

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

**IN RE:** : **NO. 2022-6819**  
:   
**MP,** :   
:   
**Minor child** :   
:

**OPINION AND ORDER**

**AND NOW**, this 11<sup>th</sup> day of **April, 2023**, before the Court is Lycoming County Children & Youth Services' ("Agency") Petition for Involuntary Termination of Parental Rights of RP ("Father") filed on August 10, 2022, with regard to MP ("Child"). A hearing on the Petition for Involuntary Termination of Parental Rights was held on January 4, 2023, and January 6, 2023. Father appeared personally and was represented by Patricia Shipman, Esquire. John Pietrovito, Esquire, Solicitor for the Agency, and Angela Lovecchio, Esquire, counsel for the Child, were also present at the hearings. It is noted that MW ("Mother") appeared for the hearing and was represented by Jeana Longo, Esquire. Mother signed a Consent to Adopt at the start of the hearing on the Petition for Involuntary Termination of Parental Rights and was subsequently excused from the proceedings. As Mother has not revoked that Consent to Adopt, this Opinion and Order shall focus solely on whether Father's parental rights should be involuntarily terminated.

**Findings of Facts**

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

The Agency has a history with the family for substance abuse. On January 13, 2021, Lycoming County Adult Probation requested assistance at Mother's residence, as she tested positive for drugs and was sent to jail. Mother made a private arrangement with maternal aunt to care for the Child and his siblings until Mother was released from incarceration on February 4, 2021. The Child was briefly returned to Mother's care until February 5, 2021, when she was again incarcerated for a positive drug screen and the Child was returned to maternal aunt. On February 25, 2021, maternal aunt was incarcerated for a positive drug screen. Maternal aunt made a private arrangement for the Child to go to Scranton to stay with the maternal grandmother and the maternal uncle.

On February 26, 2021, the Agency became aware that the Child was in Lackawanna County and made a referral to the Lackawanna County CYS agency to conduct a visit to maternal uncle's home to ensure the safety of the Child. On March 2, 2021, Lackawanna County CYS took emergency custody of the Child and his siblings. A Shelter Care hearing was held on March 5, 2021, at which time custody of the Child and jurisdiction over the matter was transferred to Lycoming County.

A Dependency hearing was held on March 15, 2021, after which the Court adjudicated the Child dependent. As the Court found that Mother was in a rehab facility and Father was incarcerated at the Lycoming County Prison, legal and physical custody of the Child was ordered to remain with the Agency. The Court noted that Father should contact the caseworker immediately upon his release so that visitation could be established and he could begin working with the Agency.

A permanency review hearing was held on August 4, 2021. Father was incarcerated from March of 2021 to April 21, 2021, at which time he went to rehab at

White Deer. The Court noted that Father had minimal compliance with the permanency plan, he was released from rehab on May 18, 2021, and was residing in Blossburg. Father struggled with transportation and that affected his attendance at visits with the Child. Father had made minimal progress toward alleviating the circumstances which necessitated placement as he was attending counseling and was employed at the Kwik-Fill. Father did not have a working vehicle, nor did he have a valid driver's license during this review period. In light of those circumstances, the Court directed the Agency to permit Father to have visit with the Child via Zoom until he obtained reliable transportation. 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 November 8, 2021. The Court found that there had been minimal compliance with the permanency plan by Father. Father had housing but there were concerns with his live-in girlfriend. Father reported being employed. Father did not attend visits with the Child consistently due to transportation issues. Father was found to have made minimal progress towards alleviating the circumstances which necessitated the original placement, in that he only attended 29% of his video visits. The Agency was directed to assist Father with restoring his driver's license and with transportation costs to travel to visits with the Child or to attend the Child's medical appointments. The Agency was directed to arrange and supervise visits between the Child and GG, the father of the Child's half-sibling, in the home of GG. These visits were to progress to unsupervised overnight visits with the Child and his half-sibling visiting at the same time. 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, it was anticipated that the Child would be returned to the custody of GG at the next review hearing.

A permanency review hearing was held on January 6, 2022. The Court found Father to have moderate compliance with the permanency plan in that he had housing and employment. Due to continued transportation issues, Father was limited to video visits with the Child. Father had made moderate 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 until January 14, 2022, at which time the Child would be in the legal and physical custody of GG. Father was permitted to have supervised visits in the home of GG, and the Agency was directed to provide one gas card per week to assist Father with transportation to GG's home for the visits.

A permanency review hearing was held on April 6, 2022. Father had minimal compliance with the permanency plan, in that he continued to reside in Blossburg and had obtained higher-paying employment, but he only had telephone contact with the Child during the review period. During this period, GG lost several of the support people in his life and refused to complete random drug screens. On the day of the review hearing, GG denied using illegal substances until the Court ordered him to undergo a drug test, at which time he admitted to using meth, which was confirmed by the drug screen. Following the hearing, the Court reaffirmed dependency and legal and physical custody of the Child was returned to the Agency and he was returned to his original foster home. Father admitted to having lied at the January 6, 2022, hearing regarding GG's prior substance use history.

A permanency review hearing was held on August 17, 2022. Father had moderate compliance with the permanency plan, in that he maintained housing and employment. It was noted that his home needed repairs. He had been having in-person visits with the Child since June of 2022, and, despite ongoing transportation issues, had not missed any visits. Father was found to have made moderate progress toward alleviating the circumstances which necessitated the original placement. The Agency was directed to permit Father to have community visits during the next review period. 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 January 4, 2023, and January 6, 2023. Following the conclusion of testimony, Father's counsel requested time to provide a brief to supplement her argument. Father's brief was filed on January 27, 2023. The Agency's brief was filed on February 13, 2023. Counsel for the Child did not file a separate brief but noted that she concurred with the Agency's brief and position.

A permanency review hearing was held on January 20, 2023. Father had minimal compliance with the permanency plan, in that he continued to reside in the same residence. However, the same concerns exist and had not been addressed. The home continues to be in disrepair with safety issues not addressed, and Father reports working twelve hour days six or seven days per week. Father lives with a paramour who has a previous indicated report of abuse and would be providing care for the Child if he was returned to Father. Father was found to have made no progress toward alleviating the circumstances which necessitated the original placement. The Agency was directed

to permit Father to have community visits during the next review period. 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.

### **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).

Father testified that between the Child's birth and the time he entered foster care, he was seeing the Child every other day at least and was the Child's primary caretaker. However, testimony from Mother at a permanency review hearing on April 6, 2022, indicated that he had not been involved in the Child's life since his birth. (Agency Ex. 61, pp. 68-69). Additionally, Father's live-in paramour, CK, testified at the termination

hearing that she had only seen the Child approximately twenty (20) times in a five year period. Father was incarcerated on a probation violation at the time the Agency was granted physical and legal custody of the Child. Father's own testimony concerning his lifestyle, in particular his meth use, prior to his incarceration supports that he had limited contact with the Child and would not have been the primary caretaker of the Child. He was released from incarceration and subsequently went to an inpatient rehabilitation facility. When Father completed rehab in May of 2021, he had no home, no car, and no job. Although the Child was in foster care in Williamsport, Father chose to live with his sister 45 minutes away in Blossburg while he began to rebuild his life.

Heather Wood, Specialized Services Supervisor for the Agency, testified regarding Father's visitation with the Child since he was placed in the legal and physical custody of the Agency. Beginning on June 7, 2021, Father was scheduled to have in-person visits with the Child two times per week for one hour each. Father did not attend any visits, citing transportation issues to the visitation center from his home in Blossburg. On August 24, 2021, the Court ordered that Father be permitted to engage in visits via Zoom. Ms. Wood testified that following the order it took visitation staff two weeks to reach Father to set up the visits because Father failed to return their phone calls. Father was offered two video visits per week, but frequently only attended one video visit per week.

Following the permanency review hearing on January 6, 2022, Father had his first in-person visit with the Child since the Child was placed in the legal and physical custody of the Agency. At that hearing, Father lied under oath and testified that he had never known GG to use illegal drugs and that GG would be an appropriate caregiver for the Child. This was seemingly done with the intention that Father would be able to see



the Child under the supervision of GG as frequently as he and GG could agree. The Agency was ordered to provide one gas card per week during this time to assist with Father's transportation to visit the Child in the home of GG. However, Father did not arrange for a single in-person visit with the Child during the two months he was in the custody of GG. During this time period, GG was utilizing meth and having sexual encounters with unknown women he met online in the home while the Child was sleeping.

When the Child was returned to foster care in April of 2022, Father was offered two in-person visits per week. Father's attendance at visitation greatly improved and his last no-show was on June 9, 2022. Father's visits were increased to two times per week for two hours each. On September 13, 2022, Father began to have visits in the community with the Child.

Despite Father's poor attendance at visits in the early stages of the dependency matter, he eventually began to demonstrate more consistency in the weeks leading up to the Agency's filing of the Petition for Involuntary Termination of Parental Rights. Ms. Wood testified that the Child is excited to see Father at the beginning of visits, although he acts indifferent at the end of the visits. Ms. Wood further testified Father provides a meal for the Child and lets the Child guide the way for the activities they engage in during community visits. Throughout the dependency action, Father has demonstrated love and affection for the Child and has not waived in his desire to have the Child returned to his custody. For these reasons, this Court does not find that Father demonstrated a settled purpose of relinquishing parental claim to the Child in the six months prior to the filing of the Petition for Involuntary Termination of Parental Rights. 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). At his young age, the Child's greatest needs are shelter, clothing, food, medical care, nurturing, and comfort. To his credit, Father has maintained housing and employment throughout the dependency action, although his home requires repairs which have not been completed therefore precluding Father from exercising visits with the Child at his home. Furthermore, his work schedule often prevented him from exercising visits. Unfortunately, Father has failed to take an active role in the Child's medical care. Father has never attended a medical or dental appointment for the Child, nor has he

participated in the Child's speech therapy. Additionally, Father's visitation schedule limits him to providing approximately 2 meals per week, and precludes him from providing for the Child's other basic necessities such as bathing and dressing him, and offering comfort when he is sick or scared. Since March of 2021, the Child has depended on his resource parents to provide not only physical needs such as food, shelter, and clothing, but also for his emotional needs such as comfort and support.

Father had just two in-person visits with the Child during the first year he was in the Agency's custody, and only began to show consistency in his visitation attendance shortly before the Petition for Involuntary Termination of Parental Rights was filed. Despite being permitted to have visits in the community, he still has not progressed to having visits in his home. This has resulted in the vast majority of the Child's daily needs being fulfilled by his resource parents for nearly two years, and Father cannot be said to have performed his parental duties or "exerted himself 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.** 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 Father has 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). One of the biggest obstacles to Father’s community visits being expanded to home visits, and eventual reunification, has been safety concerns within Father’s home. Father testified that the Agency expressed concerns about repairs that needed to be made to his home at their first home visit in approximately October of 2021. This was confirmed by the testimony of both ongoing caseworker Colleen Bolton and CASA Susan Fulton. Father’s home has an open hole in the 2<sup>nd</sup> floor hallway that would lead to the Child’s bedroom if he were to live there, the stairs are extremely steep and uneven and there is no handrail, and there is currently no functional heat in the home. Ms.

Fulton testified that Father told her he has the materials needed to make the repairs but has not found time to make them. However, at the time of the hearing on the Petition for Involuntary Termination, Father testified that although he had spoken to his landlord “several” times since November 2021, he only recently ordered the materials needed to fix the issues. The safety concerns with Father’s home conditions have precluding Father from exercising visits in his home. The length of time since Father was asked to make the necessary repairs, and the fact that he still has not put in the time or effort to facilitate the repairs knowing that the Agency will not support home visits until they are made is concerning to the Court as it shows that Father is unwilling to make diligent efforts towards the reasonably prompt assumption of parental duties.

Additionally, of particular concern to the Agency, and also the Court, is Father’s protective capacity with regard to his decisions about caretakers for the Child. Father admitted to lying under oath when he testified that he had never known GG to use drugs and opined that he would be an appropriate caregiver for the Child. Father’s plan resulted in the Child not attending Head Start or receiving his speech therapy and experiencing a regression in behavior. Additionally, Father’s actions potentially exposed the Child to drug use and other safety concerns, as there were GPS reports received by the Agency during the time the Child was in the custody of GG. The Court notes that during that time, Father did not have a single in-person contact with the Child.

The Agency’s and the Court’s concerns with Father’s incapacities regarding protective capacity and his choice of caregivers extend further into Father’s future plans. Father indicated he works 6 or 7 days a week for a total of

approximately 90 hours each week. Father testified that his live-in paramour, CK, would be the primary caretaker for the Child while Father works. However, Colleen Bolton, ongoing caseworker for the Agency, testified that CK has a history with the Agency including an indicated report of child abuse from 2018, in which her daughter was the victim and the reported concerns included domestic violence and substance abuse. CK has no custody of, or contact with, her child who was the subject of the indicated report. CK has also admitted to marijuana use, and would not have a means for transporting the Child to Head Start or medical appointments when he was in her care. Additionally, both Ms. Bolton and Susan Fulton, CASA, testified regarding concerns about CK's somewhat volatile temperament and her ability to properly handle the Child's hyperactivity.

The Child has been in placement nearly 24 months, and although Father has maintained employment and housing, he has not been able to make measurable progress in addressing the incapacities which precluded the Child from being placed in his care at the onset of the dependency action. This Court finds, while Father has made progress with regard to himself, he has not remedied his incapacities in terms of his 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 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 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 March 5, 2021, and has been in Agency’s custody ever since. After each permanency review hearing, Father had only minimal or moderate compliance with the child permanency plan, and made only minimal or

moderate progress in alleviating the conditions which led to the Child's placement. Both the Agency and the Court consistently reiterated the need for Father to make repairs to his home to ensure it would be safe and appropriate for the Child before reunification could occur. Despite this, Father testified that he finally ordered the materials to make the necessary repairs the week of the termination hearing. When asked why nothing had been done prior to that date when it was raised over a year ago, father responded that the Agency had given him "no shining light that [the Child] is coming home any time soon." While the Court commends Father for accomplishing the very important reunification goals of maintaining employment and housing, there is concern with the length of time in which it has taken for Father to make repairs to his home which would be necessary prior to the Child spending any time there.

In her brief, Father's counsel admits that Father cannot argue that reunification with the Child should occur immediately, as he recognizes that additional progress needs to be made. As the Child has been in placement for well in excess of 12 months, the Court is not required to evaluate Father's "willingness or ability to remedy the conditions that initially caused placement," or in this case, conditions which have precluded Father from being an appropriate resource for the Child. For 24 months, the Child had both his physical and intangible needs met by his foster family. His current foster family is willing to offer him permanency. The Child's permanency can not and should not continue to be delayed while Father prolongs making the repairs the Agency has been requesting for at least 18 months. As Father has not satisfactorily alleviated the conditions which led to the removal or placement of the Child, it is clear to this



Court that termination of 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)). Although not required, the Agency made a referral to Crossroads Counseling on August 2, 2022, for a bonding assessment between Father and the Child. Jeri Myers testified that her assistant called Father on August 17, 2022, August 23, 2022, and September 14, 2022, to obtain his email address and schedule the assessment. Ms. Myers further testified that the notes indicated “attempted to call and left voicemails,” but there was no record of Father returning any call. No further attempt was made by Crossroads to schedule the bonding assessment after the third voicemail left for Father was not returned.

Father testified that he was saw the Child every other day between birth and entering care and acted as his primary caretaker, but testimony from Mother at a permanency review hearing and testimony from Father’s paramour at the termination hearing contradict this assertion. The Child was just shy of three years old when he was placed with the foster family. 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. Father attended only two in-person visits during the first 15 months the Child was in placement. Although he has significantly improved his visitation attendance, he is still spending a maximum of 4 hours per week with the Child. The visits have not expanded to community visits due to concerns about repairs that are needed in Father’s home as well as his intended childcare provider who is indicated as a perpetrator of abuse.

While there may be some bond between Father and the Child in that the Child appears excited to see Father at the time of visits, the Court finds that 4 hours per week over a six month period is insufficient for the Child to identify Father as a primary caregiver. Additionally, “the existence of some bond with [Father] does not necessarily defeat termination of [his] 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 [Father] is the *one worth saving* or whether it could be sacrificed without irreparable harm to the Child.” **Id.** (emphasis added).

But for a short and unsuccessful stint when the Child was returned to GG, the Child has been in the same foster home since March of 2021. The foster parents have provided everything the Child needs and this has naturally established a bond and attachment between the Child the foster parents. Given his young age and the length of time he has been in placement, the foster home is the only home he knows, as Father has not remedied the conditions which made his home unsuitable for the Child and therefore the Child has never spent any time in Father’s home. The Child is clearly bonded with the resource parents, who have provided for his physical and emotional needs for more than half his life and who have welcomed him into their family. Most importantly, they are ready, able, and willing to offer him permanency. The Child’s permanency cannot and should not be delayed, and the Court finds that terminating Father’s rights would not cause irreparable harm to the Child. This Court further finds that permanency in the form of adoption by those who have 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 RP, 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 RP, has exhibited repeated and continued incapacity, abuse, neglect or refusal which has caused the Child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by him 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 RP'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 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 RP'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 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 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  
Patricia Shipman, 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. 2022-6819**  
: :  
**MP,** :  
: **Minor child** :

**DECREE**

**AND NOW**, this 11<sup>th</sup> day of **April, 2023**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of RP, held on January 4, 2023, it is hereby ORDERED and DECREED:

- (1) That the parental rights of RP 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

RMT/jel

cc. John Pietrovito, Esquire  
Patricia Shipman, Esquire  
Angela Lovecchio, Esquire  
Children & Youth  
CASA  
Gary Weber, Esquire  
Jennifer E. Linn, Esquire