

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

FILED

IN RE: :
Involuntary Termination :
of Parental Rights of :
MEGAN BERLANDO in and :
to A.H., a Minor :

2025 DEC 24 A 11: 54

No. 25-OC-0015

CARBON COUNTY
REGISTER OF WILLS
CLERK OF ORPHANS COURT

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MEMORANDUM OPINION

Nanovic, P.J. – December 24, 2025

Carbon County Children and Youth Services (hereafter "Agency") filed a Petition for the Termination of Parental Rights Pursuant to the Adoption Act on March 17, 2025, which sought to terminate the parental rights of Megan Berlando (hereafter "Mother") to A.H. (hereafter "Child"). After hearing held on September 22, 2025, at which Mother appeared in person, and after review of all of the evidence, the Agency has established, by clear and convincing evidence, a legal basis for terminating the parental rights of Mother under 23 Pa.C.S.A. §2511.

FACTUAL AND PROCEDURAL BACKGROUND

A.H. was born on October 7, 2019. The Child is the biological daughter to Megan Berlando and William Heatherington. William Heatherington died in 2023. The Agency became involved when they received a report on February 28, 2024, that Mother was actively using illegal substances in her home. At the time, Mother was living in Weatherly, Pennsylvania, with the Child's paternal grandmother. Reportedly, Mother and the paternal grandmother were having a lot of conflict at the time and the grandmother was concerned about leaving the Child with Mother because of her drug use.

On February 29, 2024, the Agency went to Mother's residence and were allowed into the home by the paternal grandmother. Mother was in her room but refused to come out and speak with the Agency. The Agency told Mother that if she did not cooperate, there could be potential court action such as in-home dependency or the removal of the Child. Then, on March 1, 2024, the Agency removed the Child from the home and Mother was advised that there would be an emergency shelter care hearing on March 7, 2024.

At the emergency shelter care hearing on March 7, 2024, the Agency was granted legal and physical custody of the Child. The Child was ordered to remain in shelter care pending an adjudication hearing. Mother attended the hearing in person. On the day of the hearing, Mother provided a drug screen, which came back as positive for methamphetamines, amphetamines, and fentanyl. She was ordered to obtain a mental health evaluation and a drug and alcohol evaluation. She was also directed to provide drug screens prior to visits with the Child, and to obtain stable housing.

A dependency hearing was held on March 14, 2024. Mother attended the hearing in person. The Child was adjudicated dependent as being without proper parental care or control and it was determined that it would be in the best interest of the Child to be placed outside of the home in the Agency's care. Mother was once again ordered to provide a drug and alcohol evaluation, a mental health evaluation, to provide drug screens to the agency, and to obtain stable housing¹.

¹ The Agency testified that on March 12, 2024, Mother made efforts to remove herself from her housing situation as she was no longer permitted to live with the paternal grandmother. She applied for Carbon County Housing. However, at the hearing on the termination of Mother's parental rights on September 22, 2025, it was unknown to the Agency whether Mother had been accepted for housing assistance.

On March 19, 2024, Mother met with the Agency to review her service plan. According to the Agency's caseworker, Mother was an hour late to this meeting. Mother was unable to focus during the meeting and refused to sign the service plan. Believing Mother to be under the influence, the Agency requested she submit to a drug screen. Mother agreed, however, the Agency noted that the urine sample was yellowish-green, smelled of rubbing alcohol, and was cold. The drug screen came back positive for methamphetamines and fentanyl. The Agency noted that the urine sample was diluted.

Mother began to work with JusticeWorks YouthCare, Inc., (hereafter "JusticeWorks"). JusticeWorks is a program that, among other things, helps parents arrange visitations with their children, locate housing, and make appointments for mental health and drug and alcohol evaluations; they also assist parents in arranging treatment for drug and alcohol problems. Mother attended a visit with the Child at JusticeWorks on March 21, 2024. The visit went well, and Mother and the Child enjoyed their time together. The next visit was set to occur on April 4, 2024, however, this visit did not take place. Mother arrived at the JusticeWorks office in Lehighton, Pennsylvania, at which time it was believed she was under the influence. A caseworker from the Agency arrived at the office; however, Mother refused to speak with her or submit to a drug screen. No future visits were set up after this.

On April 6, 2024, Mother was accepted into a drug rehabilitation program at the White Deer Treatment Network. She was admitted that same day for detox and entered into the rehabilitation program on April 11, 2024. The program was supposed to last for thirty days, however, Mother left against medical advice on April 13, 2024, two days after entering the rehab program. (See Exhibit P-1). Mother claims she only agreed to enter

into the detox program and never intended to complete rehab. JusticeWorks closed their case with Mother because she left rehab against medical advice and would not cooperate with them.

After Mother left the rehabilitation program on April 13, 2024, she did not have any contact with the Agency until October 4, 2024. The Agency caseworker, Samantha Rex, attempted to keep the lines of communication open. She went to Mother's last known residence in Weatherly, Pennsylvania. Ms. Rex also tried to contact Mother using a phone number she had previously been provided to get in touch with Mother. After Mother left White Deer Run, unbeknownst to the Agency, Mother moved into a camper on property in Audenreid, Pennsylvania. Mother did not contact the Agency regarding her new address and telephone number. According to Mother, she did not believe she was allowed to get in touch with the Agency and thought they would get in touch with her. Mother did not believe it was her responsibility to update the Agency with her address and phone number. Rather, Mother expected the Agency to be able to find her because she claims they could have asked the paternal grandmother or her fiancé about her whereabouts.

Mother testified that approximately a month after she left rehab, she began living in a camper that was located on property at which her sponsor's home was located. She lived in the camper from May of 2024 until November of 2024, at which time she moved into the home located on the property. Mother claims to have had a good relationship with the people living in the home, but did not ask to use any of their phones to contact the Agency about her daughter. Mother also did not go to the Agency's office even though the Agency maintained the same office address at all relevant times.

During the six month period Mother was not in contact with the Agency, the Agency began looking into kinship placement resources. They filed a family finding referral through JusticeWorks, which identified the maternal grandmother and maternal aunt as two possible homes the Child could be placed in. The Agency found both homes to be appropriate, however, the home with the maternal aunt, Jennifer Narcavage, was deemed to be a better fit for the Child. Ms. Narcavage has been taking care of Mother's other daughter, Natalie, since 2020.² The Agency believed it would be in the best interest of the Child to live with her sister. On April 18, 2024, the Agency filed for a modification of placement to move the Child to her aunt's home. The Child has been living with her maternal aunt since May 21, 2024.

Because of the lack of contact with the Agency, the Agency filed a dependency review petition on September 13, 2024, recommending that the goal be changed from reunification to adoption. It also filed a motion for finding of aggravated circumstances on September 3, 2024. A hearing on the goal change from reunification to adoption and for aggravated circumstances was held on October 1, 2024. Mother did not appear at the hearing. By order dated October 1, 2024, the Court found the existence of aggravating circumstances by clear and convincing evidence as a result of Mother's failure to maintain substantial and continuing contact with the Child for a period of six months. See 42

² Ms. Narcavage testified that after Mother experienced a drug overdose in 2018, Luzerne County Children and Youth Services got involved. This resulted in the maternal grandmother being given temporary custody of Natalie. Mother was unable to comply with the goals Luzerne County set for her, so six months after the initial decision to give maternal grandmother custody, it was decided that the court would close the dependency case and award maternal grandmother legal and physical custody of Natalie. In 2020, Grandmother and Jennifer Narcavage signed documents that provided Ms. Narcavage with legal guardianship of Natalie. While a judge has never signed these documents, Ms. Narcavage has been taking care of Natalie since then.

Pa.C.S.A. §6302 (Definitions – Aggravated Circumstances (1)(ii)). That same date, the Court also ordered the goal changed from reunification to adoption.

The circumstances that led to this goal change primarily relate to Mother having not contacted the Agency or the Child in over six months. After Mother left rehab, she never made contact with the Agency to provide them with her address or phone number. She never visited the Agency office or inquired with any caseworker as to how her daughter was doing. She never contacted her sister to check on the well-being of her daughter.

During the time she was out of contact with the Agency, Mother did not complete any of the goals the Agency set for her. Mother did not complete a drug and alcohol evaluation or mental health evaluation; she did not find stable housing; she did not obtain employment; she did not cooperate with the Agency or any of the providers she was referred to. And because she was unreachable, the Agency was unable to randomly drug test her. In the meantime, the Child was and has been thriving while in the care of her aunt. The Agency remarked that the Child is practically a completely different child than when she was first placed. She was initially behind in her developmental milestones. For example, she did not know shapes, colors, and numbers, but with the help of her aunt she now knows them. She is prepared and ready for kindergarten. She has also bonded with her aunt's daughter, whom she sees as a sister equal to her biological sister.

Mother argues she completed some of the goals the Agency set for her. She claims to have completed both a drug and alcohol evaluation and a mental health evaluation. She testified an Agency worker drove her to the drug and alcohol evaluation, but doesn't recall who it was. She also claims to have had a mental health evaluation and that

immediately after getting this evaluation she went to see her caseworker, Samantha Rex. However, the Agency denies ever driving her to these evaluations nor were they ever notified by Mother to make contact with anyone in order to obtain copies of these supposed evaluations.

After April 13, 2024, the next contact between the Agency and Mother occurred on October 4, 2024. At this time, Mother attended a custody conference in front of the Carbon County Hearing Officer. The custody conference was scheduled because of a complaint for custody filed by the paternal grandmother wherein she sought partial physical custody of the Child. Samantha Rex attended this conference and Mother provided her address and phone number to Ms. Rex. Despite having this information, Ms. Rex had difficulty locating the address. Ms. Rex tried different GPS and internet searches to locate the exact location of the address, but was unable to locate it on a map. She was, however, able to get in touch with Mother through phone contact. A scheduled phone call between Mother and the Child occurred on November 21, 2024. The phone call went well, but only lasted about ten minutes before the Child lost interest.

After gaining the capability to communicate with Mother, Ms. Rex continued to have sporadic communications with Mother. (See Exhibit P-2). Ms. Rex described the communication as, at times, nonsensical and lengthy. Mother never communicated about getting a mental health evaluation, and although Mother told Ms. Rex she had a drug and alcohol evaluation, she never provided a copy of this evaluation or any proof of its existence to the Agency. Additionally, Mother never inquired about the well-being of the Child. Mother also proved to be difficult when it came to accomplishing other goals, such as providing random drug screens. On October 16, 2024, Mother contacted Ms. Rex and

told her she was only a guest at the location where she was staying and unless Ms. Rex provided Mother with advance notice, she would not submit to a drug screen – which is supposed to be random – because this would be a hinderance to her residency and overall case.

The next hearing that took place was a dependency review hearing that occurred on January 22, 2025. Mother attended the hearing in person. At the hearing, it was decided that the Child should remain in the custody of the Agency with continued placement in kinship care. This same day, Mother refused to provide a drug screen and yelled at Ms. Rex in the hallway. She stated she would not provide a drug screen without a non-biased third-party present.

The Agency's next contact with Mother took place at a follow-up custody conference in the paternal grandmother's custody case. This took place on January 30, 2025. Mother attended the conference. When Mother was directed to submit to a drug screen, she screamed at Ms. Rex in the bathroom to the point the Sheriff's office had to intervene and remain in the bathroom while the drug screen took place. The results came back positive for methamphetamines, amphetamines, and marijuana.

In mid-March of 2025, Ms. Rex set up a phone call between Mother and the Child. The call lasted for about ten minutes before the Child lost interest. This was the last contact between the Child and Mother before the petition for involuntary termination was filed on March 17, 2025.

The Agency's decision to terminate Mother's parental rights was driven by Mother not completing any of the required goals set by the Agency, Mother's lack of inquiry into the well-being of the Child, and her lack of contact with the Child. The Agency contends

it made a concerted effort to remedy the conditions that necessitated removal and placement and despite these efforts, Mother never cooperated or met the goals of her service plan or took the steps necessary to care for and reunite her with her Child. In the meantime, the Agency has found that the Child is thriving in her aunt's home. She is bonded to her aunt, her biological sister, and her cousin who she considers to be a sister. She is meeting her developmental milestones and is well taken care of. For these reasons, they seek to terminate Mother's parental rights.

DISCUSSION

Termination of parental rights under Section 2511 of the Adoption Act, 23 Pa.C.S.A. §2511, is a two-step process:

Initially, the focus is on the conduct of the parent. The party seeking termination must prove by clear and convincing evidence that the parent's conduct satisfies the statutory grounds for termination delineated in Section 2511(a). Only if the court determines that the parent's conduct warrants termination of his or her parental rights does the court engage in the second part of the analysis pursuant to Section 2511(b): determination of the needs and welfare of the child under the standard of best interests of the child.

In re Adoption of A.C., 162 A.3d 1123, 1128 (Pa.Super. 2017) (quoting In re L.M., 923 A.2d 505, 511 (Pa.Super. 2007)). Only if the statutory grounds for termination have been met under Section 2511(a), must the court conduct the needs and welfare analysis required by Section 2511(b). *Id.* at 1133; In re Adoption of C.M., 255 A.3d 343, 359 (Pa. 2021).

The burden of proof is on the party seeking termination to establish by clear and convincing evidence the existence of grounds for doing so. In re R.N.J., 985 A.2d 273, 276 (Pa. Super. 2009). “[T]he standard of clear and convincing evidence is defined as testimony that is so ‘clear, direct, weighty and convincing as to enable the trier of fact to

come to a clear conviction, without hesitation, of the truth of the precise facts in issue.”

Id. (quoting In re J.L.C., 837 A.2d 1247, 1251 (Pa. Super. 2003)).

The Agency seeks to terminate Mother’s parental rights on the following grounds:

§ 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.

23 Pa.C.S.A. § 2511.

Termination on the Basis of Parental Abandonment – Section 2511(a)(1)

To terminate parental rights under Section 2511(a)(1), the party seeking termination must prove that “[t]he 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.” 23 Pa.C.S. § 2511(a)(1). “Parental duties” are not defined in the Adoption Act, but our courts long have interpreted parental duties “in relation to the needs of a child[,]” such as “love, protection, guidance and support.” *In re Burns*, 474 Pa. 615, 379 A.2d 535, 540 (1977). Parental duties are carried out through affirmative actions that develop and maintain the parent-child relationship. *C.M.*, 255

A.3d at 364. The roster of such positive actions undoubtedly includes communication and association. *Id.* (citing *In re Adoption of Smith*, 412 Pa. 501, 194 A.2d 919, 920 (1963)). The performance of parental duties “requires that a parent exert himself to take and maintain a place of importance in the child’s life.” *Id.* (internal citations omitted). Fortitude is required, as a parent must act with “reasonable firmness” to overcome obstacles that stand in the way of preserving a parent-child relationship and may not wait for a more suitable time to perform parental responsibilities. *Id.* Of importance is the General Assembly’s emphasis in Section 2511(a)(1) on the six months immediately preceding the filing of the termination petition when evaluating a parent’s conduct. Although courts are to avoid the mechanical application of the Adoption Act, we may not ignore that the General Assembly has drawn focus to the six months immediately preceding the filing of the termination petition. Indeed, quite recently this Court addressed this aspect of Section 2511(a)(1) and reaffirmed that for an analysis thereunder, the most critical period for evaluation is the six months immediately preceding the filing of the termination petition. *C.M.*, 255 A.3d at 367.

When considering a request to terminate rights under Section 2511(a)(1), a parent’s failure or refusal to perform parental duties “must be analyzed in relation to the particular circumstances of the case.” *Burns*, 379 A.2d at 540; see also *Adoption of David C.*, 479 Pa. 1, 387 A.2d 804, 807 (1978).

* * * *

To that end, even where the evidence clearly establishes a parent has failed to perform affirmative parental duties for a period in excess of six months as required by Section 2511(a)(1), the court “must examine the individual circumstances and any explanation offered by the parent to determine if that evidence, in light of the totality of circumstances, clearly warrants permitting the involuntary termination [of parental rights].” *In re Orwick’s Adoption*, 464 Pa. 549, 347 A.2d 677, 680 (1975). Consideration of the totality of the circumstances includes evaluation of the following: (1) the parent’s explanation for his or her conduct; (2) the post-abandonment contact between the parent and child, if any, including any efforts made by the parent to reestablish contact with the child; and (3) the effect that termination of parental rights would have on the child pursuant to Section 2511(b).

In re Adoption of L.A.K., 265 A.3d 580, 592-93 (Pa. 2021). See also *In re Bowman*, 666 A.2d 274, 276 n.2 (Pa. 1995) (opinion in support of reversal) (noting that the legislature’s use of the term “at least six months” indicates that evidence of parental conduct preceding the six month-period may be considered).

As discussed above, when parental rights are being terminated under Section 2511(a)(1) the six months prior to the filing of the termination petition are the most important in evaluating the parental conduct, however the entire background of the case should be considered. In re Adoption of L.A.K., 265 A.3d at 592. The Agency first removed the Child from Mother's care on March 1, 2024, and filed its termination petition on March 17, 2025. During this period of time, lasting just over a year, Mother made few affirmative efforts to develop and maintain a parent-child relationship with her daughter and ultimately demonstrated a settled purpose of relinquishing her parental claims to the Child.

When the Child was initially removed from Mother's care in March of 2024, it was related to her substance abuse issues. At the emergency shelter care hearing on March 7, 2024, Mother was drug tested and her test came back positive for methamphetamines, amphetamines, and fentanyl. After the dependency hearing on March 12, 2024, Mother was required to receive both a mental health evaluation and a drug and alcohol evaluation. She was directed to follow through with all recommendations from the evaluations.

On March 19, 2024, Mother met with the Agency to review her service plan and was an hour late to the meeting. At this meeting, she was unable to focus and appeared to be under the influence. Mother submitted to a drug screen, with the results positive for methamphetamines and fentanyl.

On March 21, 2024, Mother attended her first visit with the Child since her daughter was removed from her care. According to the Agency, this visit went well. This unfortunately was also the last in-person visit she had with the Child. At the next

scheduled visit for April 4, 2024, Mother appeared to be under the influence and refused to submit to a drug screen. Two days later, on April 6, 2024, Mother was accepted into a drug rehabilitation program at White Deer Run. After completing a five-day period of detox, Mother began a thirty-day rehabilitation program on April 11, 2024, and against medical advice, quit after two days.

After leaving the rehabilitation program Mother then disappeared for almost six months – from April 13, 2024 until October 4, 2024 – during which period the Agency tried unsuccessfully to contact Mother. Mother made no attempts to contact the Agency whose address and telephone number never changed. While Mother’s whereabouts were unknown to the Agency, shortly after leaving the rehabilitation program Mother began living in a camper in Audenreid and then, in November of 2024, moved into a home on the same property. Mother testified to having a good relationship with the owner of the home she moved into and who also lived there. Yet at no time did Mother ever ask any of the residents if she could borrow one of their phones to get back in touch with the Agency.

During this six-month period, Mother made no effort to complete the goals she needed to complete. She did not get a drug and alcohol evaluation or a mental health evaluation. Notwithstanding her claims to the contrary, we did not find her to be credible.³ She made no efforts to obtain employment and also failed to obtain stable housing

³ "The trial court is free to believe all, part, or none of the evidence presented and is likewise free to make all credibility determinations and resolve conflicts in the evidence." In re M.G., 855 A.2d 68, 73-74 (Pa.Super. 2004) (citation omitted).

suitable for her and the Child. Nor were any urine screens taken during this period to monitor whether Mother was maintaining sobriety.

Only once the Agency re-established contact with Mother on October 4, 2024, was a phone call between Mother and Child able to be arranged. The phone call took place on November 21, 2024. The phone call went well, but only lasted for about ten minutes because the Child lost interest. Up until this phone call, Mother had not been in touch with her Child since her visit on March 21, 2024. Overall, eight months passed between Mother's first and last visit with the Child on March 21, 2024, and the telephone call on November 21, 2024.

The actual six-month period of time prior to the filing of the Petition to terminate Mother's parent rights is from September 17, 2024 to March 17, 2025. A portion of this six-month period occurred during the above-referenced period of time wherein Mother had no contact with either the Child or the Agency. There is no doubt Mother failed to perform her parental duties during the six-month period immediately following when she quit the rehabilitation program on April 13, 2024. The more difficult question is whether Mother's conduct between October 4, 2024, when contact between Mother and the Agency was re-established, and March 17, 2025, when the petition to terminate was filed, similarly evidenced a settled purpose of relinquishing her parental claim to the Child, or a refusal or failure to perform parental duties. Ultimately, after contact with the Agency was re-established on October 4, 2024, Mother failed to play an active role in her child's life.

After October 4, 2024, the efforts taken by Mother to be involved in and become part of the Child's life were minimal. Mother's phone call with the Child on November 21, 2024, was of only ten minutes duration before the Child lost interest. The Agency

attempted to establish communication with Mother, but her texts were nonsensical and lengthy. (See Exhibit P-2). Additionally, Mother never asked about the well-being of her daughter. Mother did not ask for any pictures of her daughter or inquire about her daughter's health or how she was doing in school. Mother never provided the Agency with any proof of a mental health evaluation or a drug and alcohol evaluation. Mother refused to submit to random drug screens stating she was only a guest at the location where she was residing and unless the Agency provided her with advance notice, she would not undergo a drug screen. Nor did Mother seek any additional treatment for her substance abuse issues. Therefore, even though there was now some contact with Mother, Mother failed to demonstrate an interest or willingness to be a parent to the Child.

When the Agency was able to see Mother in-person, rather than through text communication, the in-person communication was no more helpful. At the dependency review hearing on January 22, 2025, which Mother attended in person, she refused to provide a drug screen without a non-biased third-party present. At a custody conference that took place on January 30, 2025, Mother was directed to take a drug test, but instead screamed at the Agency caseworker in the bathroom to the point that the Sheriff's Office had to intervene. Once she finally took the test, the results came back positive for methamphetamines, amphetamines, and marijuana.

In mid-March of 2025, the final contact between Mother and daughter was by phone. The call once again lasted approximately ten minutes before the Child lost interest. This was the last contact between the two before the involuntary termination petition was filed on March 17, 2025.

The two phone calls Mother had with Child on November 21, 2024, and mid-March 2025 do not establish a performance of parental duties within the six months preceding the filing of the termination petition sufficient to evidence a genuine intent to act in the Child's best interest.

Although a parent is not required to perform the impossible, [she] must act affirmatively to maintain [her] relationship with [her] child, even in difficult circumstances. A parent has the duty to exert [herself], to take and maintain a place of importance in the child's life.

In re B.N.M., 856 A.2d 847, 856 (Pa.Super. 2004) (citations omitted). It's clear from the evidence presented Mother failed to take any meaningful affirmative action to improve her relationship with her Child. She did not take advantage of the drug rehabilitation program she was offered. She did not make efforts to keep the Agency up to date with her whereabouts and how to get in contact with her. She did not submit to all drug screens and when she did, she failed them. She never submitted proof that she got her necessary evaluations. She did not inquire into her daughter's well-being. Despite being given opportunities to work to get back into her daughter's life, she squandered every chance she had. For these reasons, we conclude the Agency has established grounds for termination under Section §2511(a)(1).

Termination on the Basis of Parental Abandonment – Section 2511(a)(2)

Alternatively, the Agency seeks to terminate the parental rights of Mother under Section 2511(a)(2).

The fundamental test in termination of parental rights under Section 2511(a)(2) was long ago stated in the case of *In re Geiger*, 459 Pa. 636, 331 A.2d 172 (1975). There the Pennsylvania Supreme Court announced that under what is now Section 2511(a)(2), "the petitioner for involuntary termination must prove (1) repeated and continued incapacity, abuse, neglect or refusal; (2) that such incapacity, abuse, neglect or refusal caused the child to be without essential parental care, control or subsistence; and

(3) that the causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied.” *In Interest of Lilley*, 719 A.2d 327, 330 (Pa.Super.1998).

In the Adoption of K.J., 936 A.2d 1128, 1133 (Pa.Super. 2007), appeal denied, 951 A.2d 1165 (Pa. 2008). What is distinct about Section 2511(a)(2) is that the grounds for termination “are not limited to affirmative misconduct, but concern parental capacity that cannot be remedied.” In re Adoption of A.H., 247 A.3d 439, 443 (Pa.Super. 2021). “Parents are required to make diligent efforts toward the reasonably prompt assumption of full parental duties.” Id. (finding Mother was incapable of parenting pursuant to Section 2511(a)(2) after she refused to cooperate with the Agency and keep them informed of her psychological conditions and/or treatment of those conditions and made insufficient progress to rectify her parental incapacity). As opposed to subsection (a)(1), which focuses on a parent’s refusal or failure to perform parental duties, subsection (a)(2) focuses on the present and future welfare of the child. In re E.A.P., 944 A.2d 79, 82 (Pa.Super. 2008).

Consider In Re Adoption of C.D.R., wherein the Court found it was reasonable to conclude that Mother could not or would not remedy her incapacity despite having made some progress toward regaining custody. 1111 A.3d 1212, 1219 (Pa.Super. 2015). The mother in that particular case was unemployed, she was supported by her boyfriend, she had revolving criminal issues, and never appropriately addressed her substance abuse issues. Id. at 1218. Additionally, at the times when Mother was able to show improvement, she ultimately began to return to her old behaviors that resulted in her child being removed from her care in the first place. Id.

Mother’s case is not unlike the case previously mentioned. In this case, Mother demonstrated a continued incapacity or refusal to remedy the conditions and causes

which led to the removal and placement of the Child. When the Child was removed from Mother's home, it was because of Mother's substance abuse issues. The Agency laid out clear goals for Mother to meet to remedy the situation. The Agency required Mother to receive a drug and alcohol evaluation and follow any recommendations made, a mental health evaluation and follow any recommendations made, obtain appropriate stable housing, secure employment, cooperate with the Agency and others to reach the goals set, and submit to random drug screens to measure her sobriety.

Mother has refused to comply with any of these goals. She left her rehabilitation clinic against medical advice after two days of treatment, she never underwent the required evaluations, she was discharged as a client of JusticeWorks for being uncooperative, and she never obtained employment. At the termination hearing, Mother testified she has not worked for several years and currently depends on her fiancé for her day to day living expenses. For six months she lived in a camper in the backyard of the home she is now living in, but the home is not owned by her, nor did she provide any written lease to demonstrate the stability of her housing. Having failed to meet any of the goals set out by the Agency for Mother leads to the conclusion that either she does not have the capacity to make the changes she needs to make or she refuses to.

The Agency has also established the second requirement of the Section 2511(a)(2) standard. The incapacity or refusal of Mother has caused the Child to be without essential parental care, control, or substance. When Mother left her rehabilitation facility in April of 2024, she became unreachable to the Agency and, therefore, her daughter. She did not make any attempts to reach out to the Agency to work on getting back into her daughter's life. This resulted in her daughter not hearing or speaking to her

mother for almost six months. Additionally, because Mother never addressed the issues that resulted in the Child initially being removed from the home in the first place, Mother has not provided any care for her Child since March 1, 2024.

The final requirement of the Section 2511(a)(2) has also been proven by the Agency. That is, it is clear that Mother's incapacity or refusal cannot or will not be remedied. Mother was given ample time and resources to resolve the issues that were impacting her parenting, namely, her substance abuse issues, but she has failed to do so. The Agency arranged for Mother to be a client of JusticeWorks who then connected her to a rehab facility. Mother left rehab after two days against medical advice. Mother did not undergo her required evaluations, which would have determined which issues Mother was struggling with and how to treat them. Mother never offered any testimony to indicate that she was treating her substance abuse issues or that they have improved since her daughter was first removed from her custody. Even when she was told about the goal change from reunification to adoption in October of 2024, she never took any steps to improve herself. Despite being offered resources and being told the consequences of not improving herself, Mother would not or could not remedy her problems. For these reasons, the Agency has established grounds to terminate Mother's parental rights under Section 2511(a)(2).

Termination on the Basis of Six Month Removal by Court – Section 2511(a)(3)

Lastly, the Agency seeks to terminate Mother's parental rights under Section 2511(a)(5). Termination under this Section 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 Z.P., 994 A.2d 1108, 1118 (Pa.Super. 2010). Ultimately, the Agency has proven grounds to terminate under this Section.

Insofar as meeting the first condition of Section 2511(a)(5), the evidence is undisputed that the Child has been removed from Mother's care since March 1, 2025. There is no evidence to the contrary nor does Mother contest this.

The second requirement under Section 2511(a)(5), requires the Agency to demonstrate that "the conditions which led to the removal and placement of the child continued to exist at the time the petition was filed." In Re C.B., 230 A.3d 341, 350 (Pa.Super. 2020), appeal denied, 234 A.3d 410 (Pa. 2020). Trial courts are permitted "to consider the parent's current willingness and ability, within a reasonable time, to resolve the condition, that led to the removal and placement of the Child." Id. at 351. In this case, the conditions which led to the Child's removal were the same from when the Child was initially removed from Mother's care to when the termination petition was filed. As discussed previously, Mother did not complete any of the goals she was required to complete. She did not get her required evaluations, she did not obtain employment, she did not obtain stable housing, and she did not address her underlying substance abuse issues. There is no indication from the evidence presented that Mother changed any of the conditions in her life that resulted in her daughter initially being removed from her home. Mother has exerted only minimal efforts to improve these conditions.

The final requirement under Section 2511(a)(5) is that the termination of parental rights would best serve the needs and welfare of the child. Because this Section relates to the needs and welfare analysis required under Section 2511(b), we address this requirement below in our consideration of Section 2511(b).

Needs and Welfare of the Child – Section 2511(b)

Having concluded that grounds for termination exist under Section 2511(a)(1), (a)(2), and (a)(5) and that the Agency has met its burden of proof through clear and convincing evidence, we turn to the considerations of Section 2511(b), regarding the best interest of the Child:

(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.

23 Pa.C.S.A. §2511(b). This analysis seeks to determine the needs and welfare of the child by determining what is in the child's best interest. In Re C.S., 761 A.2d 1197, 1202 (Pa.Super 2000).

The Courts have stated the following:

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.” In re Matsock, 416 Pa.Super. 520, 540, 611 A.2d 737, 747 (1992). “Continuity of relationships is also important to a child, for whom severance of close parental ties is usually extremely painful.” In re William L., 477 Pa. 322, 348, 383 A.2d 1228, 1241 (1978). The trial court, “in considering what situation would best serve the child[]’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 re P.A.B., 391 Pa.Super. 79, 86, 570 A.2d 522, 525–26 (1990), appeal dismissed, 530 Pa. 201, 607 A.2d 1074 (1992).

Id. (quoting In re Bowman, 436 Pa.Super. 10, 647 A.2d 217, 219 (1994), aff'd by an equally divided court, 542 Pa. 268, 666 A.2d 274 (1995)).

Outside of the one visit Mother had with her Child on March 21, 2024, there has been no meaningful contact between the Child and Mother. Mother was completely absent from the Child's life from March 22, 2024, to November 21, 2024. Mother made no attempt to check on the Child's well-being during this time. On November 21, 2024, Mother and daughter had a phone call that lasted approximately ten-minutes before the Child lost interest. After eight months of no contact with her mother, the Child only needed a ten-minute conversation to sate any interest she had with Mother. This is not indicative of the Child having a strong maternal bond.

A final phone call took place in mid-March of 2025. The call went the same as the other in that it went well, but only went on for ten minutes before the Child lost interest. In sum, the Child has only had one visit and two ten-minute phone calls with her mother since she was first removed from her mother's care. None of these interactions evidenced that a strong emotional bond exists between Mother and Child, therefore, there is no bond that will be destroyed by terminating Mother's parental rights.

In contrast, a close relationship has developed between the Child and her maternal aunt. The Child has thrived in her care. The Agency remarked that the Child is practically a different Child from when she was first placed. She was initially behind in developmental milestones. For example, she did not know shapes, colors, and numbers, but with her aunt's care she has met those milestones. She has also formed a very close bond with the maternal aunt's daughter, whom the Child considers her sister with a bond equal to that of a biological sister. Additionally, the maternal aunt cares for Mother's other

daughter. Therefore, if Mother's rights are terminated, the Child will be able to continue living with her biological sister. In Mother's absence, the Child has formed strong bonds within her new household.

The maternal aunt has provided the Child with a stable, safe, and loving home for the Child in which she thrives. The continuity of these relationships are important to the Child's well-being and will only be tightened by permitting the adoption by the maternal aunt to proceed. At this time, the Child has love, stability, and security in her life—none of which comes from her mother. On balance, the best interests of the Child clearly favor termination of Mother's parental rights and adoption by the maternal aunt.

CONCLUSION

As evidenced from the foregoing, Mother's conduct warrants the termination of her parental rights. The Agency has established by clear and convincing evidence a legal basis for terminating her parental rights under 23 Pa.C.S.A. §2511. This termination will serve the needs and welfare of the Child.

BY THE COURT:



P.J.