

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

**IN RE:** : **NO. 6619**  
:   
**LAS,** :   
:   
**minor child** :

**ORDER**

**AND NOW**, this 14<sup>th</sup> day of **November, 2019**, before the Court is a Petition for Involuntary Termination of Parental Rights filed by RS on October 26, 2018. RS ("Mother") is the biological mother of LAS ("Child"), born on September 15, 2014. Mother seeks to terminate the rights of the Child's biological Father, KB ("Father") in order to allow her spouse, JH ("Spouse"), adopt the Child. A pretrial conference was scheduled for December 7, 2018, and subsequently rescheduled for January 11, 2019, in order to ensure Father was properly served. Father appeared at the pre-trial conference and indicated that he wished to contest the termination of his parental rights. Accordingly, Dance Drier, Esquire, was appointed as counsel for Father and Meghan Young, Esquire, was appointed as counsel for the Child. A hearing on the Petition for Involuntary Termination of Parental Rights was scheduled for March 29, 2019.

On March 29, 2019, at the time set for the hearing on the Petition for Involuntary Termination of Parental Rights, Father voluntarily signed a consent with regard to the termination of his parental rights. At that time, Father indicated to the Court that if he were to withdraw his consent within 30 days as prescribed by the statute, he would concede that the elements of 23 Pa.C.S. §2511(a) had

been met and therefore, should the matter proceed to a hearing to involuntarily terminate his parental rights, the sole issue before the Court would be whether the developmental, physical, and emotional needs and welfare of the Child would best be served by termination of Father's parental rights pursuant to 23 Pa.C.S. §2511(b).

On June 24, 2019, Mother and Spouse filed a Petition to Confirm Consent, which was scheduled for a hearing on September 6, 2019. At the time scheduled for the hearing on the Petition to Confirm Consent and subsequent adoption, it was brought to the Court's attention that Father did, in fact, revoke his consent in writing to his counsel on April 24, 2019, which was within the 30 day window provided by 23 Pa.C.S. §2711(c)(1)(i). Counsel for Father did not provide a copy of the written revocation to Mother's counsel, but indicated that he did advise her of its existence. Given the extreme nature of a termination of parental rights proceeding, this Court accepted Father's revocation of his consent and scheduled the matter for a hearing on the Petition for Involuntary Termination of Parental Rights. Additionally, the Court appointed Meghan Young, Esquire, as Guardian Ad Litem for the Child.

A hearing on the Petition for Involuntarily Termination of Parental Rights took place on October 28, 2019. As Father conceded that Mother would be able to prove grounds for termination pursuant to 23 Pa.C.S. §2511(a) by clear and convincing evidence, this Court will not do a formal findings of fact. However, the Court notes that there was an abundance of testimony presented at the hearing that would have enabled the Court to find that grounds for termination under 23

Pa.C.S. §2511(a) were proven by clear and convincing evidence. The Court must now 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.**, 761 A.2d 1197, 1202 (Pa.Super. 2000). 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)).

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, Father acknowledges that he has missed a significant portion of the Child's life due to his own inaction and seemingly legitimate but very mistaken belief that he was unable to take any action regarding custody of the Child until the expiration of the Protection from Abuse Order under which the Child was a protected party.<sup>1</sup> Father believes that playing a role in the rest of the Child's life is more important than the ½ of Child's life that he has already missed. Father testified that his own father recently re-established a relationship with him and he wishes to do the same with Child.

While the Court understands that Father had a change of heart between the signing of his consent and his subsequent signing of a revocation, this Court cannot find that reintroducing the Child to Father would be in the Child's best interest. Due to the Child's age, the infrequency with which Father exercised the periods of custody granted to him in the Protection from Abuse Order, his failure to utilize the Courts to attempt to gain more time with the Child, and the length of time that has passed since the Child last had contact with Father, the Court finds that no bond exists between the Child and Father. The Guardian Ad Litem testified that the Child does not remember Father at all. He is currently being raised by two loving parents, neither of which is Father. Depriving Child of that stability and consistency because Father has suddenly decided that he now wishes to play a role in the Child's life after an absence of 3 years would be detrimental to the developmental, physical, and emotional needs and well-being of the Child.

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<sup>1</sup> The Protection from Abuse Order was entered at Lycoming County Docket #15-21,571. The PFA expired in December of 2018.

The Child is clearly bonded with Mother's Spouse, who has been a prominent figure in his life since his birth. It is evident to the Court that Mother's Spouse loves and cares for the Child and treats him as her own. Mother's Spouse has provided a large majority of the parental duties for the Child since he was approximately 13 months old. Child calls Mother "Mommy" and Mother's Spouse "Mom." Mother, her Spouse, and Child, are a bonded and established family unit. Mother's Spouse has stepped in and provided the love and security the child needs and has assumed the parental responsibilities that Father has utterly failed to perform and has evidenced a settled purpose of relinquishing.

After careful consideration, the Court is satisfied that termination of Father's parental rights will not destroy something in existence that is necessary and beneficial, as there is no existing bond between the Child and Father. Based on the testimony presented regarding the relationship between the Child and Mother's Spouse, the Court is confident that allowing the adoption by Mother's Spouse to proceed is in the best interest of the Child.

### **Conclusions of Law**

1. The Court finds that KB conceded that grounds for termination of his parental rights would be proven by clear and convincing pursuant to 23 Pa.C.S. §2511(a)(1). The Court further finds that even if he had not made that concession, sufficient testimony was presented at the hearing to establish by clear and convincing evidence that KB's parental rights should be involuntarily terminated pursuant to 23 Pa.C.S. §2511(a)(1).

2. The Court finds that RS and JH have established by clear and convincing evidence that the developmental, physical, and emotional needs and welfare of LAS will best be served by termination of KB's parental rights.

Accordingly, the Court will enter the attached Decree.

By the Court,

*/s/*

Joy Reynolds McCoy, Judge

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**DECREE**

**AND NOW**, this 14<sup>th</sup> day of **November, 2019**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of KB, held on October 28, 2019, it is hereby ORDERED and DECREED:

- (1) That the parental rights of KB 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 father.

**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](http://www.adoptpakids.org/Forms.aspx) .

By the Court,

/s/

Joy Reynolds McCoy, Judge