

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

IN RE:	:	NO. 2022-6826
	:	
JM,	:	
	:	
Minor child	:	

OPINION AND ORDER

AND NOW, this 20th day of **July, 2023**, before the Court is Lycoming County Children & Youth Services' ("Agency") Petition for Involuntary Termination of Parental Rights of CW ("Mother") and RM ("Father") filed on August 31, 2022, with regard to JM ("Child"). A hearing on the Petition for Involuntary Termination of Parental Rights was held on February 21, 2023, after which the Court entered an Order holding the record open until a bonding assessment could be completed between Mother and the Child. The hearing resumed on June 26, 2023, at which time the Court heard additional testimony regarding the bonding assessment as well as brief updates from the Agency regarding Mother since February 21, 2023. Mother appeared personally and was represented by Jeana Longo, Esquire. Father appeared via Polycom and was represented by Bryan Fitzcharles, Esquire. John Pietrovito, Esquire, Solicitor for the Agency, and Angela Lovecchio, Esquire, Guardian Ad Litem, were also present at the hearings. Jennifer Ayers, Esquire, counsel for the Child, was present at the hearing on February 21, 2023, and participated in the hearing on June 26, 2023, by telephone.

Findings of Facts

JM was born on [redacted]. He is the child of CW, date of birth [redacted], and RM, date of birth [redacted]. Mother and Father were not married at the time of the Child's birth.

Mother has a prior history with Schuylkill County Children & Youth Services. The Child was in placement from August 3, 2017, until February 26, 2018, and again from July 16, 2018 until June 22, 2020. The Child was placed in the resource home of JK both times. On July 30, 2021, Lycoming County Children & Youth Services received a CPS report that Mother and the Child were walking to the store when Mother overdosed and collapsed on the sidewalk. The police later found illegal drugs and paraphernalia in Mother's home, and Mother was charged with endangering the welfare of a child. Mother denied drug use, insisting instead that she had a seizure, but agreed to voluntarily place the Child in the Agency's custody on July 30, 2021. The Child was placed in the same resource home he was in during his two prior placements in Schuylkill County. Mother was not charged criminally for the incident but the report was indicated for abuse.

A Dependency hearing was held on August 20, 2021. Mother attended in person and Father was unable to be located. All parties in attendance agreed that the Child was dependent, and the Court adjudicated him as such and legal and physical custody of the Child was transferred to the Agency, with the Child to remain in the Kinship Care resource home. Mother was drug tested prior to the hearing and was clean of all illegal substances. The Court Ordered that the Agency continue to perform random drug screens on Mother. The Family Court Hearing Officer observed Mother and the Child to

be very bonded to one another and both exhibited a great deal of affection for one another.

A permanency review hearing was held on December 1, 2021. Father was found to have no compliance with the permanency plan in that he did not have any contact with the Agency or the Child during the review period. The Court noted that Mother had minimal compliance with the permanency plan, in that she was inconsistent with Outreach Services and had poor attendance at visits. Mother did report that she attended NA meetings and counseling at Crossroads. Mother had made minimal progress toward alleviating the circumstances which necessitated placement as she did not secure employment and housing and was working, albeit inconsistently, with Outreach Services but only attended one appointment at Crossroads. Mother attended only 40% of her visits with the Child and was required to call in advance to confirm her attendance as the Child had to travel 2 hours each way for the visits. The Court directed that Mother have one phone call per week with the Child. Following the hearing, the Court reaffirmed dependency and the Child remained in the legal and physical custody of the Agency with continued placement in the foster care home.

A permanency review hearing was held on March 25, 2022. The Court found that there had been no compliance with the permanency plan by Father, in that he had no communication with the Agency. Mother was found to have minimal compliance with the permanency plan, in that she was inconsistent in her engagement with Outreach services, and Mother only attended 50% of her visits with the Child. Mother reported that she was looking for employment, and that she might be evicted from her residence during this review period. Mother was also inconsistent in her attendance at Crossroads Counseling. Father was found to have made no progress towards alleviating the

circumstances which necessitated the original placement, and Mother was found to have made minimal progress toward alleviating the circumstances which necessitated the original placement. At the hearing, Mother tested positive for amphetamines, benzodiazepines, and opiates, but negative for suboxone, which should have been in her system. The amphetamines and benzodiazepines were consistent with prescribed medication, but Mother had no explanation for the presence of opiates. Following the hearing, the Court reaffirmed dependency and legal and physical custody of the Child remained with the Agency for continued placement in the current foster home.

A permanency review hearing was held on June 29, 2022. The Court found Father to have no compliance with the permanency plan, in that he had no contact with the Agency. Mother was found to have minimal compliance with the permanency plan, in that she was still inconsistent with her participation in Outreach Services and attended only 50% of her visits with the Child. Mother was discharged from Crossroads Counseling due to non-compliance and was still looking for stable employment. Mother was incarcerated at the time of the review hearing for contempt of a Domestic Relations order, which was related to support owed to the Agency. The Court noted that this incarceration disrupted Mother's progress toward reunification with the Child. Father made no progress and Mother made minimal progress toward alleviating the circumstances which necessitated the original placement. Following the hearing, the Court reaffirmed dependency and legal and physical custody of the Child remained with the Agency for continued placement in the current foster home. However, the Court noted its frustration with the Agency's delay in discussing with Mother potential resources and individuals to support her during or after reunification with the Child. The Court directed the Agency to pursue all potential support individuals identified by

Mother, and to contact both Schuylkill County Children & Youth and the child welfare office in New Jersey where Father was believed to reside and request their assistance in locating Father.

On August 17, 2022, Mother filed a Motion to Modify Visitation, as she had no driver's license and was often unable to secure private transportation to Reading, Pennsylvania, every other week for her scheduled visit with the Child. Mother requested that the Child be brought to Williamsport every week or that visits alternate weekly between in-person visits in Williamsport and video visits. A hearing was held on August 29, 2022, after which Mother's motion was granted, and visits that were previously scheduled to occur every other week in Reading, Pennsylvania, were to take place via video conference.

A permanency review hearing was held on October 14, 2022. Father had no compliance with the permanency plan, in that he had no contact with the Child or the Agency. Mother had minimal compliance with the permanency plan, in that she continued to be inconsistent with Outreach Services and was no longer participating in any drug or alcohol treatment, although she reported attending Diakon but had not signed a release for the Agency to confirm. Mother was evicted from her residence and was living at Wise Options. She was employed. Mother attended only 67% of her visits with the Child. Father made no progress and Mother made only minimal progress toward alleviating the circumstances which necessitated the original placement. As the Court set a hearing date for the Agency's Petition for Involuntary Termination of Parental Rights, Mother was made aware that her opportunity to have the Child returned to her care was dwindling. She was instructed that she needed to secure stable housing, utilize Outreach Services and consistently attend each visit with the

Child. 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 March 2, 2023. During this review period, Father was located and was incarcerated at SCI-Huntingdon. Father had no compliance with the permanency plan, in that he had no contact with the Agency but did write one letter to the Child. Mother had minimal compliance with the permanency plan, in that she was employed. She remained inconsistent with Outreach Services and only attended 60% of her visits with the Child. Mother was residing at Oxford House, which would not be able to accommodate the Child. Father and Mother were found to have made no progress toward alleviating the circumstances which necessitated the original placement. 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 hearing on the Agency's Petition for Involuntary Termination of Parental Rights was held on February 21, 2023, and June 26, 2023.

Discussion

Termination under Pennsylvania's Adoption Act requires the court to conduct a bifurcated analysis in which the court focuses on parental conduct pursuant to Section 2511(a) and the needs and welfare of the child pursuant to Section 2511(b). **In re: L.M.**, 923 A.2d 505, 511 (Pa. Super. 2007). 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 a parent'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 orphans' court must then consider the parent's explanation for his or her abandonment of the child, in addition to any post-abandonment contact. **In re Adoption of C.J.A.**, 204

A.3d 496, 503 (Pa. Super. 2019). When determining whether to terminate the rights of a parent, it is the six months immediately preceding the filing of the petition that is most critical to the analysis. However, the Court should consider the whole history 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).

Throughout the time the Child has been in placement, Mother has indicated her intent to be reunified with him. Although her efforts to achieve reunification were often inconsistent and most review periods she was only minimally compliant with the child permanency plan, the Court does not find that Mother demonstrated a settled purpose to relinquish parental claim to the Child. However, grounds for termination under 23 Pa.C.S. 2511(a)(1) may be 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 is currently eight years old, and he has been in placement for half of his life. At this time, the Child's greatest needs are shelter, clothing, food, school support, medical care, nurturing, and comfort. Claudia Perry, visitation caseworker with the Agency, testified that Mother initially had one visit per week for two hours. JK, the Child's resource parent, testified that it is approximately 1 hour and 47 minutes each way between her home in Schuylkill County and the visitation center. Ms. Perry testified that Mother expressed concern about the Child having to travel so far every week so the Agency offered to assist Mother with gas cards to travel to Reading every other week. Mother preferred to have a video visit every other week, due to anticipated trouble finding consistent private transportation to the Reading area.

Mother's attendance at visits was mediocre at best. Mother attended only 41 visits (21 in-person and 10 video visits), and had 31 no-shows (14 in-person and 17 video visits). When she did attend visits, Mother and the Child were always happy to see each other and displayed a lot of affection for one another. Ms. Perry testified that Mother would sometimes talk the Child about her struggles with housing and

employment and other adult situations. Tami Reeder, another visitation caseworker for the Agency, echoed this sentiment and indicated that Mother did not react well when supervisors intervened and attempted to redirect the conversation. The visits have always been supervised, with a caseworker watching at all times to ensure the Child's safety and offer assistance if needed. Both Ms. Perry and Ms. Reeder testified that the Child could be hyper and silly during visits and Mother needed to be better about controlling his behaviors. This was something they hoped Outreach Services could assist Mother with, but Mother failed to fully engage in their services and her case was closed.

While Mother always brought a meal for the Child to her visits, her inconsistency in attending these visits limited her to providing approximately 2 meals per month, at most, and precluded her from providing for the Child's other basic necessities such as bathing and dressing him, helping him with his homework and attending school meetings, scheduling and attending medical and counseling appointments, and offering comfort when he is sick or scared. At the time of the hearing on the Petition for Involuntary Termination of Parental Rights, it was reported that Mother had spent approximately 62 hours total with the Child between in-person and video visits in the 19 months he had been in the legal and physical custody of the Agency. Mother's visits have always been supervised – they have never progressed to community visits. Since August of 2021, and for a cumulative total of half his life, the Child has depended on his resource parent to provide not only physical needs such as food, shelter, and clothing, but also for his emotional needs such as comfort and support.

Mother cannot be said to have performed her parental duties or “exerted herself to take and maintain a place of importance in the child’s life” in the months preceding, and following, the filing of the Petition for Involuntary Termination of Parental Rights. Id.

With regard to Father, he was unable to be located for the majority of the time that the Child has been in placement. Father was finally located as an inmate under the name OM. At the termination hearing, Father testified that he is at SCI Houtzdale and will continue to be incarcerated for an additional two years. Father testified that he has never met the Child in person due to his incarceration but he has written the Child a letter to let him know he loves him. Father has a son and a daughter that he would like to be able to form a relationship with the Child, and Father testified that he hopes maintain contact with the Child no matter the outcome of the Petition for Involuntary Termination of Parental Rights. While the Court does not find that Father has evidenced a settled purpose of relinquishing parental claim to the Child, there is no dispute that Father has not performed any parental duties for the Child at any point during his life.

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 both Mother and Father have failed to perform 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 Father, 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).

“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). Joe Weber, Supervisor for the Agency’s Outreach Services, testified at the hearing on February 21, 2023. A referral was made for Mother on August 16, 2021, with goals of parenting, employment, and community support. Mr. Weber testified that Mother’s engagement with Outreach Services was very irregular, initially only meeting one time per month with the Outreach caseworker when meetings were scheduled weekly. Mother did not meet with her assigned caseworker at all from August 2022 through December 2022, despite the

caseworker making several unannounced home visits in an attempt to meet with Mother. The case was reassigned to a different caseworker in December 2022, and, as of the hearing on February 21, 2023, Mother had only met with him on two occasions.

With respect to the goal of parenting, the Outreach Services caseworkers attempted to do the Active Parenting curriculum with Mother. Mr. Weber testified that the program was supposed to be weekly and Mother could have completed it in 6-8 weeks and the Agency would have provided additional support for six months or longer. However, Mother did not return calls or texts and often cancelled appointments and therefore they were unable to complete the program. Mr. Weber testified that Mother's most recent Outreach caseworker has attempted to discuss parenting with Mother, but she does not feel she has an issue with parenting or a need for services.

Regarding the goals of employment and budgeting, Mr. Weber testified that Mother obtained and lost several jobs since the Agency has been involved and their ability to work with her on budgeting is dependent on her employment status. Ryan Snyder, Supervisor for the Agency's Ongoing Services unit, testified that maintaining employment has always been an issue for Mother. Since the Child has been in placement, Mother has had multiple jobs, including stints at Shop Vac, Truck Lite, Qdoba, Goodwill and, most recently, Danzer Veneer.

Mother's inconsistency in maintaining employment has had impacted the stability of her housing. For a majority of the time the Child was in placement, Mother resided with her paramour. However, there were 2 eviction proceedings commenced before they were finally removed from the premises in

approximately February of 2022. Mother resided at Wise Options after her release from incarceration until she exceeded the length of the program and was told she had to leave in December of 2022. At that time, Mother moved into a coworker's home and Mr. Snyder testified that on the day he was scheduled for a home visit Mother informed him that she did not want him to come and that she would be moving to a different address with another friend. In February 2023, at the time of the hearing on the Petition for Involuntary Termination of Parental Rights, Mother was living at Oxford Recovery House. Mother testified that residency requires complete abstinence and her rent is low so she could put money aside to save for her own place. Mother further testified that she had been advised to stay at Oxford Recovery House as long as possible and the Child is not able to reside with her while she is there but he could visit on the weekends.

Mother's lack of stability in her employment and housing, as well as her inconsistency in engaging with Outreach Services to connect her with vital community supports, is concerning to the Court as it shows that Mother is either unwilling or unable to make diligent efforts towards the reasonably prompt assumption of parental duties. Even more concerning is the fact that when the Court reconvened on June 26, 2023, Mother had been incarcerated since June 5, 2023, after the Adult Probation Office presented to her residence and requested a breathalyzer test, after which Mother admitted to relapsing and possessing a false urine. Mr. Snyder testified that he met with Mother approximately 3-4 weeks prior to the hearing and she informed him she had been laid off from her job. Mr. Snyder further testified that it was unclear whether

Mother's relapse and subsequent incarceration would affect her housing at the Oxford Recovery Home.

The Child has been in the legal and physical custody of the Agency for more than 22 months, and his total time in placement amounts to more than half his life. Father has been incarcerated for the entire time the Child has been in placement this time, has never met the Child in person, and is not in a position to be a resource for the Child now or in the near future. Mother has failed to take advantage of all the services the Agency has offered to help her achieve and maintain stable employment and housing. She has not been able to make measurable progress in addressing the incapacities which have caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being. This Court finds that neither Mother nor Father have remedied their incapacities in terms of their ability to parent the Child within a reasonable amount of time and will likely be unable to remedy them in the immediate future. The Court finds by clear and convincing evidence that the Agency has satisfied 23 Pa.C.S. §2511(a)(2) by demonstrating that Mother's and Father's 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 and Father’s parental rights exist under both Sections 2511(a)(5) and (8). The Child was placed in the legal and physical custody of the Agency on July 30, 2021, and has been in Agency’s custody ever since. After each permanency review hearing, the Court found Father had no compliance with the child permanency plan, and made no progress toward alleviating the conditions which led to the Child’s placement. Father continues to be incarcerated and is unavailable to be a resource for the Child now or in the near future. While Father testified during the first day of the

termination of parental rights hearing that he hoped the Child could be a motivator for Mother to address her issues, he admitted on the second day that the best interest of the Child would be served by remaining with the foster parent as neither he nor Mother could properly care for him.

Mother was never found to be more than minimally compliant with the child permanency plan, and never made more than minimal progress toward alleviating the conditions which led to the Child's removal. In addition to her housing and employment instability, Mother has continued to struggle with substance abuse since the Child's initial placement in 2017 and for the duration of the time the Child has been in the legal and physical custody of Lycoming County's Agency. Mother's participating in drug and alcohol counseling has always been inconsistent, and she was discharged from multiple counseling services for her non-compliance. In fact, it was not until Mother was accepted onto Treatment Court after being charged with 2 DUIs in three months and was faced with the threat of incarceration that she began to make any progress with her treatment. Eventually, however, Mother relapsed and was re-incarcerated. Mother has failed to take any responsibility for the situation that the Child is in, and has never shown a commitment to putting in the work necessary to address the issues which have led to his being removed from her care for more than half his life.

For nearly two years during this placement, and in total for more than half of his life, the Child had both his physical and intangible needs met by his foster parent. His foster parent is willing to offer him permanency. The Child's permanency can not and should not continue to be delayed while Mother refuses

to take the steps necessary to treat her substance abuse issues and maintain stable employment and housing so that she can be reunified with the Child. As Mother has not satisfactorily alleviated the conditions which led to the removal or placement of the Child, and Father is unable to be a resource for the Child, it is clear to this Court that termination of both Mother's and Father'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. "Above all else . . . adequate consideration must be given to the needs and welfare of the children." **In re: J.D.W.M.**, 810 A.2d 688, 690 (citing **In re: Children M.**, 681 A.2d 793 (Pa. Super. 1996), appeal denied, 546 Pa. 674, 686 A.2d 1307 (1996)).

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).

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)). With regard to Father, it is clear that there is no bond, as the Child has never met him in person, and there would be no irreparable harm to the Child if Father's rights were terminated. However, at the conclusion of the hearing on February 21, 2023, the Court directed that the Agency arrange for a bonding assessment to be conducted between Mother and the Child. Dr. Denise Feger conducted a bonding assessment between Mother and the Child as well as a bonding assessment between the foster parent and the Child. Dr. Feger prepared a written report, which was admitted into evidence. (Ex. 32). Dr. Feger testified on June 26, 2023, and was qualified as an expert in the field of bonding assessments.

When a child is removed from the home and placed in foster care, the scheduled visits become extremely important as they serve to allow the parent to maintain the parent/child bond as the parent works towards reunification. Mother's attendance at visits was poor, and as of the initial hearing on the Petition for Involuntary Termination of Parental Rights, Mother had attended only 65% of her in person visits and 35% of her video visits. Mother's inconsistency resulted in negative behaviors from the Child, especially when Mother does not attend. Dr. Feger's report indicated that "[g]enerally, aside from inappropriate content being discussed, poor boundaries, and challenges in

her understanding the needed interventions for her son, the presentation with Mother and the Child is one where she does appear to care about her son, and desire to be a resource for him but balancing her own emotional needs and his are quite difficult for her.” (Ex. 32). Dr. Feger’s report and testimony indicated that it is undeniable that the Child loves his Mother and has a bond with her, albeit, this bond is one built in fear, anxiety, worry, and parentification. (Id.). The attachment can best be classified as an “insecure, disorganized attachment.” Dr. Feger opined that this attachment style develops over time when the primary caregiver is unable to offer consistency in their role as a parent, therefore rendering a child insecure in their belief about how that person will care for them in the future. (Id.).

While there is some bond between Mother and the Child in that the Child appears excited to see Mother at the time of visits, the visitation caseworker testified that it appeared to be a friendship-type situation, and their interaction was akin to supervising a visit between playmates. Additionally, Dr. Feger testified that the Child is very clear that he loves Mother and wishes things were different but he finds safety and security in his foster mother. “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 has been in the same foster home for more than half his life and, most recently, since July of 2021. This is the third failed attempt at reunification with Mother. The foster mother has provided everything the Child needs and this has naturally established a bond and attachment between the Child the foster Mother. The Child is

clearly bonded with the resource mother, who has provided for his physical and emotional needs for more than half his life. The Child identifies the foster mother's residence as his own, and he views the foster mother as his primary caregiver. Most importantly, she is ready, able, and willing to offer him permanency. The Child's permanency cannot and should not be delayed, and the Court finds that, although he may experience a painful loss in the case of Mother, terminating Mother's and Father's rights would not cause irreparable harm to the Child. This Court further finds that permanency in the form of adoption by the person who has consistently met his needs 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 CW and RM, by conduct continuing for a period of at least six months immediately preceding the filing of the petition have 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 CW and RM, have 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 them 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 CW's and RM'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 and Father'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 CW's and RM'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 and Father'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 the developmental, physical and emotional needs and welfare of the Child will be best served by the termination of Mother's and Father's 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

RMT/jel

c. John Pietrovito, Esquire
Jeana Longo, Esquire
Jennifer Ayers, Esquire
Bryan Fitzcharles, Esquire
Angela Lovecchio, Esquire
Children & Youth
CASA
Gary Weber, Esquire
Jennifer E. Linn, Esquire

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

IN RE:	:	NO. 2022-6826
	:	
JM,	:	
Minor child	:	

DECREE

AND NOW, this **20th** day of **July, 2023**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of RM, held on February 21, 2023, and June 26, 2023, it is hereby ORDERED and DECREED:

- (1) That the parental rights of RM 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

By the Court,

Ryan M. Tira, Judge

RMT/jel

cc. John Pietrovito, Esquire
Jeana Longo, Esquire
Jennifer Ayers, Esquire
Bryan Fitzcharles, Esquire
Angela Lovecchio, Esquire
Children & Youth
CASA
Gary Weber, Esquire
Jennifer E. Linn, Esquire

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

IN RE:	:	NO. 2022-6826
	:	
JM,	:	
Minor child	:	

DECREE

AND NOW, this **20th** day of **July, 2023**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of CW, held on February 21, 2023, and June 26, 2023, it is hereby ORDERED and DECREED:

- (1) That the parental rights of CW 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.

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2. Any private licensed adoption agency
3. Register & Recorder's Office
4. Online at www.adoptpakids.org/Forms.aspx

By the Court,

Ryan M. Tira, Judge

RMT/jel

cc. John Pietrovito, Esquire
Jeana Longo, Esquire
Jennifer Ayers, Esquire
Bryan Fitzcharles, Esquire
Angela Lovecchio, Esquire
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CASA
Gary Weber, Esquire
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