

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

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| IN RE: | : | |
| B.J., | : | NO. 2023-6848 |
| | : | |
| Minor Child | : | |

OPINION AND ORDER

And now, this 18th day of **October, 2024**, before the Court is Lycoming County Children and Youth Services' ("Agency") Petition for Involuntary Termination of Parental Rights of D.J. ("Mother") and C.J. ("Father") filed on February 14, 2023 regarding B.J. ("Child"). A hearing on the Petition for Involuntary Termination of Parental Rights was scheduled to begin on June 21, 2023. On February 21, 2023, the Agency filed a Motion to Approve Publication of Notice with respect to both Mother and Father, as their locations were unknown at the time. At a pre-trial hearing on May 8 2023, the Agency's request to publish notice was dismissed as moot with respect to Mother as she appeared via video conferencing. With regard to Father, who has not been known to this Court, the Agency's request to publish notification remained in effect.

On June 21, 2023, a hearing on the Petition for Involuntary Termination of Parental Rights commenced. At the hearing, Mother indicated her intent to contest the termination of her parental rights. Also, Mother provided the Court with more information on Father. The hearing was continued indefinitely pending investigation of previously undisclosed information regarding Father. Subsequently, the Agency dispatched a letter to Father notifying him of his potential paternity, the pending proceeding, and requesting a paternity test to confirm his biological relationship to Child. Father contacted the Agency on July 5, 2023 indicating Mother had contacted him years prior, but she failed to make any further

requests. Father also indicated his intent to contest the termination of his rights. On October 4, 2023, Father obtained the paternity test, and it was determined that he is the biological father of the Child.

An Amended Petition for Involuntary Termination of Parental Rights was filed on July 3, 2024, requesting the Court to resume proceedings citing, inter alia, aggravated circumstances. A hearing on the Amended Petition was rescheduled for September 11, 2024. At the hearing, Mother failed to appear, she was representing herself. Father also failed to appear and he was represented by Jeana Longo, Esquire. John Pietrovito, Esquire, Solicitor for the Agency, Angela Lovecchio, Esquire, Guardian Ad Litem for the Child, and Dance Drier, Esquire, counsel for the Child, were also present at the hearings.

Findings of Fact

B.J. was born on [redacted]. She is the child of D.J., born on [redacted]; and, C.J., born on [redacted]. Mother and Father were not married at the time of child's birth, and have no relationship history beyond the Child.

On or about July 15, 2021, Judge Joy Reynolds McCoy heard a Dependency Petition to remove the children under Mother's care from her home. On the night of July 14, 2021, a concerned neighbor reported to Lycoming County Children and Youth Services (CYS) that at least one minor child residing in D.J.'s home was left unsupervised for approximately one hour. Mother was running errands with the Child's cousin, a minor, when two older siblings, also minors, left the residence. Lycoming County CYC caseworkers found the Child unsecured in a full-size bed. An Emergency Medical Technician's evaluation of the Child revealed an abdominal hernia, for which, Mother had not sought treatment. Consequently, Mother was incarcerated with charges of Endangering the Welfare of Children and Driving Without a License. Subsequently, Agency employees completed a Diligent Family Search for

alternate family or community members willing to house the children. The Agency experienced difficulty procuring leads due to Mother being uncooperative and the older children unsure of or unwilling to divulge information. Regardless, the children were placed in an available resource home that evening.

On or about July 16, 2021, Judge McCoy issued an order to Discontinue Emergency Custody. Accordingly, the Agency filed a Praecipe for Discontinuance of Emergency Custody Proceedings to withdraw the Shelter Care Application that was filed on July 15, 2021. On July 16, 2021, Judge McCoy granted maternal uncle, N.H., physical and legal custody of the children. Pursuant to the order, N.H. took up residence in the home of Mother. The custody order further specified that Mother was not allowed to be alone with the children unless another adult over the age of twenty-one (21) was also present. In November of 2021, J.J., a second maternal uncle, moved into the home, part-time, to assist with the care of the children. Over this period, the Agency conducted multiple home visits to discover the children were not left with an appropriate caretaker, if any at all. Further, the Agency offered N.H. Outreach Services and Family Group Decision Making meetings and N.H. declined both services.

On February 9, 2022, at a hearing for a Dependency Petition that was filed on or around January 24, 2022, the Court reviewed claims that N.H. was no longer residing with Mother due to ongoing conflicts and her pending eviction. The eviction hearing was scheduled for the day prior. Mother was three (3) months past-due on rent around January 24, 2022. Eviction was ordered, but Mother planned to remain on the premises pending the appeal. However, Mother did not complete the proper paperwork for N.H. and J.J. to continue living at the address. The absence of N.H. was in violation of Judge McCoy's custody order from July of 2021.

The petition claimed that over the course of July to November of 2021, the older siblings experienced ongoing truancy issues which had improved slightly with J.J.'s supervision. Further, caseworkers reported that when conducting home visits, Mother was repeatedly found sleeping and a child was left in a bed. The petition further alleges that the Child is displaying signs of developmental delay. Specifically, caseworkers report that at fourteen (14) months the Child is starting to crawl. On September 1, 2021, a family meeting occurred where supports had been identified, but no adult complied with the resources. Outreach Services assisted Mother with establishing STEP transport; however, Mother has not completed the process or pursued the option. Mother has since refused formal Family Group Decision Making meetings and does not cooperate with Outreach Services. Mother denies that any concerns within the home exist, while the petition alleges that the condition of the home is "marginal at best." More significantly, Mother has not pursued any further medical attention or treatment for the Child's abdominal hernia that was reported in July of 2021. Based on the aforementioned findings, the Agency recommended that the children be adjudicated dependent and placed in a resource home.

Despite reasonable efforts on behalf of the Agency to prevent or eliminate the need for removal of the Child from Mother's home, the Court agreed with the Agency. The Court found, by clear and convincing evidence, that based upon evidence of abuse and neglect, and the dependency of the minor Child, it was in the best interest of the Child to be removed from the home of Mother. The Court appointed physical and legal custody to the Agency, including the authority to consent to routine treatment of the Child. Moreover, the Court ordered Mother to participate in Outreach Services, including parenting courses, and any other services recommended by the Agency. The Court ordered Mother to undergo a mental health evaluation before the next review hearing. The Agency was ordered to assist Mother

with scheduling the mental health evaluation, continue Diligent Family Searches, find an appropriate placement for the children, and hold a Family Group Decision Making meeting before the next review hearing.

On April 29, 2022, the Court approved the Agency's Motion to Modify Child's Placement filed on April 22, 2022. The Child was to remain under the legal and physical of the Agency. The Child and her old sibling were transported to a Kinship Resource Home in Philadelphia Pennsylvania. C.S. ("Resource Parent") was identified as a registered foster parent. Shaw is Mother's maternal aunt, and the Child's maternal great aunt.

On July 22, 2022, Juvenile Court Hearing Officer, Diane Lynn Turner, after a hearing for permanency review filed on May 3, 2022, found that placement of the children is still the best option. The Court confirmed this finding on August 15, 2022. The Court found that Mother was unemployed and reporting no income to the Agency. Mother had not obtained a mental health evaluation, although the Agency submitted a second referral on June 9, 2022. Mother was not attending routine medical or dental visits for the children. Also, Mother indicated that she would be moving to an apartment in Philadelphia, Pennsylvania. The individual with whom she would be living was unwilling to be a resource for the children. Mother's testimony confirmed Agency's finding that she is unemployed due to significant symptoms related to Multiple Sclerosis. Mother also testified that she participated with Outreach Services and Family Group Decision Making. However, the record reflects the falsity of Mother's claims.

The Court found that the children adjusted well to the Kinship Resource Home. Mother was frequently declining visits with the children when they would travel to Williamsport, Pennsylvania to socialize with an older sibling despite having previously had a consistent attendance at visits. Regarding the Child's father, the Agency has his name and an

understanding he lives near the Philadelphia area. Mother refuses to provide any further information that may assist the Agency with locating Father, rendering the Agency unable to make meaningful contacts. The Court found that the placement of the children continued to be necessary and appropriate. The Court ordered that legal and physical custody remain under the protective services of the Agency while the Child remains in the Kinship Resource Home. The Court approved the Family Service Plan and Child Permanency Plan for the period of July 15, 2022 to January 15, 2023.

On November 14, 2022, an Amended Petition for Permanency Review Hearing was filed. The Petition was heard before the Juvenile Court Hearing Officer, Dana Jacques on December 9, 2022. This Court confirmed the Hearing Officer's findings on December 13, 2022. The petition claimed that Mother was evicted from her apartment in Williamsport, Pennsylvania, and was residing with a friend in Philadelphia, Pennsylvania. The Petition alleged that Mother provided multiple addresses in Philadelphia, and when the Agency reported to the friend's address, there was no observable proof of her domicile. Mother's testimony revealed that she resides with a friend in Philadelphia from about the hour of 7:30PM until the morning, whereupon a cousin provides daily supervision due to Mother's medication causing seizures.

Further, Mother received another referral for a mental health assessment. However, Mother did not confirm, call to cancel, or appear for an appointment with Crossroads Counseling on August 23, 2022. Mother testified that she had an evaluation completed at the University of Pennsylvania Hospital, but could not provide a record for the assessment because she does not have valid identification. On October 17, 2022, Mother was scheduled for trial for her pending criminal charges for Endangering the Welfare of Children. On October 21, 2022, Mother pled guilty to Recklessly Endangering the Welfare of Another

Person, and the remaining charges were dismissed. Mother was sentenced to two years of probation. The victim for these charges was Child.

On November 3, 2022, Mother complained to the Agency that she did not have enough visitation with the Child. In an attempt to remedy this, the Agency initiated regular visits every Tuesday and Thursday morning at the Resource Home. The Resource Parent testified that since the Child's placement at the home in May of 2022, Mother rarely requests to schedule visits. The Resource Parent further testified that Mother has visited approximately three times; and, that Mother was invited to, and attended, the Child's birthday party and Thanksgiving. The Child was doing well in the Resource Home, and the Agency referred her to Early Intervention Services for speech.

The Court confirmed findings that Mother has not been compliant with the permanency plan, there has been no progress to alleviate the circumstances that necessitated the initial placement, Mother has not completed a mental health assessment, she has not cooperated with Outreach Services, she does not visit the Child, and she does not want any communication with the Agency.

On May 8, 2023, at a time set for a Pre-Trial Conference on Agency's Petition for Involuntary Termination of Parental Rights filed on February 10, 2023, the Court also addressed the amended Permanency Review Petition filed on April 12, 2023, a Motion for change of Venue filed by Mother on March 26, 2023, and a Motion to Withdraw as Counsel filed by Mother's appointed counsel in May of 2023. Additionally, the Court approved the Agency's Motion to Approve Publication of Notice filed on February 21, 2023, with respect to Father, as his location was unknown and he did not appear. The Agency's Motion was dismissed as moot with respect to Mother as she appeared via video call. A hearing on the

Petition for Involuntary Termination of Parental Rights was scheduled for June 21 and June 28 of 2023.

Next, the Court ordered the continued dependency of the Child. During the next review period, Mother maintained no contact with the Agency until the month preceding this hearing. The petition alleged that Mother was not residing at her friend's address for a period of time, but that by April 12, 2023 she was living at the address again. Further, Mother claimed she presented to an emergency room for a psychological evaluation whereby one was not completed, and she was encouraged to follow-up through appropriate medical channels to obtain a proper evaluation. Mother testified that she had a psychological evaluation provided by an outpatient telehealth service. She provided the Court with the evaluation report after the hearing. Mother did attend any visits with the Child at the Kinship Resource Home, and she had one video call with the Child since December of 2022. Mother presented unannounced for a visit at the Kinship Resource Home. The relationship between Mother and Resource Parent has grown contentious. The Resource Parent was unwilling to supervise visits between Mother and Child at the Resource Home. Finally, Mother submitted a Physician's Certification Form indicating Mother requires more than eighty (80) hours of in-home nursing support for activities of daily living including, meal preparation, housework, bathing, mobility, dressing, and toileting. Mother applied to receive disability and appealed the denial thereof. Despite diligent search efforts, the Agency was unable to trace Father's whereabouts. The Child's placement at that time was thirteen (13) consecutive months.

The Court denied Mother's motion to transfer venue, noting that, a Petition for Involuntary Termination of Parental Rights was already filed in Lycoming County, Pennsylvania, and the requested venue has not stated on the record its willingness to accept the case. Also, the Court granted appointed counsel's Motion to Withdraw as Mother agreed

on the withdrawal. The Court appointed new counsel for Mother, and separate counsel for Child pending the hearing on the Petition for Involuntary Termination of Parental Rights scheduled for June 21, 2023.

On June 21, 2023, a hearing for the Agency's Petition for Involuntary Termination of Parental Rights commenced. However, Mother provided new information about Father which required the Court to continue the proceeding indefinitely. On July 23, 2023, a status conference was held whereby the Agency indicated that it is in contact with C.J., the potential biological father of Child. Continuance for the Petition was ordered pending a paternity test to determine whether C.J. is the biological father of Child.

On September 6, 2023, at a Permanency Review Hearing the Court ordered continued dependency of Child in the Kinship Resource Home until March 6, 2024. The Petition for Permanency Review was filed on August 21, 2023. On July 5, 2023, Mr. Johnson contacted the Agency and reported that Mother contacted him previously to obtain a paternity test, but she made no further contact or requests. Mr. Johnson indicated his willingness to complete a paternity test, and his intent to contest the termination of his parental rights should he be the biological father of the Child. Father made no progress toward obtaining a paternity test from July to September of 2023. The Court ordered the Agency to assist Father and pay any fees associated with the process.

Under the review period, Mother was granted supervised visits with the Child through Delta Services in Philadelphia, Pennsylvania. Mother was required to call into the facility the day before and day of visits to confirm her attendance. She attended three out of ten visits, the Child was unavailable for three visits, and Mother did not present two times. Mother was not involved in parenting classes, and most of her contact with the Agency is through email correspondence per her request. In her emails, Mother threatens the Agency, and she

complains about the requirements for reunification. Mother received a mental health evaluation at Community Council Health Systems on April 24, 2023. The evaluation recommended outpatient services, psychiatric evaluation, and individual therapy. Mother did not provide proof of any further treatment pursuant to the recommendations. Mother had no gainful employment or source of income. The Child remains in the Kinship Resource Home while meeting developmental milestones, she has no health concerns, she began taking piano lessons, and went on a trip to Disney World and a cruise.

On January 3, 2024, at a hearing on A Petition for Permanency Review filed on December 19, 2023, the Court continued the dependency of the Child in the Kinship Resource Home. The Petition reported Mother has supervised visits through Delta Services, she is still required to call the day before and day of to confirm visits. The record indicates that Mother abided by the confirmation procedure and then did not appear for the visits. Mother attended three visits, she canceled or did not appear for nine visits, and the Child was unavailable for two visits. Mother did attend holidays and the Child's birthday party. There is neither evidence that Mother is receiving the necessary medical assistance for her extensive health condition nor pursuing the recommended mental health services. Mother was unemployed with no evidence of financial income.

On October 4, 2023, Mr. Johnson completed a paternity test evidencing he is the biological father of the Child. A home visit was scheduled with Father, the caseworker, and the Guardian Ad Litem for October 30, 2023. The visit was canceled because the caseworker got into an accident. The visit was rescheduled for December 12, 2023, but was canceled as Father did not confirm the appointment and he was unable to be reached. The last contact with Father was a text message to the caseworker on October 30, 2023.

The Child remained in the Kinship Resource Home, she continued to meet developmental milestones, she had no health concerns, and she continued piano and music lessons. Further, the Court ordered the Agency to assist Mother with transportation to appointments, facilitate visits between Father and the Child, and conduct a home visit at Father's residence.

On January 16, 2024, Mother filed a Motion to Transfer Jurisdiction, by and through her attorney, to Philadelphia County, Pennsylvania. The Motion avers that no parties reside in or near the Lycoming County area, visits occur between the parties through Delta Services in Philadelphia, neither Mother nor Father can participate in Court hearings, the Court cannot see the Child, the Agency caseworkers are limited in their ability to conduct home visits, the Guardian Ad Litem is limited in her ability to visit the Child, and the Court Appointed Special Advocates are limited in their ability to conduct visits. On April 8, 2024, the Agency filed a Petition for a Permanency Review Hearing. On April 15, 2024, Mother's appointed counsel filed a Petition for Leave to Withdraw Appearance. The Petition claims that on April 11, 2024, Mother sent an email to appointed counsel stating she no longer wishes to receive such services and wishes to proceed Pro Se. A hearing on the Motion to Transfer Jurisdiction, Petition for a Permanency Review Hearing, and Petition for Leave to Withdraw Appearance were scheduled for April 24, 2024.

At the hearing on April 24, 2024, The Court denied Mother's Motion to Transfer Jurisdiction, granted appointed counsel's Petition for Leave to Withdraw Counsel, and continued the dependency of Child in the Kinship Resource Home.

First, Mother failed to establish that transferring the Dependency action to Philadelphia County would be in the best interest of the Child. The Court determined that Lycoming County is the proper venue as it is where the Child was adjudicated dependent.

Moreover, this Court and Agency have the extensive knowledge of the intricacies of this case to continue supervision in Lycoming County. Further, the Court was informed that Mother is no longer a permanent resident in Philadelphia County, and she is seeking to move back to Williamsport, Pennsylvania within Lycoming County. Thus, Mother's Motion to Transfer Jurisdiction was denied.

Second, the Court considered the Petition for Leave to Withdraw Counsel. Mother did not oppose Counsel's petition, Mother understands her right to appointed counsel, and she wishes to proceed Pro Se. The Court granted counsel's Petition for Leave to Withdraw Counsel.

Finally, the Petition for Permanency Review asserted that Mother continued to communicate with the Agency via email, but her communication decreased during this review period. Also, Mother was not living with her friend in Philadelphia, Pennsylvania. Mother returned to Williamsport, Pennsylvania, but Mother returned to the Philadelphia area after a brief period. Mother claimed to have her own address in Philadelphia, but refused to provide the Agency with the information. Mother continued to have supervised visits at Delta Services with the same confirmation protocol in place as previously. Mother did not attend any of the thirteen visits for this review period. Mother's health condition persists, she has not provided proof of treatment for mental health, and she remained on probation. The Court found that Mother made no progress toward alleviating the circumstance which resulted in the original placement of the Child.

Regarding Father, the Court found that he made minimal progress. He attended a visit on February 14, 2024, and another visit on February 15, 2024. Further, he has appropriate housing. Father did not attend any visits after February 15, 2024. He discontinued contact with the Agency and disconnected his phone.

The Child continued to live in the Kinship Resource Home while meeting developmental milestones. The Child had no health concerns, and she continued with piano and music lessons. The Court ordered the Child's continued dependency as both parents have made minimal progress toward alleviating the circumstances necessitating placement of the Child.

On May 17, 2024, a Motion for a finding of Aggravated Circumstances was filed alleging that Child is in the custody of the Agency, and Mother failed to maintain substantial and continuing contact with the Child for a period of six months. On July 3, 2024, the Agency filed an Amended Petition for Involuntary Termination of Parental Rights and a Praecipe to reschedule the previous trial. The trial was scheduled for September 11, 2024. The Agency contacted Mother with the date via a calendar invite, to which Mother replied she would not attend.

On August 14, 2024, after a hearing on the Motion for Finding of Aggravated Circumstances, the Court found clear and convincing evidence of aggravated circumstances as to Mother and Father. The Court also conducted a Permanency Review hearing for a petition filed on July 30, 2024.

During this review period, it remained unsubstantiated whether Mother received any mental health services, despite her claims. Also, there was no testimony that Mother was receiving the necessary health services for her significant health condition. The Agency cannot confirm treatment because Mother had not signed release forms. Mother did not attend any visits with the Child since October 31, 2023. Mother reported she was residing in Williamsport, Pennsylvania, but was not consistent at providing the Agency with her addresses. The Agency has continued attempts to conduct home and office visits with

Mother, but she refused to meet. The Agency maintained communication with Mother through email and written correspondence per her request.

Further, Father has not had a visit with the Child since his second visit on February 15, 2024. Father has not maintained any contact with the Agency, his attorney, or the Resource Parent. Moreover, the Agency did not have successful contact with Father, despite numerous attempts.

The Child remained in placement for fifteen (15) of the last twenty-two (22) months. The Child continued to thrive at the Resource Home. The Court found that both parents have not complied with the permanency plan or efforts on behalf of the Agency to alleviate the circumstances necessitating the initial placement of the Child. The Court ordered the continued dependency of the Child and scheduled the termination hearing for September 11, 2024.

Discussion

Under Pennsylvania's Adoption Act, courts are required to conduct a bifurcated analysis wherein the court examines: (1) parental conduct pursuant to Section 2511(a), and (2) the needs and welfare of the child pursuant to Section 2511(b). *In re: L.M.*, 923 A.2d 505, 511 (Pa. Super. 2007). Here, the Agency argues that the premise for termination relies on 23 Pa.C.S. §2511(a)(1), (2), (5), and (8) conveying the following:

§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.

To involuntarily terminate a parent's parental rights, the Agency must prove by clear and convincing evidence one of the aforementioned subsections of 23 Pa.C.S. 2511(a).

Pursuant to Section 2511(a)(1), a court may terminate parental rights where a parent exhibits a settled purpose to relinquish the parental claim to a child *or* fails to perform parental duties for at least six months preceding the filing of a 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, and any post-abandonment contact. *In re Adoption of C.J.A.*, 204 A.3d 496, 503 (Pa. Super. 2019). The six months immediately preceding the filing of the petition is the most critical facet to the analysis of determining whether to terminate the rights of the parent. Although, the court should consider the cumulative history of the case and not simply:

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

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

Throughout the Child's placement, Mother has indicated her intent to reunify. However, her efforts to accomplish reunification lacked consistency resulting in minimal compliance to the permanency plan for most review periods. Despite Mother's conduct, the Court does not find a settled purpose to relinquish parental claim to the Child. Consequently, 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 exceeding six months preceding the filing of the Petition for Involuntary Termination of Parental Rights.

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

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

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

In re Burns, 379 A.2d 535, 540 (Pa. 1977) (citations omitted). The Child is almost four years old, and she has been in placement since February 9, 2022. The Child was initially removed from Mother's care due to safety, medical, and developmental concerns. At this stage, the

Child's needs are developmental, relational, medical care, nurturing, financial and shelter stability, and comfort. By June 7, 2022, the Child and her sister were placed with a maternal great aunt. The maternal great aunt agreed to supervise home and community visits. The option to schedule talk and video chats with the children was also made available to Mother. The Agency offered to provide gas cards or bus passes every two weeks to accommodate Mother's travel needs. (Agency Ex. 3).

In the first review period, Mother attended 94% of her visits held at the Agency. Attendance at visits and communication with the Child became more inconsistent, even when Mother relocated to the Philadelphia, Pennsylvania area, which is significantly closer to the Child's Kinship Resource Home. On November 3, 2022, Caseworker, Heidi Porter, responded to Mother's complaint that the visits were not scheduled or were inconsistent. In an effort to cure Mother's complaints, Ms. Porter notified Mother that visits would be consistent and scheduled for Tuesday mornings from 10:00AM to 11:00AM and on Thursdays from 1:00PM to 2:00PM at the Kinship Resource Home. (Agency Ex. 7). The visitations were still taking place in the Resource Parent's home. (*Id.*) The Resource Parent testified that Mother did not visit often, and in total she visited the Resource Home approximately four or five times in two years. On May 8, 2023, Ms. Porter notified Mother, in a letter, that, due to ongoing concerns with visitations in the Resource Home, visits were transferred for supervision to a facility provided by Delta Family Services. (Agency Ex. 20). Between May 16, 2023 and October 31, 2023, out of twenty-five (25) visits, Mother attended seven (7), she canceled or did not appear for thirteen (13), and Child was unavailable for five (5) visits. (Agency Ex. 56). Mother's last attended, in-person visit was on October 31, 2023. (*Id.*) After this visit, Ms. Porter reports that Mother refused to continue visiting at Delta Family Services. (*Id.*) The Agency offered various means of transportation, all of which

Mother refused, and the Agency reimbursed Mother for her LYFT rides to visits. (*Id.*) The visits stayed at the level requiring supervision, Mother failed to progress to observed or community visits with the Child.

Since June of 2022 and for a cumulative total of more than half her life, the Child has depended on the resource parent to provide the physical needs of food, shelter, and clothing, in addition to emotional needs like comfort, enrichment, and support.

Regarding Father, he was unable to be located for the majority of Child's time in placement. Father was finally located after the initial hearing for Involuntary Termination of Parental Rights in June of 2023 when Mother provided information on Father that the Court and Agency requested since proceedings began in February of 2022. Father was located in Delaware County, Pennsylvania, and he was willing to obtain a paternity test to determine his eligibility as a resource for Child. By October of 2023, Father had obtained a paternity test and he was determined to be the biological father to the Child. Caseworker Heidi Porter testified that she completed a home visit with the Guardian Ad Litem on January 3, 2024, and the residence was appropriate. Father visited with Child on February 14, 2024 and again on February 15, 2025. Ms. Porter testified that his phone number was disconnected in March 2024. Father did not visit Child again after February 15, 2024, and he did not respond to any of the Agency's attempts at contact. While the Court does not find that Father has evidenced a settled purpose of relinquishing parental claim to the Child, there is no dispute that Father has not performed any parental duties for the Child at any point during her life.

The Court hereby finds through clear and convincing evidence that the Agency has fulfilled the requirements of 23 Pa.C.S. §2511(a)(1), in showing that both Mother and Father failed to perform parental duties for at least six months preceding the filing of the termination petition.

To satisfy the requirements under 23 Pa.C.S. §2511(a)(2), the Agency must demonstrate that Parents, through:

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

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

Under Section 2511(a)(2), “[t]he grounds for termination [of parental rights] due to parental incapacity that cannot be remedied are not limited to affirmative misconduct. To the contrary, those grounds may include acts of refusal as well as incapacity to perform parental duties.” *In re: A.L.D.*, 797 A.2d 326, 337 (Pa. Super. 2002) (citations omitted). “Moreover, an agency is not required to provide services indefinitely if a parent is either unable or unwilling to apply the instruction given.” *Id.* at 340. “Parents are required to make diligent efforts towards the reasonably prompt assumption of full parental responsibilities. ... [A] parent’s vow to cooperate, after a long period of uncooperativeness regarding the necessity or availability of services, may properly be rejected as untimely or disingenuous.” *Id.*, quoting *In re J.W.*, 578 A.2d 952, 959 (Pa. Super. 1990).

“When a child is in foster care, this affirmative duty requires the parent to work towards the return of the child by cooperating with the Agency to obtain rehabilitative services necessary for them to be capable of performing their parental duties and responsibilities.” *In re: G.P.-R.*, 851 A.2d 967, 977 (Pa. Super. 2004). Ms. Porter testified at the hearing that Mother was originally cooperating with Outreach Services but had poor follow through and eventually became uncooperative entirely. In February of 2022, Mother was court ordered to participate in Outreach Services, including parenting courses. Mother was further ordered to undergo a mental health evaluation. In a letter from the Agency dated

June 7, 2022, the Family Service Plan and Child Permanency Plan outlined goals for Mother that included: (1) become financially stable/meet basic needs, (2) have structure and routine in the home, (3) improve and/or maintain acceptable home conditions, (4) improve school behavior and/or performance, (5) meet medical/dental needs and attend all appointments, (6) use positive parenting skills, and (7) attend all visits. (Agency Ex. 2). In Ms. Porter's final Adoption and Safe Families Act (ASFA) Letter to Mother, the list of goals for reunification expanded to include following mental health service recommendations and participating in Family Group Decision Making meetings. Mother's cooperation with Outreach Services and Agency caseworkers continued to fail over the period of at least June 2022 until the termination trial in September 2024. Mother refused any communication barring email with the Agency in December 2022. She was frequently unavailable for home visits during the period when she lived with a friend in Philadelphia, Pennsylvania.

Attempts to corroborate that Mother complied with the order to undergo a mental evaluation failed because Mother refused to sign release forms for the Agency to receive records. The initial referral was made in February of 2022. Mother did provide the Court with what she claimed was a mental health evaluation on May 11, 2023. (Agency Ex. 18). Whereby, Mother was referred for outpatient treatment and psychiatric therapy. However, there is no record to confirm Mother sought any mental health treatment because she continued to refuse to release forms or provide records to the appropriate parties.

In the physician's certification form from December 27, 2022, Mother's long-term health condition and requisite treatment thereof was provided. The report confirms that Mother faces daily challenges from a Multiple Sclerosis diagnosis. (Agency Ex. 14). Further, the report concludes that Mother requires the level of care provided in a nursing facility, and that weekly care and supervision of Mother amounts to more than eighty hours. (*Id.*) While

Mother was residing in the home of a friend in Philadelphia, she was receiving daily care and supervision. Since leaving the Philadelphia area in or around December 2023, the Agency was unable to confirm that Mother was receiving the recommended and necessary daily medical assistance required for her condition. Ms. Porter testified to these findings on September 11, 2024, and there is no record to support that Mother was meeting her own basic needs with the potential to also meet the needs of the Child as well.

Mother was unemployed when proceedings began in February of 2022 and throughout the duration of the Child's dependency. Ms. Porter testified that Mother had been denied disability and appealed the denial approximately four or five times. As of the trial on September 11, 2024, Mother had not produced proof of gainful employment or stable income throughout proceedings, and there was no evidence to support that she had met the goal for financial stability.

After Mother's eviction in February of 2022, she maintained inconsistent and unstable housing options. She lived for a period in Philadelphia with a man who was unwilling to be a resource for the Child. Around December 2023, it was reported that Mother no longer lived with her friend in Philadelphia, and she was frequently moving between addresses in or around the Williamsport and Philadelphia, Pennsylvania areas. Mother's most recent suspected residence is either Williamsport, Pennsylvania or South Carolina. The inconsistency of Mother's location and instability of her housing exhibit that she has not achieved the goal of improving or maintaining acceptable home conditions.

Mother's consistent refusal to accept Outreach Services and attend parenting classes also exhibits her failure to meet this goal as well. By January 3, 2024, Mother had completed one four-hour parenting course online.

Adjacently concerning is that Mother remains on adult probation from the charges against her for Endangering the Welfare of a Child, whereby the Child was the victim of the charge. Mother has a history of warrants in multiple counties across the state, and numerous fines. She has been making payments toward some fines, but outstanding obligations remain.

Regarding Father, Ms. Porter testifies that he does have appropriate housing. Also, Father visited the Child a total of two times. Since Father's visit on February 15, 2024, he has had no contact with the Agency despite various attempts by the Agency and his attorney, and he has had no contact with the Child. The only goal Father accomplished was having stable housing.

The Child has been in the legal and physical custody of the Agency for two years and three months, and her time in care amounts to the majority of her almost four-year-old life. Father has been unknown for the majority of the Child's placement, and has only met the Child two times. After the second visit, Father became unresponsive to Agency efforts for a period of at least six months, and is no longer an option to be a resource for the Child. Mother has failed to cooperate with the services the Agency has offered for her to achieve the goals for reunification. Mother has been unable to make measurable progress in addressing the incapacities which have caused the Child to be without essential parental care, control or subsistence necessary for her physical or mental well-being. This Court finds that neither Mother nor Father have remedied their incapacities in terms of their ability to parent the Child within a reasonable amount of time and will likely be unable to remedy them in the immediate future. The Court finds by clear and convincing evidence that the Agency has satisfied 23 Pa.C.S. §2511(a)(2) by demonstrating that Mother's and Father's repeated and consistent incapacity has caused the Child to be without essential parental care control or subsistence necessary for his physical and mental well-being.

“Termination of parental rights under Pa.C.S. § 2511(a)(5) requires that: (1) the child has been removed from parental care for at least six months; (2) the conditions which led to removal and placement of the child continue to exist; and (3) termination of parental rights would best serve the needs and welfare of the child.” *In re: K.J.*, 936 A.2d 1128, 1134 (Pa. Super. 2007). Similarly, to terminate parental rights pursuant to 23 Pa.C.S. § 2511(a)(8), the following factors must be demonstrated: “(1) [t]he child has been removed from parental care for 12 months or more from the date of removal; (2) the conditions which led to the removal or placement of the child continue to exist; and (3) termination of parental rights would best serve the needs and welfare of the child.” *In re: Adoption of M.E.P.*, 825 A.2d 1266, 1275-76 (Pa. Super. 2003). “Section 2511(a)(8) sets a 12-month time frame for a parent to remedy the conditions that led to the children’s removal by the court.” *In re: A.R.*, 837 A.2d 560, 564 (Pa. Super. 2003). After the 12-month period has been established, the Court must next determine whether the conditions necessitating placement persist, despite the reasonable, good faith efforts that the agency supplied over a realistic time period. *Id.* In terminating parental rights under Section 2511(a)(8), the trial court is not required to evaluate a parent’s current “willingness or ability to remedy the conditions that initially caused placement.” *In re: Adoption of T.B.B.*, 835 A.2d at 396 (Pa. Super. 2003); *In re: Adoption of M.E.P.*, 825 A.2d at 1276.

The Court finds through clear and convincing evidence that the Agency has proven that grounds for termination of Mother’s and Father’s parental rights exist under both Sections 2511(a)(5) and (8). The Agency was appointed physical and legal custody of the Child on February 9, 2022, and has been in the Agency’s custody since.

After each permanency review hearing, the Court found that Mother had minimal compliance with the Child permanency plan, and had no progress toward alleviating the

circumstances which necessitated the original placement of Child. Mother refused efforts to assist with reunification, and responded to the email requesting her presence at the termination hearing that she would not be present. She did not appear at the trial to testify to her suitability for custody of Child. Mother maintained her contestation of termination of her parental rights, but failed to comply with Agency recommendations and Court orders to address and remedy Child's dependency. Mother's defiance seethed into her communication with the Agency whereby her only contact was through email, and correspondence primarily contained threats toward the Court and Agency employees. (Agency Ex. 17, 46-51). Mother has a chronic, debilitating, and deteriorating health condition that affects all facets of her daily living and consequently, the Child's. Mother has failed to admit any responsibility for the situation that the Child is in, and has never shown a commitment to accomplishing the work necessary to address the circumstances which have led to Child's dependency for most of her life.

After Father was found, he maintained minimal compliance with the permanency plan until he ceased responding to Agency's contact completely. Father was never involved in Child's life prior to proceedings, and his minimal progress lacks the consistency and stability the Child requires. Father was also informed about the trial for termination, and did not respond nor appear to contest the dependency of the Child.

For almost two and a half years of the Child's placement, she had both her physical and intangible needs met by her Resource Parent. The Child's Resource Parent testified at the trial that she is willing to offer permanency. The Child should not and cannot remain in placement while Mother refuses to take the necessary steps to address her incapacities and achieve reunification.

Mother and Father have not satisfactorily alleviated the conditions which led to the removal and placement of the Child. It is clear to this Court that termination of both Mother's and Father's parental rights would best serve the needs and welfare of the Child.

Since 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 Involuntary Termination of 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 evaluate whether a bond exists between the child and parents, and whether termination would destroy an existing, necessary, and beneficial relationship. *In the Interest of C.S.*, supra, at 1202. "Above all else . . . adequate consideration must be given to the needs and welfare of the children." *In re: J.D.W.M.*, 810 A.2d 688, 690 (citing *In re: Children M.*, 681 A.2d 793 (Pa. Super. 1996), appeal denied, 546 Pa. 674, 686 A.2d 1307 (1996)).

Before granting a petition to terminate parental rights, it is imperative that a trial court carefully consider the *intangible* dimension of the needs and welfare of a child--the love, comfort, security and closeness--entailed in a parent-child relationship, as well as the tangible dimension. Continuity of relationships is also important to a child, for whom severance of close parental ties is usually extremely painful. The trial court, in considering what situation would best serve the children's needs and welfare, must examine the status of the natural parental bond to consider whether terminating the natural parents' rights would destroy something in existence that is necessary and beneficial.

In the Interest of C.S., supra., at 1202 (citations omitted).

When conducting a bonding analysis, the Court is not required to use expert testimony. *In re: K.K.R.-S.*, 958 A.2d 529, 533 (Pa. Super. 2008) (citing *In re: I.A.C.*, 897 A.2d 1200, 1208-1209 (Pa. Super. 2006)). Here, Father's bond with Child can be described as weak, at best. Considering he was not involved with the Child until his visit on February 14, 2023, and then ceased contact and visits after February 15, 2023, there is practically no evidence that a sufficient bond can be established between Father and Child in that scant amount of time. Further, the Agency was unable to refer Father and Child for a bonding analysis due to his unresponsiveness after the second visit. It is clear that no bond exists between Father and Child, thus, the Child will not incur irreparable harm if the Court terminates Father's rights.

The Agency referred Mother and Child for a bonding assessment on June 9, 2022. (Agency Ex. 11). However, there is no further record that a bonding evaluation was completed. When placement of a child is proper, and the child is subsequently removed from the home, the scheduled visits become extremely important. Scheduled visits provide the parent a resource to maintain the parent/child bond during the reunification process. Here, Mother's inconsistent history for visits with Child and the age of Child at the time of placement indicates that there is little to exhibit a significant bond between Mother and Child. Initially, Mother was able to attend supervised visits in the Resource Parent's home. However, as of May 31, 2023, the Resource Parent was no longer willing to supervise visits at her home, and visits were transferred to Delta Family Services Center in Philadelphia, Pennsylvania. (Agency Ex. 25). Thereupon, Mother attended 28% of the scheduled visits, while canceling or "no-showing" approximately 52% of the visits. (Agency Ex. 56). Further, Mother refused to attend any more visits after October 31, 2023. (Id).

However, while a semblance of a bond may have existed, the existence of some bond does not automatically defeat the termination of her parental rights. *In re K.Z.S.*, 946 A.2d, 7533,764 (Pa. Super. 2008). Rather, the question becomes whether the bond is worth salvaging or whether it can be sacrificed without irreparable harm to the child. *Id.*

The Child has been in the same resource home with the Resource Parent since April of 2022. Mother has failed to comply with the Agency's reunification efforts and requirements since February of 2022. The Child was adjudicated dependent and removed from the custody of Mother at approximately fourteen months old. The Child has been living with the Resource Parent and thriving under her care for longer than Mother and Child lived together. The Resource Parent has been able to provide financial, medical, and shelter support, while also engaging Child in enrichment activities such as musical lessons, community events, and vacations. The Resource Parent testifies that Child has become more outgoing since being under her care. The Resource Parent further enrolled Child in Early Intervention services for a speech issue. In their initial report, caseworkers indicated concerns that Child was developmentally delayed and required medical attention for an untreated abdominal hernia. The record shows that as time has passed under the Resource Parent's care, the Child no longer has medical concerns and her developmental concerns are being addressed. Most significantly, the Resource Parent testified that she is willing to provide permanency. The Child's permanency should not and cannot be delayed.

Therefore, the Court finds that terminating the Parents' rights would not cause irreparable harm to the Child. This Court further finds that providing permanency in the form of adoption by the person who has consistently accommodated 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 D.J. and C.J., 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 D.J. and C.J., have displayed repeated and consistent incapacity, abuse, neglect, or refusal, which has caused 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 Child has been removed from D.J.'s and C.J.'s care for a period of at least six months, that the conditions which led to the removal or placement of Child continue to exist, that the conditions which led to the removal or placement of 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 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 Child has been removed from D.J.'s and C.J.'s care for a period of twelve months or more, that the conditions which led to the removal or placement of Child continue to exist, and that termination of Mother's and Father's parental rights would best serve the needs and welfare of 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 Child will be best served by 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 Petrovito, Esquire
Angela Lovecchio, Esquire
Children & Youth
CASA
Dance Drier, Esquire
Jeana Longo, Esquire
Trisha Hoover, Esquire
D.J.-Mother, address unknown
Gary Weber-Lycoming Reporter

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA**

ORPHANS' COURT DIVISION

IN RE: : **NO. 2023-6848**
:
B.J. :
:
Minor child :

DECREE

AND NOW, this **18th** day of **October, 2024**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of D.J., held on September 11, 2024, it is hereby ORDERED and DECREED:

- (1) That the parental rights of D.J. 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.

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

cc. John Petrovito, Esquire
Angela Lovecchio, Esquire
Children & Youth
CASA
Dance Drier, Esquire
Jeana Longo, Esquire
Trisha Hoover, Esquire
D.J.-Mother, address unknown
Gary Weber-Lycoming County

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

IN RE: : **NO. 2023-6848**
:
B.J., :
:
Minor child :

DECREE

AND NOW, this **18th** day of **October, 2024**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of C.J., held on September 11, 2024, it is hereby **ORDERED** and **DECREED**:

- (1) That the parental rights of C.J. 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.

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4. Online at www.adoptpakids.org/Forms.aspx

By the Court,

Ryan M. Tira, Judge

RMT/asw

Cc: John Pietrovito, Esquire
Angela Lovecchio, Esquire
Children & Youth
CASA
Dance Drier, Esquire
Jeana Longo, Esquire
Trisha Hoover, Esquire
D.J.- address unknown
Gary Weber-Lycoming County