

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

IN RE:	:	
K.S.,	:	No. 2024-6929
Minor Child	:	
	:	

OPINION AND ORDER

And now, this **30th** day of **June, 2025**, before the Court is Lycoming County Children and Youth Services' ("Agency") Petition for Involuntary Termination of Parental Rights of F.M. ("Mother") and C.S.R. ("Father") filed on July 23, 2024, regarding K.S. ("Child").

A hearing on the Petition for Involuntary Termination of Parental Rights was scheduled to begin on December 11, 2024. On October 15, 2024, Attorney Tiffani Kase filed a continuance request that was granted. A hearing on the Petition was held on January 15, 2025, and March 12, 2025. Father appeared and was represented by Tiffani Kase, Esquire. Mother did not appear and was represented by Johanna Berta, Esquire. John Pietrovito, Esquire, Solicitor for the Agency, and Angela Lovecchio, Guardian Ad Litem and counsel for the Child were also present at the hearings.

Findings of Fact

K.S. was born on [redacted]. She is the daughter of F.M. born on [redacted], and C.S.R. born on [redacted]. Mother and Father were not married at the time of the Child's birth.

On July 14, 2024, Child was taken to University of Pittsburgh Medical Center ("UPMC"), Williamsport, Pennsylvania, Emergency Room due to Mother's belief that Child had hives. Upon arrival, medical providers found that Child had bruising all over her body.

Hospital staff completed medical scans. Medical providers concluded that the Child has known Mongolian spots, however, the bruising was beyond the Mongolian spots. Present at the hospital with Child were Mother and her paramour, J.F. At the hospital, police and the Agency interviewed both Mother and her paramour. Both adults denied abuse, and J.F. reported the Child got run over by a dog at his mother's home. However, J.F. changed his story and reported that he was somewhere with the Child and they returned home at 3:00 or 4:00 a.m. J.F. again changed his story that he never provides care for the Child, and he minimized his relationship with Mother. J.F. further reported that the Child got her head stuck in the crib, requiring him to become very rough to get her out. Police conducted a visit at the home, but only found a missing screw on the crib.

Child was transferred to Geisinger Medical Center ("GMC")-Child Advocacy and Protection unit. Injuries to the Child included handprint to her face, bruises on the soles of her feet, her rectum was bruised, and her liver was lacerated. There also appeared to be damage to her spleen. No fractures were identified, but enzyme testing indicated her liver enzymes to be over 6,000 (extremely high). The report from GMC noted that the bruises were fresh—within a few days of admission. The Child was discharged on July 17, 2023. The Agency received the report classifying the incident as a near fatality.

On July 14, 2023, Mother signed a Voluntary Placement, and the Child was placed in a Resource Home, which was kept confidential due to safety concerns. At the time of the incident and placement, Child's Father was incarcerated at Lycoming County Prison, Williamsport, Pennsylvania, on aggravated assault, terroristic threats, and simple assault charges. The charges arose out of an incident that occurred on December 18, 2022, wherein Mother was the victim. Father was incarcerated on January 13, 2023. Father also has possession of firearms charges that were active and not disposed of yet.

On March 2, 2023, a Final Protection from Abuse Order was entered against Father with Mother as the protected party. The PFA Final Order also ordered Father have no partial physical custody/visitation rights.

A Dependency Petition was filed on July 20, 2023. A Dependency Hearing was held on August 11, 2023, before Hearing Officer Diane L. Turner, after which the Court adjudicated the Child dependent and remained in the legal and physical custody of the Agency.

A permanency review hearing was held on December 6, 2023 before the Court. Father continued to be incarcerated, he was scheduled for a guilty plea on December 23, 2023, but the proceeding was continued. Father did not have visitation with the Child due to the active PFA with an expiration date of March 2, 2026. The Court noted there had been no compliance with the permanency plan and no progress toward alleviating the circumstances which necessitated the original placement on the part of Father. Dependency was continued and Child remained in the legal and physical custody of the Agency.

A permanency review hearing was held on April 12, 2024, before Hearing Officer Diane L. Turner. Dependency was continued, and Child remained in the physical and legal custody of the Agency. The Court noted there had been no compliance with the permanency plan and no progress toward alleviating the circumstances which necessitated the original placement on the part of Father. Father did send several letters inquiring about the Child, and he was in contact with the caseworker. However, due to the active PFA he was still not permitted to have visitation with the Child. Father's guilty plea was scheduled for May 10, 2024.

A permanency review hearing was held on May 10, 2024. At the hearing, Father's sister, C.S., was present for part of the hearing. C.S. applied as a kinship resource home for

the Child, but her application was denied. The Court noted there had been no compliance with the permanency plan and no progress toward alleviating the circumstances which necessitated the original placement on the part of Father. Father was maintaining appropriate contact with the Agency. Due to the active PFA Final Order, Father still had no visitation rights with the Child. The Court ordered the continued dependency of the Child, and the Agency maintained legal and physical custody.

A permanency review hearing was held on August 14, 2024. Father remained incarcerated, and due to the active PFA Final Order he was unable to have visits with the Child. Moreover, Father's did not maintain contact with the Agency during the preceding review period. The Court granted Father's Motion to Modify the terms in the PFA to allow visitation with the Child. The Court notes there were not allegations of abuse by Father toward the Child, and the Child was not a protected party under the PFA Final Order. Dependency of the Child was ordered to continue with the Agency maintaining legal and physical custody of the Child. The Agency filed its Petition for the Involuntary Termination of Parental Rights regarding Father on July 23, 2024.

On January 15, 2025, the hearing on the Agency's Petition for the Involuntary Termination of Parental Rights commenced. The hearing was continued at Father's request because of his intention to testify. The second day was scheduled for January 30, 2025, however, the second day for the Involuntary Termination of Parental Rights hearing was rescheduled to March 15, 2025.

A permanency review hearing was held on January 23, 2025. Father remained incarcerated. After Father was granted a motion to modify visits under the PFA Final Order in August, he was able to have video visits with the Child. With the exception of one visit, due to Father being placed in the disciplinary unit, Father attended every scheduled visit. The

Child was unavailable for four visits due to illness or holidays. A bonding assessment was completed between Father and Child. The Court continued the dependency of the Child with her physical and legal custody remaining with the Agency.

The second day of the hearing on the Agency's Involuntary Termination of Parental Rights was held before the Court. Father was the only witness to testify on March 15, 2025.

A permanency review hearing was held on April 30, 2025, pending the Court's decision on Father's parental rights. Father remained incarcerated, and at the time of the hearing he was being held in the disciplinary unit. Father continued to visit via video with the Child when he was authorized. The Court reaffirmed dependency and legal and physical custody of the Child remained with the Agency for continued placement in the resource home.

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).

Claudia Perry, visitation caseworker with the Agency, testified that video visits started between Father and Child in August of 2024. However, from the time Child was adjudicated dependent in July of 2023 to August of 2024, Father and Child were unable to visit due to the active PFA Final Order impacting visitation. Caseworker Perry further testified that the visits between Father and Child were supervised, meaning that, a

caseworker consistently supervised each visit for the whole time to ensure appropriateness. Of the fourteen (14) visits scheduled from August of 2024 to the first day of the Termination hearing, Father attended all visits except for two—one for which Father was held in the disciplinary unit and one for which Child was unavailable.

Caseworker Perry testified to Father's strengths during visits, stating that he: (1) spoke affectionately; (2) conversed and interacted well with Child; (3) handled technological complications well if the issues interrupted the visits. During the last few visits, Child expressed more recognition toward Father.

Caseworker Perry had concerns about the visits occurring strictly over video calls because such a method limits her ability to adequately address or evaluate Father's parenting. On one occasion, Caseworker Perry was required to redirect Father from discussing Child's stuffed, toy lamb in an inappropriate context¹. Father also began rapping on that visit, which Caseworker Perry also redirected.

Regarding the Parent-Child bond, Caseworker Perry stated that the limitations of video visits impede the building of a strong bond between Child and Father.

However, facing the limitations of his incarceration, Father did fight for and attend visits with Child. At the visits he spoke affectionately, usually in an appropriate context, and he exhibited patience with complications outside of anyone's control. Moreover, Father's ability to visit was prohibited for one year while the Child was dependent due to an active PFA Final Order. Additionally, almost immediately after the PFA Final Order was modified, Father began attending visits and only missed one by his own conduct. Thus, the Court is hesitant to find that Father demonstrated a settled purpose of relinquishing parental claim to

¹ Father spoke to Child about serpents and lambs—evil versus good. Caseworker Perry determined the conversation was not an appropriate use of the visitation time.

the Child in the six months prior to the filing of the Agency's Petition for Involuntary Termination of Parental Rights.

However, grounds for termination under 23 Pa.C.S. §2511(a)(1) may also be proven where a parent fails to perform parental duties for a period in excess of six months prior to the filing of the Petition for Involuntary Termination of Parental Rights.

In determining what constitutes parental duties, the Pennsylvania Supreme Court has opined:

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 was fifteen months old when she was removed from Mother's home. Father was already incarcerated at the time Child was adjudicated. The Child was without proper care or control, subsistence, education as required by law, or other care necessary for her physical, mental, or emotional health or morals. Father would have to meet the developmental and special needs of the Child, meet medical and dental needs of the Child, obtain and maintain stable housing free of domestic violence, prevent re-abuse, gain stable employment, use positive parenting skills,

develop a support system, resolve criminal matters, and complete mental health and drug and alcohol evaluations plus compliance thereof with continuing counseling.

Father's performance of his parental duties was limited by his incarceration and the active PFA Final Order. Father's ability to complete most of the other obligations set forth by the Agency was further blocked by his ongoing incarceration and unresolved legal matters. Father's legal issues remained unresolved for the duration of this case. Father was scheduled for several guilty plea proceedings, but the proceedings were continued, and thus, the lingering criminal matters remained unresolved. Father's performance was improved slightly by having visitation reinstated. However, the video visits still limited his ability to demonstrate parenting skills and meeting the needs of the Child, and Father did not make efforts to write to the Child or send gifts. Moreover, if Father's criminal matters were to be resolved, he would still need to satisfy the goals of the Family Service Plan outlined in the Agency's monthly letters and maintain the completion of the goals for a period of at least six months. Moreover, Father would be required to progress through the various measures of supervision, successfully. With the outstanding criminal matters, visitation and the circumstances of the Child's dependency were unlikely to change in an appropriate amount of time.

Father provided several kinship resource home options to his ongoing caseworker, Heidi Porter. The proposed kinship homes were either denied or the parties did not follow through with the Agency's terms.

Father was not the perpetrator of Child's abuse and subsequent dependency. However, Father's criminal charges stem from an incident that involved threats and violence toward Child's Mother in the presence of Child.

The Child's needs have been exclusively met by the resource parents. Father cannot be said to have performed his parental duties or "exerted himself to take and maintain a place of importance in the child's life" in the months preceding, and following, the filing of the Petition for Involuntary Termination of Parental Rights. *Id.*

Accordingly, the Court finds by clear and convincing evidence that the Agency has fulfilled the requirements under 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 Agency's petition.

To satisfy the requirements of Section 2511(a)(2), the Agency must demonstrate that Father, through:

(1) [R]epeated and continued incapacity, abuse, neglect or refusal; (2) such incapacity, abuse, neglect or refusal has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being; and (3) the causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied.

In re: Adoption of M.E.P., 825 A.2d 1266, 1272 (Pa. Super. 2003).

Under Section 2511(a)(2), "[t]he grounds for termination [of parental rights] due to parental incapacity that cannot be remedied are not limited to affirmative misconduct. To the contrary, those grounds may include acts of refusal as well as incapacity to perform parental duties." *In re: A.L.D.*, 797 A.2d 326, 337 (Pa. Super. 2002) (citations omitted).

"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). "Moreover, an agency is not required to provide services indefinitely if a parent is either unable or unwilling to apply the instruction given." *In re: A.L.D.*, 797 A.2d at 340.

The Pennsylvania Supreme Court definitively holds that:

“incarceration, 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,” sufficient to provide grounds for termination pursuant to 23 Pa.C.S. § 2511(a)(2).

In re Adoption of S.P., 616 Pa. 309, 47 A.3d 817, 830 (2012). Moreover:

[T]he fact of incarceration during an ongoing dependency action will not disqualify a parent from resuming parental responsibility so long as the parent will be released quickly enough to permit the court to provide the child with timely permanency upon reunification. If, however, the length of parent's incarceration will preclude the court from unifying the (former) prisoner and the child on a timely basis in order to provide the child with the permanent home to which he or she is entitled, then the length of sentence, standing alone, should and does meet the legal criteria for involuntary termination of the incarcerated parent's parental rights under 23 Pa.C.S. § 2511(a).

Id at 830 quoting *In re R.I.S.*, 614 Pa. 275, 36 A.3d 567, 576 (2011). Under Section 2511(a)(2), a parent who is incapable of performing parental duties is equally as unfit as a parent who refuses to perform parental duties. See *In re E.A.P.*, 944 A.2d 79 (Pa. Super. 2008)(holding termination under Section 2511(a)(2) was supported by mother’s repeated incarceration and failure to be present for the child causing the child to be without essential care and subsistence for most of her life and which could not be remedied regardless of mother’s compliance with different prison programs).

In evaluating the grounds for termination of parental rights under Section 2511(a)(2), a court “must determine whether termination is in the best interests of the child, considering the developmental, physical, and emotional needs and welfare of the child pursuant to Section 2511(b).” *In re Adoption of S.P.*, 616 Pa. 309, 47 A.3d 817, 830 (2012). Relevant factors the court must consider include: (1) the nature of the relationship before incarceration; (2) the terms of incarceration; (3) the effect of incarceration on a parent’s ability to perform parental duties; and, (4) a parent’s efforts to remain involved with his child

while incarcerated. *Id* at 830. Regarding termination cases in which a parent is incarcerated, the trial court is tasked with carefully evaluating the individual circumstances of every child to determine, among other things, how a parent's incarceration will factor into the judgment of the child's best interest. *Id* at 831.

Heidi Porter, ongoing caseworker for the Agency testified that Child was admitted to the emergency department because Mother thought Child had hives. However, the medical examination, including scans revealed more extensive concerns such as generalized bruising. After police and the Agency were called and investigated the report, Mother signed a voluntary placement of Child the same day. Child has since been in the care of the resource parents after being discharged from medical care and consistent monitoring. Caseworker Porter further testified that Father initially contested the paternity, and a hearing was scheduled in front of the Honorable Eric Linhardt, Judge, but the hearing never occurred. When Child was voluntarily placed Father was incarcerated. Furthermore, Caseworker Porter testified that Father was present for the Dependency hearing, and made statements regarding Mother's paramour abusing the Child as a means to "get to" Father for the allegations against him by Mother. The Agency set forth, *inter alia*, the goal for Father to resolve his criminal matters to satisfy the goals like obtaining and maintaining stable housing and employment. However, as of January 10, 2025, Father's scheduled guilty plea was continued or rescheduled again.

Caseworker Porter further testified that Child was placed in July of 2023, but in June of 2024 Father filed a motion to modify the custody provision set forth in the PFA Final Order which was addressed in August of 2024. At the time Father sought to modify the custody, Child had already been in placement for twelve months. Aside from the scheduled

video visits, Father did not make efforts to send letters or gifts to Child. Phone calls between Father and Child were not permitted.

Father did maintain contact with the Agency, asked about Child's wellbeing initially, and provided kinship resource home options. Since beginning the video visits, Father's inquiries about Child fell off. Father's kinship resources included two sisters and his mother. All of the kinship options were contacted by the Agency, and investigated. Father's mother was deemed an inappropriate resource due to concerns of mental health concerns, involvement in mental health court, and housing concerns. Father's sister, N.H., declined to be a kinship resource option due to her personal schedule and because her address was listed by Father for his possible release. Father's sister, C.R., was initially denied by the Agency which she appealed. C.R. was denied a second time which she has not appealed. C.R. does maintain contact with and receives updates on Child through Caseworker Porter.

Caseworker Porter has also observed Child within the resource home and with the resource parents. The observations indicate that Child is attached to the resource parents with a well-established bond. It is Caseworker Porter's opinion that if Child is removed from the resource parents, Child will be devastated and the action will cause regression in the progress Child has made.

Caseworker Porter further testified that since Child was initially placed she has made significant improvements with speech, development, and socialization.

Father testified that his release from incarceration was still unknown by March 15, 2025. He stated that he was scheduled for jury selection, and the sentencing as it was explained to him was expected to be two to four years with a three to six year maximum range. Moreover, Father could petition the court for credit for time served since he has been incarcerated since January of 2023.

Father further testified that he was the Child's primary caregiver until the events leading to his incarceration took place. More specifically, Father stated that he handled diaper changes, enrichment play, and that Child reacted positively to his presence. Father stated he was the primary caregiver because Mother did not express any capacity or motivation to provide care for the Child. Father would also request longer video visits with Child while his legal matters remain pending. Father would like for Child to remain with the current resource parents as he finds it to be an appropriate and stable environment in which she has thrived. However, Father stated that he empathizes with children, especially his own Child, in not knowing the biological parents. For the aforementioned reasons, Father requested the Court deny the Agency's Petition for the Involuntary Termination of Parental Rights.

Father stated that if his parental rights are not terminated and when he is released he would request an additional six months from the court and Agency for him to re-establish himself in the community by obtaining stable and appropriate housing and employment.

Here, the Court finds that Father's ongoing incarceration without any indication that the pre-trial matters will be resolved or what the term of the potential, subsequent sentence cannot justify delaying the permanency the resource parents who are ready, willing, and able to provide to the Child. Moreover, Father's delay in modifying the custody prohibition set forth in the PFA Final Order and his denying paternity at the outset of Child's dependency weigh against his parental rights. The Court further finds that Father has not taken substantial steps to pursue any opportunities provided within the prison to fulfill the goals like counseling, parenting classes, and anger management therapy as required in the Family Service Plans. Finally, the Agency testified that Father did not take any steps outside of the scheduled visits to interact with Child like sending gifts or letters or asking about Child's

well-being, hobbies, and daily activities. Accordingly, the Court concludes that the conditions and causes of incapacity under Section 2511(a)(2) cannot or will not be remedied by Father. Additionally, Father has been incarcerated for 72% of the Child's life, which has taken a significant toll on any bond that may have been established before his incarceration.

“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 by clear and convincing evidence that the Agency has proven by

clear and convincing evidence that grounds for termination of Father's parental rights exist under Section 2511(a)(5) and (8). The Child was placed in the legal and physical custody of the Agency in August of 2023, and has been in Agency's custody since.

At each of the permanency review hearings for the Child, Father was found to have minimal or no compliance with the permanency plan and made no progress toward alleviating the conditions which necessitated the Child's placement. At the time of the hearing on the Petition for Involuntary Termination of Parental Rights, Father still had pending criminal charges and he was still incarcerated, he had not pursued the goals outlined in the Family Service Plan regarding his mental health and substance use consultations or anger management consultations. Moreover, Child was nine-months old at the time Father was incarcerated, and for one year, Father did not pursue the modification of the PFA Final Order to reinstate visits with Child. Father maintained contact with the Agency appropriately, and he submitted family members to the Agency's Family Finding efforts as possible kinship resource homes. However, the candidates did not qualify or failed to comply.

While Father has been incarcerated and unable to address the conditions which led to the placement of the Child, Child had both her physical and intangible needs met by her resource parent. While in the care of the resource parents, the Child has become very attached to the family, she is meeting developmental milestones. When Child was first placed with the resource family, she had difficulty walking and speaking. The delays indicated the need for early intervention services and ongoing medical treatment and routine evaluations. The Child was referred to early intervention services, including speech and physical therapy. The resource parents provided Child for the necessary appointments on a weekly basis. Currently, the Child does not require physical therapy or speech intervention, but she is monitored routinely to ensure appropriate development. Resource Father also testified to

putting effort forth to make the video visits with Father pleasant by associating other positive experiences with the visits. The resource parents have the Child enrolled in daily daycare. Child has become more talkative, she enjoys music and dancing, and she enjoys playing the resource family's other child and the family pets. The resource family is willing to offer Child permanency, as Father has not satisfactorily alleviated the conditions which led to the removal or placement of the Child. It is clear to this Court that termination of Father's parental rights would best serve the needs and welfare of the Child.

As the Court has found that statutory grounds for termination have been met under all four subsections of 23 Pa. C.S. §2511(a) contained in the Petition to Involuntarily Terminate Parental Rights, the Court must now consider the following:

23 Pa.C.S. § 2511(b) OTHER CONSIDERATIONS.—The Court in terminating the rights of a parent shall give primary consideration to the developmental, physical and emotional needs and welfare of the child. The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent. With respect to any petition filed pursuant to subsection (a)(1), (6) or (8), the court shall not consider any efforts by the parent to remedy the conditions described therein which are first initiated subsequent to the giving of notice of the filing of the petition.

The Court must consider whether a bond exists between the child and parent, and whether termination would destroy an existing, necessary and beneficial relationship. *In the Interest of C.S., supra*, at 1202. When conducting a bonding analysis, the Court is not required to use expert testimony. *In re: K.K.R.-S.*, 958 A.2d 529, 533 (Pa. Super. 2008) (citing *In re: I.A.C.*, 897 A.2d 1200, 1208-1209 (Pa. Super. 2006)). “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).

The Agency made a referral to Crossroads Counseling for a bonding assessment between Father and Child. Denise Feger, PhD and Chief Operating Officer of Crossroads Counseling conducted a bonding assessment between Father and Child on December 19, 2024, by observing a video visit between Father and Child. Dr. Feger further conducted interviews with the ongoing caseworker and reviewed the Agency's documents, and court orders. Based on her findings from the history of the case, Dr. Feger stated that she was aware of Father's incarceration, that the visits were only virtual, that the visits did not commence until August of 2024, that Father initially challenged paternity, and that the active PFA Final Order prevented visitation between the pair for an extended period of time throughout this case.

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. Dr. Feger explained that she was present in the room with Child during one of supervised 15-minute video visits between Father and Child. Dr. Feger testified that 15-minute virtual visits are not sufficient to establish a strong bond between Father and Child. At this visit, the Child did exhibit cooperation and engagement with Father during the visit.

To establish a bond, a child needs to rely on a parent as a necessary caregiver. The role of a primary caregiver requires In this specific case, virtual visits do not substantially

encourage bond-building because Father a bond was not previously established prior to Father's incarceration. Additionally, Dr. Fager evaluated the effect of Father's incarceration on the Child, noting that his legal issues were unlikely to be resolved expeditiously.

Dr. Fager testified that—given the Child's young age—permanency is an important concern. From ages zero to two years bonding is established and from ages two years to five years permanency is a priority. Due to Father's circumstances, Dr. Fager testified that it is unlikely there will be a significant, beneficial change in a reasonable time to realistically provide the Child the permanency that is significant to her age. Dr. Fager further stated that the stability and family life the resource parents provide to Child is significant given her young age and her history of exposure to domestic violence and abuse.

Dr. Fager concluded in her report that the length of Child's placement during crucial developmental stages has likely created a strong bond with the resource parents, and the resource father has a clear understanding of Child's needs, interests, likes, challenges, behaviors, and needed parenting.

"The existence of some bond [with Father] does not necessarily defeat termination of [his] parental rights." *In re K.Z.S.*, 946 A.2d 753, 764 (Pa. Super. 2008). "The question becomes whether the bond between the Child and Mother is the one worth saving or whether it could be sacrificed without irreparable harm to the Child." *Id.* Dr. Fager testified that this case presents many uncertainties and ambiguity where it involves Father's ability to provide the necessary stability and permanency for Child. Moreover, Dr. Fager testified that the video visits are providing some benefit to the relationship, but that Child does not identify Father as her father which can become a significant issue.

The Child has been in care since July of 2023. The resource parents have consistently provided for the Child's physical and intangible needs. The Child has thrived under their

care, as developmental milestones are being met and she no longer requires weekly physical therapy or speech therapy sessions. The Child's permanency cannot and should not be delayed in the hope that Father's criminal matters are resolved and he is able to obtain and maintain employment and a stable home immediately thereafter. The resource parents are ready, willing, and able to offer the Child permanency.

This Court is satisfied that termination of Father's parental rights would not cause irreparable harm to the Child. This Court finds, although Father is not a perpetrator of the abuse and the unfortunate circumstances are a natural consequence of his own actions, any bond Father and Child share is not substantial to overcome the amount of time it may take Father to resolve his legal issues and satisfy the requirements necessary to take over the role of primary caregiver. The Court is satisfied that the Agency has proven by clear and convincing evidence that termination of Father's parental rights will best serve the developmental, physical, and emotional needs and welfare of the Child. This Court further finds that permanency in the form of adoption by the people who have consistently met her 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 CSR, 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 CSR 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 her physical and 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 CSR'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 CSR'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/asw
CC: John Pietrovito, Esq.
Angela Lovecchio, Esq—GAL
Johanna Berta, Esq.

Tiffani Kase, Esq.
CASA
Gary Weber, Esq.—Lycoming Reporter
Lycoming County CYS

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

IN RE: : **NO. 2024-6929**
:
K.S., :
:
Minor child :

DECREE

AND NOW, this 24th day of May, 2024, after a hearing on the Petition for Involuntary Termination of the Parental Rights of C.R.S. held on January 15, 2025, and March 12, 2025, it is hereby ORDERED and DECREED:

- (1) That the parental rights of C.R.S. be, and hereby are, terminated as to the child above-named;
- (2) That the welfare of the child will be promoted by adoption; that all requirements of the Adoption Act have been met; that the child may be the subject of adoption proceedings without any further notice to the natural father.

NOTICE TO NATURAL PARENT
PENNSYLVANIA ADOPTION MEDICAL HISTORY REGISTRY

This is to inform you about an adoption law provision relating to medical history information. As the birth parent of a Pennsylvania born child who is being, or was ever adopted in the past, you have the opportunity to voluntarily place on file medical history information. The information which you choose to provide could be important to this child's present and future medical care needs.

The law makes it possible for you to file current medical information, but it also allows you to update the information as new medically related information becomes available. Requests to release the information will be honored if the request is submitted by a birth child 18 years of age or older. The law also permits that the court honor requests for information submitted by the adoptive parents or legal guardians of adoptees who are not yet 18 years of age. All information will be maintained and distributed in a manner that fully protects your right to privacy.

You may obtain the appropriate form for you to file medical history information by contacting the Adoption Medical History Registry. Registry staff are available to answer your questions. Please contact them at:

Department of Human Services
Pennsylvania Adoption Information Registry
P.O. Box 4379
Harrisburg, PA 17105-17111
Telephone: 1-800-227-0225

Medical history information forms may also be obtained locally by contacting one of the following agencies:

1. County Children & Youth Social Service Agency
2. Any private licensed adoption agency
3. Register & Recorder's Office
4. Online at www.adoptpakids.org/Forms.aspx

By the Court,

Ryan M. Tira, Judge

RMT/asw

- c. John Petrovito, Esquire
Angela Lovecchio, Esq—GAL
Johanna Berta, Esq.
Tiffani Kase, Esq.
CASA
Gary Weber, Esq.—Lycoming Reporter
Lycoming County CYS