

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

**IN RE:** : **NO. 2020-6726**  
:   
**JS,** :   
:   
**Minor child** :   
:

**OPINION AND ORDER**

**AND NOW**, this 6<sup>th</sup> day of **July, 2021**, before the Court is Lycoming County Children & Youth Services' ("Agency") Petition for Involuntary Termination of Parental Rights of LW ("Mother") filed on April 1, 2021, with regard to JS ("Child"). A hearing on the Petition for Involuntary Termination of Parental Rights was held on June 7, 2021, and June 28, 2021. Mother was present and represented by Trisha Hoover Jasper, Esquire. John Pietrovito, Esquire, Solicitor for the Agency, and Angela Lovecchio, Esquire, counsel for the Child, were also present at the hearings. SS ("Father") signed a Consent to Adopt on April 16, 2021, and was not present at the hearings. His counsel, Jeana Longo, Esquire, was excused from the proceedings.

**Findings of Facts**

JS was born on April 1, 2018. He is the child of SS, date of birth May 17, 1988, and LW, date of birth August 8, 1991. Mother and Father were not married at the time of the Child's birth.

The Agency has extensive history with this family, with whom they have been involved since 2015. The Agency's prior involvement resulted in the voluntary termination of Mother's parental rights to her two older children, one of whom was also Father's child. The Agency filed a Dependency Petition on July 22, 2019, alleging that

Mother was demonstrating the same pattern of neglectful parenting of the Child as she did with her two older children. More specifically, the Petition alleged that the Child had been diagnosed with Failure to Thrive, and Mother did not follow through with doctors' directions regarding the Child's milk intolerance. The Petition also alleged that Mother failed to pick up prescribed medications and formula for the Child in a timely manner and missed several scheduled medical appointments for the Child.

The Child was placed in the emergency custody of the Agency on July 31, 2019, due to Mother's lack of follow-through with medical treatment, housing, and parenting. A Shelter Care Hearing was held on August 2, 2020, at which time it was determined that sufficient evidence was presented to prove that return of the Child to the home of Mother and Father would not be in the Child's best interest.

A Dependency hearing was held on August 12, 2019, after which the Court adjudicated the Child dependent. The Court noted significant concerns in regard to Mother's lack of insight with regard to the Child's medical issues, and determined that she had not placed his medical needs as a priority. As the Court found that allowing the Child to remain in the home of Mother and Father would be contrary to the Child's welfare, legal and physical custody of the Child was to remain with the Agency and the Child was to remain the approved kinship home. Mother was directed to focus on feeding the Child by providing foods at visits that the Child can eat, to maintain suitable housing, continue to attend all medical appointments with the Child, maintain regular contact with the Agency, maintain contact with the Outreach worker, and continue to work with Expectations for Women.

A permanency review hearing was held on December 6, 2019. The Court noted that there had been moderate compliance with the permanency plan, in that Mother maintained suitable housing and had appropriate home conditions. Mother cooperated with Outreach services and consistently attended visits with the Child. Mother was found to have made some progress towards alleviating the circumstances which necessitated placement, but had made no efforts to secure employment. During this review period, Mother requested visits in her home and also requested overnight visits. Overnight visits were not approved but the Agency was directed to transition Mother's visits from the visitation center to supervised visits at Mother's home. 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.

A permanency review hearing was held on March 10, 2020. The Court found that there had been moderate compliance with the permanency plan by Mother and moderate progress towards alleviating the circumstances which necessitated the original placement. During the review period, Mother maintained her housing and continued to have appropriate home conditions, despite having sizeable outstanding utility bills. Mother was cooperative with Outreach services and attended all medical appointments for the Child. Mother enjoyed supervised visits in her home, and her care of the Child improved under the Agency's guidance, but the Guardian Ad Litem voiced concern about Mother's capability to independently care for the Child and requested that an evaluation be conducted by Dr. Denise Feger at Crossroads Counseling. The Court Ordered Mother to undergo the evaluation for the purpose of determining Mother's ability to properly care for the Child. The Court remained concerned about Mother's lack of employment, and her lack of knowledge of paying bills and budgeting.

Following the hearing, the Court reaffirmed dependency and legal and physical custody of the Child remained with the Agency for continued placement in his current foster home.

A permanency review hearing was held on June 29, 2020. The Court found that Mother had minimal compliance with the permanency plan and made minimal progress towards alleviating the circumstances which necessitated the original placement. During the review period, Mother maintained housing and continued to have appropriate home conditions. However, significant concerns were raised about Mother's behaviors during the pandemic, which included allowing multiple individuals to live in her house, failing to wear a mask, and not practicing social distancing, despite knowing that the Child has a compromised immune system. Mother failed to undergo the Court-ordered evaluation with Dr. Denise Feger, despite multiple attempts by Dr. Feger's office to contact her to schedule a video evaluation due to the pandemic. Additionally, although Mother was generally cooperative with Outreach services, Mother refused assistance to prepare for job searching and interviewing. The Court remained concerned about Mother's lack of motivation to obtain employment, and the impacted her limited income has on her ability to meet her financial obligations. Following the hearing, the Court reaffirmed dependency and legal and physical custody of the Child remained with the Agency for continued placement in his current foster home.

A permanency review hearing was held on September 15, 2020. The Court found that Mother had minimal compliance with the permanency plan and made minimal progress towards alleviating the circumstances which necessitated the original placement. During the review period, Mother maintained housing and continued to have appropriate home conditions; but Mother had no understanding of her living

expenses and relied completely on her father to handle the payment of her expenses. Mother was cooperative with Outreach Services. However, Mother was still not actively seeking employment and had limited income through Social Security. Mother no-showed six visits this review period and no-showed for two appointments with Dr. Feger prior to finally undergoing her evaluation. Following the hearing, the Court reaffirmed dependency and legal and physical custody of the Child remained with the Agency for continued placement in his current foster home. With some hesitation, the Court granted the Agency's Motion for Compelling reasons not to proceed with filing a petition to terminate parental rights. Mother was strongly encouraged to take action to accomplish the recommendations outlined in Dr. Feger's evaluation, and cautioned that if she did not become more proactive in addressing the areas of concern the Court would not see a basis to grant compelling reasons in the future.

A permanency review hearing was held on December 15, 2020. The Court found that Mother had moderate compliance with the permanency plan and made moderate progress towards alleviating the circumstances which necessitated the original placement. During the review period, Mother maintained housing and continued to have appropriate home conditions. Mother reported that she recently obtained employment, but had not begun working. In the limited opportunities that Mother had available due to Covid-19, Mother demonstrated improvement in feeding the Child appropriate foods with regard to his allergies. Following the hearing, the Court reaffirmed dependency and legal and physical custody of the Child remained with the Agency for continued placement in his current foster home. Mother was directed that prior to the next hearing she shall either obtain and start employment sufficient to

support herself and the Child or provide documentation that her disability income is sufficient to do so.

A permanency review hearing was held on March 12, 2021, and March 18, 2021. The Court found that Mother had moderate compliance with the permanency plan but made only minimal progress towards alleviating the circumstances which necessitated the original placement. During the review period, Mother maintained housing and continued to have appropriate home conditions. Mother consistently attended visits with the Child. Mother had not completed the neuropsychological evaluation or scheduled an appointment at CSG for a Peer Specialist, as recommended by Dr. Feger. The Court found that Mother was basically in the same position that she was in at the time of the last review hearing and that she continually failed to follow-through with items that the Agency has recommended and the Court has directed. Following the hearing, the Court reaffirmed dependency and legal and physical custody of the Child remained with the Agency for continued placement in his current foster home. The Court further found that there were no longer compelling reasons to not pursue termination of Mother's parental rights. The Court advised Mother that she was reaching a point in the case where the Agency most likely would be filing a petition to terminate her parental rights, and if she wished to prevent that, she needed to take immediate action and be 100 percent compliant with all of the directives that have been outlined by the Agency.

A permanency review hearing was held on April 16, 2021. The Court found that Mother had minimal compliance with the permanency plan and had made no progress towards alleviating the circumstances which necessitated the original placement, in that she continued to be at the same level of progress since the Child was placed. During the review period, Mother did verify her employment. However, her employment may

have been a factor in Mother missing some visits with the Child, which resulted in Mother being placed on call-in status with regard to visits. At visits, Mother had not made any significant improvements and continually needed prompting by the staff with regard to the food that she brings for the Child in light of his milk allergy. Mother had not obtained the neuropsychological evaluation and could not be referred to one until she found a primary physician. Mother had made no attempts to find a family physician, nor had she attempted to make arrangements for care for the Child if he was returned to her care. Following the hearing, the Court reaffirmed dependency and legal and physical custody of the Child remained with the Agency for continued placement in his current foster home.

The Agency filed a Petition for Involuntary Termination of Parental Rights on April 1, 2021. A Petition for Change of Goal to Adoption was filed on May 12, 2021. The Petition for Involuntary Termination alleged termination was warranted under 23 Pa.C.S. §2511(a)(1), (2), (5), and (8). The hearing on the Petition was held on June 7, 2021, and June 28, 2021.

### **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 Mother's parental rights, the Agency must prove by clear and convincing evidence one of the above subsections of 23 Pa.C.S. §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 Mother has been very vocal about her desire to maintain a place of importance in her Child's life and to have the Child returned to her custody. Mother's visits began as



“observed,” meaning that staff was always present/nearby to offer support and assistance as needed, and remained at that status at the time of the hearing. Mother visits with the Child 2 days per week for 2 hours at a time. For a short time, the visits occurred in Mother’s home under Agency supervision; however those visits were changed to video visits following an issue with bed bugs in Mother’s home and, later, due to Covid-19. In-person visits have resumed at the Agency’s family support center.

William Pearson, visitation caseworker for the Agency, testified that Mother’s strengths were her attendance rate, which was approximately 91% and that Mother and the Child had a nice relationship and enjoyed each other’s company. Due to several no-shows at the scheduled visitation time, the Agency notified Mother by letter dated August 31, 2020, that she was required to call the Agency prior to each visit to notify them of her intent to attend the visit. Because her visit on Thursday mornings is scheduled to begin at 8:00 a.m., Mother is required to notify the agency by 4:30 p.m. on Wednesday if she plans to attend. Recently, Mother has missed visits on Thursday morning because she has failed to call in on Wednesday. Mother has attributed her failure to make this call to having to work late at her job.

Given the fact that Mother has requested expanded visits at every permanency review hearing and overall had a very consistent visitation attendance, this Court does not find that she has demonstrated a settled purpose of relinquishing parental claim to the Child. However, grounds for termination under 23 Pa.C.S. 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 placed in his current resource home on July 31, 2019, following the Agency's request for emergency custody due to continued medical concerns, such as lack of weight gain, missed medical appointments, and failure to pick up prescription formula and peptides. Given his young age, the Child's greatest needs have been food, shelter, clothing, medical care, and comfort. The child has a severe milk allergy, and therefore careful consideration and attention must be given to his food choices to ensure that he is appropriately fed. In order to satisfy his obligation to perform parental duties, Mother would have to feed the Child foods that are free of milk and milk by-products, provide stable housing, make and attend medical appointments, provide financial support for the Child, and comfort him when he was sick or scared. The Child was removed from Mother's care because she was not performing these parental duties adequately and

consistently enough to ensure his safety. Since he has been in care, Mother's performance of parental duties has been limited to a maximum of 4 hours per week while attending visitation at the Agency. Although Mr. Pearson testified that Mother has supplied safe supervision and appropriate redirection during the visits, he acknowledged that it has been nearly 2 years since the visits started and it took Mother nearly that long to grasp how serious the Child's milk allergy is, and how to read labels to ensure that she is not providing him with foods that have milk or milk by-products as an ingredient. As Mother's visits have not progressed beyond the "observed" status, and they have never been expanded beyond 4 hours per week, Mother cannot be said to have performed her parental duties. The Court hereby finds by clear and convincing evidence that the Agency has fulfilled the requirements of 23 Pa.C.S. §2511(a)(1) in that Mother has failed to perform her 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 Mother, 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).

For the duration of the dependency case, Mother has maintained that she wants the Child to be returned to her custody and care. However, at each of the permanency review hearings, the Court found that Mother made only minimal or moderate progress towards reunification with the Child.

Bruce Anderson, licensed psychologist under contract with the Agency, performed an evaluation of Mother on October 21, 2020. Mr. Anderson indicated that Mother’s ability to abstract was rather limited. He testified that this means when the Child presents with difficult or different issues or behaviors, Mother may experience difficulties figuring out what to do. He opined that Mother may become overwhelmed when the needs of the Child go beyond the normal routine, and that only if Mother has full-time support and not just occasional service providers would she be capable of handling these challenges. Mr. Anderson recommended that Mother continue working with her Outreach worker to maintain suitable and appropriate housing, continue having her Father be her payee and assist her with payment of her expenses, and seek the assistance of the Office of Vocational Rehabilitation (OVR) if she wished to obtain employment. Additionally, an addendum to the report included the recommendation that Mother obtain a neuropsychological evaluation, which may

have shed light on the root causes of Mother's inability to follow-through with things and learn from her past mistakes when it comes to appropriately caring for her children.

In March of 2020, Mother was ordered to undergo a behavioral health assessment with Dr. Denise Feger of Crossroads Counseling. At the time of the permanency review hearing in June 2020, Mother still had not completed the evaluation. Dr. Feger testified that her office remained open during the entire pandemic for virtual services but that they had a difficult time getting ahold of Mother. Mother no-showed 2 previously scheduled appointments before finally attending the evaluation on September 4, 2020. Dr. Feger testified that the purpose of the evaluation was to determine whether Mother has the ability to independently care for the Child. Among other things, Dr. Feger recommended that Mother do the following:

1. Obtain a peer specialist
2. Engage in OVR services
3. Engage in out-patient counseling
4. Obtain a mental health intake
5. Create a partnership with the foster parents
6. Continue with Outreach services to address parenting and protective capacity
7. Obtain a neuropsychological evaluation

"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). Aimee Gatzke, Agency caseworker, testified regarding the goals established for Mother in the service plan and Dr. Feger’s recommendations and the level of progress Mother made towards achieving those goals. Regarding the need for safe and stable housing, Ms. Gatzke testified that Mother was able to maintain her housing. However, there was an issue with bed bugs in Mother’s home which Mother became aware of in November of 2020 but did not address until February of 2021. Additionally, Mother’s finances are managed by her father as her payee, and while her rent is current, her limited Social Security income does not leave Mother with sufficient income to pay all her expenses. Mother has no understanding of her actual expenses beyond her rent, and for much of the length of her involvement with the Agency lacked the motivation to obtain employment to supplement her Social Security income. Despite repeated recommendations by her Outreach worker, ongoing caseworker, and Dr. Feger to engage the services of OVR, Mother never followed through with making an appointment, and testified that she obtained employment on her own. Mother failed to understand that the recommendation was made so Mother could receive assistance finding not just a job, but sustainable employment that will not interfere with her government benefits and allow her to adequately provide for her own needs and those of the Child.

Mother did not follow-through with the recommendation that she form a partnership with the foster family. Although both Mother and the foster mother testified that Mother’s communication has increased to approximately one time

per week, the conversations were often superficial and repetitive, and not frequent enough for Mother to gain an understanding of what the foster parents have done to resolve/manage the Child's medical and dietary needs. Mother testified that she turned in the paperwork to obtain a peer specialist but has "gotten nowhere" with it. Mother did not attempt to schedule counseling until March of 2021 despite being recommended to do so in September of 2020. Mother still has not undergone the neuropsychological evaluation that was recommended. When questioned about her lack of urgency to accomplish these tasks and her lack of follow-through, Mother is unable to provide an explanation.

Although Mother wants custody of the Child returned to her and says she is willing to continue to work towards reunification, "[i]t is not enough that [Mother] pledges to do more in the future. Once the [Mother] has abandoned parental control through [her] own actions, it is not enough for [her] 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). The Child has been in placement nearly 23 months, and Mother has not been able to make significant progress in addressing the incapacities which caused the Child to be removed from her care. Given Mother's past history and her continued inability to follow-through with actions necessary to address her own needs while simultaneously ensuring that the Child's needs are met consistently and appropriately, this Court finds that she has not remedied these incapacities within a reasonable amount of time and will likely be unable to remedy them in the future. Although Mother does not appear to be intentionally malicious or abusive in her actions, there is significant concern about the inordinate amount of time it has taken Mother to take any steps to be

reunified with her Child. This Court is unwilling to further delay the Child's permanency based on Mother's intention to 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. §2511(a)(2) by demonstrating Mothers repeated and continued incapacity has caused the Child to be without essential parental control or subsistence necessary for his physical and mental well-being.

"Termination of parental rights under Pa.C.S. § 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. § 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.

The Court finds that the Agency has proven by clear and convincing evidence that grounds for termination of Mother’s parental rights exist under both Sections 2511(a)(5) and (8). The Child was removed from the home and placed in the legal and physical custody of the Agency on July 31, 2019, and has been in Agency’s custody ever since. The Child had been removed from his Mother’s care for approximately 20 months at the time of the filing of the Petition for Involuntary Termination of Parental Rights. At each of the permanency review hearings for the Child, Mother was found to have only minimal to moderate compliance with the permanency plan and made no substantial progress towards alleviating the conditions which necessitated the Child’s placement. As described above, Mother continues to experience the same difficulties meeting both her and the Child’s needs as she did at the time of placement, despite numerous attempts by the Agency to connect her with services designed to enable and empower her to do so. Meanwhile, the Child has had his basic needs met by his resource family, and has flourished with proper medical care and nutrition, love, and support. It is clear to this Court that termination of Mother’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. §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. It is clear to this Court that Mother loves the Child, and desires to have him returned to her custody. 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).

Dr. Feger testified that there is a bond between Mother and the Child, and that the Child identifies Mother as his "mommy." However, Dr. Feger's evaluation and subsequent testimony at the hearing explained that the Child does not view her as "mommy" in the traditional sense because his relationship with Mother is not one that

relates to a primary caretaker. Child spends only a couple hours per week with Mother, and their time together is always supervised. Mother cares for the Child “moderately superficially” in the visitation setting but there are a secondary set of caregivers – the foster parents – who have served a far greater role for the Child. Essentially, the relationship between Mother and Child equates to that of an occasional child-care provider or babysitter.

Additionally, the existence of some bond with Mother does not necessarily defeat termination of her parental rights. In re K.Z.S., 946 A.2d, 753, 764 (Pa.Super. 2008). The question becomes whether the bond between the Child and Mother is the *one worth saving* or whether it could be sacrificed without irreparable harm to the Child. Id. (emphasis added). The Child is currently in a loving and stable home, with two of his biological siblings. When the Child was removed from Mother’s care at approximately 15 months of age, he was behind on his gross motor skills, had extremely high lead content in his blood, had chronic ear infections, and was extremely underweight. Within two months of being placed in this foster home, the Child began walking and had gained sufficient weight that he no longer needed to have weight checks. The Child’s foster mother testified that they did nothing out of the ordinary – they simply made and attended the Child’s medical appointments and monitored his diet to avoid lactose. This type of consistency and follow-through that has allowed the Child to thrive while in their care is exactly what Mother lacks the ability to achieve.

Mother has been offered numerous services by the Agency since her initial involvement in 2015. These services were designed to assist Mother with obtaining stable housing and maintaining home conditions, basic parenting, budgeting, connecting with community resources, and follow-through. The Child has been in this

placement for approximately 23 months, and is in a loving and stable home where all his needs are met. Dr. Feger testified that from a clinical standpoint it would be at least 1-2 additional years before Mother could achieve reunification, and the environment in which he would be placed if reunification efforts are successful does not parallel his current environment.

The foster parents have provided everything the Child needs and this has naturally established a bond and attachment between the Child and the individuals whom he identifies as his primary caretakers. There are significant concerns about Mother's ability to address her own needs and simultaneously establish a protective capacity to ensure a safe and secure environment for the Child. Mother's history may be the most accurate prediction of her future and the Child's permanency cannot and should not be delayed until Mother gains the skills necessary to independently and consistently provide appropriate care for the Child. The Child is clearly bonded with the resource parents, who have provided for his physical and emotional needs for approximately half of his life, and who are willing to offer him permanency. Although there is a bond between Mother and Child that would require some explanation as to the absence of his "mommy," the Court is satisfied that termination of Mother's parental rights would not cause irreparable harm to the Child. This Court further finds that permanency in the form of adoption by those who have met his needs since July 31, 2019, 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 LW, 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 LW, 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 her 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 LW'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 Mother'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 LW'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 Mother'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, although a bond currently exists between LW and the Child, the Child does not identify Mother as his primary caretaker and will not suffer irreparable harm if

the bond is severed. The Court further finds that the developmental, physical and emotional needs and welfare of the Child will be best served by the termination of Mother's 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. 2020-6726**  
:   
**JS,** :   
:   
**Minor child** :   
:

**DECREE**

**AND NOW**, this 6<sup>th</sup> day of **July, 2021**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of LW, held on June 7, 2021, and June 28, 2021, it is hereby ORDERED and DECREED:

- (1) That the parental rights of LW 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 mother.

**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