

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

**IN RE:** : **NO. 2021-6749**  
:   
**AMH,** :   
:   
**minor child** :

**OPINION AND ORDER**

**AND NOW**, this 11<sup>th</sup> day of **October, 2021**, before the Court is a Petition for Involuntary Termination of Parental Rights filed by Mother, SG, formerly known as SG, and her now-husband, CG, on May 27, 2021. Said petition is with regard to the rights to SG's child, AMH, born January 30, 2018. Mother and her husband seek to terminate the parental rights of the child's biological father, MH, as a prerequisite to having the child adopted by Mother's husband. The Petition for Involuntary Termination of Parental Rights was personally served upon MH on June 4, 2021. A pre-hearing conference on the Petition was held on July 6, 2021. Father appeared at the pre-hearing conference and indicated that he wished to contest the termination of his parental rights. Dance Drier, Esquire, of the Lycoming County Public Defender's Office, was appointed as counsel for Father. Dance Drier, Esquire, subsequently left employment with the Public Defenders Office and Jessica Feese, Esquire, took over representation of Father. Jennifer Ayers, Esquire, was appointed as counsel for the Child. A hearing on the Petition to Involuntarily Terminate Father's Parental Rights was held on October 5, 2021. SG and CG appeared and were represented by Sharon McLaughlin, Esquire. MH appeared and was represented by Jessica Feese, Esquire. Jennifer Ayers, Esquire, appeared as counsel for AMH.

**Finding of Facts**

1. AMH (“Child”) was born January 30, 2018. The Child currently resides with his Mother, SG (“Mother”) and Mother’s Husband, CG (“Husband”) at 301 Locust Street, Jersey Shore, Pennsylvania. Mother and Husband have been married since September 4, 2021.

2. The Child’s biological Father is MH (“Father”). Father resides at 311 North State Street, Millville, Pennsylvania.

3. At the time of the Child’s birth, Mother and Father were unmarried, but in a relationship.

4. When Mother returned to work after giving birth, Father stayed at home with the Child.

5. Mother and Father began having issues in their relationship when the Child was approximately 6 months old. The last time Mother and Father lived together was in July of 2019.

6. Father attended the Child’s doctor appointments until he was a year old.

7. Mother and Husband started dating in September 2019, and began residing together in November of 2019.

8. When Mother and Father separated, Father did not have transportation and would see the Child when Mother would pick him up or when his cousin would take him to Mother’s house.

9. Father had the Child for one overnight after the parties separated in 2019.

10. When Mother and Father first separated, they agreed that Father would pay Mother \$150 per month to help with day care expenses. Father testified that he stopped making this payment after a few months because Mother stopped allowing him to see the Child.

11. Father saw the Child around Easter of 2020. Father's cousin made the arrangements with Mother for the visit.

12. Father brought the Child gifts for Easter but had minimal other interactions with the Child during the visit.

13. Father next saw the Child in November of 2020, when Mother visited Father's cousin and Father was living there. Father did not request this visit, and Mother testified that he was more interested in his phone than interacting with the Child.

14. November 2020 was the last in-person contact Father had with the Child.

15. On February 2, 2021, Father sent Mother \$150, which Mother said would go towards the Child's insurance. (Ex. F2).

16. Father testified that he made payments of \$150 in January, February, and March of 2021.

17. In May of 2021, Mother attempted to notify Father about the Child's potential exposure to Covid. Mother testified that Father and his girlfriend reported her to the police and accused her of harassment. Mother further testified that upon the advice of the police, she blocked Father from her social media at that time, but that she did not block him from calling or texting her.

18. On May 27, 2021, Mother filed the Petition for Involuntary Termination of Parental Rights and Petition for Adoption.

19. Also on May 27, 2021, Mother filed a Complaint for Custody and Petition for Special Relief at Lycoming County docket #21-20467.

20. A custody conference was held on June 16, 2021. Mother attended and was represented by Sharon McLaughlin, Esquire. Father attended and was represented by John Gummo, Esquire.

21. Following the conference, a custody Order was entered on June 16, 2021, which granted Mother sole legal and physical custody. A pre-trial conference was scheduled for August 5, 2021, and subsequently continued until September 8, 2021.

22. However, on July 19, 2021, counsel for Mother and Father filed a Joint Stipulation to Stay Proceedings, and the pre-trial conference was canceled pending the outcome of the hearing on the Petition for Involuntary Termination of Parental Rights.

23. Mother and Father had multiple previous conversations about the possibility of Mother's Husband adopting the Child, with the last one occurring in August of 2020.

24. On August 5, 2021, Father texted Mother to ask about the Child. Mother responded that Father had the wrong number, despite the fact that the number Father texted was still her phone number.

25. The Child has not asked about Father since their last contact in November of 2020.

26. Father has not provided the Child with gifts or cards for Christmas or his birthday since the Mother and Father separated.

27. The Child refers to Mother's Husband as "Daddy." They have a very close relationship.

28. The Child refers to Father as "Mike." Father testified that he corrected the Child one time. Mother testified that Father refers to Mother's Husband as "Daddy" when speaking to the Child about him.

29. Mother's Husband desires to proceed with adopting the Child if the Petition for Involuntary Termination of Father's Parental Rights is granted.

**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 filing of the Petition for Involuntary Termination of 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 in excess of six (6) months. Father's last in-person contact with the Child was approximately 10 months ago, and that contact was neither requested nor arranged by Father.

A parent has an affirmative duty maintain a place of importance in a child's life and Father has clearly not met this affirmative duty. Although Father stayed home with the Child when Mother returned to work after his birth, Father has shown – at most - a passive interest in the Child for most of the Child's life. This Court is cognizant of the fact that Father has limited financial means, and transportation is an issue for him. However, Father saw the Child only two times in 2020, and neither visit was initiated by him. Father's one and only overnight with the Child occurred in 2019. Despite testifying that he made attempts to see the Child and was denied by Mother, Father never filed a Complaint for Custody to establish or enforce his custodial rights. Father was content to depend on Mother and/or his cousin to make arrangements for him to see the Child. Other than an occasional monetary contribution, Father has failed to perform any basic

parental duties for the Child such as feeding, bathing, and providing a safe and secure residence since the parties separated. During this time, Father was content to have someone else be responsible for attending the child's medical appointments, tucking him into bed each night, and comforting him when he was scared or hurt.

Father offers Exhibit F1 as evidence that Mother has placed obstacles in the way of him being a parent to the Child. Exhibit F1 is a series of text messages wherein Father inquires about the Child, and Mother responded that he had the wrong number. While this Court certainly does not condone Mother's actions, it is noteworthy that Father's attempt to contact Mother was on August 5, 2021, well after the filing of the Petition for Involuntary Termination of Parental Rights and at a time when Mother had sole legal and sole physical custody of the Child pursuant to the Order entered on June 16, 2021, and also after the stipulation of counsel to stay any further custody proceedings pending the outcome of this matter. Father testified that until that point he believed he had a good telephone number for Mother but did not attempt to contact her from at least May of 2021 until August of 2021.

This Court finds that Mother and her Husband have met their burden of establishing that Father has evidenced a settled purpose of relinquishing parental claim to the Child and has failed to perform parental duties for a period of at least six months prior to the filing of the Petition for Involuntary Termination of Parental Rights, pursuant to 23 Pa.C.S. §2511(a)(1).

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.

Counsel for Father argues that, although there is room for improvement, Father did try to see the Child and Mother's Husband will love and care for the Child regardless of whether the adoption is permitted to proceed, so this case would be more appropriately handled through a custody proceeding than a termination proceeding. The Guardian Ad Litem opined that the Child is too young to express a preference but it is obvious that the Child has three people who love him very much and agreed that this may be better suited for custody court. Unfortunately, a parent's love for the child is not the statutory standard this Court must consider when determining whether to terminate that parent's rights. 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 is under 4 years of age and has seen Father only a handful of times since Mother and Father separated approximately two years ago. The last time the Child had any in-person contact with Father was in November of 2020, almost 10 months ago and has not asked about Father during that time. The Child refers to Mother's Husband as "Daddy." Given the Child's age and the limited amount of time he has spent with Father, termination of Father's rights would not destroy an existing necessary and beneficial relationship, as there currently exists no real Father-Child bond. Child is bonded to Mother's Husband, who has been in Child's life since he was 1.5 years old, and who is the only father-figure the Child knows. 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 stability the Child deserves and has assumed the parental responsibilities that Father has 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 SG and CG have established by clear and convincing evidence that MH's parental rights should be involuntarily terminated pursuant to 23 Pa.C.S. §2511(a)(1).

2. The Court finds that SG and CG have established by clear and convincing evidence that the developmental, physical and emotional needs and welfare of AMH will best be served by termination of MH's parental rights.

Accordingly, the Court will enter the attached Decree.

By the Court,

Joy Reynolds McCoy, Judge

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**IN RE:** : **NO. 2021-6749**  
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:   
**minor child** :

**DECREE**

**AND NOW**, this 11<sup>th</sup> day of **October, 2021**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of MH, held on October 5, 2021, it is hereby ORDERED and DECREED:

- (1) That the parental rights of MH 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 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