

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

**IN RE:** : **NO. 6686**  
:   
**PRGB,** :   
:   
**minor child,** :   
:

**OPINION AND ORDER**

**AND NOW**, this 29<sup>th</sup> day of **May, 2020**, before the Court is a Petition for Involuntary Termination of Parental Rights filed by Mother, AP, and her husband, BP, on January 15, 2020. Said petition is in regard to the rights of AP' child, PRGB, born May 4, 2010. Mother and her husband seek to terminate the parental rights of the child's biological father, CS, as a prerequisite to having the child adopted by Mother's husband. The Petition for Involuntary Termination of Parental Rights and hearing notice were served upon CS on February 27, 2020, as evidenced by an Affidavit of Personal Service filed on March 2, 2020. A pre-trial conference on the Petition was held on March 13, 2020. Father did not appear at the pre-trial conference. An Order was entered by this Court on March 13, 2020, advising CS that if he wished to participate in the hearing on the termination of his parental rights and have counsel appointed for him, he must advise the Court in writing by April 13, 2020, so that counsel could be appointed on his behalf. CS had no contact with the Court concerning his participation in the hearing or the appointment of counsel on his behalf. A hearing on the Petition to Involuntarily Terminate Father's Parental Rights was held on May 29, 2020. CS did not appear, despite the Court finding that he had proper notice of the hearing. AP and BP appeared with their counsel, Christina Dinges, Esquire.

**Finding of Facts**

1. PRGB ("Child") was born on May 4, 2010. The Child currently resides with her mother, AP ("Mother") and Mother's husband, BP ("Husband") at 204 Beech Street, South Williamsport, Pennsylvania. Mother and Husband have been married since April 1, 2014. Husband has been involved in the Child's life since she was approximately two years of age.

2. The Child's biological father is CS ("Father"). Father resides at 2205 Mosser Avenue, Apt. 2W, Williamsport, Pennsylvania.

3. At the time of Child's birth, Mother and Father were not married, nor have they ever been married.

4. Father has had no contact with the Child since she was approximately eight months old.

5. At no time has Father filed any type of custody action or requested periods of custody with the Child since she was eight months old.

6. Father has not provided any financial support for the Child. Further, Mother has never filed for, nor has Father ever paid, child support for the Child.

7. Father knew how to get in touch with Mother if he wanted to inquire about the Child's health and well-being, or arrange to see Child.

8. Mother has had the same phone number for many years and Father has that telephone number.

9. Though Father may not know where Mother resides, members of Mother's family live in the area and Father is aware of where those family members reside.

10. To Mother's knowledge, Father has never reached out to any member of her family in an effort to have contact with Child.

11. Mother has, on occasion, attempted to reach out to Father and his family.

12. The Child calls Mother's Husband "Dad".

13. Mother's Husband has a father-daughter relationship with the Child.

Husband loves and supports the Child and considers her his daughter.

14. Child has no relationship with Father. She considers Mother's Husband to be her father.

15. Though Child is aware that Husband is not her biological father, she does not know the name of her biological father, nor would she know her biological father if she were to pass him on the street.

### **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 Involuntary Terminate his parental rights, Father has evidenced both a settled purpose of relinquishing parental claim to the Child and has failed to perform his parental duties for a period well in excess of six (6) months. Father's last in-person contact with the Child was approximately nine years ago when Child was eight months old. Father has not financially supported the Child. Father has not attempted to contact Mother to inquire

about the Child, nor has he asked to see the Child. Mother testified that she has attempted to reach out to Father through social media, with no success.

A parent has an affirmative duty to be part of a child's life; Father has clearly not met this affirmative duty. Father has not even shown a passive interest in the Child for most of the Child's life. Father failed to reach out to Mother to inquire about the Child despite knowing how to contact her. Father failed to play any role in the Child's life for the past nine years. 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 Child.

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 Child and has refused or failed to perform parental duties for a period far in excess of six months. 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 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 (citing **In re: Child M.**, 681 A.2d 793 (Pa. Super. 1996), appeal denied, 546 Pa. 674, 686 A.2d 1307 (1996)). 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, it is clear that Child has no bond with Father. The Child refers to Mother’s Husband as “Dad.” Father has not seen or spoken to the Child since she was eight months old. Termination of Father’s rights would not destroy an existing necessary and beneficial relationship as there currently exists no relationship between Father and the Child, and there has been no relationship between the two since the Child was approximately eight months old. Child is bonded to Mother’s Husband, who has been in Child’s life since she was two years old, and who is the only father-figure

the Child would know. It is evident to the Court that Mother's Husband loves and cares for Child and treats him as his own. Mother's Husband has stepped in and provided the love and support Child needs and has assumed the parental responsibilities that Father has utterly failed to perform and has evidenced a settled purpose of relinquishing.

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

**Conclusions of Law**

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

2. The Court finds that AP and BP have established by clear and convincing evidence that the developmental, physical and emotional needs and welfare of PRGB will best be served by termination of CS's parental rights.

Accordingly, the Court will enter the attached Decrees.

By the Court,

Joy Reynolds McCoy, Judge

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**DECREE**

**AND NOW**, this 29<sup>th</sup> day of **May, 2020**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of CS, held on May 29, 2020, it is hereby ORDERED and DECREED:

- (1) That the parental rights of CS 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 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