

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

IN RE: : **NO. 6599**
:
DW, :
:
minor child, :
:

ORDER

AND NOW, this 30th day of **October, 2019**, before the Court is a Petition for Involuntary Termination of Parental Rights filed by AKF and DAF on April 25, 2018. Said petition is with regard to the rights of AKF's child, DW, born December 30, 2010. AKF and her fiancé, DAF, seek to terminate the parental rights of the child's biological father, CMW, as a prerequisite to having the child adopted by DAF.

Procedural History

A pre-trial conference was held on June 4, 2018. By Order docketed June 6, 2018, Tiffani Kase, Esquire, was appointed as counsel for the child and Angela Lovecchio, Esquire, was appointed as Guardian Ad Litem for the child. A hearing on the Petition for Involuntary Termination of Parental Rights was scheduled for October 22, 2018.

CMW is presently incarcerated at SCI Coal Township. On August 8, 2018, Counsel for CMW filed a Motion for Physical Contact Visit, as Kim Melhorn, M.S., was retained to perform a bonding assessment of CMW and DW and said assessment required her to see them interact directly through a visit where contact was allowed. Counsel for AKF concurred with the request and on August 16, 2018, an Order was

entered permitting a contact visit for the purpose of allowing Ms. Melhorn to perform a bonding assessment. An Amended Order was entered on August 21, 2018, to also allow the Guardian Ad Litem and counsel for the child a period of observation of CMW and the child after Ms. Melhorn completed her observation.

On September 19, 2018, Counsel for CMW filed a Motion for Substitution of Guardian Ad Litem, alleging that Attorney Lovecchio, by virtue of her work with Lycoming County Children and Youth, as well as by virtue of her marriage to a Lycoming County judge who authored an opinion in one of CMW's criminal matters, had information available to her that may be prejudicial to CMW. A hearing on the motion was scheduled for October 5, 2018, and continued to December 7, 2018, but ultimately was not necessary as the parties agreed by stipulation, which was made into an Order of Court on January 3, 2019, that Attorney Lovecchio would be released and Melody Protasio, Esquire, would be appointed to serve as Guardian Ad Litem.

The hearing on the Petition for Involuntary Termination of Parental Rights was continued from October 22, 2019, to January 25, 2019, to ensure that the bonding assessment could be completed prior to the start of the hearing. The hearing was further continued from January 25, 2019, to July 2, 2019, to ensure the completion of the bonding assessment and to provide the newly appointed Guardian Ad Litem sufficient time to meet with the parties and the child.

A hearing on the Petition for Involuntary Termination of Parental Rights commenced on July 2, 2019. AKF was present and represented by Meghan Engelman Young, Esquire. CMW appeared via polycom and was represented by Pamela Purdy, Esquire. Also present were Tiffani Kase, Esquire, counsel for the child, and Melody

Protasio, Esquire, Guardian Ad Litem. Testimony was unable to be completed in one day and the continuation of the hearing was scheduled for September 24, 2019, at 1:30 p.m.

On September 24, 2019, at 1:26 p.m., counsel for CMW filed a Motion for Substitution of Guardian Ad Litem, alleging that in November of 2007 or 2008, CMW had met Attorney Protasio at a bar and proceeded to have a sexual encounter with her. Father had apprised his counsel of this shortly after Attorney Protasio accompanied the child to a visit at SCI Coal Township, but felt the meeting had gone well and felt that Attorney Protasio would proceed forward in an impartial manner. According to the Motion, after consulting with an ethics attorney, counsel for CMW advised him of the potential conflict, which was waived by CMW in writing on June 26, 2019. It was only after a full day of testimony on July 2, 2019, when both CMW and his counsel felt Attorney Protasio's questioning of witnesses and the expert witness evidenced that she had a bias, personal or otherwise, against CMW. A lengthy hearing on the Motion occurred at the start of the second day of testimony. The Court, for reasons more fully stated in a separate Order entered on September 26, 2019, denied the Motion for Substitution of Guardian Ad Litem and proceeded with testimony on the Petition for Involuntary Termination of Parental Rights.

Again, there was insufficient time to conclude the testimony in the hearing. The matter was scheduled for September 30, 2019, at which time the witness testimony was concluded and the Court entertained argument from counsel for the child, the Guardian Ad Litem, and counsel for the parties. Additionally, the Court denied a Motion to Stay the custody proceedings pending the Court's decision in this case. The Court also heard

argument on counsel for AKF's petition for attorneys' fees related to the second Motion for Substitution of Guardian Ad Litem, which will be addressed in a separate Order.

Finding of Facts

1. DW ("Child") was born on December 30, 2010. The child currently resides with his mother, AKF ("Mother"), and Mother's fiancé, DAF ("Mother's Fiancé"), at 343 Jerome Avenue, Williamsport, Lycoming County, Pennsylvania.

2. The Child's biological father is CMW ("Father"). Father is currently incarcerated at SCI Coal Township.

3. At the time of the Child's birth, Mother and Father were not married. Mother and Father married after the birth of the Child but were divorced prior to the filing of the instant petition.

4. Mother and Father are parties in a custody action in Lycoming County at docket #13-20,458, which has been incorporated into this matter.

5. Until the Child was 5, he was in the custody of several different relatives while Mother and Father faced addiction and legal issues.

6. Father has been incarcerated continuously since October 24, 2014. Prior thereto, Father was in and out of jail and spent a period of time out of the area on the run from authorities.

7. Mother went into a long-term rehab facility in early 2016 and the Child was slowly reintegrated back into her life beginning in the summer of 2016.

8. Contact visits between Father and the Child began in the winter of 2016. Prior thereto, all visits between Father and the Child while he was incarcerated at Lycoming County Prison were behind glass.

9. Pursuant to a custody Order dated July 18, 2017, Mother was granted legal custody but must notify Father and paternal grandmother of all major issues concerning the Child's health, education, and welfare.

10. Since August 18, 2017, Mother has had primary physical custody. Father is entitled to a phone call with the child each Thursday and every other Sunday. Father shall also have visits with the Child at the prison nine times every twelve months, with a family friend transporting the Child to and from the visits. Father may send one letter/card to the Child each week and may send gifts through a third party.

11. Father's weekly phone call was changed from Thursday to Tuesday pursuant to an Order dated June 4, 2018.

12. Father faithfully writes and calls the Child according to the terms of the custody Order; however, when he is facing disciplinary sanctions at the prison he is unable to exercise those privileges.

13. Father was unable to talk to Child for a period of 26 days in May of 2017 and for a period of 25 days in May of 2019 due to disciplinary issues.

14. Child has exhibited anxiety over the visits with Father. This anxiety manifests itself in the form of nightmares and inability to focus at school. The Child has been in counseling since January of 2018 and has shown improvement since starting treatment and finding ways to cope and alleviate fears.

15. The contact visits between Father and Child were suspended by the correctional facility in the Spring of 2018 when it was discovered that, due to the nature of Father's crimes, he should not have been permitted contact visits with the Child per the institution's rules.

16. When the contact visits stopped, the Child seemed relieved.
17. Contact visits were permitted during the bonding assessment and in order for the Guardian Ad Litem to observe the interaction between Father and the Child.
18. The Child has never expressed wanting to spend more time with Father and has consistently maintained the position that he does not want to talk to Father.
19. Father does not provide any financial support for the Child and, due to his circumstances, is unable to perform day-to-day parental duties.
20. Mother and her Fiancé have been in a relationship for approximately 3 years and plan to marry on August 13, 2021.
21. The Child requested that he call Mother's Fiancé "Dad" approximately 2.5 years ago, and has begun to refer to himself using Mother's Fiancé's last name.
22. Mother's Fiancé is physically and emotionally available to the Child, and provides the Child with stability and consistency.
23. Mother, her Fiancé, and the Child are a bonded family unit.
24. Mother's Fiancé understands the potential benefits and consequences of adopting the Child.
25. Termination of Father's parental rights and adoption by Mother's Fiancé is in the best interest of the Child.

Discussion

Mother and her fiancé argue that the basis for termination of parental rights in this case may be found in 23 Pa.C.S. §2511(a)(2), (10), and (11), which provide 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:

- (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.
- (10) The parent has been found by a court of competent jurisdiction to have committed sexual abuse against the child or another child of the parent based on a judicial adjudication as set forth in paragraph (1)(i), (ii), (iii) or (iv) or (4) of the definition of "founded report" in section 6303(a) (relating to definitions) where the judicial adjudication is based on a finding of "sexual abuse or exploitation" as defined in section 6303(a).
- (11) The parent is required to register as a sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders) or to register with a sexual offender registry in another jurisdiction or foreign country.

Father is currently incarcerated at SCI Coal Township. He is serving 40 to 80 years as a result of a guilty plea and subsequent sentencing on May 11, 2015, to Murder of the Third Degree,¹ Burglary,² and Robbery³ in Montgomery County at Docket #8408-2014 (Exhibit M7). Father is also serving an aggregate sentence of 21 to 90 years under Lycoming County Docket #1056-2012 following sentencing on January 22, 2016, for Statutory Sexual Assault,⁴ Rape of a Child,⁵ and Unlawful Contact with Minor.⁶ (Ex. M8). These sentences are to run consecutively to the sentence father is serving in the Montgomery case. Additionally under Lycoming County Docket #1056-2012, Father was sentenced to a term of 10 to 40 years for Involuntary Deviate Sexual

¹ 18 Pa.C.S. §2502(c).

² 18 Pa.C.S. §3502(a)(1).

³ 18 Pa.C.S. §3701(a)(1)(i).

⁴ 18 Pa.C.S. §3122.1.

⁵ 18 Pa.C.S. §3121(c).

⁶ 18 Pa.C.S. §6318(a)(1).

Intercourse with a Child,⁷ and a term of 9 months to 7 years for Corruption of Minors.⁸ (Ex. M8). These sentences are to run consecutive to Father's sentence for Rape of a Child. (Ex. M8). Father was also sentenced to a term of 2 to 10 years for Aggravated Indecent Assault,⁹ to be run concurrent to his sentence for Rape of a Child. The victim of these crimes is Mother's daughter, who was Father's stepdaughter at the time of the incidents. As part of his sentencing, (Ex. M8). Father was advised of his responsibilities to report pursuant to Megan's Law/SORNA as a lifetime registrant based upon the conviction for Tier III enumerated offenses.¹⁰ Father is required to be a lifetime registrant with the Pennsylvania State Police pursuant to 42 Pa.C.S. §9799.55(b) by virtue of his convictions for Rape, Involuntary Deviate Sexual Intercourse, and Aggravated Indecent Assault. A court may terminate parental rights under 23 Pa.C.S. §2511(a)(11) if the parent is required to register as a sexual offender under 42 Pa.C.S. Subch. I (relating to continued registration of sexual offenders). Based upon Father's convictions and sentencing, Mother has proven by clear and convincing evidence that grounds for termination exist pursuant to 23 Pa.C.S. §2511(a)(11).

As discussed above, Father is serving a lengthy prison sentence for particularly heinous crimes. Given the fact that Father's sentences in the two separate cases are consecutive to one another, he is essentially serving a life sentence. His minimum sentence of 71 years makes it unlikely that he will be released from incarceration during his lifetime. A court may terminate parental rights under 23 Pa.C.S. §2511(a)(2) when "the repeated and continued incapacity, abuse, neglect or refusal of the parent has

⁷ 18 Pa.C.S. §3123(b).

⁸ 18 Pa.C.S. §6301(a)(1)(ii).

⁹ 18 Pa.C.S. §3125(a)(7).

¹⁰ The offenses occurred prior to the December 20, 2012, enactment of SORNA.

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.” 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).

Much of Father’s case in opposition to the Petition for Involuntary Termination of Parental Rights focused on his efforts to maintain a relationship with the Child. Father was incarcerated off-and-on for the first several years of the Child’s life. Mother, paternal grandmother, and/or a family friend would bring the Child to the prison to visit. When Father was not incarcerated a bail condition prohibited him from having unsupervised contact with the Child so he would rely on others to enable him to see the Child. When he began serving his state prison sentence, Father had phone contact with the Child 2-3 times per week and would send multiple items in the mail per week. Due to a glitch in the system, Father enjoyed contact visits with the Child for several months until they were discontinued by the prison due to his status as a sex offender. Father testified that he does his best to keep up on current issues in order to make his letters and conversations kid-friendly and relatable for the Child. Despite his circumstances, Father has consistently attempted to maintain a relationship with the Child.

In her argument at the conclusion of the testimony, counsel for Father emphasized that this Court cannot terminate Father’s parental rights on the basis of incarceration alone. This statement by counsel is likely grounded in the decades-long

reliance on the Supreme Court's ruling in the case of **In re: Adoption of McCray**, which held:

“[A] parent's absence and/or failure to support due to incarceration is not conclusive on the issue of abandonment. Nevertheless, we are not willing to completely toll a parent's responsibilities during his or her incarceration. Rather, we must inquire whether the parent has utilized those resources at his or her command while in prison in continuing a close relationship with the child. Where the parent does not exercise reasonable firmness in declining to yield to obstacles, his other rights may be forfeited.”

331 A.2d 652, 655 (Pa. 1975). The McCray case considered the issue of abandonment, and the emphasis of the cited passage was to “impose on the incarcerated parent, pursuant to an abandonment analysis, a duty to utilize available resources to continue a relationship with his or her child.” **In re: Adoption of S.P.**, 47 A.3d 817, 828 (Pa. 2012). Abandonment is now codified in 23 Pa.C.S. §2511(a)(1). It is evident that Father has utilized the resources available to him to maintain a relationship with the Child and therefore Mother is not seeking termination, nor would she be successful in proving, based on abandonment grounds.

Termination based on incapacity is very distinct from termination based on abandonment, and the Supreme Court of Pennsylvania has definitively held that “[i]ncarceration, while not a litmus test for termination, can be determinative of the question of whether a parent is incapable of providing ‘essential parental care, control, or subsistence’ and the length of the remaining confinement can be considered as highly relevant to whether the ‘conditions and causes of the incapacity, abuse, neglect, or refusal cannot or will not be remedied by the parent.’” **Id.** at 830. In this case, Father

is serving what essentially amounts to a life sentence. At the very least, he will remain incarcerated long after the Child reaches adulthood.

Under the current custody Order, Father is limited to writing letters and telephone calls and a maximum of 9 visits every 12 months, which, unless the prison lifts the no-contact provision, will be behind glass. Father cannot - and will not ever be able to – fulfill basic parental obligations to the Child such as providing him with stable housing, food, and clothing. Furthermore, Father will not be able to participate in the day-to-day aspects of parenting the Child. He will not be available to help the Child with his homework, tuck him into bed at night, discipline him, or attend parent-teacher conferences, extra-curricular activities, or medical appointments. Father's incarceration precludes the Child from running to Father for a hug when he is hurt or scared, and he is unable to pick up the phone and call Father whenever he wants to speak to him. In fact, there have been times when Father has not been able to exercise his right to telephone contact with the Child. For 26 days in May of 2017 and 25 days in 2019, Father was unable to talk to the Child because he was prohibited from having telephone privileges due to disciplinary reasons. Additionally, there have been occasions when the prison was on lockdown and inmates are unable to make calls or have visitors. "It is beyond cavil that in many cases . . . an incarcerated parent is confined twenty-four hours a day, seven days a week; obviously resulting in his being incapable of providing the essential parental care, control or subsistence necessary for a child's physical and mental well-being." **In re: R.I.S.**, 36 A.3d 567, 578 (Pa. 2011) (Baer, J., concurring). The question becomes, then, whether the parent can remedy this incapacity. Despite all of Father's sincere efforts to use the resources available to him to maintain a relationship

with the Child, given the length of his prison sentence he will not be able to remedy this incapacity. The Court is satisfied that Mother has proven by clear and convincing evidence that the consequences Father's criminal actions have rendered him incapable of providing essential parental care, control, and subsistence to the Child, and therefore finds that grounds for termination of Father's parental rights have been established pursuant to 23 Pa.C.S. §2511(a)(2).

As only one subsection of 23 Pa.C.S. §2511(a) must be established by clear and convincing evidence in order to proceed to an analysis under 23 Pa.C.S. §2511(b), and the Court has found that the statutory grounds for termination have been met pursuant to both 23 Pa.C.S. §2511(a)(11) and 23 Pa.C.S. §22511(a)(2), the Court will not address the averments that termination is also warranted under 23 Pa.C.S. §2511(a)(10). As the statutory grounds for termination of parental rights have been met, the Court must next 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. . .

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.**, 761 A.2d 1197 (Pa. Super. 2000).

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.

Id. (citations omitted).

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)). Father, however, engaged the services of Kim Melhorn, MS, to perform a bonding assessment. Ms. Melhorn testified that she has performed 25-30 informal bonding assessments but that the assessment between Father and Child was the first that she had performed in a prison setting and the first evaluation that she had presented to a court. (T.P. 7/2/19, pg 31). She further testified that she has dealt with high-conflict custody cases for the past 8 years, but had not previously completed a bonding assessment for a termination of parental rights case (T.P. 7/2/19, pg 33, 39). Many of the tests and observations performed by Ms. Melhorn seemed to focus not on whether there is a bond between Child and Father but rather on Father's parenting skills which, given the circumstances, are mostly irrelevant as he is unable to fulfill the Child's physical and emotional needs on a consistent basis.

While she admitted that the Child indicated to her that he did not want to have contact with Father, she felt he was not able to articulate why and although the Child told her that he does not love Father and does not miss him, her observations led her to believe otherwise. Ms. Melhorn also testified that, in her opinion, there was a sufficient

attachment between Child and his Father that terminating parental rights *could* have a negative effect on the Child. However, when questioned by the Court, she also admitted that termination of Father's parental rights *may not* have a negative effect on the Child. The bottom line is that when pressed, Ms. Melhorn could not say with any degree of certainty that it would cause irreparable harm to the Child if Father's parental rights were terminated.

Although Father's expert opined that there is a bond between the Child and Father, there was considerable testimony to the contrary from individuals who have had the opportunity to interact closely with the Child. Evan Baier, a mental health therapist at Diakon Family Life Services, has been counseling the Child since January of 2018. Mr. Baier testified that the Child is uncomfortable around Father and that he was experiencing nightmares and anxiety and the counseling is geared towards helping him cope and alleviating his fears. Mr. Baier testified that the Child has never expressed a desire to spend *more* time or have *more* phone calls with Father, but has expressed not wanting to have phone calls or visits. According to Mr. Baier, he has discussed "acceptance and commitment" with the Child and he did his best to implement the recommendations in Ms. Melhorn's bonding assessment, including talking with the Child about phone calls with Father being mandatory and, although the Child cannot control them, he can get through them with support to help manage his anxiety. Mr. Baier concluded his testimony by stating that the Child has made up his mind that he is not interested in having a relationship with Father and does not want to put forth a lot of effort but he believed that he, Mother, and Mother's Fiancé are doing their best to help the Child get through something that he does not want to do.

Melody Protasio, Esquire, the Guardian ad Litem for the Child, testified that she met with the Child several times including at his home, in her office, and in prison with Father. She stated that although the actual visit she observed between Father and the Child appeared to go well, the Child was visibly anxious prior to the visit and told her that he must act like he is having a good time so that he doesn't get into trouble with Father. The GAL testified that immediately after the visit ended the Child stated "I don't want to keep doing this." The GAL further testified that she consistently gets the impression from the Child that he does not want to be forced to have contact with Father, and that he is starting to resent having to go to the visits. The Child is angry because he feels these legal proceedings have dragged on and he wants Mother's Fiancé to be his father. The GAL disagrees with Ms. Melhorn's conclusion that a bond exists and opined that there is no meaningful connection to Father from the Child's perspective. She believes it is in the Child's best interest to have Father's parental rights terminated so that the Child can be adopted by Mother's Fiancé. Tiffani Kase, Esquire, counsel for the Child, echoed many of the sentiments of the GAL with regard to the Child's lack of a bond with Father. She testified that the second the Child was alone with her after their meeting he said "[t]hat's my dad," referring to Mother's Fiancé.

Mother testified that the Child refers to her Fiancé as "Dad," and her Fiancé testified that the Child requested to call him "Dad" over two years ago. Mother further testified that the Child – on his own with no prompting – started to write Fiancé's last name as his own last name in school. Mother further testified that when the contact visits were halted in the Spring of 2018, the Child was more at ease. Mother indicated that since she regained custody in August of 2017, the Child has consistently expressed

to her that he does not want to talk to Father, nor does he ask to go see him in prison. Mother does not agree that there is a bond between Child and his Father, and testified about the loving and supportive relationship the Child has with her Fiancé. Mother testified that her Fiancé is very physically and emotionally present for the Child, and takes care of him like a father. Mother expressed concern that without parental rights, her Fiancé's status as "Dad" would be questioned should something happen to her and her Fiancé's ability to continue to care for the Child may be in jeopardy. DAF, Mother's Fiancé, testified similarly to Mother regarding the Child's lack of desire to maintain a relationship with Father, and the lack of a bond between Child and Father. He further testified as to his desire to adopt the Child, describing the life skills that he teaches him and calling their relationship "special."

The Child who is the subject of this proceeding is just under 9 years old. His early childhood can be described as tumultuous at best, as both of his parents at times dealt with addiction and incarceration. The Child spent varying periods of time in the physical custody of his paternal uncle, maternal grandfather, and maternal grandmother while Mother worked to maintain her sobriety, employment, and stable housing before she regained primary custody of the Child in August of 2017. Consequently, the Child has been described as resilient, good-natured, and able to "roll-with-the-punches." All who have come into contact with him agreed he is a bright, personal, and energetic young man. However, for the majority of his young life, Child's relationship with Father has been cultivated within a prison setting and through letters and phone calls at designated times. These visits, and forced contact, have taken an emotional and physical toll on the Child to the point that he exhibits anxiety, has nightmares, and experiences trouble

focusing in school. He has consistently maintained the position that he does not want to preserve the relationship with Father to all adults *except* Father, including during an interview with Father's expert who performed the bonding assessment. (See Ex. D3, page 5). The Child, without prompting, began using Mother's Fiancé's last name and referring to him as "Dad," further evidencing the fact that he wishes to disassociate himself with Father. While Father undoubtedly feels bonded to Child and wishes to maintain the relationship, the Court cannot find that Child feels the same.

It is evident to the Court that Mother's Fiancé loves and cares for Child and treats him as his own. Mother's Fiancé has stepped in and provided the love and security the Child needs and has assumed the parental responsibilities that Father has been incapable of performing due to his incarceration, and will not be able to perform at any time before the Child reaches the age of maturity. Mother, her Fiancé, and the Child are a very bonded family unit. Counsel for Father has argued that Father's relationship with the Child and Mother's Fiancé's relationship with the Child are not mutually exclusive, and Father's continued relationship with the Child would not prevent Mother's Fiancé from acting as a parent to the Child. This Court, however, finds that when a relationship between a parent and a child causes the child to experience nightmares and anxiety in school, continuing the relationship against the child's will is not in the best interest of the child. The Child needs consistency and stability, and he has found that in Mother's Fiancé and the intact family unit they have formed.

After careful consideration the Court is satisfied that termination of Father's parental rights will not sever a necessary and beneficial bond between Child and Father, as Child feels no significant bond with Father. This Court finds that termination

of Father's parental rights and adoption by Mother's Fiancé is in the best interest of the Child and will best promote his developmental, physical and emotional needs and welfare

Conclusions of Law

1. The Court finds that AKF and DAF have established by clear and convincing evidence that CMW's parental rights to DW should be involuntarily terminated pursuant to 23 Pa.C.S. §2511(a)(2) and (a)(11).

2. The Court finds that AKF and DAF have established by clear and convincing evidence that the developmental, physical and emotional needs and welfare of DW will best be served by termination of CMW'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. 6599**
:
DW, :
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minor child, :
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DECREE

AND NOW, this 30th day of **October, 2019**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of CMW, held on July 2, 2019, September 24, 2019, and September 30, 2019, it is hereby ORDERED and DECREED:

- (1) That the parental rights of CMW 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 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 Human Services
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. Children & Youth Social Service Agency
2. Any private licensed adoption agency
3. Register & Recorder's Office
4. Online at www.adoptpakids.org/Forms.aspx .

By the Court,

Joy Reynolds McCoy, Judge