

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

**IN RE:** : **NO. 2023-6860**  
:   
**ID,** :   
:   
**Minor child** :   
:

**OPINION AND ORDER**

**AND NOW**, this 27<sup>th</sup> day of **March, 2024**, before the Court is Lycoming County Children & Youth Services' ("Agency") Petition for Involuntary Termination of Parental Rights of LW ("Mother") and JD ("Father") filed on April 5, 2023, with regard to ID ("Child"). A hearing on the Petition for Involuntary Termination of Parental Rights was scheduled to begin on November 29, 2023. However, due to concerns about Father's mental health that day, his counsel requested a continuance, which the Court granted over the objection of counsel for the Agency. Father and his counsel did present to the Agency later in the day on November 29, 2023, at which time Father signed a Consent to Adopt. The matter was scheduled to resume on December 1, 2023, at which time Father indicated his intent to revoke his Consent and proceed with a hearing on the Petition for Involuntary Termination of Parental Rights. Mother appeared personally and was represented by E. Vincent Reeves, Esquire. Father appeared personally and was represented by Johanna Berta, Esquire. John Pietrovito, Esquire, Solicitor for the Agency, and Angela Lovecchio, Esquire, Guardian Ad Litem, were also present at the hearings. Trisha Hoover Jasper, Esquire, counsel for the Child, was also present at the hearing.

On December 1, 2023, at the time of the hearing on the Petition for Involuntary Termination of Parental Rights, Mother signed a Consent to Adopt indicating her intent to voluntarily terminate her parental rights. Accordingly, this Opinion and Order will focus solely on whether the Agency has met its burden with regard to the Petition for Involuntary Termination of the Parental Rights of Father, JD.

**Findings of Facts**

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

The Child originally came under the purview of the Agency in 2020, when a voluntary case was accepted for services due to Mother repeatedly being intoxicated due to the point of incapacitation while caring for him and his sister. Mother was charged with and pled guilty to Child Endangerment and was indicated as a perpetrator of abuse on September 8, 2020. At that time, Mother and the Child were protected parties under a Protection from Abuse Order against Father. The Child was the subject of several safety plans and voluntary placement agreements with various family members before he was voluntarily placed in the Agency's care. A Dependency Petition was originally filed on March 23, 2021, but subsequently withdrawn by praecipe filed by the Agency on April 7, 2021.

The case was reopened with the filing of a new Dependency Petition on January 12, 2022, when the private placement arrangement for the Child failed. A Dependency hearing was held on January 28, 2022. Mother attended in person and Father participated via video conference. At the conclusion of the hearing, the Court found by clear and convincing evidence that the Child was without proper care or

control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health or morals and adjudicated him dependent. The Child was placed in the legal and physical custody of the Agency to be placed in foster care. Father was ordered to complete a psychological evaluation, participate in Outreach Services, and attend visits regularly.

A permanency review hearing was held on April 20, 2022. Father was found to have moderate compliance with the permanency plan in that he did not have independent housing and instead lived with his sister and reported to working construction and being paid under the table. He completed the psychological evaluation, cooperated with Outreach Services, and attended visits consistently. Father had made moderate progress toward alleviating the circumstances which necessitated placement. It was noted that the Child remained a protected party under a Protection from Abuse Order against Father. The Agency was directed to conduct the necessary background checks for the members of Father's household and if all residents were cleared and deemed appropriate, visits were permitted to begin in his home, subject to any limitations contained within the PFA. 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 September 9, 2022. The Court found that there had been moderate compliance with the permanency plan by Father, in that he had lost his housing, job, and vehicle due to a dispute with his brother-in-law. He successfully completed parenting and anger management classes through Outreach Services. His case was closed, only to be reopened a few weeks later due to his homelessness. He moved in with a different sister and secured a new job. He attended

85% of his visits during the review period. Father struggled with his mental health and was voluntarily hospitalized twice during the review period. Father was found to have made moderate progress towards alleviating the circumstances which necessitated the original placement. Father managed the Child's behaviors well and it was anticipated that he would begin community visits upon the expiration of the PFA Order. He was ordered to undergo a behavioral health evaluation due to his mental health struggles. 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 March 23, 2023. The Court found Father to have minimal compliance with the permanency plan, in that he had obtained independent housing but it was not safe for the Child without substantial repairs and decluttering. Father reported that he was employed but failed to provide proof of employment. Father attended only 48% of his visits during the review period. Father's residence is an hour away and the Agency learned during the review period that he was driving the Child without a license and failing to abide by other visitation rules. His visits with the Child were returned to the Visitation Center. Father made minimal progress toward alleviating the circumstances which necessitated the original placement, in that Father's community visits remained suspended due to safety risks. Father was directed to provide documentation to the Agency regarding his in-patient mental health treatment in 2022, and proof of his employment. 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.

On April 5, 2023, the Agency filed its Petition for Involuntary Termination of Parental Rights. A permanency review hearing was held on June 7, 2023. Father had moderate compliance with the permanency plan and made moderate progress toward alleviating the circumstances which necessitated the original placement, in that he continued to make improvements to his house. Father still had not provided the Agency with proof of his employment. Father's license remained suspended and he attended only 50% of his visits during the review period, which he blamed on his work schedule. Father was again reminded of the expectation that he provide his work schedule to the Agency so the Agency could adjust his visitations to accommodate his schedule if he was cooperative with them. Following the hearing, the Court reaffirmed dependency and legal and physical custody of the Child remained with the Agency for continued placement in his current foster home.

A permanency review hearing was held on September 21, 2023. During this review period, Father had minimal compliance with the permanency plan, in that he had not reported completing any additional renovations to the home to ensure it would be safe for the Child. Father struggled with his mental health this review period and had inpatient treatment for a short time. He reported that he participated in counseling when he had time. Father attended only 10% of his visits and his communication with the Agency had decreased significantly this review period. Father was found to have made minimal progress toward alleviating the circumstances which necessitated the original placement in that he still did not have a safe, appropriate residence for the Child and had not provided the Agency with proof of employment despite being directed to do so multiple times by the Court. It was noted that Father angrily left the hearing and slammed the door so hard that particles fell from the ceiling. He was invited to return

with a Sheriff present, but after consultation with his attorney it was determined that he would not return. Father's visits were reduced to one time every two weeks, due to the Child being prevented from participating in activities when he had to be available two times per week, when Father only attended 10% of the visits. 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 December 1, 2023, and January 10, 2024. At the conclusion of the hearings, the Court permitted counsel for the Agency, Father, and the Guardian Ad Litem to submit written argument in support of their respective positions regarding the termination of Father's parental rights.

### **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, Father has indicated his intent to be reunified with him. Although Father often lacked a sense of urgency in his efforts to achieve reunification and he never achieved more than moderate compliance with the child permanency plan, the Court does not find that Father 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 seven years old and has been in placement since January 7, 2022. The Child was initially removed from the care of Mother due to the Agency's concerns about her ability to properly care for him. At the time of the Child's placement, both Mother and the Child were protected parties under a Protection from Abuse Order issued against Father on September 25, 2019. That Order provided temporary exclusive custody to Mother and granted Father no physical custody rights. (Agency Ex. 100). From the time the Child was 3 years old until the time Father began having supervised visits with the him through the Agency following the adjudication of dependency in January of 2022, Father performed absolutely no parental duties for the Child.

In the beginning of the proceedings, Father was living with his sister and employed by his brother-in-law and had a very high attendance rate at his visits with the Child, despite living over an hour away. Visitation Caseworker Tami Reeder testified that by March of 2022 he had advanced from "supervised" visits to "closely observed" and the visits had increased to two times per week. When the PFA expired in September of 2022, the visits progressed to community visits and Ms. Reeder indicated that Father and the Child had a good relationship, with Father being able to manage many of the Child's behaviors. However, Ms. Reeder testified that throughout the fall of 2022, the Agency began to have some concerns with Father's community visits. As the Petition for Involuntary Termination of Parental Rights was filed on April 5, 2023, it is the period beginning during this time that is most crucial to evaluate when determining whether the Agency has met its burden pursuant to 23 Pa.C.S. §2511(a). Reports were received that Father had other individuals present during the visits and on one occasion

Father took the Child to an indicated perpetrator's home. Additionally, the Agency became aware that Father did not have a valid driver's license but was transporting the Child during community visits. Father encouraged the Child to lie about the visits. Father attended only 13 out of 25 community visits.

Father's behaviors became increasingly more concerning to the Agency, to the point where they filed a motion to return the visits to the Family Center. Ms. Reeder testified that this made Father very angry and quickly caused a communication breakdown after which the visits began to decline both in terms of his attendance and quality. Father was placed on call-in status in April 2023, around the time the Petition for Involuntary Termination of Parental Rights was filed. The Agency gave Father a 2.5 hour window to call in to confirm his attendance at visits because he indicated that his job could not accommodate the ½ hour window normally provided to parents. On May 4, 2023, Father asked for a decrease in his visitation time from 2 hours to 1 hour and 15 minutes to make it easier for him with his work and transportation concerns, but even with the adjusted schedule Father only attended 2 out of 12 visits. The last time Father visited with the Child in person was on June 15, 2023. On that date, Father requested that he resume his two hour visits. The Agency complied with the request but Father did not attend any further visits. On September 21, 2023, Father's visits were reduced to the statutory minimum of one time every other week for one hour due to his lack of attendance.

At almost seven and a half years old, the Child's greatest needs are shelter, clothing, food, school support, medical care, nurturing, and comfort. The Child has some behavioral issues and has been diagnosed with ADHD which requires medication management. Since the time the Child has been in placement, Father's opportunities to

perform his parental duties have come through his visitation with the Child.

Unfortunately, as of the date the Petition for Involuntary Termination of Parental Rights was filed, father attended only 73% of his visits and as of December 27, 2023, Father had attended only 54% of his available visits for a total of 140.3 hours. (Agency Ex. 98b). Father attributed many of his missed visits to transportation issues and work schedules. However, Father is the one who chose to move first to Elizabethtown, and then to Millersburg, both approximately 1 hour and 40 minutes from where the visitations took place. Father made this decision despite having his father, with whom he could have resided, in the Williamsport area, and despite knowing that he did not have a valid driver's license or reliable transportation. Additionally, Father has reported having multiple jobs while the Child has been in placement and although the Agency has been willing to modify his visitation days and times to accommodate his work needs, Father has failed to provide proof of employment or any type of schedule to the Agency.

While the Child initially appeared to have a good relationship with Father and enjoyed his company during the visits, Father's inconsistency in attending these visits limited him to performing only superficial parental duties for short periods of time and precluded him from providing for the Child's basic necessities such as bathing and dressing him, making him meals, helping him with his homework and attending school meetings, scheduling and attending medical appointments, and offering comfort when he is sick or scared. When Father was given the opportunity to demonstrate his ability to perform parental duties, he lacked the motivation to take the steps necessary to perform them consistently and his protective capacity was often questionable. Father attended only a few of the Child's medical appointments in 2022 and did not attend either of the

IEP meetings. Since January of 2022, 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 cannot be said to have performed his parental duties or “exerted herself to take and maintain a place of importance in the child’s life” for well in excess of the six months preceding 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.)

The Agency has identified Father’s refusal to obtain and maintain stable employment, his inability to timely complete necessary repairs to his home to ensure it was safe for the Child, and his failure to address his mental health issues as incapacities which have caused the Child to be without essential parental care, control or subsistence necessary for his physical or mental well-being. Father’s counsel argues that the reason the Child was in care as it relates to Father was the existence of a PFA, which has since been remedied, and beyond that, Father has not had any reasonable opportunity to demonstrate that

he can provide essential care, control, or subsistence necessary for the Child's well-being and, conversely, that there has been no demonstration that Father is *incapable* of providing essential care, control, or subsistence to the Child.

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." **Id.** at 340, 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).

Father has reported being employed throughout the duration of the time the Child has been in placement. However, he has demonstrated difficulty maintaining stable employment. Between the fall-out with his brother-in-law in July of 2022, after which he was fired and evicted, and the hearing on January 10, 2024, Father reported working for six separate entities. Father often attributed his missed visits with the Child on his work schedule(s). The Agency was willing to work with Father and adjust his visits to accommodate his work schedule. However, despite repeated requests from his ongoing caseworker and

the visitation supervisor, as well as nearly every permanency review order directing Father to provide verification of employment, nothing was ever provided.

With regard to housing, Father had the option of residing with his Father or obtaining independent housing in the Williamsport area, which would have provided him with easy access to jobs and the visitation center. Instead, Father made the decision to purchase a trailer in Millersburg, an undisputed distance of over 60 miles and an hour and a half one-way drive from where his visits with the Child occurred. Father made this decision knowing he did not have a valid driver's license and that public transportation options were nearly non-existent. This impacted his ability to consistently attend visits with the Child and to develop and maintain a parental bond.

Additionally, the trailer that Father purchased required a significant amount of work both inside and outside to make it a safe and suitable place for the Child to visit, let alone reside. Caseworker Colleen Bolton testified that Father moved into the trailer in approximately October 2022, and she first visited the property in December of 2022. Ms. Bolton testified that during that visit she took pictures of the home conditions, which showed exposed wires, soft floors, a broken window, and copious amounts of debris around the outside of the trailer, all of which would have posed a significant safety threat to a seven year old child. (Agency Exs. 37-83). Ms. Bolton testified that she returned to the property in March of 2023, and while it appeared that Father had made efforts to correct some of the issues in the home, there remained a great deal of work to be done before it would be considered safe for the Child. (Agency Exs. 101-115).

Ms. Bolton testified that she made her third visit to the property in June of 2023. She acknowledged that by that time, Father had made some improvements, such as taking care of the exposed wiring, fixing the soft spots in the floor, and replacing the broken window and cracked toilet. However, this was after the Agency had filed the Petition for Involuntary Termination of Parental Rights. Ms. Bolton testified that Father had not contacted her between visits to inform her that he had completed the work or to request that she evaluate the home conditions to determine if they were appropriate for the Child.

Father's mental health was the third area of concern identified by the Agency. Ms. Bolton testified that she learned from Father that he had two mental health hospitalizations in 2022. On June 8, 2023, Ms. Bolton testified that Father contacted her at the Agency, distraught, stating he was going to harm himself. Ms. Bolton contacted the police and they transported Father to the hospital. Ms. Bolton indicated that Father informed her he did online counseling following that incident. Ms. Bolton further testified that Father was briefly hospitalized at the Holy Spirit inpatient facility in June of 2023 and called her on June 30, 2023, stating he was going to begin outpatient therapy due to depression and other mental health issues. Father's testimony regarding the last time in 2023 he had inpatient treatment, he "went and checked himself in" and stayed for a week until he was discharged for lack of insurance coverage. Since then, he testified that he has "just been doing his own thing" and "trying to find ways to stay calm" rather than engaging in any type of clinical treatment to address his mental health and anger issues.

The Court emphasizes that each of these alleged incapacities, independently, would not likely constitute grounds for termination pursuant to 23 Pa.C.S. §2511(a)(2). However, in conjunction with each other, and in consideration of the length of time which they have remained unresolved, the Court finds that they have amounted to incapacities which have caused the Child to be without essential parental care, control or subsistence necessary for his physical or mental well-being. Father's instability in his employment, lack of urgency to make repairs necessary to ensure that the Child would have safe and appropriate housing, as well as his failure to obtain mental health treatment, is concerning to the Court as it shows that Father is either unwilling or unable to make diligent efforts towards the reasonably prompt assumption of parental duties. The Child has been in the legal and physical custody of the Agency for more than 24 months. Father has failed to timely 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 Father 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 that 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 January 7, 2022, and has been in Agency’s custody

ever since. Father has never been found to be more than moderately compliant with the child permanency plan, and has never made more than moderate progress toward alleviating the conditions which led to the Child's removal. Father was unable to be a resource for the Child when the dependency action was instituted due to the PFA and he continues to be unable to successfully meet the Child's physical, emotional, and educational needs.

For the last two years while in placement, the Child had both his physical and intangible needs met by his foster parents. His foster parents are willing to offer him permanency. The Child's permanency can not and should not continue to be delayed while Father continues to not attend visits and fails to address his mental health issues while simultaneously stating he wishes to be reunified with the Child. As Father has not satisfactorily alleviated the conditions which led to the removal or placement of the Child and precluded him from being a resource for 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)). However, the Agency attempted to arrange for a bonding assessment to be conducted between Father and the Child. Ms. Bolton testified that the referral was made to Crossroads Counseling in 2022 and again in 2023 but attempts by Crossroads staff to reach Father to schedule the assessment had been unsuccessful. Ms. Bolton sent a letter to Father providing Geri Myers’ name and phone number and requested that Father contact her to schedule the assessment, which would have occurred during a visit with the Child. (Agency Ex. 89).

This reminder was reiterated in the Agency's November ASFA letter. (Agency Ex. 90). Father failed to communicate in any way with either the Agency or Crossroads Counseling regarding the bonding evaluation.

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. Visitation caseworker Tami Reeder testified that initially the Child seemed to enjoy Father's company but the relationship was more like friends than parent and child. Ms. Reeder indicated that when Father's community visits were terminated and returned to the family services center due his violations of Agency policies, Father became angry and the language and tone he used with the Child worsened to the point it could have been perceived by the Child as bullying. Eventually, Father stopped attending visits altogether, and the last time he saw the Child in person was on June 15, 2023.

Following the hearing on the Petition for Involuntary Termination of Parental Rights, Trisha Hoover Jasper, Esquire, counsel for the Child, stated her position on the record. She indicated that the Child considers the resource parents to be "Mommy and Daddy." The Child wants to continue to have some type of relationship with both Mother and Father, but not as a parent. He clearly and unequivocally wishes to be adopted and to live with his resource parents and their children, whom he considers to be his siblings. While there may be some bond between Father and the Child, "[t]he 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). The

Court finds that Father, of his own accord, made decisions which resulted in the Child being unable to rely on him as a primary caregiver for an extended period of time, which either deteriorated an existing bond or prevented said bond from growing and strengthening.

While a parent's emotional bond with his or her child is a major aspect of the subsection 2511(b) best-interest analysis, it is nonetheless only one of many factors to be considered by the court when determining what is in the best interest of the child. [I]n addition to a bond examination, the trial court can equally emphasize the safety needs of the child, and should also consider the intangibles, such as the love, comfort, security, and stability the child might have with the foster parent. **In re Adoption of C.D.R.**, 111 A.3d 1212, 1219 (Pa. Super. 2015) (quoting **In re N.A.M.**, 33 A.3d 95, 103 (Pa. Super. 2011)), *abrogated in part on other grounds by* **In re K.T.**, 296 A.3d 1085 (Pa. 2023).

The Child has been in the same foster home for the duration of his time in placement, and 24 months at the time of the conclusion of the hearing on the Petition for Involuntary Termination of Parental Rights. The foster parents have provided everything the Child needs and this has naturally established a bond and attachment between the Child the foster parents. The Child is clearly bonded not just his foster parents, but his siblings and their extended family. He has thrived emotionally, socially, and educationally while in their care. 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, although he may experience some sense of loss in the case of Father, terminating Father's rights would not cause irreparable harm to the Child. This

Court further finds that permanency in the form of adoption by the people 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 JD, 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 JD, 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 JD'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 JD'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  
Jeana Longo, Esquire  
Johanna Berta, Esquire  
Trisha Hoover Jasper, 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. 2023-6860**  
:   
**ID,** :   
:   
**Minor child** :

**DECREE**

**AND NOW**, this 27<sup>th</sup> day of **March, 2024**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of JD, held on December 1, 2023, and January 10, 2024, it is hereby ORDERED and DECREED:

- (1) That the parental rights of JD 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  
Jeana Longo, Esquire  
Johanna Berta, Esquire  
Trisha Hoover Jasper, Esquire  
Angela Lovecchio, Esquire  
Children & Youth  
CASA  
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