else the Agency could have done for her, Mother stated “they pretty much helped me, I can’t think of anything else”. Mother stated that it is hard for her because she loves her children.

### **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 Mother'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 re: 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.

The Court finds that for a period of at least six months prior to the Agency's filing of the Petition to Terminate Mother's parental rights, Mother has failed to perform parental duties on behalf of the children. Though to her credit, Mother has maintained consistent contact with the children by attending visitations, Mother has done little else to perform parental duties on behalf of the children. Throughout the entire timeframe of this case, Mother has exhibited a pattern of failing to follow through and do those things that are requested of her by the Agency in order to allow her to reunify with her children. Though Mother appeared regularly for her visitation with the children, Mother demonstrated significant mood swings during her visitation. On at least three occasions, Mother was requested to leave her visitation due to her behaviors. Mother was

repetitively asked throughout the Agency's involvement in this case to seek help for her mood swings including counseling and medication, as well as maintaining the appointment with a doctor to monitor her medication. The purpose for Mother addressing her mood swings and anger management issues was to allow her to have quality visits with her children and to alleviate safety concerns of Mother with the children if she were to be unsupervised. Throughout the Agency's involvement in this case, Mother has, at times, attended appointments, but has a history of failing to follow through and thus being dismissed from various counselors and physicians. Mother is currently not involved in any type of counseling, nor was there verification that her medication was appropriately being monitored by a psychiatrist. The Court finds that Mother has failed to perform her parental duties on behalf of the children for at least six months prior to the filing of the termination petition. Though Mother appeared for visits, she did little else to ensure that she was able to provide for her children's physical and emotional needs. A child's needs cannot be met simply by attending visitation. Mother's failure to follow through with the services that were necessary to ensure that her mood swings and anger management would be appropriately addressed as well as services which were offered to help Mother with her parenting skills, demonstrates Mother's failure to perform her parental duties on behalf of her children.

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 Mother has failed to perform her 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 the Mother 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).

Mother’s actions exemplify a repeated incapacity and or refusal to act resulting in the children being without essential parental care, control or subsistence necessary for their physical or mental well-being. In this case there is a child diagnosed with failure to thrive and documented abuse because of that.



The Agency put the tools in Mother's grasp by making a nutritionist available to her. The goal of the nutritionist was to teach Mother age appropriate foods and meals that she could prepare for the children. Instead of taking the offered guidance Mother took issue with the nutritionist, as she has with many of the Agency staff, and discontinued services. Mother now states that she is willing to take the classes however, Mother has maintained for the entirety of the case that she did nothing wrong and the services were not needed.

Nutrition is just one of the areas that Mother failed to complete. The Agency has not changed and or added to the goals Mother must complete in order for reunification. Mother has been made aware of the requirements multiple times and to date has failed to complete all of the goals except for the parenting class. Even though Mother successfully completed the parenting class the visitation workers testified that they have not seen Mother employ many of the techniques. The Court finds by clear and convincing evidence that the Agency has fulfilled 23 Pa. C.S. § 2511 (a) (2) by demonstrating Mother's repeated 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 their physical or mental well-being which have not been remedied.

"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.

In the present case, CS, Jr., and CL have been removed from the parental care of Mother since October, 2011, which, at the time of the hearing to terminate Mother’s parental rights was approximately 17 months. CS has been removed from the care of his Mother since he was approximately 18 months of age. CL has

been removed from the care of his Mother since he was approximately 5 months of age. Those issues which initially led to removal of both children from Mother's home included a finding that CL was the victim of physical abuse by Mother due to her failure to adequately feed CL, Mother's poor parenting skills, Mother's mental health and anger managements issues and Mother's struggle to maintain a clean home. From October, 2011, until March, 2013, the Agency has diligently worked with Mother to help her address those issues which led to the children's placement. As was testified to by the caseworker and also observed by the Court, Mother is no further ahead to date than when the boys came into care in October, 2011. Though Mother made attempts throughout this time to do those things necessary to reunify herself with the children, she was never able to follow through and always had excuses or reasons as to why she did not complete what was requested of her. Mother, herself, indicated that there was nothing further that she believed the Agency could have done to help her and that though she had tried, that there is no good excuse for any parent not to do what they need to do. Both children have been in care for the majority of their lives. At the present time, the Court holds no confidence in Mother that she will remedy those issues which brought the children into care. The children deserve permanency in their lives. Terminating Mother's parental rights will best serve the needs and welfare of the children. The Court finds by clear and convincing evidence that the Agency has fulfilled 23 Pa.C.S.A. §2511(a)(5) and (8) as the children have been removed from the Mother's care for 18 months, that the conditions which lead to

the original removal of the children still continue to exist to date, and that termination of parental rights would best serve the needs and welfare of the child.

As the statutory grounds for termination have been met, the Court must also 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 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 a formal bond assessment was not completed. Licensed psychologist Bruce Anderson testified that the children's primary bond is likely to be with the resource parents due to the fact that children in this particular age range bond with their primary caregivers. Mr. Anderson further stated that the children presumably have some level of bonding with Mother due to her frequent visits. Mr. Anderson likened the bond with Mother to one of children with a grandparent; they may be saddened when the contact ends but will quickly rebound and the risk of long term adverse effects is unlikely.

It is evident from the testimony presented that the longer the children have lingered in care, out of Mother's physical custody, the more bonded the children have become with the foster parents. The children have progressed from referring to Mother as "mommy" to "mommy Melissa" to just "Melissa". In turn, the children have progressed to the point of referring to the resource parents as "mom" and "dad". While it is clear that some bond exists between the children and Mother due to her multiple visits each week, there was no evidence presented to suggest that this bond is any different than the bond the children have with the visitation staff which they see with the same frequency as they do Mother. The children are clearly most closely bonded with the foster parents. It is doubtful, at their young ages and the length of time they have been in

care, that the children have memory of being in Mother's physical care. The children's primary source of love, comfort, security and closeness comes from the resource parents. Terminating Mother's parental rights would not destroy an existing relationship that is necessary and beneficial to the children.

**Conclusions of Law**

1. The Court finds that the Agency has established by clear and convincing evidence that ML's parental rights should be involuntarily terminated pursuant to 23 Pa.C.S. §2511(a)(1), (2), (5) and (8).

2. The Court finds that the Agency has established by clear and convincing evidence that the developmental, physical and emotional needs and welfare of CS, Jr., and CL will best be served by termination of ML's parental rights.

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. 6360**  
:   
**CS, JR., and** :   
**CL,** :   
:   
**minor children,** :

**AMENDED DECREE**

**AND NOW**, this **21<sup>st</sup>** day of **March, 2013**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of ML, held on March 6, 2013, it is hereby **ORDERED** and **DECREED**:

- (1) That the parental rights of ML be, and hereby are, terminated as to the children above-named;
- (2) That the welfare of the children 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 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](http://www.adoptpakids.org/Forms.aspx) .

By the Court,

Joy Reynolds McCoy, Judge