

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

IN RE: : **NO. 2021-6758**
: :
TJJ, : :
minor child : :

OPINION AND ORDER

AND NOW, this 21st day of **December, 2021**, before the Court is a Petition for Involuntary Termination of Parental Rights filed by JJ and CH on July 19, 2021. Said petition is with regard to the rights to TJJ, born December 6, 2016. JJ and CH seek to terminate the parental rights of the child's biological mother, TJ, and the child's biological father, who is unknown, as a prerequisite to adopting TJJ. A pre-hearing conference on the Petition for Involuntary Termination of Parental Rights was held on September 3, 2021. JJ and CH appeared at the conference and were represented by Jennifer Ayers, Esquire. TJ was served with notice of the conference at her last known address in Philadelphia but failed to appear. This Court entered an Order scheduling the hearing on the Petition for Involuntary Termination for October 25, 2021, and indicated that if TJ wished to participate and have counsel appointed for her she must notify the Court in writing by September 30, 2021. The Order was mailed to the same address where TJ was served with the Petition and the mail was not returned as undeliverable. TJ did not contact the Court to indicate that she wished to have counsel appointed for her.

A hearing on the Petition for Involuntary Termination of Parental Rights was held on October 25, 2021. JJ and CH appeared with their counsel, Jennifer Ayers, Esquire. TJ failed to appear. At the time of the hearing, counsel for the Petitioners informed the

Court that the father of TJJ was unknown but that the Petition for Involuntary Termination and Notice of the hearing had not been published with regard to the unknown father. The Court took the testimony of Petitioners at the hearing on October 25, 2021, and continued the proceeding until December 14, 2021, to give counsel the opportunity to publish the Notice to the unknown.

When the Court reconvened on December 14, 2021, Counsel for Petitioners provided proof of service by publication on November 12, 2021, in the Lycoming Reporter. Counsel also indicated to the Court that she had not been contacted by anyone claiming to be the father of TJJ, and had not received any additional information about the identity of the child's father since the hearing on October 25, 2021.

Finding of Facts

1. TJJ ("Child") was born December 6, 2016.
2. The Child's biological mother is TJ ("Mother"). Mother's last known address is c/o BJ, 119 South Salford Street, Philadelphia.
3. The Child's biological father is unknown.
4. JJ is the brother of Mother and the paternal uncle of the Child.
5. The Child currently resides with CH at 1126 W. 4th Street, Williamsport, Lycoming County.
6. JJ lived with CH until August of 2021, when he moved to Philadelphia. JJ returns to Williamsport on a weekly basis.
7. CH and JJ have a two year old child together. Although they have an on-and-off relationship, they plan to marry.
8. Following the Child's birth, Mother and the Child lived with the maternal grandmother for approximately one month.

9. Mother voluntarily placed the Child with the Petitioners when the Child was six weeks old.

10. The last time JJ had contact with Mother was on May 20, 2021, at his mother's funeral. Prior to that, he had not seen or heard from her for several years.

11. To the best of Petitioners' knowledge, no male has ever held himself out to be the Child's father.

12. The Child calls JJ "Dad" and CH "Mom."

13. The Child would not recognize Mother and, in fact, is unaware that the Petitioners are not his biological parents.

14. The Petitioners desire to proceed with adopting the Child if the Petition for Involuntary Termination of Mother's and the unknown father's Parental Rights is granted.

Discussion

Petitioners argue that the basis for termination in this case may be found in 23 Pa.C.S. §2511(a)(1), 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.

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). In the instant case, Mother

has demonstrated both. 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, 582 Pa. 718, 872 A.2d 1200 (2005) citing **In re: D.J.S.**, 737 A.2d 283, 286 (Pa. Super. 1999).

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

There is no simple or easy definition of parental duties. Parental duty is best understood in relation to the needs of a child. A child needs love, protection, guidance, and support. These needs, physical and emotional, cannot be met by a merely passive interest in the development of the child. Thus, this Court has held that the parental obligation is a positive duty which requires affirmative performance. This affirmative duty encompasses more than a financial obligation; it requires continuing interest in the child and a genuine effort to maintain communication and association with the child. Because a child needs more than a benefactor, parental duty requires that a parent "exert himself to take and maintain a place of importance in the child's life."

With these principles in mind, the question whether a parent has failed or refused to perform parental duties must be analyzed in relation to the particular circumstances of the case. A finding of abandonment, which has been characterized as "one of the most severe steps the court can take," will not be predicated upon parental conduct which is reasonably explained or which resulted from circumstances beyond the parent's control. It may only result when a parent has failed to utilize all available resources to preserve the parental relationship.

In re: Burns, 379 A.2d 535, 540 (Pa. 1977)(citations omitted).

The Court finds as of the date of the filing of the Petition for Involuntary Termination of Parental Rights, Mother has evidenced both a settled purpose of relinquishing parental claim to the Child and has failed to perform her parental duties for a period well in excess of six (6) months. .

A parent has an affirmative duty maintain a place of importance in a child's life and Mother has clearly not met this affirmative duty. The Child lived with Mother for only a short period of time after his birth. Mother voluntarily placed the Child in the care of the Petitioners when he was approximately six weeks old. Mother did not even contact the Petitioners for several years following her placement of the Child. Mother has failed to perform any basic parental duties for the Child such as feeding, bathing, or providing a safe and secure residence for him. During this time, Mother was content to have someone else be responsible for attending the Child's medical appointments, tucking him into bed each night, and comforting him when he was scared or hurt. Mother has paid no child support, nor has she provided the child with any cards or gifts on his birthdays or holidays.

This Court finds that the Petitioners have met their burden of establishing that Mother has evidenced a settled purpose of relinquishing parental claim to the Child and has failed to perform parental duties for a period of at least six months prior to the filing of the Petition for Involuntary Termination of Parental Rights, pursuant to 23 Pa.C.S. §2511(a)(1).

As the statutory grounds for termination have been met, the Court must also 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. 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 child.” **In re: J.D.W.M.**, 810 A.2d 688, 690 (citing **In re: Child M.**, 681 A.2d 793 (Pa. Super. 1996), appeal denied, 546 Pa. 674, 686 A.2d 1307 (1996)). A parent’s own feelings of love and affection for a child do not prevent termination of parental rights. **In re: L.M.**, 923 A.2d 505, 512 (Pa. Super. 2007).

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).

In the present case, it is clear that Child has no bond with Mother. The Child is six years old and has not seen Mother since she voluntarily placed him in the care of the Petitioners when he was six weeks old. The Child does not know Mother, has no relationship with Mother, and – in fact – believes that CH is his mother. The Child refers to Petitioners as “Mom” and “Dad.” Given the Child’s age and the extremely limited amount of time he has spent with Mother, termination of Mother’s rights would not destroy an existing necessary and beneficial relationship, as there currently exists no parent-child bond. Similarly, the Child has no bond with any potential biological fathers.

Mother either does not know or did not disclose the identity of the Child's biological father, and JJ is the only father-figure the Child has ever known. Child is clearly bonded with the Petitioners, who have performed all parental duties for him since he was six weeks old. It is evident to the Court that Petitioners love and care for Child and treat him as their own. The Petitioners have stepped in and provided the love and stability the Child deserves and have assumed the parental responsibilities that Mother has failed to perform and has evidenced a settled purpose of relinquishing.

The Court is satisfied that the Petitioners understand the potential consequences of adopting the Child, and that termination Mother's parental rights and allowing the adoption to proceed is in the best interest of the Child.

Conclusions of Law

1. The Court finds that JJ and CH have established by clear and convincing evidence that TJ's and the unknown father's parental rights should be involuntarily terminated pursuant to 23 Pa.C.S. §2511(a)(1).

2. The Court finds that JJ and CH have established by clear and convincing evidence that the developmental, physical and emotional needs and welfare of TJJ will best be served by termination of TJ's and the unknown father's parental rights.

Accordingly, the Court will enter the attached Decrees.

By the Court,

Joy Reynolds McCoy, Judge

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

IN RE: : **NO. 2021-6758**
:
TJJ, :
:
minor child :

DECREE

AND NOW, this 21st day of **December, 2021**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of TJ, held on October 25, 2021, and December 14, 2021, it is hereby ORDERED and DECREED:

- (1) That the parental rights of TJ 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 PARENTS
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,

Joy Reynolds McCoy, Judge

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PENNSYLVANIA
ORPHANS' COURT DIVISION**

IN RE: : **NO. 2021-6758**
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DECREE

AND NOW, this 21st day of **December, 2021**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of an unknown father, held on October 25, 2021, and December 14, 2021, it is hereby ORDERED and DECREED:

- (1) That the parental rights of an unknown father 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.

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By the Court,

Joy Reynolds McCoy, Judge

JRM/jel

- c. Unknown Father, via publication
Jennifer Ayers, Esquire
Gary Weber, Esquire
Jerri Rook, Secretary to Judge McCoy