

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

**IN RE:** : **NO. 6386**  
: :  
**ADOPTION OF** : :  
**LC,** : :  
: :  
**Minor child** : :

**OPINION AND ORDER**

**AND NOW**, this 17<sup>th</sup> day of **October, 2013**, before the Court is Lycoming County Children & Youth Services' ("Agency") Petition for Involuntary Termination of Parental Rights of RC ("Mother"), and TB ("Father"), filed on July 22, 2013. A hearing on the Petition to Involuntary Terminate Mother's and Father's Parental Rights was held on October 8, 2013. Charles Greevy, Esquire, Solicitor for the Agency, Kathryn Bellfy, Esquire, and Jeffrey Frankenberger, Esquire, counsel for Mother, Julian Allatt, Esquire, counsel for Father, and John Pietrovito, Esquire, Guardian Ad Litem, were present at the commencement of the hearing. Father's counsel, Julian Allatt, was excused from the hearing. Both Mother and Father failed to appear.

**Findings of Facts**

LC was born June 9, 2012. She is the daughter of RC, date of birth October 31, 1973, and TB, date of birth May 20, 1963.

LC was born at the Geisinger Medical Center in Danville, Pennsylvania. Hospital staff had concerns regarding Mother's behavior after the child's birth and contacted the Lycoming County Children & Youth Agency. The hospital was concerned regarding

Mother's actions including disappearing from her hospital room for long periods of time, inappropriately supervising the child while in her room, and concern over Mother's use of narcotic pain medication. Concern was also raised regarding statements made by Mother that she could not take care of a baby when she was taking her medication and that she had no one to help her. Mother also admitted to not having any items for the baby at her home and that she had intended to put the child up for adoption.

A Petition for Emergency Custody was filed by the Agency on June 12, 2012. The Emergency Order was issued on June 12, 2012, granting the Agency's Petition for Emergency Custody and placing the child in the legal and physical custody of Lycoming County Children & Youth Services Agency.

On June 12, 2012, the Agency filed a Shelter Care Application. On June 14, 2012, a hearing was held on the Shelter Care Application. After a hearing, the Court indicated the only thing it was convinced of is that, at that moment, Mother did not have the appropriate resources at her home to care for the child. The Court urged the Agency at the time of the dependency hearing to provide testimony from individuals at Geisinger Medical Center concerning Mother's behavior at the hospital. The Court indicated that it was not convinced that Mother could not appropriately care for the child if she had the appropriate items in her home and if she had not undergone emergency C-section. The Court was concerned in light of the fact that Mother had just undergone a C-section and was alone to care for a child who was born underweight and needed significant care. The Court directed the Agency to work with Mother to help obtain the

appropriate necessities for the child and ordered visitation to occur pending the dependency hearing.

On June 14, 2012, the Agency filed a Dependency Petition. On June 22, 2012, a hearing was held regarding the Dependency Petition. The Court found the child to be dependent and ordered that the child remain in the legal and physical custody of the Agency.

An initial Permanency Review Hearing was held on September 12, 2012. The Court heard testimony from Mother's physician, Dr. McDowell, who indicated that it was his belief, based upon a reasonable degree of medical certainty, that Mother's type of reliance on and probable addiction to prescription narcotics used to treat her chronic pain condition impaired her ability to care for an infant. Dr. McDowell suggested that the amount of narcotics that Mother takes be decreased over time with his guidance. The Court urged Mother during the upcoming review period to meet with her physician to begin a program to allow her to back down the amount of medication she takes. The Court also ordered Mother to follow any additional recommendations of the Agency. During this Review Hearing, Mother complained regarding the visitation supervisor who was present in her case and felt that she was being treated unfairly. The Court requested the Agency have another visitation coordinator spend time with Mother during her visits with LC in order to make some observations and report back to the Court.

On December 11, 2012, a Permanency Review Hearing was held. At the Review Hearing, the Court reaffirmed dependency of the child and ordered that she continue to remain in the physical and legal custody of the Agency for continued placement in her

resource home. The Court advised Mother that she should maintain visitation with her child and begin to cooperate with both her caseworker and Outreach Services so that the Agency could work towards reunification. Mother was ordered to keep her appointment with Licensed Psychologist, Bruce Anderson, and undergo the psychological evaluation the Court had previously ordered. The purpose of this evaluation was so that a plan could be put in place to help Mother reduce her pain medication to a level where she is able to appropriately care for her child. Mother indicated to the Court that her physician was leaving the practice and she would be obtaining a new physician. Mother was advised to immediately notify the Agency as to a new physician so that the Agency could coordinate with Mr. Anderson in regard to putting a plan together for Mother in regard to reduction of her pain medication. During the review period, TB was identified as the biological father of the child. Mr. B was present at the hearing and was advised by the Court that if he wished to ever be considered a resource for his daughter, he needed to begin having visitation with the child so the child could develop a bond with him and must also begin to cooperate with the Agency.

On March 19, 2013, a Permanency Review Hearing was held. The Court found that there was no compliance with the Permanency Plan by either parent and that there was no progress by either parent towards alleviating circumstances which necessitated the child's original placement. During the review period, neither parent had exercised any of their visitation with the child, nor had they in any way cooperated with the Agency. From testimony presented by Mother and questions asked by Father's counsel

(as Father did not testify), it was apparent to the Court that both Mother and Father rejected the process of utilization of the Children & Youth Agency due to their displeasure with the Agency. The Court specifically found and advised the parents that they are in essence rejecting their child by rejecting the Agency. Both parents were advised by the Court if they wished to pursue reunification with their daughter and maintain their parental rights, that they must begin to immediately cooperate with the Agency.

During the review period, Mother missed an appointment with Bruce Anderson in regard to the psychological evaluation. Mother was ordered to undergo the evaluation. The Agency was ordered to schedule one final appointment with Bruce Anderson for Mother to undergo a psychological evaluation so that a plan could be put in place to help reduce her pain medication to a level where she is able to appropriately care for an infant. Mother advised the Agency of her new physician, Dr. Johnson, and was ordered by the Court to sign a release to allow the Agency to speak with Dr. Johnson.

The Court indicated the Agency should continue to contact Mother by phone and/or mail. Testimony was presented that Mother has not been opening her mail from the Agency and the Court indicated to Mother that this was unacceptable. Mother was ordered to work with the Outreach Caseworker to allow her into her home to begin working on those things necessary so that she could be reunified with her child. Father was ordered to immediately begin working with the Agency so that the Agency could make a determination as to his suitability as a caregiver for the child. Both parents requested that the visitation no longer be supervised at the Agency building. The Court

expressed to the parents its understanding that they are not happy with the setting; however, based upon the circumstances in the case, the Court indicated it was not willing to change the visitation from the Agency setting until a period of successful supervised visitation at the Agency occurred. The Agency requested a finding of aggravated circumstances in regard to both parents. The Court denied the Agency's request without prejudice.

On June 25, 2013, a Permanency Review Hearing was held. The Court reaffirmed the dependency of the child and ordered that she remain in the legal and physical custody of the Agency. The Court found during the review period that Mother had complied on a limited basis with the Court's directives from prior orders and that she had begun to visit the child more frequently; however the visits were sporadic. Mother attended less than half of her visits during the review period. Mother was again advised by the Court that if she wished reunification with her daughter in the future, it is important she maintain regular and consistent visits with the child.

Mother complained to the Court that one of her difficulties with visitation was due to the fact that she does not have good phone reception and, therefore, could not contact the Agency by 8:30 a.m. in order to advise if she will or will not be attending her visit for the day. The Agency had requested Mother to do so so as not to cause any inconvenience to the child or resource parents if Mother did not intend to attend her visit. In order to rectify Mother's concerns, the Court directed that on her scheduled visits, as long as she appeared at the Agency by Noon, she would be permitted to have her visit. The resource parents would be contacted once Mother arrived so the child

could be brought to the Agency for the visitation. Mother was ordered that if she was not going to make the visit for any reason, that she should contact the Agency and advise that she would not be making the visit. The Court ordered that if Mother failed to contact the Agency in advance of missing the visit, the Agency would be permitted to revert back to the procedure which required Mother to call by 8:30 a.m.

During the review period, there were two separate appointments scheduled with Bruce Anderson to conduct Mother's psychological evaluation which Mother failed to appear. Despite indicating in a prior Order that the Agency would only be required to schedule one final appointment with Bruce Anderson, the Court again ordered the Agency to schedule one final appointment with Bruce Anderson for Mother to undergo a psychological evaluation to put a plan in place to help her reduce her pain medication to a level where she is capable of caring for the child. The Court again found that a significant concern in the case is in light of Mother's prior physician's testimony was Mother's use of prescription narcotics to treat a chronic pain condition which impairs her ability to care for her child. The Court indicated it did not believe that Mother can be unsupervised with the child until such time as this issue is rectified. The Court urged Mother to cooperate with Outreach Services and the Court further found that the Agency was doing everything within its power to accommodate Mother. As an example, Mother insisted she was not in need of a course on parenting skills. Mother was advised that she could take a test to determine what parenting skills would be required, if any. Mother refused to do so.

Throughout the entire review period, Father has not cooperated with the Agency. Father has only ever seen his child on one occasion which occurred on March 26, 2013. The Court previously advised Father that his rejection of the Agency was, in essence, rejection of his child. The Court found that aggravated circumstances exist in regard to Father and found that no further efforts to reunify were to be conducted by the Agency.

On July 22, 2013, a Petition for the Involuntary Terminate of Parental Rights of RC and TB in regard to LC was filed by the Agency. A pre-trial conference was held on August 19, 2013. Neither parent appeared at the time of the pre-trial conference; however, Father did appear in the Courthouse prior to the commencement of the pre-trial and was able to speak with his counsel. Father, however, chose to not attend the pre-trial.

On October 8, 2013, a hearing was held in regard to the Petition for the Involuntary Termination of Parental Rights, as well as a permanency review hearing. At the commencement of the hearing, counsel for Mother indicated that Mother had come to the attorney's office earlier that day and advised the attorney that she was not feeling well as she had been taken off of her medication. Counsel spoke with Mother for approximately five to ten minutes. Mother's counsel indicated that during this meeting, Mother was shaking; however, she believed Mother understood what they were discussing. Mother specifically stated that she did not wish to deal with the Agency any longer. Counsel for Mother attempted to speak with Mother regarding voluntarily consenting to the termination of parental rights and Mother indicated to her attorney that she did not wish to hear about voluntarily allowing her rights to her child to be



terminated. Mother provided no medical documentation to her counsel which would indicate her inability to proceed at the time of the hearing. Counsel for Father advised the Court that TB had appeared at the Courthouse prior to the commencement of the hearing and he did have an opportunity to speak with him. Counsel for Father also indicated that he has had many occasions to speak with Father throughout this process and talked with him regularly as they live near each other and he runs into Father occasionally. Father indicated to his counsel that he was refusing to participate in the proceedings and had no interest in participating. Father indicated to his counsel that he shows up at the time of the scheduled hearings so that he does not get into trouble for failing to show up. Father's counsel indicated that he expressed to Father the significance of the hearing which was scheduled in regard to the termination of his parental rights and what all was at stake. Father was advised by his attorney that if he did not participate, it was extremely likely that his parental rights would be terminated. Father indicated to his counsel that he wishes to tell his story and his counsel indicated to him that the hearing on the termination of parental rights would be the ideal setting to do this. Father indicated he did not wish to tell his story in this context. Father indicated he would take his story to the paper. Father advised his counsel that he resents the Agency's and the Court's involvement with his child. Father's counsel indicated to the Court that he believed Father understood what was happening today. Father's counsel advised him that if he left the Courthouse and refused to participate in the hearing, Father's counsel would be asking the Court to be excused from the proceedings. Father advised his counsel that he should do whatever he feels he has to do. Father's

counsel then requested the Court that he be permitted to be excused from the proceedings in light of the fact that he could not provide any information and could not take a position regarding the petition in light of his communications with Father. The Court thereafter excused Father's counsel from the proceedings.

Mother's physician, Dr. Casey Johnson, testified that he assumed Mother's care as her primary care physician in January of 2013 after her prior physician, Dr. McDowell, left the practice. Mother's last appointment was August 19, 2013. Dr. Johnson noted that of great concern was Mother's use of controlled substances. Dr. Johnson explained to the Court that there had been a new initiative started with his medical practice wherein any patient who is taking narcotic pain medication must undergo a consultation session with the physician and agree to sign a contract in regard to the prescribing and taking of the pain medication. Through this process, the patient agrees to have random urine drug screenings to determine if they are in compliance with taking their narcotic medications as prescribed. It also requires the patient to acknowledge they will only seek medications from their primary doctor. During the August 19, 2013, visit, Dr. Johnson reviewed the contract with Mother and she signed the contract. Mother advised Dr. Johnson that she was taking her medication as prescribed. On the date of that appointment, Dr. Johnson conducted a urine screen on Mother. Once Dr. Johnson received the results of the urine screen, he determined that Mother was not taking her medications as prescribed. Two of the medications that Mother was prescribed were not detected in her urine screening which suggested to Dr. Johnson that either Mother was diverting the medication to somewhere else, or

consuming the medication in a manner not prescribed. Thereafter, Dr. Johnson refused to write any further prescriptions for Mother's pain medication. Mother did call to have her medications refilled and the office refused to fill Mother's medications. Dr. Johnson has attempted to contact Mother to discuss with her what occurred; however, Mother's phone number was not working and he could not leave a message. Dr. Johnson noted the fact that Mother broke the contract only terminates his prescribing controlled substances to Mother, it does not terminate his role as Mother's primary care physician.

JJ, the Outreach Caseworker, testified that she took over as the Outreach Caseworker on July 10, 2013. Prior to that, there were two different Outreach Caseworkers involved with the parents. JJ testified that throughout her involvement in this case, she only met with Mother on one occasion. JJ testified that the other two Outreach Caseworkers were also unsuccessful in working with Mother.

KS, the Visitation Coordinator, testified that Mother's visits occurred three times per week and are scheduled for two hours in length each visit. KS testified that during the last review period from June 25, 2013, to the date of current hearing, Mother had a possible 45 visits. She attended six of those visits, no showed for 37 of those visits, and canceled two visits. Father also had 45 visits available to him and did not attend any of the visits. KS testified that Mother had not visited with the child since July 29, 2013.

CM, the Caseworker assigned to this case with the Permanency Services Unit, testified that she has been involved with this case since the time that the emergency order was entered. CM testified that during the most recent review period that she has not had any meeting with Father, but spoke briefly with him at the last hearing. In

regard to Mother, the Caseworker indicated that she met with Mother at two of her visits. CM testified that at Mother's visit on July 23, 2013, she was very concerned due to Mother's behavior because she was shaky, struggling to walk, and remained in the bathroom for over one-half hour. Mother explained her behavior by indicating that it was a reaction that she has to her Fentanyl Patch.

CM testified that the psychological evaluation with Bruce Anderson had been scheduled a total of four times and Mother failed to appear each of the times. CM testified that she believed termination of the parents' parental rights was in the best interest of the child due to the fact that there had been no progress with Mother or Father, that they do not visit the child on a consistent and regular basis, and that there has been zero cooperation with the Agency. CM further stated that there was no way to assure the safety of the child with either parent and that the child has been in care for her entire life.

The resource father, AF-A, also testified. He indicated that he first became familiar with the Mother, RC, when he answered an ad in the Webb Weekly (a local publication). In that ad, Mother indicated she was looking for a family to adopt her child. Thereafter, AF-A met with Mother on several occasions and even had Mother at his home. Throughout this time, Mother was under the understanding she was having a son. After Mother learned that she was having a daughter, she advised AF-A that she could not proceed through with the adoption. Thereafter, AF-A and his wife began the process with Children & Youth to become resource parents. At no time did they anticipate that LC, the child of RC, would be placed with them. It was AF-A who

brought Mother to her first hearing in this case. At that time, he was aware that LC had been placed in another home and, in no way anticipated she would ultimately be placed in his home. It was only after the Agency determined that the resource home the child was placed in originally could not be a permanent home if necessary, that LC's placement was changed and she was placed with AF-A and his Wife, SF-A. LC has been in the F-A home since September, 2012 when she was approximately three months old. The resource parents have indicated that they are an adoptive resource for LC.

BH, the CASA volunteer, testified regarding this matter. BH had been the CASA volunteer in this case since August, 2012, to the present. She provided a very extensive report to the Court which was incorporated into the record. In her report, BH indicates that termination of the parental rights for the child provides her with stability, appropriate role models, ability to establish and maintain healthy relationships, ability to love and be loved by others, a forever home to provide her with permanency and stability. The CASA volunteer also indicated that both parents have been inconsistent with visitation, have found little or no interest in establishing or maintaining a permanent relationship, and have not maintained consistent contact with the Agency in order to stay apprised of their child's needs or progress.

Bruce Anderson had conducted an initial psychological evaluation of Mother on June 18, 2012, shortly after the birth of LC. At that time, he made recommendations for Mother in regard to how to prepare for reunification, to pursue stability for Mother, for Mother to work on accommodations for LC, and for Mother to gain control of her use of

pain medications. Though Mother was ordered on many occasions by the Court to meet with him to set up a plan to address her use of prescription pain medications and set up a plan with her doctor to reduce her use of pain medications, Mother failed to follow through with any of the appointments. Mr. Anderson did see Mother on July 29, 2013, for the bonding assessment. Mr. Anderson also met with the resource parents on August 1, 2013, in regard to a bonding assessment.

Mr. Anderson indicated that during his observation of Mother and the child, that Mother responded to the child appropriately during the visit and the child actually fell asleep in Mother's arms. He did, however, find that there was little or no attachment between LC and Mother in light of the infrequent contact she has had with the child. He indicated it is clear that Mother has a bond with the child and loves her, but there is no significant bond with the child to Mother that would cause the child to experience a negative impact if there were no further contact with Mother. Mr. Anderson indicated that in light of the child's age and amount of contact she has had with Mother, the child would not miss Mother if her contact were to be terminated and there would be no trauma experienced by the child.

Mr. Anderson, however, on the other hand, indicated that the child is extremely bonded to the resource parents. He indicated that it would be traumatic to the child for her to lose what she sees as her parents. To remove the child from the resource parents at this time, would risk long-term problems and possible reactive detachment disorder for the child. Mr. Anderson further indicated that a child learns to bond during the first two to three years of life. The only individuals that LC has had an opportunity to

bond with in light of the infrequent and insignificant contact with Mother during visitation, is the resource parents.

**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 and Father'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 the 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 child. Mother has only visited the child sporadically during the time the child has been in placement. During the review period of December 11, 2012 through March 19, 2013, Mother did not visit the child at all. During the review periods when she did visit, the visits were sporadic. At the time of this hearing on October 8, 2013, Mother had not visited the child in over two months. Her last visit was July 29, 2013. Mother has done almost nothing to perform parental duties on behalf of her child. Throughout the entire framework of this case, Mother has failed to cooperate with the Agency. Mother always appeared to have an excuse as to why she was not complying with the Agency's directives. First, Mother complained that she did not get along with the visitation supervisor. The Court rectified the situation by ordering the Agency to ensure that another visitation supervisor was present for

Mother's visits. Mother next complained that she could not make her visitation periods due to bad phone reception which prohibited her from calling in at 8:30 a.m. in the morning to indicate that she would make her visit. The Court eliminated this requirement and simply allowed Mother to show up in order for her visits to occur.

Of paramount importance in the case was Mother's use of narcotic pain medication and her physician's testimony at the time the child was three months old indicating that he did not believe, based upon Mother's use of the medication, that she could properly care for a child. Mother was advised by the Court that it could not provide her with unsupervised contact with her child or consider reunification until this issue was addressed. The Court and Agency offered a plan to Mother to have her physician work with the psychologist, Bruce Anderson, to come up the best way to put this plan into place. Despite the appointment with Mr. Anderson being rescheduled on four occasions, Mother failed to ever appear for the appointment.

Instead of cooperating with the Agency and taking those steps necessary to ensure reunification with her child, Mother spent her energies blaming the Agency, pointing a finger at the Agency, and being resentful towards the Agency. Mother rejected the Agency's attempts to help her at almost every stage of these proceedings. Mother was advised by this Court on at least one occasion that her rejection of the Agency was, in essence, a rejection of her child.

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.

In regard to Father, the Court finds that for a period of at least six months prior to the Agency's filing the Petition to Terminate Father's Parental Rights, Father has evidenced a settled purpose of relinquishing parental claim to his child and has refused and failed to perform parental duties. Throughout the timeframe of this case, Father has failed to participate with the Agency in any meaningful manner which would have allowed the Agency to determine if Father was a suitable care provider for the child. Additionally, at the time of the hearing to Involuntarily Terminate his parental rights, LC was approximately 16 months of age. During the 16 months of her lifetime, Father only saw the child on one occasion and refused all other visitation. Father was also warned by this Court on at least two occasions that his rejection of the Agency was a rejection of his child.

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 Father has evidenced a settled purpose of relinquishing his parental claims to his child and has refused and failed to perform parental duties on behalf of the child for at least a six month period prior to the filing of the termination petition.

To satisfy the requirements of Section 2511(a)(2), the Agency must demonstrate that the Mother and Father 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 child being without essential parental care, control or subsistence necessary for her physical or mental well-being. Mother has failed to perform parental duties on behalf of her child. The Court does not find that Mother’s sporadic visits with the child sufficient to overcome her duty to perform parental duties. Mother has, in no way, shown that she was willing to make diligent efforts towards the reasonable prompt assumption of full parental responsibilities. Both Mother and Father have rejected the Agency throughout this entire case.

Though Mother has had more contact with the Agency than Father, the Court

does not find that either of the parents' level of contact and cooperation with the Agency is enough to demonstrate that the parents are willing to work with the Agency towards rectifying those issues which led to the child being placed. Additionally, Mother's complete lack of insight in regard to her narcotic pain medication use and how that affects her ability to care for her child evidences to the Court that she is unwilling to rectify this situation for the benefit of her child.

The Court finds by clear and convincing evidence that the Agency has fulfilled 23 Pa.C.S.A. §2511(a)(2) by demonstrating both Mother's and Father's repeated and continued incapacity, abuse, neglect or refusal and that such incapacity, abuse, neglect and refusal has caused the child to without essential parental control or subsistence necessary for her physical and mental well-being.

"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, LC has been removed from the parental care of Mother and Father since her birth. Upon release from the hospital after being born, the child was placed in resource care. As of the date of the hearing on the termination of Mother’s and Father’s parental rights, the child has been in care approximately 16 months. Those issues which initially led to the removal of LC from the parents’ care still exist. The Agency is still unable to ascertain whether Father is a suitable caregiver for the child. Additionally, Mother has failed to address her narcotic pain medication use which her physician indicated to the Court interferes with her ability to care for her child. Father has completely refused to cooperate and work with the Agency. Though Mother has cooperated on a somewhat limited basis with the Agency, Mother has done absolutely nothing to work towards reunification with her child through the Agency. At the

present time, the Court holds no confidence in Mother or Father that they will, in the future, cooperate with the Agency or maintain consistent contact with their daughter. Additionally, the Court has no confidence that Mother will address the issues of her narcotic pain medication use. This child deserves permanency in her life. Terminating Mother's and Father's parental rights will best serve the needs and welfare of the child.

The Court finds by clear and convincing evidence the Agency has fulfilled 23 Pa.C.S.A. §2511(a)(5) and (8) as the child has been removed from Mother's and Father's care for 16 months, that the conditions which led to the original removal of the child still continue to exist to date, and the termination of the 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 conducted by Licensed Psychologist, Bruce Anderson. Mr. Anderson found that while there was a bond that Mother has with the child, there is no attachment between the child and the Mother due to the infrequent contact Mother has had with the child since her birth. Mr. Anderson also stated he did not believe that if Mother’s contact with LC was terminated, that LC would miss Mother or know that she was no longer having contact with Mother. Lastly, Mr. Anderson indicated that he did not believe that the child would suffer any trauma as a result of the termination of the Mother’s parental rights. In regard to Father, Father did



not participate in the formal bonding assessment and Mr. Anderson never had the opportunity to see Father with the child. However, it is clear from the testimony presented that there is absolutely no bond between the Father and LC. In the first 16 months of her life, LC has only been in Father's presence on one occasion. Clearly, there was no opportunity for any type of a bond to be established between LC and Father.

LC is clearly most closely bonded with the resource parents. LC has never been in the care of Mother or Father. LC's primary source of love, comfort, security and closeness comes from the resource parents. Terminating Mother's and Father's parental rights would not destroy an existing relationship that was necessary and beneficial to her.

**Conclusions of Law**

1. The Court finds that the Agency has established by clear and convincing evidence that RC's and TB'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 LC will best be served by termination of RC's and TB'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. 6386**  
: :  
**ADOPTION OF** : :  
**LC,** : :  
: :  
**Minor child** : :

**DECREE**

**AND NOW**, this 17<sup>th</sup> day of **October, 2013**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of RC and TB, held on October 8, 2013, it is hereby ORDERED and DECREED:

- (1) That the parental rights of RC and TB be, and hereby are, terminated as to the child above-named;
- (2) That the welfare of the child 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 parents.

**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