

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

IN RE: : **NO. 2021-6756**
:
SK, :
:
Minor child :

IN RE: : **NO. 2021-6756**
:
PK, :
:
Minor child :

OPINION AND ORDER

AND NOW, this 24th day of **January, 2022**, before the Court is Lycoming County Children & Youth Services' ("Agency") Petition for Involuntary Termination of Parental Rights of KU-M ("Mother") and RK ("Father"), and a Petition for Change of Goal to Adoption, both filed on July 13, 2021, with regard to SK and PK ("Children"). A pre-trial conference was held on July 23, 2021, at which time Angela Lovecchio, Esquire, Guardian Ad Litem for the Children in their dependency cases, was appointed as legal counsel for the Children in this matter. Additionally, on July 27, 2021, an Order was entered at the request of the parents directing Dr. Denise Feger to complete bonding assessments between Mother and the Children and Father and the Children.

On September 10, 2021, counsel for Father, Trisha Hoover Jasper, Esquire, filed a Preliminary Objection to the Petition for Involuntary Termination, indicating that the Agency was required to file separate Petitions for each Child. This Court granted the Preliminary Objection in part and required the Agency to file two separate Petitions for Involuntary Termination no later than October 8, 2021. On October 8, 2021, the Agency filed an Amended Petition for Involuntary Termination of Parental Rights for each Child.

A hearing on the Petition for Involuntary Termination of Parental Rights was held on January 7, 2022, and January 10, 2022. Mother was present and represented by Tiffani Kase, Esquire, and Father was present and represented by Trisha Hoover Jasper, Esquire. John Pietrovito, Esquire, Solicitor for the Agency, and Angela Lovecchio, Esquire, counsel for the Children, 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, Father expressed his desire to voluntarily relinquish his parental rights. Father 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 Father would revoke his consent within the 30 day window, the Agency required Father to admit to the allegations contained in the original Petition for Involuntary Termination of Parental Rights as well as the two Amended Petitions for Involuntary Termination of Parental Rights. Further, Father indicated that he had no objection to the admission of any of the Agency's Exhibits. Father stipulated, on the record, that if testimony was presented, the Agency would have met its burden of clear and convincing evidence under all 4 subsections of 23 Pa.C.S. §2511(a) for which the Agency seeks to terminate his parental rights. Father also admitted that the Agency would have met its burden under 23 Pa.C.S. §2511(b). Father provided a handwritten letter, which this Court made part of the record. Father and his counsel were subsequently excused from the remainder of the proceedings.

As Father signed a Consent to Adopt and, in the alternative, stipulated that the Agency would have proven that statutory grounds exist to terminate his parental rights, this Opinion and Order shall focus solely on Mother, and whether the Agency has

established by clear and convincing evidence that her parental rights should be terminated.

Findings of Facts

SK was born on November 24, 2016. PK was born on June 8, 2018. They are the children of KU-M, born on January 28, 1993, and RK, born on May 3, 1986. Mother and Father were not married at the time of either child's birth.

The Agency became involved with this family following an incident on June 15, 2020, where Mother followed Father and rammed into his vehicle while the Children were in her car. A safety plan was implemented by the Agency on June 17, 2020, under which Mother's friend was to ensure that Mother had no unsupervised contact with the Children. By June 26, 2020, the safety plan was no longer feasible and the Agency was granted emergency protective custody and it was anticipated that the Children would be placed with Father, who had very recently moved to South Carolina. The entirety of the Dependency matters, docketed in Lycoming County as #DP-25-2020 and #DP-26-2020, have been incorporated into the record for the present case.

A Shelter Care hearing was held on June 29, 2020. During this hearing, information came to light about a previous involuntary termination of Father's parental rights to another child, as well as his history of drug use. It was determined that allowing the Children to remain in the home of either Mother or Father was not in the Children's best interest and the Agency was directed to find a resource home for the Children by the end of the day.

Dependency Petitions were filed on June 30, 2020, and amended on July 6, 2020, alleging that the Children were without proper parental care or control necessary for their physical, mental, and emotional health. A hearing was held on July 9, 2020,

after which the Court found that clear and convincing evidence existed to substantiate the allegations set forth in the Petitions. In her Recommendation for Adjudication and Disposition, the Hearing Officer included a lengthy section entitled "Additional Findings." In this section, the Hearing Officer's concerns with Mother included the need to learn to safely parent the Children and prioritize their safety; addressing her mental health; and finding appropriate housing for the Children. Mother was ordered to undergo a psychological evaluation and encouraged to participate in Outreach services to help her address these needs. The Hearing Officer noted Mother's apparent obsession with Father and its negative effect on her ability to parent the Children, and suggested that they attend couples counseling if they wished to continue to be in a relationship. As the Court found that allowing the Children to remain in Mother's or Father's home would be contrary to their welfare, legal and physical custody of the Children was to remain with the Agency and the Children were to remain in the kinship home of Tracey and Michael Paternostro.

A permanency review hearing was held on October 13, 2020. The Court noted that Mother had been in moderate compliance with the permanency plan, in that she had an intake for counseling on July 20, 2020, and began counseling for anger and aggression on August 11, 2020. Mother also obtained, with the assistance of the Agency, new housing in July of 2020, and had been involved with Outreach services for parenting. During this review period, Mother's visits started out as 1 time per week for 1 hour at the Family Support Center. On August 18, 2020, they were increased to 2 times per week for one hour each. On September 29, 2020, visits were increased to 2 times per week for 2 hours each. Mother attended all 16 of her visits during this review period. Following the hearing, the Court reaffirmed dependency and the Children remained in

the legal and physical custody of the Agency with continued placement in their kinship resource home.

A permanency review hearing was held on January 7, 2021. The Hearing Officer found that there had been moderate compliance with the permanency plan, in that Mother had been cooperative with the Agency, attended counseling and medication management at Crossroads, and attended 100% of her visits with the Children. The Hearing Officer found that Mother had made moderate progress toward alleviating the circumstances which necessitated placement through her participation in Outreach services, her continued employment, and demonstrating adequate parenting skills.

However, the Hearing Officer noted that Mother continued to prioritize her toxic relationship with Father over the interests of the Children. During this review period, Mother and Father were living together and had been granted in-home unsupervised visits with the Children. Unfortunately, on Christmas Eve 2020, which was to be their first overnight visit, Mother and Father engaged in a verbal altercation, which escalated into Father becoming physically aggressive and flipping over a table on which the Christmas tree was sitting. Father livestreamed the entire argument on Facebook. The Children were in a bedroom while this altercation was occurring, and remained there until Father left the home. The Agency was made aware of the altercation and the Facebook post on December 28, 2020, and the ongoing caseworker, Samantha Group, and Outreach worker, Barbie Barnes, set up a meeting with Mother and Father on December 29, 2020. Father refused to participate in this meeting, which caused another verbal argument between him and Mother. Prior to leaving, Father retrieved a weapon off the wall and swung it in a threatening manner and nearly hit caseworker Group in the head. Mother disclosed that she and Father had been having altercations for the past

few months, and that they were escalating to the point she was afraid for her safety. When offered assistance with obtaining a Protection from Abuse Order, Mother initially agreed but did not follow through. Instead, Mother invited Father back into the home the next day, as witnessed by Outreach worker Barnes. Following this hearing, the Hearing Officer found that placement of the Children continued to be necessary and appropriate, and reaffirmed dependency, with the Children remaining in the legal and physical custody of the Agency.

A permanency review hearing was held on March 3, 2021. The Court found Mother had moderate compliance with the permanency plan, in that she had maintained stable housing, continued her counseling and medication management services, and was involved in Outreach services. Mother again had 100% attendance at her visitations. Due to her involvement in these services, the Court found Mother to have made moderate progress toward alleviating the circumstances which necessitated the original placement. However, this Court *again* expressed serious concern with Mother and Father's relationship and its impact on the Children. Mother continued to express a desire to reconcile with Father and raise the Children as a single family unit. Mother's and Father's expectations for the relationship differed vastly, and the Court cautioned Mother that if she continued to have her goals include Father as her significant other as part of a single family unit, it was doubtful she would ever be able to alleviate the circumstances that necessitated the placement of the Children. Following the hearing, the Court reaffirmed dependency and the Children remained in the legal and physical custody of the Agency with continued placement in their kinship resource home.

A permanency review hearing was held on June 2, 2021. The Court found there had been moderate compliance with the permanency plan, in that Mother maintained

stable housing and employment, continued to be involved and engaged in Outreach services, and attended 100% of her visits. Again, however, the Court expressed concern about Mother's and Father's relationship, as there was another incident that occurred on May 13, 2021, although the parties reconciled shortly thereafter and resumed residing together. The Court cautioned Mother and Father that they were at a significant crossroads in their case, and cautioned them that if they continued to have a volatile relationship or continued to exhibit frequent disruptions in their relationship, or failed to follow through with counseling and other services put into place, it was likely that the Agency would consider pursuing termination of their parental rights. Both parents were informed that they should participate in their couples counseling and cooperate with Outreach services. Following the hearing, the Court reaffirmed dependency and the Children remained in the legal and physical custody of the Agency with continued placement in their kinship resource home.

On July 13, 2021, 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).

A permanency review hearing was held on November 24, 2021. Mother was found to have substantial compliance with the permanency plan, in that she maintained employment and suitable housing for the Children, attended counseling, participated in Outreach services, and attended 100% of her visits, at which she demonstrated good parenting. Unfortunately, Mother was found to have minimal progress towards alleviating the circumstances which necessitated the original placement, in that she continued to be in a volatile relationship with Father and continued to prioritize her

relationship with him over the needs and interests of the Children. At the beginning of this review period, Mother had been having visits with the Children in her home, but they were again moved back to the Family Support Center when Father moved back into the home with her. There was a verbal altercation at the home in late July 2021 where law enforcement responded, although there were no charges filed. In September 2021, Father livestreamed another verbal altercation with a great deal of yelling and profanity on Facebook. Mother repeatedly told Father to leave the home and made several threats to call the police; however, she never followed through.

Mother and Father indicated they separated again in October 2021, and they started having separate visits with the Children on October 26, 2021. Despite Mother's contention that she was done with the relationship with Father, she continued to provide Father with reminders of and rides to his visits. Father and Mother were spotted by caseworker Group kissing in Mother's car on November 22, 2021 prior to Father's visit that day. Following the hearing, the Court reaffirmed dependency and the Children remained in the legal and physical custody of the Agency with continued placement in their kinship resource home.

The hearing on the Petition for Involuntary Termination of Parental Rights was scheduled for January 7, 2022, and January 10, 2022. As noted above, Father signed a Consent to Adopt on January 7, 2022, 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 Father's rights should be involuntarily terminated pursuant to 23 Pa.C.S. §2511 (a) and (b). At the hearing, the Court heard testimony from Mother's current caseworker, her current Outreach worker, and the foster mother that they continued to have doubts about Mother's honesty with regard to her relationship

with Father and her assertion that she has terminated it for good. On December 15, 2021, there was yet another altercation at Father's new residence where the police were called. As recently as the week of the hearing, Mother admitted to having provided Father a ride to his visit despite having a suspended driver's license.

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.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 Mother has not demonstrated a settled purpose to relinquish her parental claim to the Children. To the contrary, Mother has been very vocal about her desire to maintain a place of importance in the Children's lives, and to be reunified with the Children. Mother evidenced this by attending 100% of her visits with the Children, maintaining employment and housing, and engaging in counseling.

This Court commends Mother's efforts to engage in the services necessary to address her mental health issues and enable her to learn to safely parent the Children, and it is evident to the Court that Mother 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 Children were four and two at the time they were removed from Mother's care. For the duration of their time in placement, the Children's greatest needs have been food, shelter, clothing, medical care, and comfort. Thus, in order to satisfy her obligation to perform parental duties, Mother would have to consistently provide for the Children's basic needs such as providing a roof over their heads and meals on the table. Additionally, Mother would need to provide the intangibles for the Children, such as tucking them into bed at night and comforting them when they are sick or scared. Mother's performance of these parental duties has been limited to 2-4 hours each week during their scheduled visits. The Children have had to rely on their resource family to provide for the vast majority of their physical and emotional needs for the past 18 months.

Visiting with the Children for 2-4 hours per week is insufficient to satisfy Mother's obligation to perform parental duties and to establish and maintain a place of importance in the Children's lives. This is especially notable because on two occasions Mother had progressed to the point that she was having visits in her home, unsupervised, and forfeited those in-home visits so that she and Father could visit with the Children together, which was only possible if they returned to the Family Support Center. Mother put performing her parental duties on hold in favor of maintaining a relationship with Father. 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 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).

This case is unique in that Mother has been largely compliant with the permanency plan since the Children were removed from her care. Mother obtained and maintained suitable and safe housing and has been consistently employed. Mother has attended individual counseling to address her mental health issues. She has been engaged and cooperative with Outreach services. However, Mother's and Father's toxic relationship has been a concern since the Agency became involved with the family. At every single permanency review hearing the Court noted in its Order that Mother's relationship with Father was toxic and, in many ways, an impediment to her reunification with the Children.

Although Mother insists she has terminated the relationship with Father for good, and is ready to move forward with reunification on her own, "[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). "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). Mother has exhibited a pattern of

repeatedly asserting that she and Father are no longer in a relationship, only to be back together within a matter of weeks each time.

This Court heard an abundance of testimony regarding Mother's lengthy history of prioritizing her relationship with Father over the needs of her Children and being dishonest with herself and her service providers regarding the status of their relationship. Mother's assertion that she is "done" with the relationship is not credible and, even if genuine, comes too late. This Court is unwilling to further delay the Children's permanency based on Mother's promise that she now is willing to end her relationship with Father and focus on reunification with her Children on her own. The Court finds by clear and convincing evidence that the Agency has fulfilled 23 Pa.C.S.A. §2511(a)(2) by demonstrating Mother's repeated and continued incapacity has caused the Children 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.

Since the Children were removed from the home, Mother has been offered both services and encouragement by the Agency to focus on herself and her own reunification with the Children, and to break free of the cycle of domestic abuse she was in with Father. Mother’s original Outreach caseworker, Barbie Barnes, testified that Mother and Father were on track to be reunified with the Children in January of 2021, but Mother and Father had an explosive argument on Christmas Eve 2020 while the Children were present. Father streamed the incident on Facebook Live. When Father started to destroy the living room, instead of leaving with the Children Mother took them to a bedroom and returned to the living room to engage in the altercation with Father. The video of this incident was admitted as Exhibit A59. It was disturbing to watch the incident between Mother and Father. Though the incident never became physical, it consisted of several minutes of Mother and Father yelling back and forth at each

other. It was very uncomfortable and unsettling to observe the altercation between the parents. The Court cannot begin to imagine the trauma and fear the Children experienced being in the same trailer with their parents while this incident ensued. When the Agency became aware of the situation (due to Father posting the argument on Facebook Live), the caseworker and the Outreach worker made arrangements to meet with Mother and Father. Father was agitated and refused to participate in the meeting, which caused further conflict between Mother and Father, to the point where Father grabbed a weapon off the wall and swung it, almost hitting the caseworker in the head as he left. Outreach worker Barbie Barnes testified that she and caseworker Group referred Mother to Wise Options to obtain a PFA against Father, and made arrangements for Mother's friend to stay the night with her to ensure her safety. Mother did make the call to Wise Options that day, but never followed through with an appointment. Furthermore, Outreach worker Barnes testified that she was unable to reach Mother by telephone the following day so she went back to the residence to check on her and saw Father on the porch drinking coffee. When she confronted Mother about this, Mother denied that he was present at the house.

In July of 2001, there was a disturbance at the home of Mother and Father and the police were called. In September 2021, another altercation occurred between Mother and Father, which Father again posted on Facebook Live. The video, admitted into evidence as Exhibit A59, was several minutes long and involved both Mother and Father screaming at each other. Mother repeatedly told Father she wanted him to leave and threatened to call the police if he did not. Mother never followed through with her threats and the parties continued to

reside together following the altercation. On December 15, 2021, there was another incident at Father's new home and the police were called again. Caseworker Heidi Porter testified that there was no physical violence during this incident but there was a lot of yelling and Mother and Father had to be separated. One week after the incident, Mother again informed her caseworker that she was having no contact with Father; however, as recently as the week before the hearing on the Petition for Involuntary Termination, Mother was still providing rides to Father for his visits.

It is clear that the main condition which necessitated the Children's placement continues to exist. At each of the permanency review hearings for the Children, Mother was found to have moderate compliance with the permanency plan and never achieved more than moderate progress towards alleviating the conditions which necessitated the Children's placement. In fact, at the last permanency review hearing, Mother was found to have made only minimal progress, and this was entirely due to the fact that Mother continued to be in a volatile relationship with Father and prioritized her relationship with him over the needs of the Children. Resources were made available to Mother throughout the dependency proceeding, which, if utilized, would have afforded Mother the opportunity to be reunified with the Children; however, Mother did not take advantage of them to enable herself to break free of the toxic relationship that impeded her ability to safely parent the Children. Each of Mother's caseworkers, Outreach workers, and even her therapist have told Mother that continuing contact with Father affects her mental health and is an impediment to being reunified with the Children. Each of these individuals also expressed doubt that

Mother is truthful about her intention - or realistic about her ability - to fully terminate her relationship with Father. This Court is sympathetic to Mother's desire to be reunified with the Children as an intact family; however, Father was putting forth no effort and making no progress and Mother had an unhealthy fixation with ensuring he met his goals. While Mother was fixated on being "supportive" of Father, she was unable to support the Children by providing food, clothing, comfort, and a safe, stable home free from domestic violence. The Children have relied upon their resource family for those basic necessities for the past 18 months, where they have been provided with safety and stability. The resource parents are ready, willing, and able to offer that stability permanently in the form of adoption. It is clear to this Court that the Children are in a loving, stable environment and their permanency should not be delayed any further based upon Mother's promise that she is willing to make a final break from Father. At this point, the Court is convinced that termination of Mother's parental rights would best serve the needs and welfare of the Children.

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)). In this case, Mother and Father requested a bonding assessment, which this Court Ordered to be completed by Dr. Denise Feger. Said evaluation was completed on November 10, 2021, the report of which was entered into evidence as Exhibit A60.

“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 Mother loves the Children, and wants to be reunified with them. 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).

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 Children and Mother is the *one*

worth saving or whether it could be sacrificed without irreparable harm to the Children. **Id.** (emphasis added). Dr. Feger, in both her report and her testimony at the time of the hearing, indicated that it is apparent that the Children share a bond with Mother; however, Mother serves a secondary role in the Children's lives. The bond between Mother and the Children is "fragmented" given the history of placement of the Children and Mother's limited ability to assume the role as their primary caregiver due to her volatile and codependent relationship with Father.

Although Mother testified that she intends to give the Children a loving and stable home on her own without Father, the Court attributes great weight to the testimony of Mother's caseworkers, Outreach workers, Dr. Feger, and Mother's counselor – all of whom indicated that they do not believe that Mother has been transparent about the status of her relationship with Father or her intention to permanently terminate the relationship. A parent can best establish and maintain a healthy bond with a child by providing for their basic needs as well as the intangibles, *with consistency*. On two separate occasions, Mother was having visitation with the Children in her home and progressing towards reunification and she forfeited those in-home visits while trying to maintain a relationship with Father. While Mother was attempting to preserve a volatile relationship with Father for the past 18 months, she was precluded from consistently performing parental duties for the Children. During that time, the Children have lived "uninterrupted" with the resource parents, who provided them with the basic necessities, such as food, clothing, and a safe home free from domestic violence. Naturally, given the age of the Children and the length of time they have been removed from Mother's care, they have shifted away from relying on Mother as a primary caregiver to relying on the resource parents as their primary caregivers. While there is a bond between Mother

and the Children, Mother's prioritizing of her relationship with Father over the needs of the Children has relegated her to a secondary role in the Children's lives. The bond the Children now share with the resource parents, which developed naturally over the past 18 months, is stronger than the bond they share with Mother.

There was an abundance of testimony that the Children are very bonded with the resource family, which consists of their maternal great aunt and uncle and their daughters, age 20 and 18. The resource mother schedules their medical appointments and provides transportation to them. The Children attend daycare. Both Children participate in gymnastics and the older child is signed up for 4H. The Children call the resource parents "Mom" and "Dad," and identify them as their caregivers, protectors, and providers. They are the ones who feed the Children when they are hungry, tend to their wounds when they are hurt, and comfort them when they are scared. The Children have lived uninterrupted in the resource home for 18 months and the resource parents are ready, willing, and able to adopt them. The Children's permanency cannot and should not be delayed while Mother wavers back and forth about the status of her relationship with Father. The Children are clearly bonded with the resource parents, who have provided for their physical and emotional needs for the past 18 months while Mother engaged in an on-again, off-again toxic relationship with Father which compromised her protective capacity. The resource parents are willing to offer the Children permanency. The Court is satisfied that although there is a bond between Mother and the Children that bond is detrimental to the Children and has been deeply fragmented. The bond between the Children and the resource parents is the one worth saving. This Court finds that termination of Mother's parental rights in favor of

permanency in the form of adoption by those who have met the Children's needs for the past 18 months is in the best interest of the Children.

Conclusions of Law

1. The Court finds that the Agency has established by clear and convincing evidence that KU-M, 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 KU-M, has exhibited repeated and continued incapacity, abuse, neglect or refusal which has caused the children to be without essential parental care, control or subsistence necessary for their 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 Children have been removed from KU-M's care for a period of at least six months, that the conditions which led to the removal or placement of the children continue to exist, that the conditions which led to the removal or placement of the children 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 children 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 children have been removed from KU-M's care for a period of twelve months or more, that the conditions which led to the removal or placement of the

children continue to exist, and that termination of Mother's parental rights would best serve the needs and welfare of the children pursuant to 23 Pa.C.S. §2511(a)(8).

5. The Court finds that the Agency has established by clear and convincing evidence that the bond between the children and Mother is fragmented while the bond between Children and their resource parents is healthy and that the developmental, physical and emotional needs and welfare of the children 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. 2021-6756**
:
SK, :
:
Minor child :
:

DECREE

AND NOW, this **24th** day of **January, 2022**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of KU-M, held on January 7, 2022, and January 10, 2022, it is hereby ORDERED and DECREED:

- (1) That the parental rights of KU-M 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

By the Court,

Joy Reynolds McCoy, Judge

IN RE: : NO. 2021-6756
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By the Court,

Joy Reynolds McCoy, Judge