

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

IN RE: : **NO. 2024-6904**
 :
A.P.J., :
 :
 a minor child, :

AMENDED OPINION AND ORDER

AND NOW, this 4th day of **October, 2024**, this Court's order dated September 27th, 2024 is AMENDED to reflect the correct last name of N.A.J. and C.A.C.: before the Court is a Petition for Involuntary Termination of Parental Rights filed by Father, N.A.J. , in regard to the rights of his child, A.P.J., on February 15th, 2024. Father seeks to terminate the parental rights of the child's biological Mother, C.A.C., as a prerequisite to having the child adopted by his wife, L.J. A hearing on the Petition was held on September 27th, 2024. At the time of the hearing, the Petitioners, N.A.J. and L.J., appeared with their counsel, Trisha Hoover, Esquire. The Guardian Ad Litem, Jeffrey Yates, Esquire, appeared on behalf of the child. The natural Mother, C.A.C., did not appear, though she was properly served with a copy of the Petition for Involuntary Termination of Parental Rights and notice of the hearing date and time. Although Mother failed to appear, Tiffani Kase, Esquire, was present on his behalf.

Finding of Facts

1. A.P.J. was born on December 13th, 2013, in Austin, Travis County, Texas.
2. The child's Father is N.A.J. who was born on August 13th, 1980.
3. The child's natural Mother is C.A.C..

4. The child currently resides with Father and step-Mother, L.J., at [address redacted].
5. The natural Mother, C.A.C., resides at [address redacted].
6. Mother and Father were never married. The last time that the natural Mother had contact with the child was approximately 2022. The last time Mother reached out to Father regarding the child was approximately 2023.
7. Natural Mother has never paid child support.
8. Father has continued to reside in Lycoming County since his separation of Mother.
9. Mother knows where Father currently resides.
10. Father has done nothing to block Mother from contacting the child.
11. Father has maintained the same telephone number.
12. Father and L.J. married in 2018.
13. L.J. has known the child since Father became aware of him and received primary custody in 2022.
14. The child is very close to L.J. and has a very loving relationship with her and calls her mom.
15. There is no bond between the child and natural Mother.
16. The natural Mother, C.A.C., is not a member of the armed forces.

Discussion

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

§2511. Grounds for Involuntary Termination

(a) GENERAL RULE.--The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds:

(1) The parent by conduct continuing for a period of at least six months immediately preceding the filing of the petition either has evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties.

A court may terminate parental rights under Section 2511(a)(1) where a parent demonstrates a settled purpose to relinquish parental claim to a child **or** fails to perform parental duties for at least six months prior to the filing of the termination petition.

In the Interest of C.S., 761 A.2d 1197, 1201 (Pa. Super. 2000). The Court should consider the entire background of the case and not simply:

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

In re: B.N.M., 856 A.2d 847, 855 (Pa. Super. 2004), appeal denied, 582 Pa. 718, 872 A.2d 1200 (2005) citing **In re: D.J.S.**, 737 A.2d 283, 286 (Pa. Super. 1999).

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

There is no simple or easy definition of parental duties. Parental duty is best understood in relation to the needs of a child. A child needs love, protection, guidance, and support. These needs, physical and emotional, cannot be met by a merely passive interest in the development of the child. Thus, this Court has held that the parental obligation is a positive duty which requires affirmative performance. This affirmative duty encompasses more than a financial obligation; it requires continuing interest in the child and a genuine effort to

maintain communication and association with the child. Because a child needs more than a benefactor, parental duty requires that a parent "exert himself to take and maintain a place of importance in the child's life."

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

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

The Court finds that as of the date of the Petition to Involuntary Terminate her parental rights, Mother has failed to perform her parental duties for a period of time in excess of six (6) months and has evidenced a settled purpose of relinquishing her parental claim. Mother has had no physical contact with the minor child since 2022. A.P.J. is currently 10 years of age and Mother has not exercised any visitation or custody time since Father was awarded primary custody in 2022. Other than sending Christmas gifts the last two years Mother has not sent any other financial support for A.P.J. Additionally, Mother has failed to even bother to appear at this hearing to in any way defend the termination of her parental rights which clearly evidences her settled purpose to relinquish her parental rights.

As the statutory grounds for termination have been met, the Court must also consider the following:

23 Pa.C.S. § 2511(b) OTHER CONSIDERATIONS.—The Court in terminating the rights of a parent shall give primary consideration to the developmental, physical and emotional needs and welfare of the child. The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent. With respect to any

petition filed pursuant to subsection (a)(1), (6) or (8), the court shall not consider any efforts by the parent to remedy the conditions described therein which are first initiated subsequent to the giving of notice of the filing of the petition.

The Court must consider whether a bond exists between the child and parent, and whether termination would destroy an existing, necessary and beneficial relationship. **In the Interest of C.S.**, *supra*, at 1202. When conducting a bonding analysis, the Court is not required to use expert testimony. **In re: K.K.R.-S.**, 958 A.2d 529, 533 (Pa. Super. 2008) (citing **In re: I.A.C.**, 897 A.2d 1200, 1208-1209 (Pa. Super. 2006)). “Above all else . . . adequate consideration must be given to the needs and welfare of the child.” **In re: J.D.W.M.**, 810 A.2d 688, 690 (citing **In re: Child M.**, 681 A.2d 793 (Pa. Super. 1996), appeal denied, 546 Pa. 674, 686 A.2d 1307 (1996)). A parent’s own feelings of love and affection for a child do not prevent termination of parental rights. **In re: L.M.**, 923 A.2d 505, 512 (Pa. Super. 2007).

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

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

In the present case, Mother does not have a bond with the child. This child doesn’t wish to speak with Mother let alone see her. A.P.J. considers and calls L.J., Mom. It is clear that Mother has no bond with the child and termination of her rights would not

destroy any existing necessary and beneficial relationship as there currently exists no relationship between Mother and the child.

Conclusions of Law

1. The Court finds that N.A.J. has established by clear and convincing evidence that C.A.C.'s parental rights should be involuntarily terminated pursuant to 23 Pa.C.S. §2511(a)(1).

2. The Court finds that N.A.J. has established by clear and convincing evidence that the developmental, physical and emotional needs and welfare of A.P.J. will best be served by termination of C.A.C.'s parental rights.

Accordingly, the Court will enter the attached Decree.

By the Court,

Ryan C. Gardner, Judge

RCG/kbc

cc. Jeffrey Yates, Esquire
Trisha Hoover, Esquire
Tiffani Kase, Esquire
C.A.C. – [address redacted]
Gary Weber, Esquire

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA
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IN RE: : **NO. 2024-6904**
:
A.P.J., :
:
a minor child, :

DECREE

AND NOW, this 27th day of **September, 2024**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of C.A.C., held on September 27th, 2024, it is hereby ORDERED and DECREED:

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

NOTICE TO NATURAL PARENTS
PENNSYLVANIA ADOPTION MEDICAL HISTORY REGISTRY

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

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

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

Department of Public Welfare
Adoption Medical History Registry
Hillcrest, Second Floor
P.O. Box 2675
Harrisburg, PA 17105-2675
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

By the Court,

Ryan C. Gardner, Judge

RCG/kbc

cc. Jeffrey Yates, Esquire
Trisha Hoover, Esquire
Tiffani Kase, Esquire
C.A.C. – [address redacted]
Gary Weber, Esquire