

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

**IN RE:** : **NO. 2020-6725**  
:   
**AS,** :   
:   
**Minor child** :   
:

**OPINION AND ORDER**

**AND NOW**, this 30<sup>th</sup> day of **March, 2021**, before the Court is VD's and CD's ("Petitioners") Amended Petition for Involuntary Termination of Parental Rights of PK ("Father") filed on January 8, 2021,<sup>1</sup> with regard to AS ("Child"). Because Father was unable to be located despite Petitioners' Counsel's efforts, the Court ordered that Father be served with notice of the pre-trial conference and the hearing on the Petition for Involuntary Termination of Parental Rights by publication. An Affidavit of Service was filed and marked as Exhibit A at the termination hearing held March 29, 2021. At the time of the hearing, Petitioners were present and represented by Trisha Jasper, Esquire and Father, despite proper service, failed to appear. JS ("Mother") signed a Consent to Adoption on October 23, 2020 and did not appear at the termination hearing.

**Findings of Facts**

The Child was born on September 30, 2015. Father has only recently been identified by Mother who indicated she believed he was last residing in Washington County, Pennsylvania. Despite their best efforts to locate and contact Father, Petitioners have been unable to do so. Father has never been involved in the Child's life

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<sup>1</sup> Petitioners initially filed their Petition for Involuntary Termination of Parental Rights on December 2, 2020. At that time, the identity of the Child's biological father was unknown. By Order dated December 7, 2020, the Court indicated it would not proceed on the Petition for Involuntary Termination of Parental Rights or the Petition to Confirm the Consent signed by Mother until it is satisfied that the father is unknown. At the hearing held on January 5, 2021, PK was identified as the biological father of the Child.

and there was no evidence presented that Father has ever even met or spoken with the Child. The Child has resided with the Petitioners since December 13, 2019. Petitioners testified that they have never received contact from Father or any other person claiming to be the Child's biological father.

**Discussion**

Petitioners 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.

In order to involuntarily terminate parental rights, Petitioners must prove the above subsection by clear and convincing evidence.

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).

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).

Father has never been involved in any way with the Child, who is five and a half years old. Because he has never been involved, he also has never fed, bathed, dressed, or in any way cared for the Child in over five years. The Court hereby finds by clear and convincing evidence that the Petitioners have fulfilled the requirements of 23 Pa.C.S. §2511(a)(1) in that Father has evidenced a settled purpose to relinquish his parental claim to the Child *and* failed to perform their parental duties for at least six months prior to the filing of the termination petition.

As the Court has found that statutory grounds for termination have been met under 23 Pa. C.S. §2511(a)(1), 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). 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).

As Father has never met or spoken with the Child, there is no bond that could have possibly formed between the Child and Father. The Court is satisfied that termination of Father's parental rights would not destroy an existing bond or cause any trauma to the Child and that permanency in the form of adoption by those who have met her needs since the time of her birth is in the best interest of the Child.

**Conclusions of Law**

1. The Court finds that the Petitioners have established by clear and convincing evidence that PK, by conduct continuing for a period of at least six months immediately preceding the filing of the petition has evidenced a settled purpose to relinquish parental claim to the Child and has failed to perform parental duties pursuant to 23 Pa.C.S. §2511(a)(1).

2. The Court finds that the Petitioners have established by clear and convincing evidence that no bond exists between PK 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,

Ryan M. Tira, Judge

CC: Trisha Jasper, Esq.  
PK

*Petitioners to serve pursuant to the Order dated January 14, 2021*  
Alexandra Sholley – Judge Tira's Office  
Gary Weber, Esq.

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**DECREE**

**AND NOW**, this 30<sup>th</sup> day of **March, 2021**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of PK, held on March 29, 2021, it is hereby ORDERED and DECREED:

- (1) That the parental rights of PK 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,

Ryan M. Tira, Judge

CC: Trisha Jasper, Esq.  
PK

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