

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

**IN RE:** : **NO. 6673**  
:   
**KFO,** :   
:   
**Minor child** :   
:

**OPINION AND ORDER**

**AND NOW**, this 2<sup>nd</sup> day of **March, 2020**, before the Court is Lycoming County Children & Youth Services' ("Agency") Petition for Involuntary Termination of Parental Rights of CFO ("Mother") and JS ("Father"), and a Petition for Change of Goal to Adoption, both filed on November 18, 2019, with regard to KFO ("Child"). A hearing on the Petition for Involuntary Termination of Parental Rights was held on February 10, 2020. Mother was present and represented by Andrea Pulizzi, Esquire, and Father was present and represented by Dance Drier, Esquire. John Pietrovito, Esquire, Solicitor for the Agency, and Angela Lovecchio, Esquire, counsel for the Child, were also present at the hearing.

The Court notes that at the time the hearing on the Petition for Involuntary Termination of Parental Rights was to commence, Mother expressed her desire to voluntarily relinquish her parental rights. Mother signed a Consent to Adopt, which the Court accepted after being satisfied that it was signed on a knowing and voluntary basis. However, in the event that Mother would revoke her consent within the 30 day window, the Agency made an offer of proof regarding each witness that would have been called in the termination hearing. Mother stipulated, on the record, to the testimony that each witness would have provided, as well as to the fact that the Agency

would have met its statutory burden regarding the involuntary termination of her parental rights to the Child.

As Mother signed a Consent to Adopt and, in the alternative, stipulated that the Agency would have proven that statutory grounds exist to terminate her parental rights, this Opinion and Order shall focus solely on Father, and whether the Agency has established by clear and convincing evidence that his parental rights should be terminated.

**Findings of Facts**

KFO was born on April 29, 2018. He is the child of CFO, date of birth June 17, 2000, and JS, date of birth April 7, 1999. Mother and Father were not married at the time of the Child's birth. Father was incarcerated prior to the Child's birth and has remained incarcerated for the Child's entire life.

The Agency was involved with Mother prior to and after the Child's birth, due to Mother's instability with regard to housing, employment, income, and Mother's failure to obtain and follow through with appropriate medical care for the Child, who was born nearly two months premature. In July of 2018, Mother and Father signed a private custody stipulation with AM and TM, which was vacated by this Court on October 17, 2018. At that time, the Agency requested emergency custody of the Child, which was orally granted by this Court. A Shelter Care hearing was held on October 18, 2018, at which time legal and physical custody of the Child was transferred to the Agency and the Child was placed in foster care. (Ex. A3).

A Dependency Petition was filed on October 19, 2018, alleging that the Child was without proper parental care or control necessary for his physical, mental, and emotional health. (Ex. A8). Hearings were held on October 26, 2018, and November 27,

2018, after which the Court found that clear and convincing evidence existed to substantiate the allegations set forth in the Petition. (Ex. A5). As the Court found that allowing the Child to remain in Mother's home would be contrary to his welfare and Father's incarceration precluded him from being a resource, legal and physical custody of the Child was to remain with the Agency and the Child was to remain in foster care. The Agency was ordered to continue in family finding until further order of court.

A permanency review hearing was held on February 5, 2019. The Court noted that Father had not complied with the permanency plan in that he remained incarcerated at the Lycoming County Prison in lieu of bail pending trial on an aggravated assault charge. At the time of the review hearing, he was in disciplinary lock-up for, among other reasons, engaging in assaultive behavior. During the review period, he wrote one letter to the Agency caseworker and had prepared two letters and one drawing for the Child. Due to his continuous incarceration, Father had made no progress towards alleviating the circumstances which necessitated the Child's placement. Following the hearing, the Court reaffirmed dependency and the Child remained in the legal and physical custody of the Agency with continued placement in his foster care home. (Ex. A11).

A permanency review hearing was held on May 21, 2019. The Court found that there had been no compliance by Father with the permanency plan, and no progress towards alleviating the circumstances which necessitated placement, as he remained incarcerated at the Lycoming County Prison for the entire review period. Father reported that he had not become involved in any programs at the prison for mental health and/or domestic violence. The Court noted that during this review period Father sent one letter to the caseworker and one letter to the Child. (Ex. A15).

A permanency review hearing was held on August 29, 2019. Again, the Court found that there had been no compliance by Father with the permanency plan, and no progress towards alleviating the circumstances which necessitated placement, as he remained incarcerated at the Lycoming County Prison for the entire review period. Father had not reported becoming involved in any programs at the prison for mental health and domestic violence. The Court found that during this review period, Father had sent letters and drawings to both the Agency and the Child. On May 28, 2019, Father was sentenced to state incarceration for a period of three to seven years. (Ex. A135). It was anticipated that with credit for time served, he would be eligible for parole in approximately 17 months from the date of the review hearing. (Ex. A19).

The Court noted that Father felt very strongly that the Child should be with a member of his family. He had requested the Agency investigate multiple people as potential resources for the Child; however, at the time of the review hearing none of the named individuals had provided necessary information or completed the process to be considered as resources for the Child. At the permanency review hearing Father named additional family members as potential resources and the Agency was to investigate whether these newly named individuals were appropriate resources for the Child. (Ex. A19).

On November 18, 2019, the Agency filed a Petition for Change of Goal to Adoption simultaneously with the filing of the Petition for Involuntary Termination of Parental Rights. The Petition for Involuntary Termination alleged termination was warranted under 23 Pa.C.S. §2511(a)(1), (2), (5), and (8).

Both a permanency review hearing and a pre-trial hearing on the Petition for Involuntary Termination of Parental Rights were held on December 3, 2019. Following

the permanency review hearing, the Court found that Father had been incarcerated at SCI Coal Township throughout the review period and was minimally compliant with the permanency plan and in alleviating the circumstances which necessitated the Child's placement. Father reported that he was now involved in programs at the prison for substance abuse, mental health, and domestic violence. During the review period, Father sent letters to the Agency and the Child and made attempts to speak with the Child. Father's aunt was participating in a home study to be approved as a resource parent for the Child. The Court directed the Agency to complete the home study for Father's aunt. (Ex. A79).

The hearing on the Petition for Involuntary Termination of Parental Rights was scheduled for February 10, 2020, and February 11, 2020. As noted above, Mother signed a Consent to Adopt on February 10, 2020, and on that date conceded on the record that the evidence the Agency would have presented at the hearing would have proven by clear and convincing evidence that Mother's rights should be involuntarily terminated pursuant to 23 Pa.C.S. §2511 (a) and (b). Father was present for the hearing and testimony was concluded on February 10, 2020.

### **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 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, 872 A.2d 1200 (Pa. 2005) citing **In re: D.J.S.**, 737 A.2d 283, 286 (Pa. Super. 1999). There is no dispute that Father has not demonstrated a settled purpose to relinquish his parental claim to the

Child. To the contrary, Father has been very vocal about his desire to maintain a place of importance in his Child's life. Father has consistently requested that the Child be placed with one of his family members. Theresa Ross, ongoing caseworker for the Agency, testified that Father was initially adamant that the Child be placed in the care of AM and TM; however, they were denied approval by the Agency. Ms. Ross further testified that Father named an Aunt M in Philadelphia, who did not return calls when the foster care worker reached out to her, and an Aunt I in Williamsport, who did not answer the door when the caseworker was supposed to meet with her and who did not return the kinship letter left by the caseworker. Father also named two relatives/friends named G and S and his brother, J, as potential resources for the Child. Ms. Ross testified that G was denied by the Agency because she did not follow through with the home study paperwork and J did not return a kinship letter and paperwork sent to him by the Agency.

Where a parent is incarcerated, the fact of incarceration does not, in itself, provide grounds for the termination of parental rights. However, a parent's responsibilities are not tolled during incarceration. The focus is on whether the parent utilized resources available while in prison to maintain a relationship with his or her child. An incarcerated parent is expected to utilize all available resources to foster a continuing close relationship with his or her children.

**In re N. M. B.**, 2004 PA Super 311, P19 (Pa. Super. Ct. 2004) (internal citations omitted).

While incarcerated, in an attempt to establish and maintain a bond with the Child, Father sent numerous letters and pictures to the Child, and made several requests to have the Child transported to the prison for visits. Father also requested to participate, in person, in the review hearings so that he could see the Child when he was present at those proceedings. This Court commends Father's efforts to connect with his son, and it

is evident to the Court that Father has not demonstrated a settled purpose of relinquishing parental claim to the Child. However, grounds for termination under 23 Pa.R.C.P. 2511(a)(1) may also be proven where a parent fails to perform parental duties for a period in excess of six months prior to the filing of the Petition for Involuntary Termination of Parental Rights.

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 Child was a mere 5 months old at the time he was placed in foster care. For the duration of his time in foster care, the Child's greatest needs have been food, shelter, clothing, medical care, and comfort. Thus, in order to satisfy his obligation to perform parental duties, Father would have to feed the Child when he was hungry, provide stable housing, make and attend



medical appointments, provide financial support for the Child, and comfort him when he was sick or scared. While incarcerated, Father has performed none of these duties and the Child has had to rely on his foster family to provide for all of his physical and emotional needs.

Writing letters to such a young Child is insufficient to satisfy Father's obligation to perform parental duties and to establish and maintain a place of importance in the Child's life. Father's incarceration, and subsequent inability to perform any parental duties for the Child from the time of his birth, is the result of Father's own actions. 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 failed to perform his parental duties for at least six months prior to the filing of the termination petition.

To satisfy the requirements of Section 2511(a)(2), the Agency must demonstrate that 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).

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.'" In re: Adoption of S.P., 47 A.3d 817, 830 (Pa. 2012). Father testified that he plans to be a resource for the Child upon his release from prison. Ms. Ross testified that, in order to be considered a resource for the Child, Father would need to consistently do all of the following for a minimum of six months after his release: (1) participate in a mental health evaluation and follow all recommendations for counseling, (2) attend counseling for domestic violence and drug and alcohol issues, (3) obtain employment and provide proof of steady income, (4) obtain and maintain stable housing, and (5) regularly attend visits with the Child. Father does not have the current ability to be a caregiver for the Child. At the earliest, Father will be paroled in January 2021. At the latest, Father will not be released until 2025. Upon his release Father will need to begin the second phase of his journey towards reunification, which would extend the Child's permanency by an additional 6 months, and potentially even longer if Father suffers setbacks in meeting the Agency's expectations.

Although Father insists he will satisfy all of the requirements, “[i]t is not enough that Father pledges to do more in the future. Once the Father has abandoned parental control through his own actions, it is not enough for him to “promise” to do better to *regain* parental control in the future.” **In re: J.L.C and J.R.C.**, 837 A.2d 1247, 1249 (Pa.Super. 2003). Father’s own actions - including his conviction for Aggravated Assault, Attempt to Cause Serious Bodily Injury, a felony of the first degree in which the victim was Mother, who was several months pregnant with the Child at the time - led to his incarceration. Even if Father is released from prison in January 2021 and has no setbacks in the following six months while he works towards reunification, the Child’s permanency would be delayed an additional 17 months *at a minimum*.

“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.**, 851 A.2d 967, 977 (Pa.Super. 2004). It was consistently noted through the dependency proceedings, as well as in his criminal sentencing order, that Father should participate in programs while in prison. In a letter dated November 28, 2018, Ms. Ross stated “[i]f your goal is to be released from prison and be a present father for [Child] then having good behavior and participating in programming while incarcerated is a good start. I would encourage you to participate in Parenting, Domestic Violence and Anger Management programs as well as obtain any mental health services available to you during your incarceration.” (Ex. A45). Father was again reminded of this recommendation in letters dated

January 14, 2018<sup>1</sup>, May 13, 2019, June 10, 2019, and July 5, 2019. (Exs. A47, A50, A51, A52). Father failed to take advantage of any programs available to him for the 17 months he was incarcerated in Lycoming County Prison. While in the Lycoming County Prison, Father spent 260 days in disciplinary lock up (“DLU”) for various infractions, and 90 of those days occurred after the Child entered placement. (Ex. A134). Father provided a copy of his current DC-43 Integrated Correctional Plan, which indicates that he is currently enrolled in a Violence Prevention High Intensity program and an optional Parenting program at SCI Coal Township. (Ex. F1). Father testified that he was on a wait list for the parenting program, but was accepted the week after he put in the request and at the time of the hearing he had completed 2 weeks of the 4 month program. The Court notes that Father requested to participate in the parenting program after he received notice of the Agency’s Petition for Involuntary Termination of Parental Rights. While at SCI Coal Township, Father has had one misconduct that resulted in a period of disciplinary confinement for 45 days, which was subsequently reduced to 30 days. (Ex. A133). Father’s infractions - which ranged from possessing contraband to physical altercations to general disrespect towards staff members and disruption of prison routine - caused him to be in a situation where he was ineligible to participate in mandatory and optional programs that would have greatly benefited his journey towards reunification.

Given Father’s past conduct which has resulted in his incarceration and his delay in engaging in prison programming that would potentially accelerate his

---

<sup>1</sup> This Court believes that the year 2018 was a typographical error, as the Child did not enter placement until October of 2018. The Court believes that the letter was sent in January of 2019.

reunification with the Child upon his release, this Court is unwilling to further delay the Child's permanency based on Father's promise that he will be an appropriate resource for the Child in the future. The Court finds by clear and convincing evidence that the Agency has fulfilled 23 Pa.C.S.A. §2511(a)(2) by demonstrating Father's repeated and continued incapacity has caused the Child to be without essential parental control or subsistence necessary for their 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). "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.

As Father has been incarcerated for the duration of the time that the Child has been in placement, the conditions which necessitated the Child's placement continue to exist. At each of the permanency review hearings for the Child, Father was found to have minimal-to-no compliance with the permanency plan and made no progress towards alleviating the conditions which necessitated the Child's placement. At a minimum, Father will continue to be incarcerated until January 17, 2021. His period of confinement may be extended if he does not complete his required programs or exhibits disciplinary issues, up to his max-out date in 2025. Due to his incarceration, he has been unable to provide the Child with food, clothing, or a safe, stable home free from domestic violence. The Child has received those basic necessities from his resource family, along with proper medical care, therapies, love, and support which have resulted in a tremendous improvement in the Child's health and developmental growth. It is clear to this Court that termination of Father's parental rights would best serve the needs and welfare of the Child.

As the Court has found that statutory grounds for termination have been met under all four subsections of 23 Pa. C.S.A. §2511(a) contained in the Petition to Involuntarily Terminate Parental Rights, 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.**, *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 (Pa. Super. 2002). It is clear to this Court that Father loves the Child, and that he had made some efforts to maintain contact from the prison by sending letters to the Child. However, 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, the Court feels strongly that although Father may love the Child, there is no relationship between the Child and Father. Father has been incarcerated for the Child's entire life. Although Father has written several letters to the Child while he has been in placement, the Child is not of an age where he would be able to read the letters, or understand them if they were read to him. Since the Child has been in placement, Father has seen the Child only twice, for approximately 5 minutes each time, prior to Court hearings. Bruce Anderson, Licensed Psychologist under contract with the Agency, did not perform a bonding assessment between Father and the Child; however, he testified that, given the Child's age and the current circumstances, there would be no real connection between the Child and Father. Mr. Anderson indicated the Child might look at the pictures Father sent, but he can't read the letters, and the Child would not be able to make the connection between those documents and the person he's seen only a few times in his life for a few minutes each time.

Although Father testified that he intends to give the Child a loving and stable home when he gets out of prison and wants to establish a bond with him, this cannot overcome the fact that Father is essentially a stranger to the Child and that there is currently no bond between the Child and the Father. A parent can best establish and maintain a healthy bond with a child by ensuring the child is fed when hungry, changed when needed, and comforted when hurt. As Father has been incarcerated for all of the Child's life, he has never been able to provide for the Child's immediate physical and emotional needs, let alone with the consistency required to establish and maintain a bond between the Child and himself. Although sympathetic to Father's desire to perform



parental duties for the Child when he is released from prison, the Court must consider what situation would best serve the Child's needs and welfare.

There was an abundance of testimony that the Child is very bonded with the foster family, and calls the foster parents "mama" and "dada." Father is extremely offended and angry by this notion, and accuses the Agency of not doing enough to prevent this bond from developing. Father testified that he believes their job as foster care givers is to *not* build an emotional bond with the Child. However, the Child is currently in a loving and stable home. He has shown tremendous improvement in his health and developmental progress since being placed in foster care. The Child has been in this placement for more than 16 months, and it will be a *minimum of 17* more months before Father is released from incarceration. While Father has been incarcerated and unable to perform even the most basic of parental duties, the foster parents have provided everything the Child needs, which has naturally fostered a bond and attachment between the Child and the individuals caring for him. In order for the Agency to consider reunification, Father would need to demonstrate *at least 6* months of stable housing, income, and visitation. The Child's permanency cannot and should not be delayed until Father is released from prison at some point in the future and begins to make steps towards establishing a bond and being a resource for the Child. The Child is clearly bonded with the resource parents, who have provided for his physical and emotional needs for the majority of his life, and who are willing to offer him permanency. The Court is satisfied that termination of Father's parental rights would not destroy an existing bond and that permanency in the form of adoption by those who have met his needs for the past 17 months is in the best interest of the Child.

**Conclusions of Law**

1. The Court finds that the Agency has established by clear and convincing evidence that JS, by conduct continuing for a period of at least six months immediately preceding the filing of the petition has failed to perform parental duties pursuant to 23 Pa.C.S. §2511(a)(1) .

2. The Court finds that the Agency has established by clear and convincing evidence that JS, has exhibited repeated and continued incapacity, abuse, neglect or refusal which 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 him pursuant to 23 Pa.C.S. §2511(a)(2).

3. The Court finds that, the Agency has established by clear and convincing evidence that the child has been removed from JS's care for a period of at least six months, that the conditions which led to the removal or placement of the child continue to exist, that the conditions which led to the removal or placement of the child are not likely to be remedied within a reasonable period of time, and that termination of Father's parental rights would best serve the needs and welfare of the child pursuant to 23 Pa.C.S. §2511(a) (5).

4. The Court finds that, the Agency has established by clear and convincing evidence that the child has been removed from JS's care for a period of twelve months or more, that the conditions which led to the removal or placement of the child continue to exist, and that termination of Father's parental rights would best serve the needs and welfare of the child pursuant to 23 Pa.C.S. §2511(a) (8).

5. The Court finds that the Agency has established by clear and convincing evidence that no bond exists between JS and the Child and that the developmental, physical and emotional needs and welfare of the Child will be best served by the termination of his parental rights pursuant to 23 Pa.C.S. §2511(b).

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. 6673**  
:   
**KFO,** :   
:   
**Minor child** :   
:

**DECREE**

**AND NOW**, this 2<sup>nd</sup> day of **March, 2020**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of JS, held on February 10, 2020, it is hereby ORDERED and DECREED:

- (1) That the parental rights of JS 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 PARENT**

**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 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