

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

**IN RE:** : **NO. 2023-6858**  
 :  
**AS,** :  
 :  
 **Minor child** :

**OPINION AND ORDER**

**AND NOW**, this 24<sup>th</sup> day of **May, 2024**, before the Court is Lycoming County Children & Youth Services' ("Agency") Petition for Involuntary Termination of Parental Rights of JS ("Mother") and AS ("Father") filed on March 2, 2023, with regard to AS ("Child"). A hearing on the Petition for Involuntary Termination of Parental Rights was held on October 11, 2023, and January 17, 2024. Mother appeared and was represented by E. Vincent Reeves, Esquire. Father failed to appear and was represented by Tiffani Kase, Esquire. John Pietrovito, Esquire, Solicitor for the Agency, Angela Lovecchio, Esquire, Guardian Ad Litem for the Child, and Johanna Berta, Esquire, counsel for the Child, were also present at the hearings.

**Findings of Facts**

AS was born on [redacted]. She is the child of AS, date of birth [redacted], and JS, date of birth [redacted]. Mother and Father were married at the time of the Child's birth.

The Agency first became involved with the family in January of 2022, when Mother initiated a CPS report after finding sexually explicit photos of Mother's older child on the phone of Father. Mother alleged that she confronted Father and that he punched her in the face, put a gun to her head, and threatened to kill her. There had been

previous concerns about domestic violence in the home. Mother's initial response to the alleged sexual abuse was appropriate. However, when Father returned home he told Mother that her daughter took the inappropriate pictures and he transferred them from her phone to his phone and he was going to tell Mother. Despite Father being arrested and inappropriate text messages also being found from him to Mother's daughter, Mother chose to believe Father and remained supportive of him and refused to cooperate with the Agency when it became involved. Mother would not permit her daughter to be interviewed at the Children's Advocacy Center ("CAC").

GPS reports raised multiple additional concerns in the home, including truancy on the part of Mother's older child dating back to 2019. Home conditions were considered deplorable. An incident was reported in December of 2021 by the mother of Mother's older child's friend who went to the home and found Mother passed out, leaving Child and her sister unsupervised. The other mother took both children for the night to ensure their safety. Mother denied addiction issues caused this and instead attributed it to low iron levels. Mother's lack of cooperation with the Agency resulted in the Agency filing a Motion to Compel to enable caseworkers and law enforcement the authority to enter the home to determine if the Child and her sister were safe. After the Agency determined the children were not safe, Mother planned for the children to stay with Father's sister. On January 23, 2022, Mother retrieved the children, reporting that Father was no longer at the house.

A Dependency Petition was filed on January 28, 2022. A Dependency hearing was held on February 11, 2022, after which the Court adjudicated the Child dependent. Initially, the Agency was recommending that the Child remain in the custody of Mother. However, drug tests were administered to Mother and Father at the hearing. Mother

was positive for amphetamine, methamphetamine, opiates, and fentanyl. Father was positive for amphetamine and methamphetamine. As the Court found that allowing the Child to be returned to either parent's home would be contrary to the Child's welfare, legal and physical custody of the Child was transferred to the Agency. Both the Child and her sister were placed in the kinship resource home of Father's parents. All three parents were ordered to obtain a West Branch Drug and Alcohol evaluation and follow the recommendations, be subject to random drug screens, participate in Outreach Services, and the older child was to immediately be re-enrolled in school.

A permanency review hearing was held on May 18, 2022. The Court noted that 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 Mother, in that she had not completed a drug and alcohol evaluation at West Branch or a psychological evaluation. Mother had not completed any random drug screens and refused to allow the caseworker to come to her home. Mother was consistently late to her visits. At the time of the hearing, Mother tested positive for THC, methamphetamines, amphetamines, fentanyl, and oxycontin, yet claimed to never have used methamphetamines, amphetamines, or fentanyl. The Court found 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, in that he had not completed a West Branch evaluation, did not participate in Outreach Services, and refused to communicate with the Agency. He had not attended any visits with the Child since she was placed in the legal and physical custody of the Agency. In its Order, the Court indicated it was gravely concerned with the level of denial by Mother and Father regarding the drug use and the Child's placement in foster care. Mother and

Father refused to work with the Agency and harassed the kinship resource parent over seeing the Child. 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 care home. The Court again ordered Mother and Father to undergo a comprehensive drug and alcohol evaluation, as well as a psychological evaluation and comply with all recommendations.

A permanency review hearing was held on October 5, 2022. Neither Mother nor Father attended the hearing. The Court found that there had been minimal compliance with the permanency plan and no progress toward alleviating the circumstances which necessitated the original placement on the part of Mother, in that she had not completed a West Branch evaluation or a psychological evaluation. She was not participating in Outreach Services and refused to allow the caseworker to come to her home. Mother continued to deny/acknowledge that the Child was in foster care, despite being removed from her home. Mother continued to deny drug use, despite testing positive at every prior hearing she attended. Mother was consistently late for her visits and was placed on call-in status. She attended a little over 50% of her visits. Father was found to have no compliance with the permanency plan and made no progress toward alleviating the circumstances which necessitated the original placement in that he had not completed a West Branch or a psychological evaluation. He did not participate in Outreach Services. He refused to communicate with the Agency and had not attended any visits with the Child since she was placed in the Agency's custody. The Court granted the Agency's request for a finding of aggravated circumstances with regard to Father due to his refusal to cooperate with the Agency and lack of contact with the Child. His visits were reduced to the statutory minimum and the Agency was no longer required to make

reasonable efforts to reunify Father with the Child. 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 December 14, 2022. Neither Mother nor Father attended. The Court found that there had been minimal compliance with the permanency plan and no progress toward alleviating the circumstances which necessitated the original placement on the part of Mother, in that she had not completed a West Branch evaluation or a psychological evaluation. She was not participating in Outreach Services and refused to allow the caseworker to come to her home. Mother had only one contact with the caseworker during the review period. Mother continued to be consistently late for her visits and remained on call-in status. She attended a little over 55% of her visits. When she attended visits, she interacted well with the Child and brought food and clothing for her. Father was found to have no compliance with the permanency plan and made no progress toward alleviating the circumstances which necessitated the original placement in that he had not completed a West Branch or a psychological evaluation. He did not participate in Outreach Services. He refused to communicate with the Agency and had not attended any visits with the Child since she was placed in the Agency's custody. Following the hearing, the Court reaffirmed dependency and legal and physical custody of the Child remained with the Agency for continued placement in the kinship resource home. The Court emphasized that time was of the essence for Mother and Father if they wished to reunify with the Child, and directed parents' counsel to review with Mother and Father their obligations for drug and alcohol and psychological evaluations and to stress the importance of cooperation with the Agency and following court orders.

A permanency review hearing was held on February 13, 2023. Mother attended but arrived 15 minutes late and stated her car would not start. Father did not attend. The Court found that there had been minimal compliance with the permanency plan and no progress toward alleviating the circumstances which necessitated the original placement on the part of Mother, in that she had not completed a West Branch evaluation or a psychological evaluation. She was not participating in Outreach Services and refused to allow the caseworker to come to her home. Mother had only one contact with the caseworker during the review period. Mother continued to be consistently late for her visits and remained on call-in status. She attended only 57% of her visits. At the hearing Mother tested positive for methamphetamines, fentanyl, and MDMA (ecstasy) despite denying use of all of these substances. This was at least the third hearing where Mother had tested positive for numerous substances and still denied use. Notably, Mother tested negative for oxycodone, for which she claimed to have a prescription and to have taken within the prior 24 hours. Father was found to have no compliance with the permanency plan and made no progress toward alleviating the circumstances which necessitated the original placement in that he had not completed a West Branch or a psychological evaluation. He did not participate in Outreach Services. He refused to communicate with the Agency and had not attended any visits with the Child since she was placed in the Agency's custody until he was incarcerated and was given Polycom visits with the Child which were arranged by the Agency and not at Father's request. Following the hearing, the Court reaffirmed dependency and legal and physical custody of the Child remained with the Agency for continued placement in the kinship resource home.

The Petition for Involuntary Termination filed on March 2, 2023, alleges termination was warranted under 23 Pa.C.S. §2511(a)(1), (2), and (5). The hearing on the Petition was held on October 11, 2023 and January 17, 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).

Tami Reeder, visitation caseworker for the Agency, testified that Father two supervised visits available per week for one hour each, beginning on February 11, 2022. By March 7, 2022, Father had not attended or called to cancel any visits and was placed on call-in status. He has never been removed from that status. In fact, he has never attended a single in-person visit since the Child entered care. His only visits were via Polycom while he was incarcerated at various times during the length of the dependency case. These visits are 15 minutes each and automatically set up by the Agency, not at the request of Father. Father had a total of six Polycom visits. In October of 2022, after the Court granted the Agency's request for a finding of aggravated circumstances due to his failure to maintain substantial and continuing



contact with the Child for a period of six months, Father's visits were reduced to the statutory minimum of one hour every other week. Father's visitation report from February 11, 2022 through September 19, 2023 was admitted as Agency Exhibit 59. This Court finds that Father attended zero voluntary visits with the Child and had absolutely no communication with the Agency to inquire about the well-being of the Child in more than six months preceding the filing of the Petition for Involuntary Termination of Parental Rights, and the Agency has proven by clear and convincing evidence that Father has demonstrated a settled purpose to relinquish parental claim to the Child. This is especially evident given the fact that Father chose not to appear at the hearing to contest the termination of his parental rights.

Ms. Reeder testified that Mother was initially offered two supervised visits per week for one hour each. The supervision level has not changed, nor has there been an increase in the length of time or amount of days per week. Mother's attendance has been an issue for the entire time the Child has been in the Agency's custody and when she did attend she consistently arrived late. By April 19, 2022, Mother was placed on "call-in status" due to having multiple no call/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 June 15, 2022, Mother was required to begin checking in an hour before her scheduled visit. On August 15, 2022, Mother began to be required to remain in the lobby of the visitation center for the entire hour after checking in and before her visit started. Mother has never shown enough consistency in her visits to be removed from "call-in status" and, in fact, has an overall attendance rate of only 64%. Mother's visitation report from February 11, 2022, through September 19, 2023, was admitted as Agency Exhibit 58. In addition to her attendance and Mother struggled with time

management skills during the visits. Ms. Reeder testified that while Mother often brought food for the Child, Mother had a difficult time eating the meal, cleaning up, and ending the visit on time.

Although Mother did attend visits, albeit not always consistently and rarely on time, she showed love and affection for the Child, displayed an interest in her day and asked appropriate questions, and therefore this Court is hesitant to find 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). The Child was just three years old when she was removed from Mother's home. Her greatest needs have been food, shelter, clothing, medical care, support, and comfort. In order to satisfy the obligation to perform even the most basic parental duties, Mother would have to maintain stable housing, maintain employment or other form of income to financially support herself and the Child, address her substance abuse and mental health concerns, provide adequate meals, make and attend medical appointments, and provide intangibles such as comfort the Child when she was sick or scared. Satisfying these obligations while limited to two visits per week for one hour each would be difficult enough, yet Mother's performance of her parental duties was even further limited by her overall attendance rate of only 64%. Since the Child was adjudicated dependent, mother has struggled to maintain stable housing and has not been employed. Mother failed to attend medical appointments for the Child. Mother did not attend the Child's tball games. Since January of 2022, the Child has depended on her foster parent to provide not only for her physical needs such as food, shelter, and clothing, but also for her intangible needs such as comfort, and support.

There is no question that Father, having had no visits or other communication with the Child, failed to perform his parental duties for a period of six months prior to the filing of the Petition for Involuntary Termination of Parental Rights. Given that Mother has missed a significant number of visits each review period, the visits have never progressed to community visits, and the vast majority of the Child's daily needs have been fulfilled by her resource parent, Mother cannot be said to have performed her parental duties or "exerted herself 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).

"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.

Colleen Bolton, Agency caseworker, testified that the Agency received several GPS reports in late 2021 and early 2022 concerning Mother's substance use, domestic violence in the home, truancy involving Mother's older child, and home conditions. Additionally, a CPS report was made by Mother regarding inappropriate images of the her older child found on Father's phone. The Agency made several attempts to gain entry to the home but Mother was hostile and uncooperative and the Agency ultimately had to seek a Court Order granting their Motion to Compel Entry.

At the Dependency hearing, both Mother and Father tested positive for illegal substances. They were ordered to undergo a West Branch Drug and Alcohol evaluation and follow all recommendations, be subject to random drug screens, and participate in Outreach Services. At the first permanency review hearing, both Mother and Father were ordered to undergo psychological evaluations in addition to the previously ordered West Branch evaluation, random drug screens, and participation in Outreach Services. Unfortunately, neither Mother nor Father ever completed either of the ordered evaluations, despite the Court reiterating the requirement at each permanency review hearing.

Father was referred for Outreach Services but never responded to the caseworker's attempts to schedule meetings and the case was closed due to noncompliance. All subsequent attempts by the Agency to communicate with Father were unsuccessful. Father never attended a scheduled medical or dental appointment for the Child or any permanency review hearings. Ms. Bolton testified that she has had no contact whatsoever with Father since being

assigned the caseworker. Father did not complete any of his Family Service Plan or Child Permanency Plan Goals.

Mother was also ordered to participate with Outreach Services, which sought to address home conditions, parenting, and budgeting, but services were closed on April 13, 2022, due to Mother's lack of cooperation. Ms. Bolton testified that Mother was unemployed during the entire case and never provided the Agency information about her source of income. Mother's housing was also unstable. She continued to reside with Father for a period of time although the Agency produced evidence of a judgment against mother in the amount of \$4,311.18 dated July 6, 2023, with possession granted to the plaintiff signifying that she had been evicted from that residence. (Agency Ex. 70). At the hearing on the Petition for Involuntary Termination, Mother testified that the eviction proceeding was to "get (Father) out of the home" and she would be moving into a new 3 bedroom trailer but it was not ready so she would be staying at her godfather's home. Mother tested positive for illegal substances at the dependency hearing and at three additional permanency review hearings, but failed to attend the WBDA evaluation as ordered. Ms. Bolton testified that the only Family Service Plan and Child Permanency Plan goal Mother had been somewhat cooperative with was visitation.

The Child has been in placement since January of 2022, and neither Mother nor Father have been able to make measurable progress in addressing the incapacities which caused the Child to be removed from Mother's care. Despite attempts by Agency caseworkers to connect them with beneficial services, both Mother and Father have displayed an inability or refusal to follow-

through with actions necessary to address their incapacities while simultaneously ensuring that the Child's needs would be met consistently and appropriately. In fact, for the majority of this case, Mother has been in complete denial that she has a substance abuse issue, that the Child is in foster care, and that she must cooperate with the Agency and comply with Court orders if she wished to be reunited with the Child. Father has ignored all attempts by the Agency to communicate with him and implement services that will enable him to address his needs. This Court finds that neither Mother nor Father has remedied these incapacities within a reasonable amount of time and will likely be unable to remedy them in the 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 Sections 2511(a)(5) and (8). The Child was placed in the legal and physical custody of the Agency in January 2022, and has been in Agency’s custody ever since. At each of the permanency review hearings for the Child, Mother was found to have minimal or no compliance with the permanency plan and made no progress towards alleviating the conditions which necessitated the Child’s placement. At the time of the hearing on the Petition for Involuntary Termination of Parental Rights, Mother still had not undergone the WBDA and psychological evaluations that had been ordered at the dependency hearing. Mother tested positive for numerous illegal substances at multiple court hearings yet remained in denial about her drug use and took no steps to get treatment or otherwise address her issues. Mother testified that she planned to attend the WBDA evaluation the following day and she was willing to comply with whatever



the recommendation was even if it was inpatient rehab in order to “get myself where I need to be to get my girls back.” Mother also testified that she had recently applied for disability payments as well as put in applications for employment at several places but she had either not received a response or they were not hiring.

Mother’s last minute efforts to comply with the Court directives are insufficient in light of the fact that she had over a year at the time the Petition for Involuntary Termination of Parental Rights was filed and more than eighteen months by the time the hearing on the petition was held to remedy the conditions which led to the Child’s placement and her communication and cooperation with the Agency during that time was almost non-existent. Father had no compliance with the permanency plan and made no progress towards alleviating the conditions which necessitated the Child’s placement. But for the few Polycom visits while incarcerated, Father had no contact with the Child or the Agency since the Child entered care.

While Mother and Father were failing to cooperate with the Agency to address the conditions which led to the placement of the Child, the Child had both her physical and intangible needs met by her resource parent. While in the care of this resource parent, the Child has had been enrolled in counseling for emotional regulation and to address her symptoms of abandonment and attachment anxiety. The Child has been involved in tball, attended all of her medical appointments, and has not had to worry about home conditions or lack of appropriate supervision. The resource parent is willing to offer her permanency. As neither parent has satisfactorily alleviated the conditions which led to the

removal or placement of the Child, 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. 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 Mother and the Child. Denise Feger, PhD and Chief Operating Officer of Crossroads Counseling conducted a bonding assessment between Mother and Child on October 2, 2023. Dr. Feger was not requested to conduct a bonding assessment between Father and the Child due to Father's lack of cooperation and communication with the Agency and his failure to maintain substantial and continuing contact with the Child for an extended period of time.

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 testified that Mother exhibited poor consistency in attending visits until the Agency filed the Petition for Involuntary Termination of Parental Rights. At that time Mother's visits became more consistent but never progressed in frequency, duration, or level of supervision. Mother did not understand the magnitude and severity of her situation. Dr. Feger testified that while she observed the visit, the Child displayed attention seeking behaviors, some of which are typical of a child who has been removed from a caregiver parent.

Both Dr. Feger's report and her testimony at the hearing indicate that the Child has developed an "ambivalent attachment" to Mother, in that her needs are met intermittently by Mother as a caregiver but not consistently. This causes the Child to attempt to monopolize Mother's attention when in her presence.

Although it is clear that the Child loves Mother and there is a bond between them, it is an insecure attachment. Additionally, “[t]he 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). Dr. Feger testified that in this case, there continues to be many pieces that are still not functioning correctly and not enough time to repair the bond given the current functioning, or lack thereof, of Mother. Mother’s lack of consistent contact as the Child’s primary caregiver, and the lack of initiative to address her own needs has taken a significant toll on the bond in the eyes of the Child. In the current state of the family unit, the bond is unhealthy and not capable of being repaired, and as the Child cannot consistently rely on Mother as a primary caregiver she has begun to seek out the care she requires from others in her life including her kinship resource parent.

The Child has been in care since January of 2022. The kinship resource parent has consistently provided for the Child’s physical and intangible needs. The Child has thrived while in her care, as all her needs are consistently met and there are no longer concerns of domestic violence or substance abuse in the home. The Child’s permanency cannot and should not be delayed on the hope that Mother will eventually realize the magnitude of the situation and begin cooperating with the Agency to obtain the services necessary to resolve her own issues and repair the bond with the Child. The kinship resource parent is ready, willing, and able to offer the Child permanency.

This Court finds there is no bond between the Child and Father due to his failure to perform parental duties or maintain substantial and continuing contact with the Child.

The Court is satisfied that termination of Father's parental rights would not cause irreparable harm to the Child. This Court finds that although the Child desires to have a relationship with Mother, any bond they share is not healthy and not capable of being repaired in a timely manner given Mother's inconsistency and lack of cooperation with the Agency. This Court is satisfied that the Agency has proven by clear and convincing evidence that termination of Mother'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 person who has 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 AS and JS, 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 AS and JS, 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 AS's and JS'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 AS's and JS'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  
Tiffani Kase, Esquire  
Jeana Longo, Esquire  
Johanna Berta, Esquire  
Angela Lovecchio, Esquire  
Children & Youth  
CASA  
Gary Weber, Esquire  
Jennifer E. Linn, Esquire

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

**IN RE:** : **NO. 2023-6858**  
:   
**AS,** :   
:   
**Minor child** :   
:

**DECREE**

**AND NOW**, this 24<sup>th</sup> day of **May, 2024**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of AS, held on

October 11, 2023, and January 17, 2024, it is hereby ORDERED and DECREED:

- (1) That the parental rights of AS 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

- c. John Pietrovito, Esquire  
Tiffani Kase, Esquire  
Jeana Longo, Esquire  
Johanna Berta, Esquire  
Angela Lovecchio, Esquire  
Children & Youth  
CASA  
Gary Weber, Esquire  
Jennifer E. Linn, Esquire



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

**IN RE:** : **NO. 2023-6858**  
:   
**AS,** :   
:   
**Minor child** :   
:   
**DECREE**

**AND NOW**, this 24<sup>th</sup> day of **May, 2024**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of JS, held on October 11, 2023, and January 17, 2024, it is hereby ORDERED and DECREED:

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

**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.

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By the Court,

Ryan M. Tira, Judge

RMT/jel

- c. John Pietrovito, Esquire  
Tiffani Kase, Esquire  
Jeana Longo, Esquire  
Johanna Berta, Esquire  
Angela Lovecchio, Esquire  
Children & Youth  
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