

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

<b>IN RE:</b>	:	<b>NO. 6651</b>
	:	
<b>ART,</b>	:	
<b>BIT, and</b>	:	
<b>DMT,</b>	:	
<b>minor children,</b>	:	

**OPINION AND ORDER**

**AND NOW**, this **31<sup>st</sup>** day of **October, 2019**, before the Court is a Petition for Involuntary Termination of Parental Rights filed by Mother, LRC and her husband, RWC, on June 12, 2019. Said Petition is in regard to the rights of LRC's children, ART, born April 4, 2002; BIT, born March 1, 2003; and DMT, born April 10, 2006. Mother and her husband seek to terminate the parental rights of the children's biological father, WJT, as a prerequisite to having the children adopted by Mother's husband. The Petition for Involuntary Termination of Parental Rights was served upon WJT by certified mail on July 15, 2019, at 173 Corda Place, Raeford, North Carolina 28376. A Pre-Trial Conference on the Petition was held on September 6, 2019. Though properly served with notice of the Conference through certified mail, Father did not appear at the Pre-Trial Conference. An Order was entered on September 6, 2019, advising Father that if he wished to participate in the hearing on the termination of his parental rights and have counsel appointed for him, he was to advise the Court in writing by September 27, 2019. WJT did not contact the Court concerning his participation in the hearing or the appointment of counsel on his behalf. A hearing on the Petition to Involuntarily Terminate Parental Rights was held on October 29, 2019. WJT did not appear, despite

the Court finding that he had proper notice of the hearing. LRC and RWC appeared with their counsel, Jeffrey Yates, Esquire.

**Finding of Facts**

1. ART was born on April 4, 2002. BIT was born on March 1, 2003. DMT was born on April 10, 2006. Hereafter, the Court will refer to the children collectively as “Children”. The Children currently reside with their Mother, LRC, and Mother’s husband, RWC, at 239 PR North Main Street, Hughesville, Pennsylvania. Mother and Husband been married since March 16, 2018.

2. The Children’s biological Father, WJT, resides at 173 Corda Place, Raeford, North Carolina.

3. At the time of the Children’s birth, Mother and Father were married.

4. Mother and Father separated in March, 2013, at which time Mother left the marriage due to abuse by Father.

5. At the time Mother left, she left the Children with Father as she was unable to take them with her.

6. In June, 2013, BIT left Father’s home and came to reside with Mother.

7. Mother and Father are also the parents of an adult child, CT, born February 19, 1999. CT left Father’s residence to come and reside with Mother in January, 2014.

8. ART and DMT left Father’s home on Easter Sunday in April, 2014, and came to reside with Mother.

9. The last time Father had any physical custody time with the Children was April, 2014.

10. In September, 2014, Father came to Mother's residence requesting that he and Mother get back together. He did not request to see the Children at that time.

11. Mother filed for child support in Sullivan County in 2014. The case was then ultimately transferred to Lycoming County.

12. Father has paid child support over the years, but is not current and has arrears in excess of \$10,000.

13. Father, at no time, has filed any type of a custody action in regard to the children.

14. Since separation, Mother has resided in Sonestown, Pennsylvania; Pennsdale, Pennsylvania; and at her current address in Hughesville, Pennsylvania.

15. Mother kept Father advised as to her changes of address through email. Mother has had the same email address for many years and Father did contact her, at times, through email, and contacted her after the Petition for Involuntary Termination of Parental Rights was filed.

16. Since April, 2014, Father has failed to perform any parental duties in regard to the children and has not acknowledged any of the children on birthdays or holidays.

17. Father moved to North Carolina in 2016. Mother only learned of his move through the "grapevine".

18. Mother and Father were divorced on July 13, 2017.

19. Mother began dating RWC in October, 2015.

20. In December, 2015, DMT and BIT gave RWC a letter requesting that they be permitted to call him "dad" and asking that he adopt them.

21. At Christmas, 2016, all of the children gave RWC a necklace which is engraved "thank you for being the dad you didn't have to be".

22. Mother and RWC had a child, RC, together on February 23, 2017.

23. Mother and RWC were married on March 16, 2018.

24. The children currently have no relationship with Father.

### **Discussion**

Mother and Husband argue that the basis for termination in this case may be found in 23 Pa.C.S. §2511(a)(1), 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.

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). In the instant case, Father has demonstrated both. When determining whether to terminate the rights of a parent, 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).

The Court finds as of the date of the Petition to Involuntarily Terminate his parental rights, Father has evidenced both a settled purpose of relinquishing parental claim to the Children and has failed to perform his parental duties for a period well in excess of six (6) months. Father's last contact with the Children was in 2014, when the last two Children in his custody went to reside with Mother.

A parent has an affirmative duty to be part of a Children's life; Father has clearly not met this affirmative duty. Father has not even shown a passive interest in the Children. Father has never reached out to Mother to inquire about the Children despite

knowing how to contact her. Father has failed to play any role in the medical and educational decisions regarding the Children. Father did not send any birthday or Christmas gifts to the Children since 2014, nor did he attempt to see the Children. The Court finds Mother placed no obstacles in Father's path that would prevent him from exercising his parental rights, privileges, and obligations with regard to the Children. Simply put, Father has shown no interest in being a parent to his Children.

This Court further finds that Mother and her Husband have clearly established that Father has evidenced a settled purpose of relinquishing parental claim to the Children and has refused or failed to perform parental duties since 2014. This settled purpose of relinquishment is especially apparent given the fact that, despite being properly served, Father failed to appear for the Pre-Trial Conference or the Hearing on the Petition for Involuntary Termination.

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 Children 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)).

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, it is clear the Children have no bond with Father. Termination of Father’s rights would not destroy an existing necessary and beneficial relationship as years have passed since Father and the Children have had any contact with each other. The Children are bonded to Mother’s Husband, who has been a prominent figure in their lives for the past four years. It is evident to the Court that Mother’s Husband loves and cares for the Children and treats them as his own. Mother’s Husband provides food, clothing, and shelter for the Children, as well as emotional support. Mother’s Husband has stepped in and provided the love and security the Children need and has assumed the parental responsibilities that Father has utterly failed to perform and has evidenced a settled purpose of relinquishing. The children are clearly bonded to Husband.

The Court is satisfied that both Mother and her Husband understand the potential consequences of allowing Husband to adopt the Children, and that termination Father's parental rights and allowing the adoption by Mother's Husband to proceed is in the best interest of the Children.

**Conclusions of Law**

1. The Court finds that LRC and RWC have established by clear and convincing evidence that WJT's parental rights should be involuntarily terminated pursuant to 23 Pa.C.S. §2511(a)(1).

2. The Court finds that LRC and RWC have established by clear and convincing evidence that the developmental, physical and emotional needs and welfare of ART, BIT and DMT will best be served by termination of WJT's parental rights.

Accordingly, the Court will enter the attached Decree.

By the Court,

Joy Reynolds McCoy, Judge



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**BIT, and** :   
**DMT,** :   
:   
    **minor children,** :

**DECREE**

**AND NOW**, this 31<sup>st</sup> day of **October, 2019**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of WJT, held on October 29, 2019, it is hereby ORDERED and DECREED:

- (1) That the parental rights of WJT be, and hereby are, terminated as to the children above-named;
- (2) That the welfare of the children will be promoted by adoption; that all requirements of the Adoption Act have been met; that the children 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 Public Welfare  
Pennsylvania Adoption Information Registry  
P.O. Box 4379  
Harrisburg, PA 17105-17111  
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