

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

**IN RE:** : **NO. 2023-6845**  
: :  
**JG,** : :  
: :  
**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 AA ("Mother") and JTG ("Father") filed on October 2, 2023, with regard to JG ("Child"). A hearing on the Petition for Involuntary Termination of Parental Rights was held on February 7, 2024, and February 13, 2024. Mother appeared personally and was represented by E. Vincent Reeves, Esquire. Father appeared personally and was represented by Patricia Shipman, Esquire.<sup>1</sup> John Pietrovito, Esquire, Solicitor for the Agency, Angela Lovecchio, Esquire, Guardian Ad Litem, and Johanna Berta, Esquire, Counsel for the Child, were also present at the hearings.

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<sup>1</sup> When the hearing reconvened after the lunch recess on February 7, 2024, Attorney Shipman informed the Court that Father had voluntarily chosen not to return for the remainder of the proceedings. She relayed that Father was not contesting the Agency's allegations with regard to the termination of his parental rights but that he supported Mother in her opposition to the termination of her parental rights. After all other counsel expressed no objection, Attorney Shipman was excused from the proceedings unless and until Father expressed a desire to resume participation.

### **Findings of Facts**

JG was born on [redacted]. She is the child of AA date of birth [redacted], and JTG, date of birth [redacted]. Mother and Father were not married at the time of the Child's birth.

The Agency first became involved with the family due to concerns about Mother's mental health and substance abuse of both Mother and Father. A safety plan was put into place on September 23, 2021, and the Child was in the care of a kinship resource. Emergency custody was verbally granted on October 29, 2021, when the Child needed medical treatment for a yeast infection and rash on her body and the Agency could not reach Mother. Mother had minimal contact with the kinship resource and had blocked the Agency's and caseworker's numbers. The kinship resource was no longer willing to provide care for the Child. Father was incarcerated at the time.

A Shelter Care hearing was held on November 1, 2021. Mother, although aware of the hearing, failed to attend. Father attended in person. He admitted to being incarcerated on a probation violation as a result of a relapse following a period of sobriety. Following the hearing, the Court found that sufficient evidence was present to prove that return of the Child to the home of the parents was not in the best interest of the Child. Legal and physical custody of the Child remained with the Agency and placement of the Child remained in the kinship resource home of her half-brother's father and stepmother.

A Dependency hearing was held on November 8, 2021, after which the Court adjudicated the Child dependent. As the Court found that allowing the Child to be returned her parents' home would be contrary to the Child's welfare, legal and physical custody of the Child was ordered to remain with the Agency. The Court noted that

Father admitted to relapsing and using methamphetamine and was currently incarcerated, and that Mother had admitted to using cocaine that summer but denied using controlled substances after August 2021. Mother and Father were ordered to undergo drug and alcohol evaluations at West Branch and mental health evaluations at Crossroads Counseling and to comply with all recommendations. Mother was ordered to submit to a drug screen prior to the end of the business day at the conclusion of the dependency hearing and both Mother and Father were subject to random drug testing at the direction of the Agency.

A permanency review hearing was held on February 18, 2022. The Court noted that there had been no compliance with the permanency plan on the part of Mother, in that she completed an evaluation at West Branch but was not following through with the recommendations and had been discharged from treatment for failure to attend appointments. Mother had not completed the previously ordered mental health evaluation. Although the Court ordered Mother to participate in random drug screens, Mother had not completed any, despite nine requests from the Agency. Mother did not visit consistently with the Child during the review period and did not attend any visits between December 28, 2021, and the permanency review hearing. Mother was found to have made no progress toward alleviating the circumstances which necessitated the original placement in that she had not been involved in any mental health services, and her attendance at visits was poor. Father had minimal compliance with the child permanency plan, in that he had Polycom visits twice a week while incarcerated. However, the visits did not go well as the Child's age made them difficult. Upon his release, Father met with the Agency one time but did not follow through with contacting the Agency to arrange supervised in-person visits. Father was found to have made no

progress toward alleviating the circumstances which necessitated the original placement. 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 kinship resource home.

A permanency review hearing was held on June 1, 2022. The Court found that there had been minimal compliance with the permanency plan by Mother and no compliance by Father. Mother was on the run with Father for a portion of the review period. They were both picked up and incarcerated on March 5, 2022. Mother was released to supervised bail on March 10, 2022, and Father remained incarcerated at the time of the review hearing. Mother was unemployed and went for a period of three months without visiting the Child. During the review period she began attending visits but shortly thereafter began to no-show again. Mother completed another evaluation at West Branch and began to work with Outreach Services during the review period. Outreach Services closed with Father due to his incarceration. While incarcerated, he attended Polycom visits with the Child. Both Mother and Father were found to have made no progress towards alleviating the circumstances which necessitated the original placement. Mother continued to be unemployed and was in danger of being unable to maintain her home. She attended only 50% of her visits. 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 kinship resource home.

A permanency review hearing was held on September 23, 2022. The Court found that Mother had no compliance with the permanency plan in that she left rehab against medical advice. She was detained and admitted to using methamphetamines. She relapsed again after being released from incarceration. She was incarcerated again and

then returned to Guadenzia for treatment. She attended two video visits during the review period. Outreach Services were closed for Mother due to her lack of cooperation and her incarceration/rehab. Father was found to have no compliance with the permanency plan in that he was released from incarceration during the review period and attended only three in-person visits before going on the run from probation. He was detained and incarcerated for the remainder of the review period. Outreach Services that had been reopened for Father were again closed due to his incarceration. Both Mother and Father were found to have made no progress toward alleviating the circumstances which necessitated the original placement in that they both continued to struggle with their drug addictions. Neither had successfully completed any treatment. Both continued to add to their criminal issues. Their attendance at visits was minimal and not enough to maintain a bond with the Child. The Court did find that Mother seemed sincere in her desire to successfully complete her rehab at Guadenzia House, and requested additional video visits. Additionally, the Court found that the Child was doing extremely well in care and had a strong bond with the resource parents who, unfortunately, had recently separated. 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 kinship resource home.

On January 9, 2023, the Agency filed a Petition for Involuntary Termination of Parental Rights and a Petition for Change of Goal to Adoption. A permanency review hearing was held on January 11, 2023. The Court found that Mother had moderate compliance with the permanency plan in that she remained at the rehab facility and was participating in the program. Mother gave birth to her son in October of 2022 and he resided with her at the facility. Mother had one in-person visit with the Child and several

video visits during the review period. Father had minimal compliance with the permanency plan, in that he remained incarcerated but attended all available Polycom visits during the review period. The Court found that Mother had made minimal progress and Father made no progress toward alleviating the circumstances which necessitated the original placement. The Court commended Mother for committing to long-term treatment for her substance use disorder and indicated it was a major positive change from the beginning of the case. 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 kinship resource home.

A permanency review hearing was held on April 26, 2023. The Court found that Mother had substantial compliance with the permanency plan and made substantial progress toward alleviating the circumstances which necessitated the original placement, in she was successfully discharged from rehab. She attended counseling at Genesis House and successfully completed all random drug screens. Mother consistently attended visits with the Child and earned removal from call-in status. Father had no compliance with the permanency plan and made no progress toward alleviating the circumstances which necessitated the original placement, in that he had gone missing from being released from rehab on March 9, 2023. He attended one in-person visit but no showed the other visits. He had an active warrant for his arrest and his whereabouts were unknown. As Mother had attended all visits and there were no concerns, the Agency was directed to increase her frequency and start community visits. Mother anticipated closing on the sale of her home in the immediate future and would have funds to obtain suitable independent housing. Once Mother accomplished that, the Agency was directed to evaluate her home for the purposes of starting in-home

overnight visits. 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 May 9, 2023, the Agency withdrew its Termination of Parental Rights Petition without prejudice.

A permanency review hearing was held on July 6, 2023. The Court found that Mother had minimal compliance with the permanency plan and made minimal progress toward alleviating the circumstances which necessitated the original placement in that she obtained independent housing only a day or two before the hearing. She attended counseling at Genesis House and completed random drug screens. She consistently attended visitation and was compliant with the conditions of her probation. Father had no compliance with the permanency plan and had made no progress toward alleviating the circumstances which necessitated the original placement, in that his whereabouts remained unknown. He had no contact with the Agency of the Child during the review period. During the review period, Mother's visits progressed to community visits, which generally went well although Mother was returned to call-in status due to three no-call/no-shows. However, it was reported that the Child exhibited some concerning behaviors in the kinship resource home, such as outbursts, throwing objects, and a regression in toilet training, when the visits were expanded to the community. Mother had been looking for work during the review period and had clean drug screens for the Agency in May and June. Mother rescinded her releases and therefore the Agency was unable to obtain information about Mother's drug screens through Adult Probation and Genesis House. 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 kinship care home.

The Agency had asked for a finding of compelling reasons not to terminate parental rights, which was denied by the Family Court Hearing Officer. Some of the reasons for the decision include: Mother having more than twenty months to secure housing; Mother's continued lack of employment, which contributed to her inability to obtain and maintain independent, stable housing; concerns about Mother's care of the two other children in her home and her protective capacity as it relates to the Child who is the subject of these proceedings; Mother's lack of motivation and/or time management skills to participate in the services designed to assist her in reunifying with the Child. Upon Mother's request, a rehearing was conducted by this Court. By Order dated August 28, 2023, this Court found that no compelling reason had been documented by the Agency that filing a petition for involuntary termination of parental rights would not serve the needs and welfare of the Child. The request was denied and the Agency was directed to file a Petition for Involuntary Termination of Parental Rights, which it did file on September 18, 2023.

A permanency review hearing was started on December 7, 2023, and resumed on January 18, 2024. The Court found that Mother had minimal compliance with the permanency plan and made minimal progress toward alleviating the circumstances which necessitated the original placement in that she continued to reside in the same residence but was no longer employed and was in the process of being evicted. Mother was briefly incarcerated in December 2023 on a probation violation. She tested positive for both gabapentin and suboxone at the hearing on January 18, 2024, and stated she had a prescription for suboxone but had not provided one for either of the drugs to the Agency. Mother's community visits were suspended when the Agency became aware that she did not have a valid driver's license. During the review period, the caseworker



made multiple attempts, both announced and unannounced, to visit Mother at home before finally being able to make contact with Mother and deeming the home as appropriate. Mother participated in a bonding assessment with the Child and agreed to participate in Outreach Services. Father had no compliance with the permanency plan and had made no progress toward alleviating the circumstances which necessitated the original placement, in that he was incarcerated. He had Polycom visits with the Child when he was not prohibited from doing so due to his behaviors in the prison. 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 kinship care home.

The Petition for Involuntary Termination filed on September 18, 2023, alleges termination was warranted under 23 Pa.C.S. §2511(a)(1), (2), (5), and (8). The hearing on the Petition was held on February 7, 2024, and February 13, 2024.

### **Discussion**

The Agency argues that the basis for termination in this case may be found in 23 Pa.C.S. §2511(a)(1), (2), (5) and (8), which provides as follows:

#### §2511. Grounds for Involuntary Termination

- (a) GENERAL RULE.--The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds:
- (1) The parent by conduct continuing for a period of at least six months immediately preceding the filing of the petition either has evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties.
  - (2) The repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent.

- (5) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency for a period of at least six months, the conditions which led to the removal or placement of the child continue to exist, the parent cannot or will not remedy those conditions within a reasonable period of time, the services or assistance reasonably available to the parent are not likely to remedy the conditions which led to the removal or placement of the child within a reasonable period of time and termination of the parental rights would best serve the needs and welfare of the child.
- (8) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency, 12 months or more have elapsed from the date of removal or placement, the conditions which led to the removal or placement of the child continue to exist and termination of parental rights would best serve the needs and welfare of the child.

In order to involuntarily terminate 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, the Court should consider the entire background of the case and not simply:

mechanically apply the six month statutory provision. The court must examine the individual circumstances of each case and consider all explanations offered by the parent facing termination of his . . . parental rights, to determine if the evidence, in light of the totality of the circumstances, clearly warrants the involuntary termination.

**In re: B.N.M.**, 856 A.2d 847, 855 (Pa. Super. 2004), appeal denied, 872 A.2d 1200 (Pa. 2005) citing **In re: D.J.S.**, 737 A.2d 283, 286 (Pa. Super. 1999).

Heather Goodbrod, visitation caseworker for the Agency, testified Father has been incarcerated for most of the time the Child has been in care and when he was not incarcerated he was often on the run from probation and did not communicate with the Agency to set up in-person visits. Father had only 3 in-person visits over 2 years and the remainder of the visits were limited to 15 minute Polycom visits one time per week. There have been periods when Father has been precluded from having his Polycom visits due to his behaviors in the prison. Ms. Goodbrod testified that Father tried to engage the Child throughout the visits, but the Child was not always interested and in fact recently the visits lasted only 5-6 minutes as the Child refused to take part and would hide under the table despite caseworkers encouraging her to participate. Ms. Goodbrod noted that Father appeared frustrated because he tried to engage the Child but also stated that he did not want to make her do anything she didn't want to do so he would often just get up and walk out of the room. The Court finds that the Agency has proven, by clear and convincing evidence, that Father demonstrated a settled purpose of relinquishing parental claim to the Child well in excess of the six months prior to the filing of the Petition for Involuntary Termination of Parental Rights.

Mother's supervised visits began on October 29, 2021, two times per week for one hour each. Ms. Goodbrod testified from December 29, 2021, through March 7, 2022, Mother did not attend any visits, earning "call-in status" after 3 no-shows. This required her to call between 8:00 a.m. and 8:30 a.m. on the morning of her scheduled visit to confirm her attendance. On March 29, 2022, Mother was placed on check-in status, which required her to arrive one hour prior to her scheduled visit in addition to calling that morning to confirm her attendance. When Mother was incarcerated, the Agency and the prison arranged for her visits with the Child to be via Polycom for 15

minutes one time per week. While Mother was inpatient at Guadenzia House, she had 15 minute visits with the Child via Zoom. When Mother completed rehab in late January of 2023, she returned to in-person visits and remained on call-in/check-in status, but by March of 2023 she had advanced from supervised to closely observed status. Mother was given the opportunity for community visits but the Child began to exhibit some concerning behaviors and regressions at daycare and in the resource home. When Mother obtained independent housing in July of 2023, the Agency was directed to evaluate the home and, if appropriate, progress toward having overnight home visits with the Child. However, Agency Caseworker Heidi Porter testified that she made at least 10 scheduled and at least 10 unscheduled attempts to visit Mother's residence to evaluate it before finally being granted access on November 29, 2023. The community visits ended on October 23, 2023, when the Agency became aware that Mother did not have a valid driver's license. Mother was informed that community visits would resume upon submitting proof of a valid license. On January 8, 2024, Mother was returned to check-in status because she frequently arrived late for her visits. Ms. Goodbrod testified that Mother expressed love for the Child and was active and engaged for the majority of the visits she attended. She was open to receiving feedback from Agency staff when issues were brought to her attention. However, Mother had difficulty telling the Child "no" and setting appropriate boundaries.

Mother's attendance at visits and her engagement in general with the Agency was extremely poor in the early stages of the dependency proceedings. However, given the fact that Mother did attend visits, albeit not always consistently, and demonstrated love and affection for the Child during and after her completion of in-patient treatment, this Court is hesitant to find that she 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). As the Child was under two years of age at the time she was placed in the Agency's custody, the Child's greatest needs have been food, shelter, clothing, medical care, and comfort. In order to satisfy their obligation to perform even the most basic parental duties, Mother and Father would have to maintain stable housing, maintain employment to financially

support themselves and the Child, make and attend medical appointments, and comfort her when she was sick or scared. The Child has been in care for more than half her life. Since the Child was adjudicated dependent, Father has been mostly incarcerated or absconding from law enforcement. Father attended a total of three in-person visits. Father's time in prison and on the run has precluded him from performing any parental duties whatsoever, including making meals for and feeding the Child, bathing her, attending medical and dental appointments, and comforting her when she was scared or sick. Although there was a brief window where she was meeting her Family Service Plan goals, overall Mother has struggled to maintain appropriate housing, stable employment, and address her substance use and mental health concerns. Mother did not attend any of the Child's medical or dental appointments. Mother's attendance at visits was not consistent enough to enable her to fully perform parental duties and when she had the opportunity to potentially expand her visits to overnights at her home, she took more than four months to allow the caseworker access to her home despite knowing that it was necessary to progress toward reunification. Since October of 2021, the Child has depended on her kinship resource home to provide not only for her physical needs such as food, shelter, and clothing, but also for her emotional needs such as comfort and support.

Given Father's minimal in-person visits, and Mother's inconsistent attendance and failure to cooperate with the Agency in working toward progressing to home visits, resulting in the vast majority of the Child's daily needs being fulfilled by her kinship resource parent, neither parent can be said to have performed his or her 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 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 Mother and 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). Outreach services are often instrumental in assisting and empowering a parent to remedy incapacities and accomplish the goals necessary to achieve reunification. Caseworker Heidi Porter testified that the first Outreach referral for Mother was made on April 6, 2022, and the identified goals were to assist with community supports and parenting. These services were closed on August 11, 2022, because Mother was incarcerated and later went to rehab, but mother was informed that she could request that services be reopened upon her discharge. A second referral was made on May 5, 2023, but closed a month later after the assigned caseworker had no contact from Mother. Mother indicated that she had too much going on in her life and could not focus on Outreach services but would request them again when things in her life “calmed down.” Jaclyn Furman, Outreach caseworker, testified that a third referral for services was received on December 1, 2023, and the goals identified were budgeting, linking to community resources, and parenting. Mother was incarcerated on the date of their scheduled initial meeting on December 4, 2023, so it was postponed to January 4, 2024. Mother indicated to Ms. Furman that she was not working, had no source of income, did not know how far behind she was on her bills and that she thought she was at risk of eviction, although she did not mention that she actually had an eviction hearing scheduled on January 24, 2024.

Since the inception of this case, Mother has struggled to maintain employment and independent housing. Although Mother spent a portion of the time the Child has been in care in inpatient rehab, much of her time was not. It



took nearly six months for Mother to obtain independent housing upon her discharge from inpatient treatment despite having proceeds from the sale of a home she owned. Unfortunately, while the Agency believed Mother used those proceeds to pre-pay for several months rent in full, Ms. Porter testified that she learned the money Mother paid “ahead” really just lowered her monthly payments from \$1,150 to \$800 per month. Less than six months after obtaining the housing, Mother admitted to struggling to pay her bills and facing eviction. Mother’s lack of steady employment throughout the time the Child has been in placement has contributed to Mother’s housing instability.

In addition to housing and employment, Mother’s drug use has been a significant concern of the Agency. For approximately 10 months after the Child was removed from her care, Mother took no action or accountability for her addiction. She attended a West Branch evaluation but failed to follow through with any recommended treatment. She failed to attend any of the nine drug screens requested by the Agency in one review period. She left her first stay at Guadenzia against medical advice, relapsed shortly thereafter, and failed to appear for another West Branch evaluation which caused her to be incarcerated before she was ultimately returned to Guadenzia in August of 2022 as part of the Jail to Treatment program.

Although Mother successfully completed inpatient treatment in January of 2023, and was subsequently successfully discharged from out-patient services at Genesis House, the Court is not convinced of her commitment to sobriety. Ms. Porter testified that Mother previously attended Applegate Recovery for Medication Assisted Treatment and reported having a prescription for Suboxone,

but never provided a copy to the Agency despite numerous requests. At the permanency review hearing on January 18, 2024, Mother tested positive for Suboxone and reported that she was still receiving MAT, which was unknown to the caseworker. Mother's probation officer, Aaron Geiser, testified that Mother recently tested positive for Gabapentin, for which she has been unable to provide a prescription. Mother, when questioned at the hearing on the Petition for Involuntary Termination, acknowledged that the Gabapentin she took which resulted in the positive test was over a year old and she did not have a valid prescription for it. Mother further acknowledged that the Agency had been asking for a copy of the Suboxone prescription for quite some time and she had not provided it.

With regard to Father, he has been incarcerated or on the run for almost the entire time the Child has been in care. Father was referred for Outreach Services but was not able to remain out of jail or in the area for long enough to benefit from the services and therefore they were closed. The Supreme Court of Pennsylvania has definitively held that "[i]ncarceration, while not a litmus test for termination, can be determinative of the question of whether a parent is incapable of providing 'essential parental care, control, or subsistence' and the length of the remaining confinement can be considered as highly relevant to whether the 'conditions and causes of the incapacity, abuse, neglect, or refusal cannot or will not be remedied by the parent.'" **In re: Adoption of S.P.**, 47 A.3d 817, 830 (Pa. 2012). Father's incarceration is not the sole factor in its determination that Father's incapacities have caused the Child to be without essential parental care, control or subsistence necessary for her physical or

mental well-being. Father's drug use, the underlying cause of most of Father's criminal charges and subsequent incarcerations as well as the impetus for absconding from probation, and the reason he was not able to be a resource for the Child at the time she was removed from Mother's care, has largely gone untreated. Even if he would begin to engage in services immediately upon his release from incarceration, this incapacity is not likely to be remedied within a reasonable amount of time.

The Child has been in placement for more than two years, and neither Mother nor Father have been able to make measurable progress in remedying the incapacities which caused the Child to be removed from their care. Despite repeated attempts by the Agency to assist Mother in completing her service plan goals, she has displayed an inability or refusal to follow-through with actions necessary to address her incapacities while simultaneously ensuring that the Child's needs would be met consistently and appropriately. This Court finds that neither Mother nor Father has remedied their incapacities 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 Mother's and Father's repeated and continued incapacity has caused the Child to be without essential parental control or subsistence necessary for her 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 October 29, 2021, and has been in Agency’s custody ever since. Father had minimal compliance with the permanency plan at two permanency review hearings and no compliance at the remaining hearings. His minimal compliance is attributed to his attending Polycom visits, which are automatically set up between the Agency and the

prison. At each permanency review hearing, Father was found to have made no progress toward alleviating the circumstances which necessitated the original placement. As Father has made no progress, and no real effort, in cooperating with the Agency to work toward reunification, the Court finds that termination of his parental rights would best serve the needs and welfare of the Child.

With regard to Mother, her identified service plan goals were housing, employment, and substance abuse/mental health treatment. For the majority of the time the Child has been in placement, the Court found that Mother had minimal or no compliance with the child permanency plan, including the period of time from the adjudication of dependency in November of 2021 until January of 2023, when the Agency filed its first Petition for Involuntary Termination. During that time Mother was employed only sporadically at the Lucky Strike Diner, not consistently attending visits with the Child, was discharged from her mental health and substance abuse counseling for noncompliance, failed to attend nine random drug screens requested by the Agency, left her first attempt at in-patient treatment against medical advice and went on the run with Father from probation, was incarcerated for failing to attend an West Branch evaluation, and eventually returned to Guadenzia House for in-patient rehab as part of the jail to treatment program.

A Family Group Decision Making meeting was held in January of 2023, the purpose of which was to develop a plan for reunification between Mother and the Child when Mother returned home from rehab. At the meeting, Mother was able to see that she had many supports and resources in the community. Ms. Porter testified that the focus of the meeting was Mother's time management

skills and her need to be consistent with visitation, counseling, employment, etc. in order to work toward reunification. Upon her successful completion of treatment at Guadenzia House on January 30, 2023, Mother was recommended for counseling at Genesis House. Ms. Porter testified that she received individual and group counseling and, according to her counselor, was an active participant. Mother attended the drug screens requested by the Agency. Mother was eventually successfully discharged from Genesis House due to her progress.

When Mother completed treatment at Guadenzia House she resided with her two other children in the home of her great aunt. As the home was not large enough to accommodate all of them, plus the Child, Mother needed to make obtaining independent housing a priority. While she owned her own home, it had fallen into disrepair and Mother made the decision to sell it in January or February of 2023. Mother testified that she purchased a car and planned to use the remainder of the sale proceeds to obtain independent housing. For the first time since the Child had been in care, the Court found that Mother had substantial compliance with the child permanency plan and had made substantial progress toward alleviating the circumstances which necessitated the original placement. The Agency, encouraged by Mother's progress, withdrew its original Petition for Involuntary Termination of Parental Rights on May 9, 2023.

Unfortunately, Mother's period of substantial compliance was short-lived. Mother's second referral for Outreach services was made on May 5, 2023, but closed in June of 2023 after the caseworker had no contact from Mother. Mother gave the excuse of having too much going on to focus on Outreach services but indicated that she would request another referral when things calmed down.

Although Mother sold her home in January or February of 2023, she did not obtain independent housing until July 3, 2023. Despite Mother being informed by the Court and numerous Agency staff that in-home visitation with the Child would be available upon approval of her residence, Ms. Porter testified that in addition to numerous calls and texts to Mother, she made at least 10 scheduled and 10 unscheduled attempts to gain access to Mother's home between July 6, 2023, and November 29, 2023, before she was finally successful. Ms. Porter further testified that during that time, Mother's probation officer, other CYS workers, the CASA, and the Williamsport Area School District social worker were all denied entry to the home. Ms. Porter testified that when she finally was able to see the home, there were no safety concerns, but there were some concerns with the stability of Mother's living situation, as Mother was reportedly working for a home health agency but admitted to struggling to pay her bills. When questioned about her failure to cooperate with the Agency despite knowing that doing so would enable her to receive home visits and, as a result, spend more time with the Child, Mother testified that she felt she did not have time to unpack and adjust to her other obligations before allowing Ms. Porter access to the home, but wished that she would have made it more of a priority.

The lengthy delay in allowing the Agency access to the home was not the only example of Mother's lack of urgency which concerned the Court. The Agency arranged for a bonding assessment to be conducted by Denise E. Feger, Ph.D, The first part of the evaluation consisted of Dr. Feger observing a visit between Mother and the Child on August 21, 2023. Dr. Feger testified that she made a request at the time of the original observation to have a follow up

interview at Mother's home, to which Mother replied that she was still unpacking and stabilizing her home environment. Mother failed follow up with scheduling the second part of the evaluation until Ms. Porter finally had to obtain the appointment for December 18, 2023, on Mother's behalf so that Dr. Feger could meet with her at her home to finalize the evaluation.

While Father has been incarcerated or absconding from probation for nearly the entire time the Child has been in placement and Mother has demonstrated a complete lack of urgency in completing her service plan goals such as maintaining suitable housing, steady employment, and address her substance abuse concerns, the Child had both her physical and intangible needs met by her resource parent. Her resource parent is ready, willing, and able to offer her permanency. As neither parent has satisfactorily fai, and the permanency of the Child is of the utmost importance at this juncture, it is clear to this Court that termination of 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).

No bonding assessment was conducted between Father and the Child, due to the fact that he only had three in-person visits in two years as a result of his pattern of incarceration and absconding from probation. While Father visited with the Child via Polycom when he was incarcerated, the visits were limited to 15 minutes each and have recently been even shorter due to the Child’s lack of engagement and refusal to participate. Both Ms. Porter and the resource parent testified that the Child does not identify Father as her parent, but rather as the father of Mother, having made comments such as “I saw Amanda’s dad on the television.” The Court finds that Father’s brief interactions with the Child, without Father performing any parental duties, have been

insufficient to establish and maintain a necessary and beneficial bond. Termination of Father's parental rights would not destroy an existing relationship that is necessary and beneficial to the Child's welfare.

The Agency did make a referral to Crossroads Counseling for Denise Feger, PhD, to conduct a bonding assessment between Mother and the Child and between the Child and DF, the resource parent. On August 21, 2023, Dr. Feger interviewed Mother and observed a visit between Mother and Child, the purpose of which was to assess the Child's behaviors and Mother's reactions thereto to determine whether the parent/child interaction is typical or atypical. A follow-up interview at Mother's home was not able to be scheduled until much later, on December 18, 2023. At the time of the hearing on the Petition for Involuntary Termination of Parental Rights, Dr. Feger was qualified as an expert in performing bonding assessments between parent and child and child and resource parent. Dr. Feger testified that she was provided with information that the Child engages in attention seeking behaviors including tantrums, which can be excessive at times, and displays refusal skills. This information was consistent with the Child's behavior that Dr. Feger witnessed at the visit with Mother. Dr. Feger testified that Mother's response to the Child's behavior was appropriate and that she possesses parenting skills, but lacks the consistency necessary to be the primary caregiver to the Child. According to Dr. Feger, the Child's acting out in Mother's presence is the result of an "insecure attachment" to Mother as the Child is uncertain about their interactions and whether she can depend on Mother as a primary caregiver. This translates into negative emotional uncertainty over the instability of their relationship rather than positive excitement about seeing Mother, and the Child exhibits a level of insecurity when the resource mother leaves her at visits. Dr. Feger opined that it would be a loss to the

Child if the parental rights of Mother were terminated. However, she indicated that of greater concern for the Child is the fact that the reunification efforts are not any further advanced now than they were when she went into care and the uncertainty the Child has experienced has already been going on a long time with no way to predict if and when it may end on Mother's part.

Dr. Feger testified that the Child presented very differently with the resource parent than she did when she observed her with Mother. In the resource home, the Child was cooperative, proud, and engaged appropriately with the children of the resource parent, whom she considers her siblings. Dr. Feger testified that there is a stable bond between the Child and the resource parent, evidenced by the fact that the Child seeks validation from the resource parent and is cooperative with her because she relies on her as a primary caregiver. Dr. Feger testified that the impact on the Child of severing the relationship with the resource parent would be significant due to the length of time the Child has been in her care and has identified her as her primary caregiver/parent.

The Child has been in her current resource home for approximately 2.5 years. For more than half her life she has relied on someone who is not her Mother or Father to be her primary caregiver. While Father has been unable to perform any parental duties due to his incarceration and/or absconding from law enforcement and Mother has displayed an utter lack of urgency in accomplishing her service plan goals to achieve reunification, for more than two years the resource parent has provided everything the Child needs, including food, shelter, clothing, medical care, love, support, and discipline with consistency. This has naturally established a bond and attachment between the

Child the resource parent which is not present between the Child and Father and which Dr. Feger characterized as “insecure” between the Child and 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). While there may be some bond with Mother through the Child’s eyes, the Court heard testimony from multiple witnesses regarding the elevated behaviors the Child displayed around the visitation times and the examples of regression in the Child’s development, which were more prevalent when Mother was not consistent in her visitation. Mother’s lack of urgency and commitment to reunification has resulted in the Child being in a state of limbo for more than half her life. The Child’s permanency cannot and should not be delayed. The Child is clearly bonded with the resource parent, who has provided for her physical and emotional needs and who has integrated her into her family. Most importantly, she is ready, able, and willing to offer the Child permanency. Given the lack of a bond between the Child and Father the Court is satisfied that termination of Father’s parental rights would not cause irreparable harm to the Child. While the Child may experience a loss if Mother’s parental rights are terminated, this Court finds that Mother has failed to take the steps necessary to accomplish reunification within a reasonable amount of time, and this inconsistency has resulted in a significant and stable bond between the Child and the resource parent that is “the one worth saving.” This Court further finds that permanency in the form of adoption by the person who has consistently met the Child’s needs, both tangible and intangible, 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 JTG and AA, 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 JTG and AA, 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 her 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 JTG's and AA'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 JTG's and AA'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  
Patricia Shipman, Esquire  
Angela Lovecchio, Esquire  
Johanna Berta, 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. 2023-6845**  
: :  
**JG,** : :  
: :  
**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 JTG, held on February 7, 2024, and February 13, 2024, it is hereby ORDERED and DECREED:

- (1) That the parental rights of JTG 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  
Patricia Shipman, Esquire  
Angela Lovecchio, Esquire  
Johanna Berta, 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. 2023-6845**  
:   
**JG,** :   
:   
**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 AA, held on February 7, 2024, and February 13, 2024, it is hereby ORDERED and DECREED:

- (1) That the parental rights of AA 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**

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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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By the Court,

Ryan M. Tira, Judge

RMT/jel

cc. John Pietrovito, Esquire  
Jeana Longo, Esquire  
Patricia Shipman, Esquire  
Angela Lovecchio, Esquire  
Johanna Berta, Esquire  
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