

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

**IN RE:** : **NO. 6474**  
:   
**CR,** :   
:   
**Minor child** :

**OPINION AND ORDER**

**AND NOW**, this 3<sup>rd</sup> day of **August, 2015**, before the Court is a Petition to Voluntarily Relinquish Parental Rights to Agency filed by LR (“Father”) and TR (“Mother”). Lycoming County Children & Youth Services (“Agency”) is opposed to the relinquishment. A hearing on the Petition to Voluntarily Relinquish Parental Rights to Agency was held on July 7, 2015. John Pietrovito, Esquire, Solicitor for the Agency, Ravi Marfatia, Esquire, counsel for Mother and Father, and Trisha Hoover, Esquire, Guardian Ad Litem, were present at the hearing. Father and Mother both appeared at the hearing.

**Findings of Facts**

CR, born on July 1, 2001, is the adoptive son of LR and TR. CR began residing with the LR and TR when he was 22 months old. CR was adopted on August 24, 2006. CR is currently 14 years old.

The Agency filed a Dependency Petition on April 9, 2015. The Agency alleged Mother and Father refused to allow CR to return to their home after his discharge from the Pennsylvania Mentor Therapeutic Foster Home on March 30, 2015.

CR was adjudicated Dependent on May 1, 2015. He was found to be without proper care or control, subsistence, education as required by law or other care or control, and that he had been abandoned by his parents. At the time of the hearing, it was anticipated Parents would file a Petition to Relinquish Parental Rights.

CR has been in various mental health treatment placements since December 2012. He has not spent any time in Parents' home since December of 2012. Father reported CR's behavior issues prior to the placement. Father reported CR hurt himself, other children in the home, and pets. Specifically, CR kicked his sister and tried to stab his brother. Father was in fear for his other children's safety. Father does not think he could care for CR in his home. Father reported CR was on multiple medications and had different services which did not help his behaviors in the home. In the past, CR has had a Targeted Case Manager and MH/MR services, but he made very little progress. CR is diagnosed with Reactive Attachment Disorder. Father believes CR is still violent. Although there has been no contact between CR and his siblings, Father asserts he would allow contact if the siblings wanted to visit CR.

The Agency's Director, Richard Saylor, testified regarding the Agency's opposition to the Parents' voluntary relinquishment to the Agency. The Agency has only been involved in addressing the family's issues since April of 2015. Although neither the Parents nor CR express any interest in visiting with each other at this point, CR wishes to maintain his relationship with his siblings. The Agency's main goal is to reunite families and look at a child's best interest. The Agency has a major concern that they would not be able to find a home for CR, and that he could quite possibly age out of the

system as an orphan. The Agency believes there is a wealth of services that could or should be tried in the family.

The Agency asserts that there has been some improvement in CR's behavior. CR initially went into the Meadows facility, an inpatient mental health facility, from December 3, 2012, until December 20, 2012. CR then entered congregate care at Hoffman Homes from December 20, 2012, until April 17, 2014. On April 17, 2014, CR entered a CRR host home which was a step-down in his level of treatment. On March 30, 2015, CR was positively discharged from the CRR host home. At that point, Parents refused to have CR return home. The Agency arranged for CR to remain in the same resource home but with a different funding source.

CR's Caseworker testified to her contact with CR. After he was adjudicated dependent, the CRR host home asked for CR's removal due to a behavior incident in which he was transported from his school by ambulance. After staying briefly in an emergency foster home and then Lycoming County Shelter Care, CR is currently placed with a resource family in Bradford County.

### **Discussion**

Parents seek to relinquish their parental rights pursuant to 23 Pa.C.S. §2501.

§ 2501. Relinquishment to agency.

(a) Petition. --When any child under the age of 18 years has been in the care of an agency for a minimum period of three days or, whether or not the agency has the physical care of the child, the agency has received a written notice of the present intent to transfer to it custody of the child, executed by the parent, the parent or parents of the child may petition the court for permission to relinquish forever all parental rights and duties with respect to their child.

(b) Consents. --The written consent of a parent or guardian of a petitioner who

has not reached 18 years of age shall not be required. The consent of the agency to accept custody of the child until such time as the child is adopted shall be required.

23 Pa.C.S. § 2501

“Typically, voluntary relinquishment is the mechanism utilized by parents who believe they are physically or mentally unable to raise a child and therefore wish to place the child for adoption”. *In the Interest of: J.F.*, 862 A.2d 1258, 1260 (Pa. Super. 2004).

No argument was made that the requirements under Section (a) have not been met, in that the Child has been in care a minimum of three days and the Agency is on Notice of the Parents’ present intent to transfer custody. The Agency has not consented to accept custody pursuant to Section (b). An agency’s position on accepting or refusing custody must be reasonable.

*In the Interest of J.F.*, adoptive parents sought to relinquish their parental rights after the adoptive child became uncontrollable and required hospitalization. *Id.* at 1259. The agency did not consent. *Id.* The Court specifically held that the agency’s decision must be reasonable and that reasonableness is a determination of the Court’s. *Id.* at 1261. “The Court’s concern is not the will of the agency but the best interests of the child”. *Id.* at 1262 (internal citations omitted).

The Agency’s position is, and the Court agrees, that to allow the Petition to proceed would in all likelihood create an orphan. To sever the only source of family for CR would not be in his best interest at this time. The Parents terminated services offered to them prior to CR being placed. The Agency has not been given any opportunity to work with the family to create an environment in which the Parents would

feel safe and secure in allowing CR to return home. CR has not been given a chance to demonstrate to his Parents his improved behavior since his successful release from placement. CR has undergone three years of treatment and growth which the Parents have not yet availed themselves to see. The Court cannot find the trauma of permanently ending CR's relationship with Parents and his siblings to be in his best interest without the Agency's best efforts at reunification and, at the same time, the concurrent goal of searching for another permanent home.

The Parents' and the Guardian Ad Litem's position, is that because of both the Parents' and CR's lack of desire to mend this relationship, a termination proceeding will occur after CR had lingered in care the requisite number of months. Basically, the argument is that creating an orphan in this case is inevitable. However, the Agency is not unreasonable in its position that it should be awarded the time to offer services which could prevent that eventuality. Additionally, with the likelihood that the Agency would have difficulty in finding permanency for CR at his age and with his mental health diagnosis and history, it is reasonable for the Agency to want to maintain the legal parent-child relationship in this case.

### **Conclusions of Law**

1. The Court finds that the Agency's refusal to accept custody of the CR pursuant to the Petition to Voluntarily Relinquish Parental Rights to the Agency is reasonable.

2. The Court hereby dismisses the Petition to Voluntarily Relinquish Parental Rights to the Agency.

By the Court,

Joy Reynolds McCoy, Judge