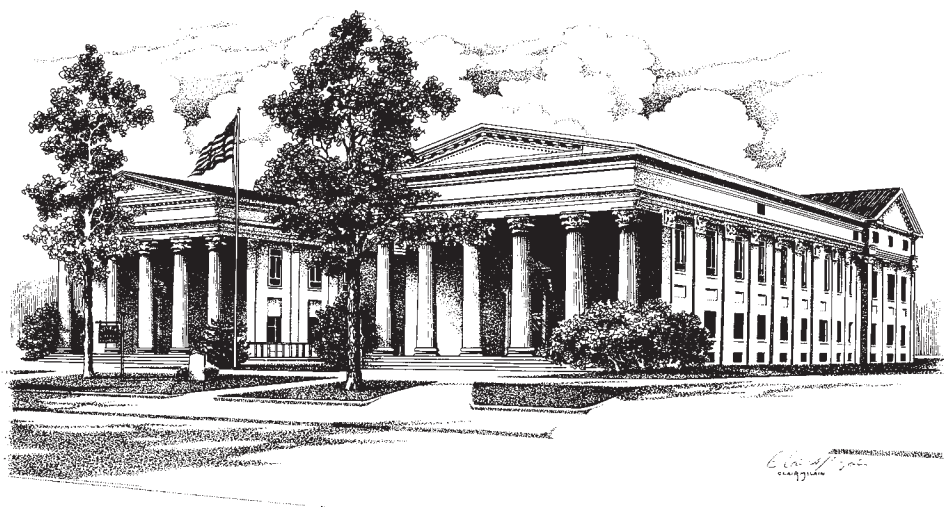


# Erie County Legal Journal

May 21, 2021

Vol. 104 No. 21



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104 ERIE 71-96

In Re: The Adoption of A.G.C.-M., Appeal of L.C., Mother

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# Erie County Legal Journal

*Reporting Decisions of the Courts of Erie County  
The Sixth Judicial District of Pennsylvania*

Managing Editor: Megan E. Anthony

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## INDEX

<b>NOTICE TO THE PROFESSION .....</b>	<b>4</b>
<b>OPINION .....</b>	<b>6</b>
<b>COURT OF COMMON PLEAS</b>	
Change of Name Notices .....	41
Incorporation Notices .....	41
Legal Notices .....	41
<b>ORPHANS' COURT</b>	
Audit List .....	44
Estate Notices .....	45
<b>CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS .....</b>	<b>50</b>

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# Erie County Bar Association

## Calendar of Events and Seminars

### **SATURDAY, MAY 22, 2021**

18th Annual Attorneys & Kids Together 5K Run/Walk  
Registration and additional information can be found at  
<https://www.eriebar.com/events/ecba-events/1647-18th-annual-attorneys-kids-together-5k-runwalk>

### **MONDAY, MAY 24, 2021**

ECBA Board of Directors Meeting  
Noon  
via Zoom

### **TUESDAY, MAY 25, 2021**

Solo/Small Firm Division Meeting  
Noon  
via Zoom

### **WEDNESDAY, MAY 26, 2021**

Live ECBA Seminar  
*PLAN / ECBA Objection!*  
*Diversity and Inclusion in the Legal Profession*  
via Zoom ONLY  
11:15 a.m. - Log in time  
11:30 a.m. - 1:00 p.m. - Seminar  
\$70 (ECBA members/their non-attorney staff)  
\$90 (non-members)  
1.5 hours ethics

### **THURSDAY, MAY 27, 2021**

Defense Bar Section Meeting  
4:00 p.m.  
ECBA Headquarters live (must RSVP)  
or via Zoom

### **MONDAY, MAY 31, 2021**

Memorial Day Holiday  
ECBA Office Closed  
Erie County and Federal Courthouses Closed

### **TUESDAY, JUNE 1, 2021**

LAVA Committee Meeting  
Noon  
via Zoom

### **WEDNESDAY, JUNE 2, 2021**

Law Day Wrap-up Meeting  
3:30 p.m.  
via Zoom

### **THURSDAY, JUNE 3, 2021**

LRIS Task Force Meeting  
Noon  
via Zoom

### **MONDAY, JUNE 7, 2021**

ECBA Statement Guidelines and Policy Meeting  
Noon  
via Zoom

### **TUESDAY, JUNE 8, 2021**

Estates Section Meeting  
Noon  
via Zoom

### **WEDNESDAY, JUNE 9, 2021**

ECBA Mid-year Membership Meeting and CLE  
*See page 49 for details*



Erie County Bar  
Association



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To view PBI seminars visit the events calendar  
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May 14, 21

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May 14, 21, 28

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May 14, 21, 28 and June 4

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Closed 12:00 - 12:30 p.m. for lunch  
12:30 - 4:00 p.m.



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**IN RE: THE ADOPTION OF A.G.C.-M., APPEAL OF L.C., MOTHER**

*JUVENILE / TERMINATION OF PARENTAL RIGHTS*

Termination of parental rights, pursuant to 23 Pa.C.S.A. § 2511, is a bifurcated process. *See In re K.R.*, 200 A.3d 969, 978-979 (Pa. Super. 2018); *In re B.J.Z.*, 207 A.3d 914, 921 (Pa. Super. 2019). First, it must be established by clear and convincing evidence that the conduct of the parents satisfies one of the statutory grounds for termination under § 2511(a). *See In re K.R.*, 200 A.3d at 978. Second, the Court must determine the “needs and welfare of the child under the standards of best interest of the child” pursuant to § 2511(b). *Id.* “Parental rights may be involuntarily terminated where any one subsection of Section 2511(a) is satisfied, along with consideration of the subsection 2511(b) provisions.” *In re Z.P.*, 994 A.2d 1108, 1117 (Pa. Super. 2010).

*JUVENILE / TERMINATION OF PARENTAL RIGHTS / INCARCERATION*

When determining whether to involuntarily terminate parental rights, incarceration is “a factor the Court must consider in analyzing a parent’s performance.” *See In re E.A.P.*, 944 A.2d 79, 83 (Pa. Super. 2008). A parent’s incarceration may be particularly relevant to a Court’s § 2511(a) analysis when the incarceration “arises as a direct result of the parent’s actions which were part of the original reasons for the removal of the child.” *In re Z.P.*, 994 A.2d 1108, 1006 (Pa. Super. 2010).

*JUVENILE / TERMINATION OF PARENTAL RIGHTS /  
INCARCERATION / PARENTAL DUTIES*

“Incarceration alone is not sufficient to support termination under any subsection, but incarceration will certainly impact a parent’s capability of performing parental duties [under subsection (a)(1)], and **may** render a parent incapable of performing parental duties under subsection (a)(2).” *Interest of K.M.W.*, 238 A.3d 465, 474 (Pa. Super. 2020) (citing *In re E.A.P.*, 944 A.2d 79, 82-83 (Pa. Super. 2008) (emphasis in original)).

*JUVENILE / TERMINATION OF PARENTAL RIGHTS /  
INCARCERATION / PARENTAL DUTIES*

Incarceration does not relieve a parent of the obligation to perform parental duties. Thus, when considering incarceration as a factor in analyzing a parent’s performance, a Court must “inquire whether the parent has utilized those resources at his or her command while in prison in continuing a close relationship with the child.” *In re Adoption of S.P.*, 47 A.3d 817, 828 (Pa. 2012).

*JUVENILE / TERMINATION OF PARENTAL RIGHTS /  
INCARCERATION / INCAPACITY*

Pursuant to § 2511(a)(2), a court may terminate parental rights if “[t]he 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 ...” 23 Pa.C.S.A. § 2511(a)(2). “Incarceration, while not a litmus test for termination, can be determinative of the question of whether a parent is incapable of providing essential parental care, control, or subsistence.” *Interest of K.M.W.*, 238 A.3d at 465, 474 (Pa. Super. 2020) (citing *In re Adoption of S.P.*, 47 A.3d 817, 830 (Pa. 2012). “[T]he length of the remaining confinement can be considered as highly relevant

to whether ‘the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent,’ sufficient to provide grounds for termination ...” *In re Adoption of S.P.*, 47 A.3d 817, 830 (Pa. 2012) (citing 23 Pa.C.S.A. § 2511(a)(2)).

**JUVENILE / TERMINATION OF PARENTAL RIGHTS / PARENT-CHILD BOND**

Pursuant to § 2511(b), “in terminating the rights of a parent [a court] shall give primary consideration to the developmental, physical and emotional needs and welfare of the child ...” 23 Pa.C.S.A. § 2511(b). “While a parent’s emotional bond with his or her child is a major aspect of the subsection 2511(b) best-interest analysis, it is nonetheless only one of many factors to be considered by the court when determining what is in the best interest of the child.” *In re Adoption of C.D.R.*, 111 A.3d 1212, 1219 (Pa. Super. 2015). “[I]n cases where there is no evidence of any bond between the parent and child, it is reasonable to infer that no bond exists.” *In re K.Z.S.*, 946 A.2d 753, 762-763 (Pa. Super. 2008).

**JUVENILE / TERMINATION OF PARENTAL RIGHTS / BEST INTERESTS**

Further, pursuant to § 2511(b), when considering the best interests of the child a court “can equally emphasize the safety needs of the child, and should also consider the intangibles, such as the love, comfort, security, and stability the child might have with the foster parent ... [and] the importance of continuity of relationships and whether any existing parent-child bond can be severed without detrimental effects on the child.” *In re Adoption of C.D.R.*, 111 A.3d 1212, 1219 (Pa. Super. 2015).

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA  
ORPHANS COURT DIVISION  
No. 60 in Adoption 2021

Appearances: Anthony Vendetti, Esquire, Solicitor for Erie County Office of Children and Youth  
Patrick W. Kelley, Esquire, on behalf of L.C., Mother  
Joseph E. Sinnott, Esquire, on behalf of A.G.C.-M., Minor Child

**1925(a) OPINION**

Trucilla, J., December 21, 2020

This matter is before the Court upon the appeal of Mother, L.C., (hereinafter Appellant), from the Order of October 27, 2020, terminating Appellant’s parental rights to the minor child, A.G.C.-M. (date of birth December 27, 2017).<sup>1</sup>

**Introduction**

On July 23, 2020, nearly ten months after this Court made a formal adjudication of dependency,<sup>2</sup> the Erie County Office of Children and Youth (hereinafter “OCY”), filed a

<sup>1</sup> By separate Order on October 27, 2020, Father’s (O.M.’s), parental rights to A.G.C.-M. were also terminated. However, Father has not appealed the involuntary termination of his parental rights, and therefore Appellant’s claims are not dependent on Father. Further, Father was uninvolved in A.G.C.-M.’s life prior to the child’s removal and did not participate at any point of the Dependency action herein. Therefore, the Court will not address Father’s position any further in this Opinion.

<sup>2</sup> Although this case was formally opened with OCY by Emergency Protective Order filed October 3, 2019, this child has been subjected to an extensive “informal” history with OCY dating back to July of 2018, as discussed *infra*.



Petition for Involuntary Termination of Parental Rights pursuant to 23 Pa.C.S.A. §§ 2511(a)(1), (a)(2), (a)(5), and (b). A hearing on this Petition was held before this Court on October 27, 2020. Appellant appeared by video conference from the Erie County Prison.<sup>3</sup> Appellant was represented by counsel. Father was not present and was not represented by counsel. The child's guardian ad litem ("GAL"), Attorney Joseph Sinnott, was present.<sup>4</sup> Attorney Anthony Vendetti was present for OCY. The Court received testimony from Staci Evans, Parole Agent for the Commonwealth of Pennsylvania, Haley Schaefer, OCY caseworker, and Appellant. The Court also received, reviewed, and admitted as evidence ten exhibits submitted by OCY and one exhibit submitted by Appellant.

At the conclusion of the hearing, the Court found OCY had established by clear and convincing evidence that Appellant's conduct satisfied the statutory grounds for termination as to § 2511(a)(1), (a)(2), and (a)(5). The Court further determined termination best served the needs and welfare of A.G.C.-M., pursuant to § 2511(b). Thereafter, the Court terminated Appellant's parental rights by Decree dated October 27, 2020.

On November 30, 2020, Appellant filed a Notice of Appeal based on the Court's Decree from October 27, 2020, and concurrently filed a Concise Statement of Matters on Appeal.<sup>5</sup> Pursuant to Pennsylvania Rules of Appellate Procedure Rule 1925(a), this Court files the within Opinion, requesting the instant appeal be dismissed for the reasons set forth below.

### **Prior Child Protection History**

A review of the records and history of this case reveals that OCY initially became involved with the family on July 11, 2018, when A.G.C.-M. was approximately 6 months old. *See* Pre-Dispositional Summary, 10/15/2019; Court Summary, 1/14/2020 at 1, 6; and Court Summary, 7/14/2020 at 1, 6. At that time, Appellant was actively using drugs and her living situation was unstable. *Id.* Rather than removing the child from Appellant's custody, OCY allowed A.G.C.-M.'s maternal grandmother, P.C., and other family members, to provide "protective capacity" and care for the child. *Id.*

In January 2019, just six months following the above-cited incident and while the child was in Appellant's care, OCY again became involved when a family member found A.G.C.-M. playing with syringes used by Appellant to inject methamphetamine. *See* Emergency Protective Order Application, 10/3/2019; Shelter Care Application, 10/4/2019; Dependency Petition, 10/7/2019 at 3; Amended Order of Adjudication and Disposition, 10/15/2019; Court Summary, 1/14/2020 at 1, 6; and Court Summary, 7/14/2020 at 1, 6. Consequently,

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<sup>3</sup> Appellant was transported from the State Correctional Institution — Muncy to the Erie County Prison. Due to the 14-day mandatory quarantine protocol at the Erie County Prison because of the COVID-19 virus, Appellant was unable to be transported to the Erie County Courthouse for the scheduled hearing. In order to proceed with the scheduled hearing, Appellant waived the right to appear in person and agreed to participate in the hearing via video conference.

<sup>4</sup> Regarding Attorney Sinnott serving as both attorney for the child's legal interests and GAL for the child's best interests, the Court conducted a review of the bilateral role and determined that no conflict existed due to the child's age and inability to express any discernable articulation of legal interest. *See infra* at 8-9.

<sup>5</sup> The Court notes the date of the Decree was October 27, 2020, thus Appellant's Notice of Appeal was due 30 days from the date of the Decree on Thursday, November 26, 2020. However, November 26, 2020 was Thanksgiving Day and the Erie County Courthouse remained closed on the day following Thanksgiving Day, November 27, 2020. (*see* Commonwealth of Pennsylvania Governor's Office, Administrative Circular No. 19-09, September 19, 2019, declaring November 27, 2020 a state holiday; *see also* Unified Judicial System of Pennsylvania court calendar). Therefore, pursuant to 1 Pa.C.S.A. § 1908, Appellant's deadline for filing the Notice of Appeal was Monday, November 30, 2020. Appellant's appeal is timely and the Court will proceed to address the merits of her claim.



based on these disturbing facts, on February 1, 2019, Appellant was found to be an indicated perpetrator of abuse for creating a reasonable likelihood of bodily injury to a child. *Id.*; *see also*, 23 Pa.C.S.A. § 6303(b.1)(5). Appellant also affirmed this fact, as revealed in the transcript from the termination hearing on October 27, 2020. *See Involuntary Termination of Parental Rights Proceedings Transcript, 10/27/2020* (hereinafter “N.T.”) at 61-62.

Thereafter, in response to OCY’s involvement and to avoid A.G.C.-M. being removed from her care, Appellant agreed to voluntarily and privately place A.G.C.-M. with the maternal great-grandmother, J.W., and maternal grandmother, P.C. *Id.* Subsequently, once again, Appellant relinquished care of A.G.C.-M. to these women. *Id.* P.C. became A.G.C.-M.’s primary caregiver from approximately January 2019 through October 3, 2019.

### **Current Child Protection Factual and Procedural History**

On October 3, 2019, OCY filed an Emergency Protective Order Application. *See* Emergency Protective Order Application, 10/3/2019. The basis for the Application was that maternal grandmother, P.C., the child’s primary caregiver, was arrested on an outstanding criminal warrant, leaving the child with no appropriate caregiver. *See* Emergency Protective Order, 10/3/2019. Further, Appellant was homeless and in “active addiction.” *Id.* Father was residing in Texas and had never participated in A.G.C.-M.’s life. *Id.* Consequently, an Emergency Protective Order was issued by the Honorable Joseph M. Walsh, III, on October 3, 2019, finding that removal of the minor child was necessary for the welfare and best interests of the child, and that, due to the emergency nature of the removal and safety considerations of the child, any lack of services to prevent removal were reasonable. *See* Emergency Protective Order, 10/3/2019. A.G.C.-M. was placed in the temporary protective physical and legal custody of OCY. *Id.*

The next day, on October 4, 2019, a Shelter Care Hearing pursuant to 42 Pa.C.S.A. § 6332 was held before the Juvenile Hearing Master, Carrie Munsee, Esq. *See* Master’s Recommendation for Shelter Care and Order, 10/4/2019. The Master found sufficient evidence was presented to prove that the continuation or return of the child to the home of Appellant was not in the best interests of the child. *Id.* This Court signed an Order adopting the Master’s Recommendation on October 14, 2019. *Id.*

On October 7, 2019, OCY filed a Dependency Petition, alleging the child was without proper parental care or control. The Petition set forth the following in support of an adjudication of dependency: Appellant’s history of drug abuse and addiction (including drug tests from September 26, 2019 indicating Appellant was once again positive for methamphetamines and cocaine); Appellant’s status as an indicated perpetrator of creating a reasonable likelihood of bodily injury to a child (premised on the January 2019 incident where the child was found playing with Appellant’s drug syringes); Appellant was currently homeless with no income; Appellant’s criminal history (records revealed convictions in three states — Texas, Louisiana, and Pennsylvania); Father’s criminal history; Father’s lack of involvement with or caregiving for the child; and no other appropriate caregiver available for the child. *See* Dependency Petition, 10/7/2019; *see also*, 23 Pa.C.S.A. § 2511(a)(1), (a)(2), (a)(5), and (b).

Thereby, an Adjudication Hearing was held on October 15, 2019, before Master Munsee. *See* Amended Order of Adjudication and Disposition, 10/15/2019. Father was not present at the hearing. *Id.* at 1. Appellant was present at the hearing and wished to represent herself

without the assistance of counsel. *Id.* Appellant stipulated to the amended allegations outlined in the Dependency Petition. *Id.* The GAL also supported the adjudication of dependency. *Id.* Thereafter, A.G.C.-M. was adjudicated dependent. *Id.* at 1-2.

The case then proceeded immediately to disposition before Master Munsee. *See* Amended Order of Adjudication and Disposition, 10/15/2019. A dispositional goal of return to parent was established. *Id.* at 2. Further, a permanency plan was set forth and provided to Appellant.<sup>6</sup> The permanency plan required Appellant to: participate in a drug and alcohol assessment and follow all treatment recommendations; participate in a mental health assessment and follow all recommendations; refrain from the use of drugs and alcohol and submit to random drug testing; demonstrate the ability to consistently maintain safe and stable housing; attend all medical and appointments for the child; participate in a parenting program; participate in the child's Early Intervention appointments; and abide by the conditions of her parole/probation. *Id.* at 3. The dispositional goal of return to parent and treatment plan (provided to Appellant and available to Father), were approved by this Court. *Id.* A three month Review Hearing was scheduled for January 2020 before this Court. *Id.* at 2-3.

The initial permanency review hearing was held on January 13, 2020, before the Court. *See* Permanency Review Order, 1/15/2020. Despite notice to Appellant, Appellant did not appear at the hearing. However, having applied for and being granted assigned counsel, Appellant's attorney, Patrick Kelley, Esq., was present. The Court found that during the review period, Appellant had been non-compliant with the permanency plan for A.G.C.-M. The Court found there had been no progress in alleviating the circumstances which necessitated the original placement of the child or the circumstances leading to the adjudication of dependency. *Id.*

Specifically, the Court found that despite making an intake appointment with Pyramid Healthcare for drug and alcohol treatment as ordered, Appellant failed to participate with any further follow-up. *See* Permanency Review Order, 1/15/2020; Court Summary, 1/14/2020. Out of 23 random urinalysis screens, Appellant had 22 no-show positive urinalysis screens and one positive/dilute for methamphetamines and amphetamines. *Id.* Regarding her goal to obtain and maintain stable housing, Appellant had reported three different residences during the review period. *Id.* Appellant also failed to keep in contact with OCY, as her last contact had been on November 27, 2019. *Id.* Appellant failed to attend all medical appointments for the child during the review period. *Id.* In fact, Appellant advised she would not be attending a December 9, 2019 appointment because she believed it to be a "set-up for her arrest." *See* Court Summary, 1/14/2020 at 12. Appellant was referring to the fact that she was under court supervision but absconded from supervision and was aware she was wanted on an active arrest warrant. Continuing, Appellant was unsuccessfully discharged from the JusticeWorks parenting program for lack of attendance and participation. *Id.* Appellant also did not participate in any Early Intervention appointments for the child. Finally, as referenced above, Appellant's whereabouts were unknown as she had absconded from Pennsylvania parole supervision. *Id.* at 5; *see also* testimony of Staci Evans, N.T. at 16-19. Appellant was being supervised by Pennsylvania pursuant to an interstate compact with Louisiana where Appellant had been sentenced on a criminal conviction. *Id.*

As a result of Appellant's non-compliance, the Court ordered that A.G.C.-M. remain in

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<sup>6</sup> Father was not present at the Dispositional Hearing, nor has he ever participated in any of the other hearings involving the child and has never availed himself of the permanency treatment plan.

the foster home, which was safe, stable, and was meeting the child's needs. *Id.* at 2. The Court maintained the permanency plan and Appellant was ordered to continue to refrain from the use of drugs and alcohol and submit to random testing; participate in a drug and alcohol assessment and follow all treatment recommendations; participate in a mental health assessment and follow all recommendations; demonstrate the ability to consistently maintain safe and stable housing; attend all medical and appointments for the child; participate in a parenting program; participate in the child's Early Intervention appointments; and abide by the conditions of her parole/probation. *Id.* at 3. Based on the failure of Appellant to appear and her lack of compliance, and in the best interests of the child, the Court granted OCY's request to modify the permanency goal of return to parent, to return to parent concurrent with adoption. *Id.* A six month review hearing was scheduled for July 13, 2020. *Id.* at 2-3.

On June 11, 2020, OCY filed a Motion to Change Permanency Goal exclusively to adoption, averring that Appellant had not made progress in alleviating the circumstances which made placement of the child necessary. *See* Motion to Change Permanency Goal, 6/11/2020. Also, there had been no contact with Father. *Id.* OCY identified paternal uncle, S.M., as a kinship adoptive resource. *Id.* The change of permanency goal was to be heard at the next permanency review hearing. *Id.*

The second permanency review hearing was held on July 13, 2020. *See* Permanency Review Order, 1/15/2020. At the time of the hearing, Appellant appeared via video conference from the Erie County Prison because she had been arrested on a new set of drug charges. Appellant was again represented at the permanency review hearing by Attorney Patrick Kelley. The Court found that during the review period, Appellant had been non-compliant with the permanency plan for A.G.C.-M. and there had been no progress in alleviating the circumstances which necessitated the original placement of the child or the circumstances leading to the adjudication of dependency.

The Court specifically found that Appellant had failed to participate in any drug and alcohol treatment. *See* Permanency Review Order — Amended, 7/20/2020; Court Summary, 7/14/2020. Appellant had accumulated **24** no-show positive urinalysis screens during the review period. *Id.* Of significant concern was that Appellant was arrested in February 2020 on new drug charges (possession with intent to deliver methamphetamine and/or heroin and/or oxycodone and/or hydrochloride). *Id.* Appellant further failed to participate in any mental health treatment. *Id.* Regarding her goal to obtain and maintain stable housing, prior to February 21, 2020, Appellant had reported to OCY that she had been "staying with friends." *Id.* Appellant was, therefore, once again woefully non-compliant with the court-ordered permanency plan.

During this critical time period for the child's welfare and bonding with Appellant, Appellant had **no** visits with the child. *Id.* Appellant proclaimed for the very first time at the termination hearing, that she was "overwhelmed" by the requirements of her parole, probation, and treatment plan so she "just quit." *Id.*; *see also* testimony of Appellant, N.T. at 49-50. The record also reveals that Appellant did not participate in any Early Intervention appointments for the child or attend any medical appointments for the child. *See* Permanency Review Order — Amended, 7/20/2020; Court Summary, 7/14/2020. Notably, Appellant remained a fugitive until her arrest on February 21, 2020. *Id.* While incarcerated from February 21, 2020 to the second review hearing on July 13, 2020, Appellant had not undergone any of the many programs available to her in prison to further the return of the child to her care.

Based on Appellant's continued non-compliance, this Court granted OCY's request to change the permanent placement goal for the minor child to adoption. *Id.* at 2-3. This Court found the change of goal to adoption to be in the best interests and welfare of the child. Further, the Court ordered that A.G.C.-M. be placed in the S.M. kinship home with the paternal relatives and A.G.C.-M.'s 4-year old sibling. *Id.* The child's GAL was in agreement with the change of goal and placement. *Id.* A six month review hearing was scheduled for January 2021. *Id.* at 2-3.

On July 23, 2020, OCY filed the subject Petition for Involuntary Termination of Parental Rights pursuant to 23 Pa.C.S.A. §§ 2511(a)(1), (a)(2), (a)(5), and (b). The hearing on the Petition for Involuntary Termination of Parental Rights was held on October 27, 2020.

At the commencement of the hearing, in compliance with the recent directive set forth by the Supreme Court of Pennsylvania in *In re K.M.G.*, 219 A.3d 662, 670 (Pa. Super. 2019), *appeal granted in part*, 221 A.3d 649 (Pa. 2019), and affirmed No. 55 WAP 2019 (Pa. Nov. 10, 2020) (holding "[t]he orphans' court should first determine whether the GAL has spoken with the child about the child's preferences regarding the termination petition and whether such inquiry results in the GAL having a conflict."), the Court inquired whether Attorney Sinnott perceived a conflict of interest in his dual role as attorney and guardian ad litem for A.G.C.-M. *See* N.T. at 6. Attorney Sinnott expressed to the Court that he did not find a conflict serving as A.G.C.-M.'s attorney and guardian ad litem. N.T. at 6. Specifically, Attorney Sinnott stated: "Based on the child's age and her ability to understand these proceedings, I don't think that there can be a conflict for a child at that age." *Id.* Counsel for Appellant and OCY agreed with the assessment. The Court found that based on A.G.C.-M.'s age (3 years old) and the child's inability to express any discernable articulation of legal interest, there was no conflict and Attorney Sinnott could serve as both GAL and attorney for A.G.C.-M. *In re T.S.*, 192 A.3d 1080 (Pa. 2018) (holding that where there is no conflict of interest between a child's legal and best interests, a GAL may represent both); *see also*, *In re Adoption of L.B.M.*, 161 A.3d 172, 175, 180 (Pa. 2017) (plurality) (holding that pursuant to 23 Pa.C.S.A. § 2313(a), a child that is the subject of contested involuntary termination proceedings has a statutory right to counsel who discerns and advocates for the child's legal interests); and *In re K.M.G.*, *supra*.

At the termination hearing, OCY presented the testimony of Staci Evans, Parole Agent for the Commonwealth of Pennsylvania and Haley Schaefer, OCY caseworker. *See* N.T. 16-66. The only witness presented by Appellant was her own testimony. *Id.* The testimony of these witnesses is summarized as follows:

#### **Staci Evans, Pennsylvania State Police Parole Agent**

The Court first heard testimony from Parole Agent Staci Evans. *See* N.T. 16-21. Agent Evans testified she first came in contact with Appellant in September 2019. *Id.* at 17. Agent Evans confirmed that in September 2019, Appellant was on parole in Louisiana for possession of amphetamines and unauthorized use of a vehicle and the case had been transferred to Pennsylvania for supervision. *Id.* Pennsylvania, in an interstate compact with Louisiana, agreed to assume supervision of Appellant. *Id.* As part of her supervision, Appellant was drug-tested. *Id.* Agent Evans testified that on September 26, 2019, Appellant's urinalysis was positive for methamphetamine and cocaine. *Id.* at 18. Appellant was referred to a drug and alcohol treatment facility. *Id.* Agent Evans testified that initially, Appellant did participate in the treatment. *Id.*

However, the participation was short-lived and Appellant was unsuccessfully discharged from the treatment facility. *Id.* Agent Evans's testimony reveals that Appellant had only ever been involved with drug treatment for a little over a month (October to November 2019). *Id.* Agent Evans testified that Pennsylvania's supervision of Appellant ceased in mid-November 2019 when Appellant absconded from supervision. *Id.* At that time, Pennsylvania petitioned Louisiana to close their supervision of Appellant. *Id.* Agent Evans stated it was her understanding that Louisiana issued a warrant for Appellant's arrest. *Id.* at 18-19. Consequently, Appellant was and is wanted on an outstanding arrest warrant in Louisiana. *Id.*

### **Haley Schaeff, OCY caseworker**

Next, testimony was received from Haley Schaeff, "advanced caseworker" for OCY. *See* N.T. 21-45. Under examination by OCY solicitor, Anthony Vendetti, Esq., Ms. Schaeff testified that OCY initially became involved with Appellant in January 2019, when it was reported that A.G.C.-M. had been found playing with Appellant's drug paraphernalia (syringes). *Id.* at 22. Appellant was found to be an indicated perpetrator of child abuse for "creating a reasonable likelihood of injury or bodily harm" due to this incident. *Id. see also*, Agency's Exhibit 9; and 23 Pa.C.S.A. § 6303(b.1)(5). As a result, Appellant placed A.G.C.-M. with her maternal grandmother, P.C. *Id.* at 23.

Ms. Schaeff testified that on October 3, 2019, OCY obtained an emergency protective order to remove A.G.C.-M. and place the child in foster care. *Id.* at 23-24. This was due to the fact that maternal grandmother, the assigned caregiver for A.G.C.-M., had been taken into custody on an arrest warrant. *Id.* Further, A.G.C.-M. could not safely be returned to Appellant. *Id.* Ms. Schaeff testified that Appellant was not an appropriate caregiver at this time because Appellant was an indicated perpetrator of child abuse, she was homeless, unemployed, and had recently tested positive for methamphetamines. *Id.* Father was not a viable option, as he had never been a primary caregiver for A.G.C.-M., there were concerns about his criminal history, and there were questions regarding paternity. *Id.* at 25. Ms. Schaeff noted that neither parent appeared for the shelter care hearing on October 4, 2019. *Id.* at 24. After the adjudication hearing on October 15, 2019, A.G.C.-M. was adjudicated dependent due to Appellant's substance abuse, extensive criminal history, homelessness, and status as an indicated perpetrator of abuse, as well as father's criminal history and lack of involvement in caregiving for A.G.C.-M. *Id.* at 24-25.

Ms. Schaeff testified that Appellant has demonstrated an overall pattern of non-compliance from the onset of the dependency case. On October 23, 2019, Ms. Schaeff made a home visit to Appellant to review the treatment plan and ensure Appellant understood what she was expected to do for reunification. *Id.* at 25. Ms. Schaeff testified that subsequent to the meeting on October 23, 2019, Appellant's contact with the Agency was sporadic. *Id.* at 26. Every time Ms. Schaeff attempted to contact Appellant via telephone, Appellant did not answer the call. *Id.* Ms. Schaeff left Appellant voicemails but Appellant would not return the calls. *Id.* In fact, between November 2019 and January 2020, Appellant only contacted Ms. Schaeff one time, on December 18, 2019. *Id.* During the phone call on December 18, 2019, Appellant advised Ms. Schaeff she was aware of her arrest warrant from Louisiana and "didn't want to pursue anything [with OCY] because she was afraid of getting picked up." *Id.* Ms. Schaeff noted that Appellant had also failed to appear for A.G.C.-M.'s doctor's appointment on December 9, 2019,



because she thought it was “a way to get her arrested” and OCY was “planning that.” *Id.* at 26-27.

Prior to the first permanency review hearing scheduled on January 13, 2020, OCY requested a goal change to reunification with a concurrent goal of adoption based on Appellant and Father’s total lack of compliance. Ms. Schaeff testified this was an appropriate recommendation because Appellant’s participation had been so sporadic and minimal. *Id.* at 28-29. Appellant had not complied with any of the goals on her treatment plan. *Id.* at 29. Appellant had been unsuccessfully discharged from JusticeWorks, a service provider that was intended to help Appellant with parenting skills, for her lack of participation. *See* Court Summary, 1/15/2020. Appellant had also been unsuccessfully discharged from Pyramid Healthcare, a drug and alcohol treatment provider, for failure to participate. *Id.* Further, Appellant had been mandated to participate in random urinalysis. Ms. Schaeff testified that Appellant had no-showed for all but one scheduled urinalysis screen during the review period. N.T. at 30. The single urinalysis screen Appellant provided was a dilute positive for methamphetamines and amphetamines. *Id.*; *see also*, Court Summary, 1/15/2020 at 11. Importantly, Appellant had made it clear to Ms. Schaeff that due to her active warrant, she did not want to pursue anything on her treatment plan. N.T. at 29. Ms. Schaeff had advised Appellant that services would not be resumed until she had reported to her parole officer. *Id.* Subsequently, based on these facts and in the best interests of the child, the Court added a concurrent goal of adoption to the original goal of return to parent. *See* Permanency Review Order, 1/15/2020.

Ms. Schaeff further testified that on February 12, 2020, Appellant met with her at the OCY office to review the existing treatment plan and again explain the Agency and Court’s expectations. *Id.* 31-33. Ms. Schaeff testified she explained to Appellant that the goal had been changed to a concurrent goal of reunification and adoption. *Id.* at 32-33. Ms. Schaeff also explained what it could adding a concurrent goal of adoption could mean for Appellant’s parental rights. *Id.* Ms. Schaeff confirmed Appellant understood the ramifications of adding adoption to the goal of return to parent. *Id.* at 33. Ms. Schaeff testified that Appellant understood what the permanency plan mandated and what was expected from her. *Id.* Ms. Schaeff confirmed Appellant was not impaired or under the influence of drugs or alcohol and was appropriately responsive during the conversation. *Id.*

However, subsequent to the meeting, and despite understanding that her parental rights could be terminated for non-compliance, Appellant still did not comply with the treatment plan. *Id.* at 33. Importantly, Appellant did not turn herself in to her probation officer as she had promised to do. She was arrested and remained in jail until the next permanency review hearing on July 13, 2020. Ms. Schaeff confirmed that on February 21, 2020, Appellant was arrested in Pennsylvania and was taken into custody on the active arrest warrant from Louisiana. *Id.* at 31; *see also*, Erie County Miscellaneous Docket No. CP-25-MD-123-2020. On February 24, 2020, Appellant was charged in Erie County, Pennsylvania, with possession with intent to deliver and possession of methamphetamine and/or heroin and/or oxycodone and/or hydrochloride. *Id.* at 30-31; *see also*, Erie County Criminal Docket No. CP-25-CR-855-2020. Due to the new charges, Appellant’s active probation was revoked. *Id.* at 31; *see also*, Erie County Criminal Docket No. CP-25-CR-3093-2018. From Appellant’s incarceration on February 21, 2020 to July 13, 2020, OCY had one contact with OCY regarding her child. *Id.* at 32; 34.

Ms. Schaeff testified OCY requested a goal change to adoption for the second permanency review hearing scheduled on July 13, 2020. *Id.* at 34-35. Adoption was requested due to

Appellant's continued non-compliance with the treatment plan and her incapacity due to her incarceration in Pennsylvania and pending arrest warrant from Louisiana. *Id.* at 34-35. On cross-examination by Attorney Patrick Kelley, Ms. Schaefer confirmed that Appellant had never raised "logistical problems" regarding compliance with the treatment plan. *Id.* at 42. In other words, Appellant had never stated to Ms. Schaefer that she had any barriers or excuses not to comply, such as those offered by Appellant during her testimony at the termination hearing. *See, infra.*

Finally, Ms. Schaefer testified regarding A.G.C.-M.'s adjustment to placement. *Id.* at 36-37. A.G.C.-M. was placed in the S.M. kinship home located in Texas in July 2020. *Id.* at 37. The child has been placed with her sister. *Id.* There are two other minor children, A.G.C.-M.'s cousins, in the home and A.G.C.-M. has bonded with the family. *Id.* Ms. Schaefer testified that A.G.C.-M. is doing very well in the kinship home, which is also a preadoptive home. *Id.* Ms. Schaefer reported that A.G.C.-M.'s emotional, behavior, and educational development is on target and all of her needs are being met in the home. *Id.* at 37-38.

Ms. Schaefer testified that in her view, there was no indication that A.G.C.-M. has bonded with Appellant and there would be no detrimental impact if Appellant's parental rights were terminated. *Id.* Ms. Schaefer stated that since the time of placement on October 3, 2019 through the date of the IVT hearing on October 27, 2020, Appellant has had **NO** physical visitation with A.G.C.-M. at the foster home or kinship home. *Id.* at 35-36. The only in-person contact Appellant had with A.G.C.-M. since October 3, 2019, occurred at a medical appointment on November 9, 2019. *Id.* at 36. Ms. Schaefer testified that although Appellant did call A.G.C.-M. after she was incarcerated, A.G.C.-M. did not recognize Appellant. *Id.* at 38. Based on this testimony, it is fair to conclude A.G.C.-M. does not know Appellant.

Ms. Schaefer stated that she believes Appellant does affectionately care for A.G.C.-M. *Id.* at 40. However, upon further questioning by the GAL and this Court regarding the totality of Appellant's conduct, Ms. Schaefer stated the following:

**ATTY SINNOTT:** Has [Appellant] consistently put her own needs ... in front of the needs and best interest of [A.G.C.-M.]?

**MS. SCHAEFER:** Yes. She has not been consistent with anything. Umm, I mean, we've had a lot of talks with her with regard to the treatment plan, and what she needed to do. Umm, but there was no motivation to do those things.

**ATTY SINNOTT:** So, there's been no follow-through?

**MS. SCHAEFER:** Correct.

**ATTY SINNOTT:** She's always expressed to you that she wanted her child back, and that she was willing to do the things necessary to do it. But has she ever done any of those things?

**MS. SCHAEFER:** She has not.



**THE COURT:** I think the more direct question is, has she ever placed the best interests of the child above her own, through action or deed?

**MS. SCHAEF:** No, she has not.

*Id.* at 41. Thereby, Ms. Schaeff's testimony was emphatic that Appellant has **never** made A.G.C.-M. a priority in her own life.

### **L.C. - Appellant**

Finally, Appellant testified on her own behalf, expressing to the Court that she would like an opportunity to work toward reunification. *Id.* at 47. Appellant acknowledged that on October 3, 2019, at the time of the Emergency Protective Order, she was homeless and temporarily living at the Thunderbird Motel, located in Erie, Pennsylvania. *Id.* She was unemployed and the Salvation Army was paying for the motel room. *Id.* Appellant was not caring for the child and had not for some time, as the child had been placed with P.C., Appellant's mother, in January 2019. *Id.* at 23; 61-62; *see also*, Emergency Protective Order, 10/3/2019; Dependency Petition, 10/7/2019 at 3-4. Also, Appellant was actively using drugs. *See* Dependency Petition, 10/7/2019 at 3. Appellant acknowledged all of this and stipulated to the Dependency Petition. N.T. at 48. Appellant confirmed she had understood what was expected of her in order to be reunified with A.G.C.-M. *Id.* Appellant agreed that there were no barriers to her ability to comply with the treatment plan. *Id.* Appellant stated that she did briefly comply (for approximately 5 weeks) with the treatment plan, however, she voluntarily stopped in mid-November. *Id.* at 48-49. Appellant explained she had quit treatment "... because I felt like no matter what I tried to do, everything seemed, like, against me. Umm, I know that's not the way to think when you — you know, my child is involved, and it involves, umm, getting her back." *Id.* at 49. Appellant testified she was "overwhelmed" with the requirements of probation, parole, and OCY's plan, so she "just quit." *Id.* at 49-50. When questioned by the Court whether she had ever expressed feeling "overwhelmed" to OCY or the Court, or anyone else, Appellant conceded that this was the first time. *Id.* Appellant also confirmed that she failed to appear for the first permanency hearing because she had absconded from supervision in mid-November 2019. *Id.* at 50-51. This illustrates that Appellant's testimony is not entirely truthful. Appellant didn't comply because she was "overwhelmed," she failed to comply because she was on the run to avoid arrest.

Appellant testified that, while still on the run, she went to meet with Ms. Schaeff on February 12, 2020. *Id.* at 51. Appellant testified that Ms. Schaeff informed Appellant that, based on her lack of compliance, she was on the verge of "losing" her parental rights to A.G.C.-M. *Id.* At that point, Appellant told Ms. Schaeff she was willing to "turn herself in" to her probation officer. *Id.* However, Appellant admitted she did not "turn herself in" and never reported to her probation officer, contrary to what she told Ms. Schaeff. *Id.* Appellant asserted that she never turned herself in because she was arrested nine days later, on February 21, 2020. *Id.* at 51-52. This defies common sense, and demonstrates to this Court that Appellant never credibly intended to "turn herself in." Consequently, this Court finds Appellant's statement disingenuous as she had ample opportunity to "turn herself in" but never did so, and again, never exhibited a desire to work the permanency plan to reunify with A.G.C.-M.

Regarding her criminal status, Appellant confirmed she had been on parole in Louisiana which was being supervised by Pennsylvania. *Id.* at 54. Appellant testified that a hearing was scheduled in Louisiana on November 5, 2020, to address her flight from supervision in Pennsylvania. *Id.* at 53-54. Appellant missed the hearing in Louisiana, which resulted in another warrant being issued for her arrest. *Id.* at 54. Appellant testified she had a video conference scheduled with the Louisiana courts on November 22, 2020, after which she “will know more.” *Id.* at 54. Appellant stated that her Louisiana parole was supposed to end in March 2020, but because of her warrant she “wasn’t sure how the hearing was going to go.” *Id.* at 55. Appellant agreed that her current aggregate sentence in Pennsylvania is 17 months to 42 months of incarceration and 3 years of probation.<sup>7</sup> *Id.* at 55-56. Despite acknowledging this, Appellant indicated she believed she may be eligible for release after her hearing on November 22, 2020 with Louisiana.<sup>8</sup> *Id.* at 56-57. Appellant also conceded she could be revoked and resentenced for her charges in Louisiana, which carried an original sentence of three years. *Id.* at 55.

Appellant further acknowledged that in January 2019, she had been found to be an indicated perpetrator of creating a reasonable likelihood of bodily injury by the Pennsylvania Department of Human Services. *Id.* at 55. Appellant confirmed that the reason for the finding was because she was actively injecting methamphetamine and had left her syringes lying around the home and accessible to A.G.C.-M. *Id.* at 61. Appellant testified that due to the finding, she voluntarily placed A.G.C.-M. with the maternal great-grandmother, J.W. *Id.* at 61-62. Agency Exhibits demonstrate that P.C., maternal grandmother, was also approved as a caregiver. *See* Agency Exhibits 4-7. From January 2019 through June 2019, A.G.C.-M. was cared for by J.W. and P.C., the maternal grandmother. N.T. at 61-62. Appellant testified that in March 2019, she was again arrested for a probation violation regarding her Pennsylvania criminal charges. *Id.* at 62. As a result of this violation, Appellant testified she was released from jail on June 12, 2019. *Id.* Upon her release, she resumed partial care of A.G.C.-M. until the child was removed on October 3, 2019, due to Appellant’s being homeless and actively using drugs again. *Id.* The child’s primary caregiver, P.C., was arrested, leaving the child with no viable caregiver. *See* Emergency Protective Order, 10/3/2019.

Regarding drug and mental health concerns, Appellant confirmed her drug of choice is methamphetamine and that she suffers from depression. N.T. at 60. Appellant testified she was addicted to methamphetamine in January 2019, had “slipped” and used one time in October 2019, and began using again after A.G.C.-M. was removed. *Id.* at 65-66. This testimony is, however, belied by the testimony of PA Parole Agent Staci Evans, who testified without objection that Appellant had tested “positive for methamphetamine and

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<sup>7</sup> The Court takes judicial notice of the following: At Erie County Criminal Docket No. CP-25-CR-591-2020, Appellant was sentenced to 3 years of supervision, consecutive to confinement at Docket No. CP-25-CR-855-2020. At Erie County Criminal Docket No. CP-25-CR-855-2020, Appellant was sentenced to a minimum of 15 months of incarceration to a maximum of 30 months of incarceration, consecutive to confinement at Docket No. CP-25-CR-3093 -2018. Due to the new charges at Docket Nos. CP-25-CR-855-2020 and CP-25-CR-591-2020, Appellant was revoked at Erie County Criminal Docket No. CP-25-CR-3093-2018 and resentenced to a minimum of 2 months of incarceration to a maximum of 12 months of incarceration. Finally, at Erie County Miscellaneous Docket No. CP-25-MD-123-2020, Appellant was charged with Arrest Prior to Requisition and is awaiting extradition to Louisiana.

<sup>8</sup> As of the date of the Opinion herein, a review of the Pennsylvania Department of Corrections database reveals Appellant is still incarcerated at SCI-Muncy. Further, there are no records of a release in the criminal dockets of Erie County, Pennsylvania.

cocaine” on September 26, 2019. *See* testimony of Staci Evans, N.T. at 18. Haley Schaefer, OCY caseworker, testified that Appellant had tested “positive for methamphetamines and amphetamines” on October 16, 2019. *See* testimony of Haley Schaefer, N.T. at 30; *see also*, Court Summary, 1/15/2020 at 11. This demonstrates that Appellant was again actively using illegal drugs throughout this time period.

When questioned regarding any drug or mental health treatment she had participated in during the pendency of this case, Appellant explained that she had not been taking medication for her mental illness prior to incarceration, but is doing so now. *Id.* at 61. Appellant also testified she “completed” a drug and alcohol program with Stairways, a treatment provider, while she was incarcerated. *Id.* at 57-58. To verify this statement, Appellant submitted a letter from Stairways in support. *Id.*; *see also*, Defendant’s Exhibit A. However, a review of the letter from Stairways, dated July 2, 2020, indicated that Appellant had been assessed on May 27, 2020 and “agreed to attend the In-House D&A Treatment Program” and to complete the “five hours of treatment per week” and “twelve outpatient sessions” mandated for successful completion. *See* Defendant’s Exhibit A. Further, the letter indicated that Appellant was recommended to participate in a partial outpatient treatment program for her dual diagnoses of drug addiction and mental illness. N.T. at 60; *see also*, Defendant’s Exhibit A. However, other than her statement that she had completed the program but “left shortly after that and didn’t get to send any of that home,” Appellant offered no verification of completion of the partial outpatient treatment program. N.T. at 58-59. Regardless if Appellant has recently completed a drug and alcohol program while incarcerated, for all of the other reasons discussed *infra*, this fact alone would not demonstrate that Appellant could safely and permanently parent the child with the stability so desperately lacking in A.G.C.-M.’s young life.

Appellant also vaguely testified that during her current incarceration, she has participated in “religious groups,” but that due to COVID-19, parenting programs have been suspended. *Id.* at 58-59. Appellant explained she planned to begin a program called “Living Safely for Women in Outpatient” upon her return to SCI-Muncy. *Id.* at 57.

Finally, when questioned about her plans upon release from prison, Appellant testified that she intended to move into her grandmother’s home (J.W.). *Id.* at 59.

At the conclusion of the termination hearing, the Court found that OCY had established by clear and convincing evidence that Appellant’s conduct satisfied the statutory grounds for termination as to § 2511(a)(1), (a)(2), and (a)(5). The Court further determined termination best served the needs and welfare of A.G.C.-M., pursuant to § 2511(b). Thereafter, the Court terminated Appellant’s parental rights by Decree dated October 27, 2020.

### **ISSUES PRESENTED**

On appeal Appellant raises the following issues:

1. Did the Trial Court err in weighing the effect of Appellant’s incarceration as a ground for termination of her parental rights?
2. Did the Trial Court err in finding that sufficient evidence was presented to establish grounds for the termination of Appellant’s parental rights?

3. Did the Trial Court err in finding that sufficient evidence was presented to establish that severing Appellant's parental rights was in the best interest of the child?

See Statement Pursuant to Pa.R.A.P. 1925.

### **STANDARD OF REVIEW**

The standard of review from an order terminating parental rights:

... requires appellate courts to accept the findings of fact and credibility determinations of the trial court if they are supported by the record. If the factual findings are supported, appellate courts review to determine if the trial court made an error of law or abused its discretion. A decision may be reversed for an abuse of discretion only upon demonstration of manifest unreasonableness, partiality, prejudice, bias, or ill-will. The trial court's decision, however, should not be reversed merely because the record would support a different result.

*In re J.W.B.*, 232 A.3d 689, 695 (Pa. 2020) (citing *In re T.S.M.*, 71 A.3d 251, 267 (Pa. 2013) (citations and quotation marks omitted)). This Court is also mindful that a reviewing Court allows deference to a trial court as recognized in *In re T.S.M.*, *supra*, wherein the Supreme Court of Pennsylvania noted: "We have previously emphasized our deference to trial courts that often have first-hand observations of the parties spanning multiple hearings." *Id.* at 267. Further, a reviewing Court will "accept the findings of fact and credibility determinations of the trial court if they are supported by the record." *Id.*

### **DISCUSSION**

Termination of parental rights is governed by section 2511 of the Adoption Act, 23 Pa.C.S.A. § 2511. In relevant part, Section 2511 provides:

**(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 ...

**(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 ...

23 Pa.C.S.A. § 2511.

“Parental rights may be involuntarily terminated where any one subsection of Section 2511(a) is satisfied, along with consideration of the subsection 2511(b) provisions.” *In re Z.P.*, 994 A.2d 1108, 1117 (Pa. Super. 2010) (emphasis added) (citing *In re Adoption of R.J.S.*, 901 A.2d 502, 508 n. 3 (Pa. Super. 2006)). Thus, termination of parental rights requires the Court to engage in a bifurcated 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 standards of the best interests of the child. One major aspect of the needs and welfare analysis concerns the nature and status of the emotional bond between parent and child, with close attention paid to the effect on the child of permanently severing any such bond.

*In re K.R.*, 200 A.3d 969, 978-979 (Pa. Super. 2018) (citing *In re L.M.*, 923 A.2d 505, 511 (Pa. Super. 2007)).

In the case *sub judice*, the Court found that OCY had established grounds for involuntary termination of Appellant’s parental rights at subsections 2511(a)(1), (a)(2), (a)(5), and (b), by clear and convincing evidence. Appellant raises issues regarding the Court’s consideration of Appellant’s incarceration, as well as the sufficiency of the evidence supporting termination of parental rights. These claims will now be addressed in *seriatim*.

### 1. Appellant’s Incarceration as a Factor Supporting Termination

In her first claim, Appellant asserts the Court erred “in weighing the effect of Appellant’s incarceration as a ground for termination of her parental rights.” See Statement Pursuant to Pa.R.A.P. 1925 at ¶ 1.

In the case of an incarcerated parent, incarceration is a “factor the Court must consider in analyzing a parent’s performance.” *In re E.A.P.*, 944 A.2d 79, 83 (Pa. Super. 2008). “The cause of incarceration may be particularly relevant to the Section 2511(a) analysis, where imprisonment arises as a direct result of the parent’s actions which were ‘part of the original reasons for the removal’ of the child.” *In re Z.P.*, 994 A.2d at 1120 (citing *In re C.L.G.*, 956 A.2d 999, 1006 (Pa. Super. 2008) (*en banc*)). A court is required to “inquire whether the parent has utilized those

resources at his or her command while in prison in continuing a close relationship with the child.” *In re Adoption of S.P.*, 47 A.3d 817, 828 (Pa. 2012) (citing *In re Adoption of McCray*, 331 A.2d 652 (Pa. 1975)). “[P]arental duty requires that the parent act affirmatively with good faith interest and effort, and not yield to every problem, in order to maintain the parent-child relationship to the best of his or her ability, even in difficult circumstances.” *In re J.T.M.*, 193 A.3d 403, 409 (Pa. Super. 2018). “Where the parent does not exercise reasonable firmness in declining to yield to obstacles, his other rights may be forfeited.” *In re Adoption of S.P.*, 47 A.3d at 828 (citing *In re Adoption of McCray*, 331 A.2d at 655).

Here, Appellant’s incarceration was a factor the Court was required to consider in determining whether to terminate parental rights. Certainly, Appellant’s own actions (drug use) were a “part of the original reason for removal of the child.” Thus, the vital question was whether Appellant, despite being incarcerated, acted affirmatively and utilized available resources to maintain a parent-child relationship with A.G.C.-M., or whether Appellant yielded to the obstacle created by her incarceration. *In re Adoption of S.P.*, 47 A.3d at 828; *In re Adoption of McCray*, 331 A.2d at 655; *In re J.T.M.*, 193 A.3d at 409. Consideration of Appellant’s conduct during incarceration was critical to answering that question. The Court could also fairly consider Appellant’s term and length of incarceration as it may be relevant to her incapacity to care for the child.

As discussed further *infra*, Appellant failed to act affirmatively to maintain a parent-child relationship with A.G.C.-M. Appellant was incarcerated on February 21, 2020. The Petition for Involuntary Termination of Parental Rights was filed on July 23, 2020.<sup>9</sup> In the five months while Appellant was incarcerated, there is no evidence that she made any effort to continue a genuine parent-child relationship with A.G.C.-M. Although Appellant made some phone calls to the foster home, it was reported that A.G.C.-M. was not familiar with Appellant. N.T. at 38. The list of actions Appellant failed to take while incarcerated is much longer, for example: her failure to remain in contact with OCY; her failure to take a parenting class; her failure to participate in drug and alcohol treatment; or her failure to participate in mental health treatment.

Appellant has also not demonstrated a firm commitment to treatment and reunification while incarcerated. Appellant testified that she was supposed to start the “Living Safely for Women in Outpatient” program at SCI-Muncy “next Monday,” but because she was transported for the termination hearing it was “probably going to kick her start date back.” *Id.* at 57. Appellant stated she had participated in some “religious groups” while incarcerated without providing further detail. *Id.* at 58-59. While the Court recognizes that Appellant may have put forth minimal effort to obtain some treatment, her conduct has fallen short of demonstrating she has “used resources her command while in prison” and has exercised “reasonable firmness in declining to yield to obstacles” in order to “maintain the parent-child relationship to the best of her ability.” *See In re Adoption of S.P.*, 47 A.3d at 828; *In re Adoption of McCray*, 331 A.2d at 655; *In re J.T.M.*, 193 A.3d at 409. This Court has difficulty in ascertaining how Appellant’s unverified, undocumented, and minimal participation in

<sup>9</sup> As provided in 23 Pa.C.S.A. § 2511(b): “... [w]ith 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.” Thereby, the relevant inquiry was Appellant’s conduct from the time of incarceration until the filing of the Petition. However, the Court notes that the evidence demonstrated that Appellant did not make affirmative efforts to maintain the parent-child relationship subsequent to July 23, 2020.



these “programs” have in any way furthered the goals of the permanency and treatment plans and, ultimately, her reunification with A.G.C.-M.

Another factor the Court must consider regarding an incarcerated parent is “the length of the remaining confinement,” which “can be considered as highly relevant to whether ‘the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent,’ sufficient to provide grounds for termination ...” *In re Adoption of S.P.*, 47 A.3d at 830 (citing 23 Pa.C.S.A. § 2511(a)(2)); *see also In re D.C.D.*, 105 A.3d 662, 677 (Pa. 2014); *In re Adoption of A.C.*, 162 A.3d 1123, 1132 (Pa. Super. 2017). Here, the certified criminal dockets, admitted at Agency Exhibit 10, indicate Appellant faces an aggregate 17 month minimum to a 42 month maximum sentence of incarceration, followed by a 3 year probation tail. N.T. at 55-56; *see also*, footnote 4, *supra*. Further, Appellant’s potential exposure for additional incarceration in Louisiana is unknown. N.T. at 55-56. It is foreseeable that Appellant’s parole supervision in Louisiana could be revoked, exposing her to additional incarceration. The Court was required to determine whether Appellant was capable of providing care for the child and whether she continued to be incapacitated in light of her remaining incarceration.

For the above reasons, Appellant’s claim is meritless. No error occurred in when the Court considered the effect of Appellant’s incarceration on the termination of her parental rights. Indeed, the Court was mandated to do so. This claim must be dismissed.

## 2. Sufficiency of the Evidence at 23 Pa.C.S.A. § 2511(a)

Appellant’s second claim baldly asserts that the Court erred “in finding sufficient evidence to establish grounds for termination of Appellant’s parental rights.” *See* Statement Pursuant to Pa.R.A.P. 1925 at ¶ 2.

Appellant’s challenge to the sufficiency of the evidence at ¶ 2 of his 1925(b) Statement is too vague for the Court to address and is therefore waived. Pursuant to the Pennsylvania Rules of Appellate Procedure, a 1925(b) “[s]tatement shall concisely identify each error that the appellant intends to assert with sufficient detail to identify the issue to be raised for the judge.” Pa.R.A.P. Rule 1925(b)(ii). “[A] Concise Statement which is too vague to allow the court to identify the issues raised on appeal is the functional equivalent to no Concise Statement at all.” *Kanter v. Epstein*, 866 A.2d 394, 400 (Pa. Super. 2004) (citing *Commonwealth v. Dowling*, 778 A.2d 683, 686-687 (Pa. Super. 2001).

In the case *sub judice*, Appellant merely asserts the evidence was insufficient at section 2511(a). However, Appellant’s parental rights were terminated at subsections 2511(a)(1), (a)(2), and (a)(5). As Appellant does not specify at which subsection the evidence was insufficient, Appellant’s sufficiency of the evidence claim lacks specificity and is too vague to permit meaningful review. This claim is waived.

Assuming *arguendo* that Appellant’s claim regarding the sufficiency of the evidence at section 2511(a) is not waived for vagueness, the Court will briefly analyze the evidence at each subsection to support its termination of parental rights, remaining cognizant that “[p]arental rights may be involuntarily terminated where any one subsection of Section 2511(a) is satisfied, along with consideration of the subsection 2511(b) provisions.” *In re Z.P.*, *supra*.



**23 Pa.C.S.A. § 2511(a)(1)**

A court may terminate parental rights if “[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.A. § 2511(a)(1). “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 Adoption of A.C.*, 162 A.3d at 1129 (quoting *In re Z.P.*, 994 A.2d at 1117).

A parent’s duty and obligation of care “is a positive duty which requires affirmative performance ... it requires continuing interest in the child and a genuine effort to maintain communication and association with the child.” *In re Z.P.*, 994 A.2d at 1118-21. “[A] parent is required to make diligent efforts towards the reasonably prompt assumption of full parental responsibilities.” *Interest of K.M.W.*, 238 A.3d 465, 474 (Pa. Super. 2020) (citing *In re A.L.D.*, 797 A.2d 326, 340 (Pa. Super. 2002)).

The subject Petition was filed on July 23, 2020. This meant that Appellant’s conduct since January 23, 2020 (at least six months immediately preceding the filing), was at issue. The totality of the evidence presented at trial established that Appellant’s conduct between at least January 23, 2020 and July 23, 2020, evidenced Appellant’s settled purpose of relinquishing parental claim to A.G.C.-M. *See* 23 Pa.C.S.A. § 2511(a)(1). Appellant had no physical contact with A.G.C.-M. since at least November 2019, when she attended a medical appointment. *Id.* at 36. Between November 2019 and February 2019, Appellant was on the run from law enforcement. *Id.* at 26-29. During this time, Appellant did not maintain contact with OCY or work on her treatment plan. *Id.* at 26-27. When Appellant did finally contact OCY on February 12, 2020, she failed to follow through with turning herself in to probation as she had promised. *Id.* at 51-52. Appellant had made it clear that she was more concerned with not facing the consequences of her outstanding warrants than she was in reunifying with A.G.C.-M. *Id.* at 26-29; 41. Ultimately, Appellant was arrested on the Louisiana warrant, she incurred new charges, and her probation was revoked. *Id.* at 31; *see also*, Erie County Criminal Docket No. CP-25-CR-3093 -2018. Due to the new charges and revocation, Appellant has been incarcerated since February 21, 2020. *Id.* at 31. During her incarceration, Appellant has again failed to make “a genuine effort to maintain communication and association with the child.” *In re Z.P.*, 994 A.2d at 1118-21. This totality of conduct fortifies that Appellant did not maintain “... continuing interest in the child and a genuine effort to maintain communication and association with the child.” *In re Z.P.*, 994 A.2d at 1118-21. Appellant also failed to “... make diligent efforts towards the reasonably prompt assumption of full parental responsibilities.” *Interest of K.M.W.*, 238 A.3d at 474.

Appellant has refused or failed to perform parental duties. *See* 23 Pa.C.S.A. § 2511(a)(1). The vital question was whether Appellant was able to perform parental duties, provide parental care, control or subsistence, and remedy the conditions which led to the initial placement. The evidence demonstrated that Appellant is not capable of meeting the essential needs of a young child and will be unable to do so within a reasonable amount of time. OCY presented evidence that Appellant was unable to take custody of A.G.C.-M. as of the date of

the hearing, as she remained incarcerated on an indeterminate sentence. Although Appellant hoped she might be released sooner, she acknowledged that on paper her cumulative sentence was 17 months minimum to 42 months maximum, with a 3 year probation tail. N.T. at 55-56. Appellant also acknowledged that she was facing revocation in Louisiana and could incur further incarceration there. *Id.* Any early release and ability to assume custody of A.G.C.-M. in the near future is speculative at best.

Also critical to the Court’s analysis as to whether Appellant “evidenced a settled purpose of relinquishing parental claim to the child,” (23 Pa.C.S.A. § 2511(a)(1)), Appellant failed to keep in contact with OCY and to work her treatment plan during the pendency of the case. While the Court could graciously credit Appellant with approximately five weeks of compliance, from October to November 2019, she quickly gave up and absconded from her court-ordered supervision. Appellant explained her conduct, stating:

**APPELLANT:** ... I actually did comply for, umm — I stopped everything, like, my meetings with ... Haley Schaeff, and Justice Works. Umm, and my treatment was Pyramid. I stopped all of that around the exact same time.

**THE COURT:** What time was that?

**APPELLANT:** Umm, around mid-November.

**THE COURT:** Well, it begs the question, why?

**APPELLANT:** Well, because I felt like no matter what I tried to do, everything seemed, like, against me. Umm, I know that’s not the way to think when you — you know, my child is involved, and it involves, umm, getting her back.

N.T. at 49. The Court reminded Appellant the first permanency hearing had not yet occurred by mid-November, and at the time the goal was still reunification. *Id.* Importantly, the Court had not even had the opportunity to assess Appellant’s compliance with the treatment plan or consider a modification. *Id.* Appellant conceded these facts, continuing:

**APPELLANT:** Right. I’m not — I’m talking about everything else.

**THE COURT:** Okay.

**APPELLANT:** Along with — like, I was on county probation, I had to do community service for them. I was on state parole. And I was doing, umm intensive outpatient through Pyramid. And then I was meeting with Haley [Schaeff]. I met with her — I think it was at Justice Works, where we, umm, set up, like parenting, and stuff like that. Umm, on top of it I had to go to regular groups, and things like that. I had to report to county probation. I just — I got overwhelmed with all of that. On top of Louisiana at the last minute. I tried to — umm, they had a hearing for me scheduled December 5th. And I tried to reschedule that with my attorney down there. I couldn’t

get in touch with him. And because I couldn't make that hearing, I felt like everything else would fall. Like, as in, my probation, and things like that. And I did give up. And I shouldn't have, considering, like I said, my child. Umm, I got overwhelmed. And instead of me talking to someone about it, I didn't. I just quit.

*Id.* at 49-50. It is clear that Appellant's protestation of being "overwhelmed" is due to her own choices of drug use and criminal activity, leading to her incarceration and parole supervision. Appellant has failed to "exercise reasonable firmness in resisting the obstacles which limit ... her ability to maintain the parent/child relationship." *See In re J.T.M.*, 193 A.3d at 410-11. Appellant made minimal, if any, effort to overcome the obstacles of drug use and her criminal behavior which took her away from the child. Importantly, this was the first time Appellant had complained of being "overwhelmed" by the services outlined in the treatment plan and further eroded any remnant of credibility to this claim. Further supporting this Court's finding that OCY met its burden by clear and convincing evidence to terminate Appellant's parental rights pursuant to § 2511(a)(1) was the fact that Appellant had never had a visit with the child throughout the life of this dependency case. Appellant went to one medical appointment for A.G.C.-M. This reinforced that Appellant "refused or failed to perform parental duties." 23 Pa.C.S.A. § 2511(a)(1).

After a close examination of Appellant's "individual circumstances" and consideration of Appellant's explanations for her failure to perform her parental duties, the Court found the "totality of the circumstances" supported termination of Appellant's parental rights at subsection 2511(a)(1). *In re Adoption of A.C.*, 162 A.3d at 1129. Clearly, as demonstrated, there was sufficient and ample evidence to support this Court's finding that Appellant's conduct of complete non-compliance with court-ordered treatment and her virtual abandonment of the child through her flight from criminal consequences "evidenced a settled purpose of relinquishing parental claim to a child." 23 Pa.C.S.A. § 2511(a)(1).

### **23 Pa.C.S.A. § 2511(a)(2)**

Continuing, a court may terminate parental rights if "[t]he 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 ..." 23 Pa.C.S.A. § 2511(a)(2).

"Incarceration alone is not sufficient to support termination under any subsection, but 'incarceration will certainly impact a parent's capability of performing parental duties, and may render a parent incapable of performing parental duties under subsection (a)(2)'." *Interest of K.M.W.*, 238 A.3d at 474 (citing *In re E.A.P.*, 944 A.2d 79, 82-83 (Pa. Super. 2008) (emphasis in original)). Relevant to the matter at hand, when terminating parental rights pursuant to subsection 2511(a)(2), "[i]ncarceration, while not a litmus test for termination, can be determinative of the question of whether a parent is incapable of providing essential parental care, control, or subsistence." *Interest of K.M.W.*, 238 A.3d at 474 (citing *In re Adoption of S.P.*, 47 A.3d at 830 (Pa. 2012)). "[T]he length of the remaining confinement can be considered as highly relevant to whether 'the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent,' sufficient to provide

grounds for termination ... ” *In re Adoption of S.P.*, 47 A.3d at 830 (citing 23 Pa.C.S.A. § 2511(a)(2)).

In *Interest of K.M.W.*, *supra*, the Pennsylvania Superior Court recently stated:

Each case of an incarcerated parent facing termination must be analyzed on its own facts, keeping in mind ... that the child’s need for consistent parental care and stability cannot be put aside or put on hold. Parental rights are not preserved by waiting for a more suitable or convenient time to perform one’s parental responsibilities while others provide the child with his or her physical and emotional needs. Rather, a parent must utilize all available resources to preserve the parental relationship, and must exercise reasonable firmness in resisting obstacles placed in the path of maintaining the parent-child relationship ...

*Id.* at 474 (internal citation omitted).

The evidence presented at trial established that Appellant’s repeated and continued incapacity, neglect, and/or refusal has caused A.G.C.-M. to be without essential parental care, control, or subsistence necessary for the child’s physical or mental well-being, and that the conditions and causes of the incapacity, neglect and/or refusal cannot or will not be remedied by Appellant. *See* 23 Pa.C.S.A. § 2511(a)(2).

While the Court recognizes Appellant’s incarceration alone is not sufficient to terminate her parental rights, the evidence undoubtedly established that the incarceration impacted Appellant’s ability to provide the necessary and essential parental care, control, or subsistence for A.G.C.-M.’s well-being. Appellant’s incarceration has also impacted Appellant’s ability to remedy the conditions that led to initial placement. In the 22 months between January 2019 and the date of the hearing on October 27, 2020, Appellant has been incarcerated for 11 months. *See* N.T. at 62-63. This includes Appellant’s incarceration from March 2019 through June 2019, as well as Appellant’s current incarceration which commenced on February 21, 2020. *Id.* at 31. Also, neither Appellant nor the Court can predict her release date. It is reasonable to conclude that Appellant is facing further substantial incarceration in both Pennsylvania and Louisiana. This begs the question: How long is the child supposed to wait for Appellant?

The impact of Appellant’s stints of incarceration on her ability to provide parental care for A.G.C.-M were addressed at the termination hearing:

**THE COURT:** So, the history of this case should include that from January [2019] until June [2019], the child was not in your care for a period of six months, correct?

**APPELLANT:** Yes.

**THE COURT:** And then from October 3rd [2019] — so the beginning of October, November, and December [2019], the child was not in your care, correct?

**APPELLANT:** Yes.

**THE COURT:** So for nine months, or, even giving you the benefit, eight months out of twelve months of 2019, you did not care for your child, correct?

**APPELLANT:** I mean, I guess technically, no ...

N.T. at 62-63.

Even without consideration of Appellant's incarceration, which arguably creates an incapacity for her to care for A.G.C.-M., Appellant has never demonstrated through action her desire to provide parental care for the child. The record is clear that for 3 more months, from November 2019 until her arrest in February 2020, Appellant was a fugitive and provided no parental care to A.G.C.-M. *Id.* at 26-29. During this time, her primary concern was not for A.G.C.-M.'s physical or mental well-being, but to avoid her own apprehension. *Id.* at 26-29; 41.

Between October 3, 2019 and the termination hearing on October 27, 2020, Appellant did not visit her child even once. *Id.* at 35-36. Appellant gave A.G.C.-M. one gift in more than a year. *Id.* at 40. Although Appellant has sporadically called A.G.C.-M. at the foster home, by all reports A.G.C.-M. does not know who Appellant is. *Id.* at 38. Appellant has simply never made A.G.C.-M. a priority. Appellant's conduct in putting her own needs above her child's, in essence, "waiting for a more suitable or convenient time to perform her parental responsibilities while others provide the child with his or her physical and emotional needs," justified termination of her parental rights. *Interest of K.M.W.*, 238 A.3d at 474.

Further, Appellant failed to accomplish any of the goals on her treatment plan in an attempt to remedy the circumstances that led to A.G.C.-M.'s placement. One of the major concerns was Appellant's drug use, which Appellant admitted has continued, to some extent, during the pendency of this case. Appellant's flight from apprehension also contributed to the circumstances leading to the placement, and the consequence of her flight continues to impact her ability to remedy the circumstances. There is no dispute that Appellant was aware of what was required of her in order to reunify with A.G.C.-M. Unfortunately, Appellant failed to "exercise reasonable firmness in resisting obstacles placed in her path" and instead succumbed to them. *Interest of K.M.W.*, 238 A.3d at 474.

After review of the specific facts and circumstances of this case, the Court found the totality of the circumstances supported termination of Appellant's parental rights at subsection 2511(a)(2). Appellant's lifestyle and immersion in crime have caused A.G.C.-M. to be "without essential parental care, control or subsistence necessary for his physical or mental well-being." 23 Pa.C.S.A. § 2511(a)(2). Further, Appellant's continued poor choices have resulted in the "incapacity ... neglect or refusal" that "will not be remedied" by Appellant. *Id.* Appellant's bald assertion regarding the sufficiency of the evidence at this subsection is without merit.

### **23 Pa.C.S.A. § 2511(a)(5)**

Next, a court may terminate parental rights if:

[t]he 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(a)(5). “[U]nlike Section 2511(a)(2), Section 2511(a)(5) evaluates the likelihood that services provided to a parent will remedy the conditions which led to the child’s removal.” *In re A.S.*, 2010 PA Super 164, 11 A.3d 473, 482-83 (Pa. 2010) (citing *In re Adoption of M.E.P.*, 825 A.2d 1266, 1273-74 (Pa. Super. 2003)). “The ‘reasonable time’ requirement [of § 2511(a)(5)] is intended to prevent children from growing up in an indefinite state of limbo, without parents capable of caring for them, and at the same time unavailable for adoption by loving and willing foster families ...” *In re N.C.*, 763 A.2d 913, 918 (Pa. Super. 2000).

The plain language of § 2511(a)(5) permits termination of parental rights on an accelerated basis. Thus, once a child has been removed from a parent’s care for at least six months and the conditions that led to the removal are not or cannot be remedied, termination can be proper in the best interests of the child. In the case *sub judice*, A.G.C.-M. has been formally removed from Appellant’s care for nearly ten months (though informally much longer, as discussed *supra*). Termination of Appellant’s rights could have been pursued as early as March 2020, particularly when Appellant utterly failed to comply with the treatment plan. Appellant’s non-compliance resulted in the persistence of the conditions that had led to A.G.C.-M.’s removal. Despite Appellant’s failure to cooperate for the first six months after A.G.C.-M.’s removal, she was provided additional time to remedy the conditions and given the opportunity for services to assist in the return of her child. However, Appellant still failed to do so.

Specifically, the evidence presented at trial established that A.G.C.-M. was initially removed from Appellant’s care by Emergency Protective Order of October 3, 20219, and has remained out of Appellant’s care for at least six months. *See* 23 Pa.C.S.A. § 2511(a)(5). Further, the conditions which led to the removal — namely, Appellant’s unstable home, drug use, mental health concerns, and prior history with the Agency — continue to exist. Appellant’s conduct has consistently demonstrated she cannot or will not remedy these conditions within a reasonable period of time. *See* 23 Pa.C.S.A. § 2511(a)(5). Appellant is currently incarcerated due to a conviction for, *inter alia*, a drug offense. *See* Erie County Criminal Docket No. CP-25-CR-855-2020. Appellant testified that she planned to live with her grandmother in Erie County upon release, but she provided no further support that the plan was feasible or stable. N.T. at 59. Notably, Appellant made no indication of a plan to continue treatment for her drug addiction and mental health upon release. While she appears to be drug-free and treating her mental health while confined to prison, historically Appellant has not been amenable to treatment when she is not incarcerated. Whether she can maintain her status upon release is merely speculative at this point.

Finally, the termination of Appellant’s rights best serve the needs and welfare of A.G.C.-M. *See* 23 Pa.C.S.A. § 2511(a)(5). The child is placed in a kinship home with her sister. The child has bonded to the kinship family and all of her needs are being met. A.G.C.-M., who has already been waiting over a year for permanency, cannot remain in limbo while Appellant



attempts to remedy her own circumstances, the chances of which are speculative at best.

Also critical to the Court's analysis at subsection (a)(5), the evidence presented at the termination hearing demonstrated there was no evidence of a bond between Appellant and A.G.C.-M. Specifically, Appellant has not physically visited with A.G.C.-M. in over a year. Although Appellant made occasional phone calls to the foster home, the child did not understand Appellant or her parental role. There is no evidence of a parent-child bond or any indication that termination would be detrimental to the child in this situation.

After careful consideration, the Court found OCY proved by clear and convincing evidence that termination of Appellant's parental rights at subsection 2511(a)(5) "would best serve the needs and welfare of the child." Appellant's claim regarding the sufficiency of the evidence at this subsection is without merit.

### 3. Sufficiency of the Evidence at 23 Pa.C.S.A. § 2511(b)

Finally, Appellant's third claim alleges that the Court erred when it found "sufficient evidence was presented to establish that severing Appellant's parental rights was in the best interest of the child." See Statement Pursuant to Pa.R.A.P. 1925 at ¶ 3. Upon a finding that grounds have been established pursuant to one of the subsections of 23 Pa.C.S.A. § 2511(a), the Court must consider § 2511(b), giving "primary consideration to the developmental, physical and emotional needs and welfare of the child ..." 23 Pa.C.S.A. § 2511(b). With respect to the "needs and welfare analysis" mandated by Section 2511(b):

Section 2511(b) focuses on whether termination of parental rights would best serve the developmental, physical, and emotional needs and welfare of the child ... Section 2511(b) does not explicitly require a bonding analysis and the term 'bond' is not defined in the Adoption Act. Case law, however, provides that analysis of the emotional bond, if any, between parent and child is a factor to be considered as part of our analysis. While a parent's emotional bond with his or her child is a major aspect of the subsection 2511(b) best-interest analysis, it is nonetheless only one of many factors to be considered by the court when determining what is in the best interest of the child.

[I]n addition to a bond examination, the trial court can equally emphasize the safety needs of the child, and should also consider the intangibles, such as the love, comfort, security, and stability the child might have with the foster parent. Additionally ... the trial court should consider the importance of continuity of relationships and whether any existing parent-child bond can be severed without detrimental effects on the child.

*In re Adoption of C.D.R.*, 111 A.3d 1212, 1219 (Pa. Super. 2015) (quoting *In re N.A.M.*, 33 A.3d 95, 103 (Pa. Super. 2011)) (internal citations omitted). "[I]n cases where there is no evidence of any bond between the parent and child, it is reasonable to infer that no bond exists." *In re K.Z.S.*, 946 A.2d 753, 762-763 (Pa. Super. 2008) (internal citations omitted).

As discussed *supra*, OCY established by clear and convincing evidence that termination of parental rights would best serve A.G.C.-M.'s developmental, physical, and emotional needs and welfare pursuant to §2511(b).



In addition to considering the extensive evidence justifying termination of Appellant's parental rights at section 2511(a), this Court considered whether there was an existing emotional bond between Appellant and A.G.C.-M., and "whether any existing bond could be severed without detrimental emotional effects on the child." *In re Adoption of C.D.R.*, 111 A.3d at 1219. Indeed, no evidence was presented of an existing bond between Appellant and A.G.C.-M. The child was the tender age of two years old at the time of placement on October 3, 2019. However, in reality the child had been out of Appellant's primary care for the majority of time since at least July 2018, at only six months old. *See supra* at 2-3; 30.

Prior to the formal removal by OCY on October 3, 2019, the child had been in the primary custody of her maternal great-grandmother and maternal grandmother due to Appellant's active addiction, incarceration, and homelessness. Upon removal in October 2019, A.G.C.-M. saw Appellant one time — at a doctor's appointment. Appellant never had an in-person visit with the child throughout this matter. Appellant has made no efforts to exercise physical visitation in over a year. The only contact Appellant has had with A.G.C.-M. has been occasional telephone calls, wherein the child does not even recognize her as the mother. There is simply no evidence that Appellant has been able to provide A.G.C.-M. with the comfort, security, and stability necessary for A.G.C.-M's needs and welfare. Therefore, it is reasonable to conclude that no bond exists and it would not be detrimental to the child to sever the parent-child relationship. *See In re K.Z.S.*, 946 A.2d at 762-763.

Conversely, evidence was presented that A.G.C.-M. is doing well in the kinship home. The home is a preadoptive home. All of A.G.C.-M.'s needs are being met and the child has bonded with the family. A.G.C.-M. also has the benefit of being placed with her biological sister. A.G.C.-M. is receiving the love, comfort, security, and stability necessary for the child's welfare through the kinship home. Evidence demonstrated there is no detrimental impact to A.G.C.-M. if Appellant's parental rights are terminated in this matter.

A.G.C.-M., as any three-year old child, is desperate for consistency and permanency in a loving, safe and stable home. Appellant has failed to demonstrate that she can provide this for A.G.C.-M. Perhaps this case is best summarized by the following brief exchange at the termination hearing between this Court and OCY caseworker, Haley Schaeff:

**THE COURT:** I think the more direct question is, has she ever placed the best interests of the child above her own, through action or deed?

**MS. SCHAEF:** No, she has not.

*Id.* at 41.

Therefore, this Court, after carefully reviewing the circumstances of this case and giving "primary consideration to the developmental, physical and emotional needs and welfare of A.G.C.-M.," found the termination of Appellant's parental rights at subsection 2511(b) to be in A.G.C.-M's best interest. Appellant's claim regarding the sufficiency of the evidence at this subsection is without merit.

### **CONCLUSION**

In conclusion, OCY proved by clear and convincing evidence that the termination of Appellant's parental rights served the best interests and welfare of A.G.C.-M. *See* discussion, *supra*. At no point in the previous ten months (and arguably the past 27 months), has Appellant demonstrated an ability to parent A.G.C.-M. Appellant has never accepted responsibility for her choices and decisions, and is quick to place the blame on others for causing her to be "overwhelmed," resulting in her "giving up." The record is clear Appellant never put the needs of the child above her own and never diligently or earnestly worked to have the child return to her care. Appellant acquiesced to her lifestyle and passively, yet willingly, allowed others to assume her parental responsibilities, to include her grandmother, mother, and now OCY. Any claim by Appellant regarding her desire to now reunify with the child rings hollow because of her personal choices and lack of effort to take the necessary steps to reunify with A.G.C.-M. Therefore, the best interests and welfare of A.G.C.-M. are best served by terminating Appellant's parental rights.

For the reasons set forth above, the issues raised by Appellant are without merit and this Court therefore respectfully requests that the instant appeal be dismissed.

**BY THE COURT**

**/s/ Hon. John J. Trucilla, President Judge**

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

**IN RE THE ADOPTION OF: A.G.C.-M.  
APPEAL OF: L.C., MOTHER**

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 1286 WDA 2020

Appeal from the Decree Entered October 27, 2020

In the Court of Common Pleas of Erie County Orphans' Court at No(s):  
60 in Adoption 2020

BEFORE: STABILE, J., KUNSELMAN, J., and COLINS, J.\*

MEMORANDUM BY COLINS, J.:

**FILED APRIL 30, 2021**

Appellant, L.C. ("Mother"), appeals from the decree entered October 27, 2020, that terminated her parental rights to her child, A.G.C.-M. ("Child"), born 2017. We affirm.

In its opinion, the trial court fully and correctly set forth the relevant facts and procedural history of this case. *See* Trial Court Opinion, dated December 21, 2020, at 1-21. Therefore, we have no reason to restate them at length here.

For the convenience of the reader, we briefly note that, "[o]n July 23, 2020, nearly ten months after th[e] trial c[ourt] made a formal adjudication of dependency, the Erie County Office of Children and Youth (hereinafter 'OCY'), filed a Petition for Involuntary Termination of Parental Rights pursuant to 23 Pa.C.S.[] §§ 2511(a)(1), (a)(2), (a)(5), and (b)." *Id.* at 1 (footnote omitted). Mother had "had no physical contact with [Child] since at least November 2019, when she attended a medical appointment. Between November 2019 and February 2019, [Mother had been] on the run from law enforcement." *Id.* at 29 (citing N.T., 10/27/2020, at *Id.* at 26-29, 36). "A hearing on this Petition was held before th[e] trial c[ourt] on October 27, 2020. [Mother] appeared by video conference from the Erie County Prison." *Id.* at 1 (footnote omitted). At the conclusion of the hearing, the trial Court involuntarily terminated Mother's parental rights to Child.<sup>1</sup> On November 30, 2020, Mother filed this timely<sup>2</sup> direct appeal, along with a concise statement of errors complained of on appeal. *See* Pa.R.A.P. 1925(a)(2)(i).<sup>3</sup>

Mother presents the following issues for our review:

Did the [t]rial [c]ourt abuse its discretion in terminating [Mother]'s parental rights

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\* Retired Senior Judge assigned to the Superior Court.

<sup>1</sup> "By separate Order on October 27, 2020, Father's ([O.M.]'s), parental rights to [Child] were also terminated. However, Father has not appealed the involuntary termination of his parental rights, and therefore [Mother]'s claims are not dependent on Father." Trial Court Opinion, dated December 21, 2020, at 1 n.1.

<sup>2</sup> "Whenever the last day of any such period shall fall on Saturday or Sunday, or on any day made a legal holiday by the laws of this Commonwealth or of the United States, such day shall be omitted from the computation." 1 Pa.C.S. § 1908. Thirty days after October 27, 2020, was Thursday, November 26, 2020, and courts were closed both that day and the Friday thereafter for the Thanksgiving holiday. The next business day following the weekend was November 30, 2020, and Mother's notice of appeal consequently was timely.

<sup>3</sup> The trial court entered its opinion on December 21, 2020. *See* Pa.R.A.P. 1925(a)(2)(ii) .

when the record is comprised of insufficient competent evidence to establish grounds for termination, and when her incarceration was weighed against her?

And, did the [t]rial [c]ourt abuse its discretion by finding that severance of [Mother]’s parental rights would serve the child’s best interest?

Mother’s Brief at 6 (not paginated) (some formatting).

We consider Mother’s issues in light of our well-settled standard of review:

When reviewing an appeal from a decree terminating parental rights, we are limited to determining whether the decision of the trial court is supported by competent evidence. Absent an abuse of discretion, an error of law, or insufficient evidentiary support for the trial court’s decision, the decree must stand. Where a trial court has granted a petition to involuntarily terminate parental rights, this Court must accord the hearing judge’s decision the same deference that we would give to a jury verdict. We must employ a broad, comprehensive review of the record in order to determine whether the trial court’s decision is supported by competent evidence.

The 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.

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. If competent evidence supports the trial court’s findings, we will affirm even if the record could also support the opposite result.

*In re B.J.Z.*, 207 A.3d 914, 921 (Pa. Super. 2019) (internal quotation marks and some internal citations omitted) (some formatting).

Termination of parental rights is governed by Section 2511 of the Adoption Act, 23 Pa.C.S. §§ 2101-2938. “Our case law has made clear that under Section 2511, the court must engage in a bifurcated process prior to terminating parental rights.” *B.J.Z.*, 207 A.3d at 921 (citation omitted).

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 G.M.S.*, 193 A.3d 395, 401 (Pa. Super. 2018) (citation omitted).

**23 Pa.C.S. § 2511(a)**

In the current action, the trial court terminated Mother’s parental rights pursuant to 23

Pa.C.S. § 2511(a)(1), (2), and (5). This Court will affirm if it agrees with the trial court's decision as to anyone subsection of 23 Pa.C.S. § 2511(a). *In re B.L.W.*, 843 A.2d 380, 384 (Pa. Super. 2004) (*en banc*). We affirm the trial court's decision to terminate Mother's parental rights to Child under subsections 2511(a)(1), which provides:

**(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.

23 Pa.C.S. § 2511(a)(1).

Mother contends that OCY “cannot establish grounds for termination under Section 2511(a) as the facts of record do not support the [trial c]ourt’s findings.” Mother’s Brief at 9. She maintains that she “was compliant with [c]ourt-ordered reunification services up until the point at which she became incarcerated” and was on “waiting lists ... for many programs offered in the state prison system,” along with being “able to schedule intake appointments for outpatient recovery programs and religious studies[.]” *Id.* at 13 (citing N.T., 10/27/2020, at 48-49,57-58). Although Mother quotes the language of Section 2511(a)(1), *id.* at 11, she presents no actual arguments specifically related to that subsection.

After a review of the record, the briefs of the parties, the applicable law, and the well-reasoned opinion of the Honorable John J. Trucilla, we conclude that Mother’s challenge pursuant to Section 2511(a)(1) merits no relief. The trial court opinion comprehensively discusses and properly disposes of that claim:

The subject Petition was filed on July 23, 2020. This meant that [Mother]’s conduct since January 23, 2020 (at least six months immediately preceding the filing), was at issue. The totality of the evidence presented at trial established that [Mother]’s conduct between at least January 23, 2020 and July 23, 2020, evidenced [Mother]’s settled purpose of relinquishing parental claim to [Child]. *See* 23 Pa.C.S.[ ] § 2511(a)(1). [Mother] had no physical contact with [Child] since at least November 2019, when she attended a medical appointment. [N.T., 10/27/2020,] at 36. Between November 2019 and February 20[20], [Mother] was on the run from law enforcement. *Id.* at 26-29. During this time, [Mother] did not maintain contact with OCY [n]or work on her treatment plan. *Id.* at 26-27. When [Mother] did finally contact OCY on February 12, 2020, she failed to follow through with turning herself in to probation as she had promised. *Id.* at 51-52. [Mother] had made it clear that she was more concerned with not facing the consequences of her outstanding warrants than she was in reunifying with [Child]. *Id.* at 26-29; 41. Ultimately, [Mother] was arrested on [a] Louisiana warrant, she incurred new charges, and her probation was revoked. *Id.* at 31; *see also*, Erie County Criminal Docket No. CP-25-CR-3093-2018. Due to the new charges and revocation, [Mother] has been incarcerated since February 21, 2020. *Id.* at 31.

During her incarceration, [Mother] has again failed to make “a genuine effort to maintain communication and association with the child.” *In re Z.P.*, 994 A.2d [1108,] 1118-21 [(Pa. Super. 2010)]. This totality of conduct fortifies that [Mother] did not maintain “... continuing interest in the child and a genuine effort to maintain communication and association with the child.” [*Id.* Mother] also failed to “... make diligent efforts towards the reasonably prompt assumption of full parental responsibilities.” *Interest of K.M.W.*, 238 A.3d [465,] 474 [(Pa. Super. 2020) (*en banc*)].

[Mother] has refused or failed to perform parental duties. *See* 23 Pa.C.S.[] § 2511(a)(1). The vital question was whether [Mother] was able to perform parental duties, provide parental care, control or subsistence, and remedy the conditions which led to the initial placement. The evidence demonstrated that [Mother] is not capable of meeting the essential needs of a young child and will be unable to do so within a reasonable amount of time. OCY presented evidence that [Mother] was unable to take custody of [Child] as of the date of the hearing, as she remained incarcerated on an indeterminate sentence. Although [Mother] hoped she might be released sooner, she acknowledged that on paper her cumulative sentence was 17 months minimum to 42 months maximum, with a 3 year probation tail. N.T., [10/27/2020,] at 55-56. [Mother] also acknowledged that she was facing revocation in Louisiana and could incur further incarceration there. *Id.* Any early release and ability to assume custody of [Child] in the near future is speculative at best.

Also critical to the [trial c]ourt’s analysis as to whether [Mother] “evidenced a settled purpose of relinquishing parental claim to the child,” (23 Pa.C.S.[] § 2511(a)(1)), [Mother] failed to keep in contact with OCY and to work her treatment plan during the pendency of the case. While the [trial c]ourt could graciously credit [Mother] with approximately five weeks of compliance, from October to November 2019, she quickly gave up and absconded from her court-ordered supervision. [Mother] explained her conduct, stating:

**[MOTHER]:** ... I actually did comply for, umm — I stopped everything, like, my meetings with [the OCY caseworker] and Justice Works. Umm, and my treatment was Pyramid. I stopped all of that around the exact same time.

**THE COURT:** What time was that?

**[MOTHER]:** Umm, around mid-November.

**THE COURT:** Well, it begs the question, why?

**[MOTHER]:** Well, because I felt like no matter what I tried to do, everything seemed, like, against me. Umm, I know that’s not the way to think when you — you know, my child is involved, and it, involves, umm, getting her back.

N.T.[‘ 10/27/2020,] at 49. The [trial c]ourt reminded [Mother] the first permanency

hearing had not yet occurred by mid-November, and at the time the goal was still reunification. *Id.* Importantly, the [trial c]ourt had not even had the opportunity to assess [Mother]’s compliance with the treatment plan or consider a modification. *Id.* [Mother] conceded these facts, continuing:

**[MOTHER]:** Right. I’m not — I’m talking about everything else.

**THE COURT:** Okay.

**[MOTHER]:** Along with — like, I was on county probation, I had to do community service for them. I was on state parole. And I was doing, umm intensive outpatient through Pyramid. And then I was meeting with [the OCY caseworker]. I met with her — I think it was at Justice Works, where we, umm, set up, like parenting, and stuff like that. Umm, on top of it I had to go to regular groups, and things like that. I had to report to county probation. I just — I got overwhelmed with all of that. On top of Louisiana at the last minute. I tried to — umm, they had a hearing for me scheduled December 5th. And I tried to reschedule that with my attorney down there. I couldn’t get in touch with him.

And because I couldn’t make that hearing, I felt like everything else would fall. Like, as in, my probation, and things like that. And I did give up. And I shouldn’t have, considering, like I said, my child. Umm, I got overwhelmed. And instead of me talking to someone about it, I didn’t. I just quit.

*Id.* at 49-50. It is clear that [Mother]’s protestation of being “overwhelmed” is due to her own choices of drug use and criminal activity, leading to her incarceration and parole supervision.

[Mother] has failed to “exercise reasonable firmness in resisting the obstacles which limit ... her ability to maintain the parent/child relationship.” *See In re J. T.M.*, 193 A.3d [403,] 410-11 [(Pa. Super. 2010)]. [Mother] made minimal, if any, effort to overcome the obstacles of drug use and her criminal behavior which took her away from the child. Importantly, this was the first time [Mother] had complained of being “overwhelmed” by the services outlined in the treatment plan and further eroded any remnant of credibility to this claim. Further supporting th[e trial c]ourt’s finding that OCY met its burden by clear and convincing evidence to terminate [Mother]’s parental rights pursuant to § 2511(a)(1) was the fact that [Mother] had never had a visit with the child throughout the life of this dependency case. [Mother] went to one medical appointment for [Child]. This reinforced that [Mother] “refused or failed to perform parental duties.” 23 Pa.C.S.[] § 2511(a)(1).

After a close examination of [Mother]’s “individual circumstances” and consideration of [Mother]’s explanations for her failure to perform her parental duties, the [trial c]ourt found the “totality of the circumstances” supported termination of [Mother]’s parental



rights at subsection 2511(a)(1). *In re Adoption of A.C.*, 162 A.3d [1123,] 1129 [(Pa. Super. 2017)]. Clearly, as demonstrated, there was sufficient and ample evidence to support th[e trial c]ourt’s finding that [Mother]’s conduct of complete noncompliance with court-ordered treatment and her virtual abandonment of the child through her flight from criminal consequences “evidenced a settled purpose of relinquishing parental claim to a child.” 23 Pa.C.S.[ ] § 2511(a)(1).

Trial Court Opinion, dated December 21, 2020, at 28-32.

Based on the foregoing, we find that the trial court did not err nor abuse its discretion in finding that the statutory grounds for terminating Mother’s parental rights pursuant to 23 Pa.C.S. § 2511(a)(1) were established through clear and convincing evidence. *See B.J.Z.*, 207 A.3d at 921. In reaching this conclusion, we are reminded of the words of our Supreme Court:

A decision to terminate parental rights, never to be made lightly or without a sense of compassion for the parent, can seldom be more difficult than when termination is based upon parental incapacity. The legislature, however, in enacting the 1970 Adoption Act, concluded that a parent who is incapable of performing parental duties is just as parentally unfit as one who refuses to perform the duties.

*In re Adoption of S.P.*, 47 A.3d 817, 827 (Pa. 2012).

**23 Pa.C.S. § 2511(b)**

Since a court must engage in a bifurcated process prior to terminating parental rights, *B.J.Z.*, 207 A.3d at 921, we next consider Section 2511(b), which provides:

The court in terminating the right 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.

23 Pa.C.S. § 2511(b).

Section 2511(b) focuses on whether termination of parental rights would best serve the developmental, physical, and emotional needs and welfare of the child. As this Court has explained, Section 2511(b) does not explicitly require a bonding analysis and the term ‘bond’ is not defined in the Adoption Act. Case law, however, provides that analysis of the emotional bond, if any, between parent and child is a factor to be considered as part of our analysis. While a parent’s emotional bond with his or her child is a major aspect of the subsection 2511(b) best-interest analysis, it is nonetheless only one of many factors to be considered by the court when determining what is in the best interest of the child.

In addition to a bond examination, the trial court can equally emphasize the safety needs of the child, and should also consider the intangibles, such as the love, comfort, security, and stability the child might have with the foster parent. Additionally, this Court stated that

the trial court should consider the importance of continuity of relationships and whether any existing parent-child bond can be severed without detrimental effects on the child.

*G.M.S.*, 193 A.3d at 401 (citation and internal brackets omitted) (some formatting).

Mother's entire argument concerning Section 2511(b) is as follows:

With respect to the evidence presented concerning [C]hild's best interests and the potential effect of termination, the only facts of record are that [C]hild is in a pre-adoptive home where she seems loved and cared for, and that reports from that placement resource indicated that she (the resource) did not believe that severance of parental rights would have an impact on [C]hild[. N.T., 10/27/2020, at] 38-39. This evidence is insufficient to support a finding under Sec. 2511(b).

Mother's Brief at 14 (some formatting).

Again, after a review of the record, the briefs of the parties, the relevant law, and Judge Trucilla's cogent analysis, we conclude that Mother's challenge pursuant to Section 2511(b) likewise merits no relief. The trial court opinion carefully examines and correctly disposes of that claim:

[N]o evidence was presented of an existing bond between [Mother] and [Child]. [C]hild was the tender age of two years old at the time of placement on October 3, 2019. However, in reality the child had been out of [Mother]'s primary care for the majority of time since at least July 2018, at only six months old.

Prior to the formal removal by OCY on October 3, 2019, [C]hild had been in the primary custody of her maternal great-grandmother and maternal grandmother due to [Mother]'s active addiction, incarceration, and homelessness. Upon removal in October 2019, [Child] saw [Mother] one time — at a doctor's appointment. [Mother] never had an in-person visit with [C]hild throughout this matter. [Mother] has made no efforts to exercise physical visitation in over a year. The only contact [Mother] has had with [Child] has been occasional telephone calls, wherein [C]hild does not even recognize her as the mother. There is simply no evidence that [Mother] has been able to provide [Child] with the comfort, security, and stability necessary for [Child]'s needs and welfare. Therefore, it is reasonable to conclude that no bond exists and it would not be detrimental to [C]hild to sever the parent-child relationship. *See In re K.Z.S.*, 946 A.2d [753,] 762-763 [(Pa. Super. 2008)].

Conversely, evidence was presented that [Child] is doing well in the kinship home. The home is a preadoptive home. All of [Child]'s needs are being met and [C]hild has bonded with the family. [Child] also has the benefit of being placed with her biological sister. [Child] is receiving the love, comfort, security, and stability necessary for [C]hild's welfare through the kinship home. Evidence demonstrated there is no detrimental impact to [Child] if [Mother]'s parental rights are terminated in this matter.

[Child], as any three-year[-]old child, is desperate for consistency and permanency in a loving, safe and stable home. [Mother] has failed to demonstrate that she can provide this for [Child]. Perhaps this case is best summarized by the following brief exchange at the termination hearing between th[e trial c]ourt and [the] OCY caseworker ... :

**THE COURT:** I think the more direct question is, has [Mother] ever placed the best interests of the child above her own, through action or deed?

**[OCY CASEWORKER]:** No, she has not.

[N.T., 10/27/2020,] at 41.

Therefore, th[e trial c]ourt, after carefully reviewing the circumstances of this case and giving “primary consideration to the developmental, physical and emotional needs and welfare of [Child],” found the termination of [Mother]’s parental rights at subsection 2511(b) to be in [Child]’s best interest. [Mother]’s claim regarding the sufficiency of the evidence at this subsection is without merit.

Trial Court Opinion, dated December 21, 2020, at 40-41.

Based on the foregoing, we conclude the trial court did not abuse its discretion by terminating Mother’s parental rights to Child. Accordingly, we affirm.

Decree affirmed.

Judgment Entered.

/s/ Joseph D. Seletyn, Esq.

Prothonotary

Date: 04/30/2021



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**CHANGE OF NAME NOTICE**

In the Court of Common Pleas of Erie County Pennsylvania 10963-2021 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Avianna Rose Braswell to Avianna Rose Bottoni.

The Court has fixed the 21st day of June, 2021 at 10:30 a.m. in Court Room G, Room 222, of the Erie County Court House, 140 West Sixth Street, Erie, Pennsylvania 16501 as the time and place for the Hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

May 21

**CHANGE OF NAME NOTICE**

In the Court of Common Pleas of Erie County, Pennsylvania 10967-2021 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Kortney Elizabeth Reese to Spencer Avery Saurwein.

The Court has fixed the 22nd day of June, 2021 at 9:00 a.m. in Court Room G, Room 222, of the Erie County Court House, 140 West 6th Street, Erie, Pennsylvania 16501 as the time and place for the Hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

May 21

**CHANGE OF NAME NOTICE**

In the Court of Common Pleas of Erie County, Pennsylvania 11002-21 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Kaitlynn Nicole Wagner to Kaitlynn Nicole Pfeiffer.

The Court has fixed the 30th day of June, 2021 at 9:00 a.m. in Court Room G, Room 222, of the Erie County Court House, 140 West 6th Street, Erie, Pennsylvania 16501 as the time and place for the Hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why

the prayer of the Petitioner should not be granted.

May 21

**CHANGE OF NAME NOTICE**

In the Court of Common Pleas of Erie County, Pennsylvania 10901-21 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Connor R. Walls to Conner Reagan Dunkle.

The Court has fixed the 9th day of June, 2021 at 2:00 p.m. in Court Room G, Room 222, of the Erie County Court House, 140 West 6th Street, Erie, Pennsylvania 16501 as the time and place for the Hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

May 21

**INCORPORATION NOTICE**

Notice is hereby given of the incorporation of Corry Area Memorial Catholic Charities, Inc. under the Nonprofit Corporation Law of 1988 by the filing of Articles of Incorporation with the Department of State.

Paul J. Carney, Jr., Esq.  
224 Maple Avenue  
Corry, Pennsylvania 16407

May 21

**INCORPORATION NOTICE**

Seifert Cement Contracting and Building Restoration, Inc. has been incorporated under the provisions of the Business Corporation Law of 1988, as amended.

Richard E. Filippi, Esquire  
Richard E. Filippi & Associates, P.C.  
102 East 4th Street  
Erie, PA 16507

May 21

**INCORPORATION NOTICE**

Notice is hereby given that YOUNG'S RENTALS, INC. has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988.

Gary M. Alizzeo, Esq.  
SHAFFER LAW FIRM, P.C.  
890 Market Street  
Meadville, PA 16335

May 21

**LEGAL NOTICE**

ATTENTION: UNKNOWN BIOLOGICAL FATHER

INVOLUNTARY TERMINATION OF PARENTAL RIGHTS IN THE MATTER OF THE ADOPTION OF MINOR FEMALE CHILD H.S.Q.K. DOB: 06/26/2019

BORN TO: JAMIE LYNN KOPNITSKY  
43 IN ADOPTION, 2021

If you could be the parent of the above-mentioned child, at the instance of Erie County Office of Children and Youth you, laying aside all business and excuses whatsoever, are hereby cited to be and appear before the Orphan's Court of Erie County, Pennsylvania, at the Erie County Court House, Judge Stephanie Domitrovich, Courtroom G-222, City of Erie on June 24, 2021 at 1:30 p.m. and there show cause, if any you have, why your parental rights to the above child should not be terminated, in accordance with a Petition and Order of Court filed by the Erie County Office of Children and Youth. A copy of these documents can be obtained by contacting the Erie County Office of Children and Youth at (814) 451-7740.

Your presence is required at the Hearing. If you do not appear at this Hearing, the Court may decide that you are not interested in retaining your rights to your children and your failure to appear may affect the Court's decision on whether to end your rights to your child. You are warned that even if you fail to appear at the scheduled Hearing, the Hearing will go on without you and your rights to your child may be ended by the Court without your being present.

You have a right to be represented at the Hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer, or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Family/Orphan's Court Administrator  
Room 204 - 205  
Erie County Court House  
Erie, Pennsylvania 16501  
(814) 451-6251

NOTICE REQUIRED BY ACT 101

OF 2010: 23 Pa. C.S. §§2731-2742. This is to inform you of an important option that may be available to you under Pennsylvania law. Act 101 of 2010 allows for an enforceable voluntary agreement for continuing contact or communication following an adoption between an adoptive parent, a child, a birth parent and/or a birth relative of the child, if all parties agree and the voluntary agreement is approved by the court. The agreement must be signed and approved by the court to be legally binding. If you are interested in learning more about this option for a voluntary agreement, contact the Office of Children and Youth at (814) 451-6688, or contact your adoption attorney, if you have one.

May 21

**LEGAL NOTICE**

**ATTENTION: HEATHER JEAN SMITH**

**INVOLUNTARY TERMINATION OF PARENTAL RIGHTS IN THE MATTER OF THE ADOPTION OF MINOR MALE CHILD M.H.R. DOB: 11/17/18 MINOR FEMALE CHILD P.A.R. DOB: 10/18/20 20 & 20A IN ADOPTION 2021**

If you could be the parent of the above-mentioned child, at the instance of Erie County Office of Children and Youth you, laying aside all business and excuses whatsoever, are hereby cited to be and appear before the Orphan's Court of Erie County, Pennsylvania, at the Erie County Court House, Judge Stephanie Domitrovich, Court Room No. G-222, City of Erie on June 16, 2021 at 1:30 p.m. and there show cause, if any you have, why your parental rights to the above children should not be terminated, in accordance with a Petition and Order of Court filed by the Erie County Office of Children and Youth. A copy of these documents can be obtained by contacting the Erie County Office of Children and Youth at (814) 451-7740.

Your presence is required at the Hearing. If you do not appear at this Hearing, the Court may decide that you are not interested in retaining your rights to your children and

your failure to appear may affect the Court's decision on whether to end your rights to your child. You are warned that even if you fail to appear at the scheduled Hearing, the Hearing will go on without you and your rights to your child may be ended by the Court without your being present.

You have a right to be represented at the Hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer, or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Family/Orphan's Court Administrator  
Room 204 - 205

Erie County Court House  
Erie, Pennsylvania 16501

(814) 451-6251

**NOTICE REQUIRED BY ACT 101 OF 2010: 23 Pa. C.S. §§2731-2742.** This is to inform you of an important option that may be available to you under Pennsylvania law. Act 101 of 2010 allows for an enforceable voluntary agreement for continuing contact or communication following an adoption between an adoptive parent, a child, a birth parent and/or a birth relative of the child, if all parties agree and the voluntary agreement is approved by the court. The agreement must be signed and approved by the court to be legally binding. If you are interested in learning more about this option for a voluntary agreement, contact the Office of Children and Youth at (814) 451-6688, or contact your adoption attorney, if you have one.

May 21

**LEGAL NOTICE**

**ATTENTION: NICHOLAS RENNINGER**

**INVOLUNTARY TERMINATION OF PARENTAL RIGHTS IN THE MATTER OF THE ADOPTION OF MINOR MALE CHILD M.H.R. DOB: 11/17/18 MINOR FEMALE CHILD P.A.R. DOB: 10/18/20 BORN TO: HEATHER JEAN SMITH**

**20 & 20A IN ADOPTION 2021**

If you could be the parent of the above-mentioned children, at the

instance of Erie County Office of Children and Youth you, laying aside all business and excuses whatsoever, are hereby cited to be and appear before the Orphan's Court of Erie County, Pennsylvania, at the Erie County Court House, Judge Stephanie Domitrovich, Court Room No. G-222, City of Erie on June 16, 2021 at 1:30 p.m. and there show cause, if any you have, why your parental rights to the above children should not be terminated, in accordance with a Petition and Order of Court filed by the Erie County Office of Children and Youth. A copy of these documents can be obtained by contacting the Erie County Office of Children and Youth at (814) 451-7740.

Your presence is required at the Hearing. If you do not appear at this Hearing, the Court may decide that you are not interested in retaining your rights to your children and your failure to appear may affect the Court's decision on whether to end your rights to your children. You are warned that even if you fail to appear at the scheduled Hearing, the Hearing will go on without you and your rights to your children may be ended by the Court without your being present.

You have a right to be represented at the Hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer, or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Family/Orphan's Court Administrator  
Room 204 - 205

Erie County Court House  
Erie, Pennsylvania 16501

(814) 451-6251

**NOTICE REQUIRED BY ACT 101 OF 2010: 23 Pa. C.S. §§2731-2742.** This is to inform you of an important option that may be available to you under Pennsylvania law. Act 101 of 2010 allows for an enforceable voluntary agreement for continuing contact or communication following an adoption between an adoptive parent, a child, a birth parent and/or a birth relative of the child, if all parties agree and the voluntary agreement is approved by the court. The agreement must be signed and



approved by the court to be legally binding. If you are interested in learning more about this option for a voluntary agreement, contact the Office of Children and Youth at (814) 451-6688, or contact your adoption attorney, if you have one.

May 21

**LEGAL NOTICE**

IN THE COURT OF COMMON  
PLEA OF ERIE COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW  
NO. 12703-20

LINDA JORDAN, Plaintiff

v.

ANNA M. WINSCHER and

JAMES J. WINSCHER,

Defendants

**ANNAM. WINSCHER and JAMES J. WINSCHER, *SHOULD TAKE NOTICE* that Linda Jordan has filed a Complaint in Mortgage Foreclosure against them concerning 5.949 acres of land (5.812 net acres including road right-of-way) located on Lake Pleasant Road, Millcreek Township, Erie County, Pennsylvania and bearing Erie County Tax Index Number (33)196-641-12.02.**

**NOTICE**

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you

fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyers Referral &

Information Service

PO Box 1792

Erie, PA 16507

(814) 459-4411

MARSH SCHAAF, LLP

Gary V. Skiba, Esq.

300 State Street, Suite 300

Erie, PA 16507

814/456-5301

Attorney for Plaintiff

PA Attorney I.D. No. 18153

May 21



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**AUDIT LIST  
NOTICE BY  
KENNETH J. GAMBLE**

**Clerk of Records  
Register of Wills and Ex-Officio Clerk of  
the Orphans' Court Division, of the  
Court of Common Pleas of Erie County, Pennsylvania**

The following Executors, Administrators, Guardians and Trustees have filed their Accounts in the Office of the Clerk of Records, Register of Wills and Orphans' Court Division and the same will be presented to the Orphans' Court of Erie County at the Court House, City of Erie, on **Wednesday, May 12, 2021** and confirmed Nisi.

**June 23, 2021** is the last day on which Objections may be filed to any of these accounts.

Accounts in proper form and to which no Objections are filed will be audited and confirmed absolutely. A time will be fixed for auditing and taking of testimony where necessary in all other accounts.

<u>2021</u>	<u>ESTATE</u>	<u>ACCOUNTANT</u>	<u>ATTORNEY</u>
131	Mary A. Terrill.....	Kristin Stravinsky, Administratrix.....	Darlene M. Vlahos, Esq.
132	Robert K. Allen .....	Madeleine L. Allen, Executrix .....	Thomas J. Minarcik, Esq.

KENNETH J. GAMBLE  
Clerk of Records  
Register of Wills &  
Orphans' Court Division

May 21, 28

**ESTATE NOTICES**

Notice is hereby given that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same and all persons indebted to said estates are requested to make payment without delay to the executors or their attorneys named below.

**FIRST PUBLICATION****CARROLL, MARTIN J.,  
deceased**

Late of the Township of Millcreek, Erie County, Commonwealth of Pennsylvania

*Co-executors:* Sean T. Carroll, Michelle D. Carroll and Colleen M. Shaw, c/o Knox Law Firm, 120 W. 10th St., Erie, PA 16501

*Attorney:* Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West 10th Street, Erie, PA 16501

**COLEMAN, GEORGE, a/k/a  
GEORGE E. COLEMAN, a/k/a  
GEORGE EUGENE  
COLEMAN, JR.,  
deceased**

Late of Harborcreek Township, County of Erie

*Executrix:* Sandy Jeffery, 855 Villa Sites Road, Harborcreek, Pennsylvania 16421

*Attorney:* John Mir, Esquire, 2530 Village Common Dr., Suite B, Erie, Pennsylvania 16506

**CONNELLY, JOHN M.,  
deceased**

Late of Lawrence Park Township, Erie County

*Administratrix:* Lisa D. Connelly  
*Attorney:* Edwin W. Smith, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

**D'ALBORA, JEANNE LOUISE,  
a/k/a JEANNE LOUISE GRICE,  
a/k/a JEANNE D'ALBORA, a/k/a  
JEANNE L. D'ALBORA,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania

*Executrix:* Melissa L. Fox, c/o James J. Bruno, Esquire, 3820 Liberty Street, Erie, PA 16509

*Attorney:* James J. Bruno, Esquire, 3820 Liberty Street, Erie, PA 16509

**D'AURORA, GERALD N., a/k/a  
JERRY D'AURORA,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania

*Executor:* Peter J. Smith, c/o Adam E. Barnett, Esq., 234 West Sixth Street, Erie, PA 16507

*Attorney:* Adam E. Barnett, Esq., Bernard Stuczynski Barnett & Lager, PLLC, 234 West Sixth Street, Erie, PA 16507

**JANOSKY, DAVID M.,  
deceased**

Late of the City of Erie, County of Erie, Pennsylvania

*Co-executors:* Chuck Snider and Joann Young, c/o 502 Parade Street, Erie, PA 16507

*Attorney:* Gregory L. Heidt, Esquire, 502 Parade Street, Erie, PA 16507

**JOHNSON, VIRGINIA M.,  
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania

*Executor:* Scott A. Johnson, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506  
*Attorney:* Colleen R. Stumpf, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

**KILBANE, DAVID EDWARD,  
a/k/a DAVID E. KILBANE, a/k/a  
DAVID KILBANE,  
deceased**

Late of the Borough of Wesleyville, County of Erie, Commonwealth of Pennsylvania

*Administratrix:* Deborah A. Kilbane, 2211 Taggart Street, Erie, PA 16510

*Attorney:* Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**KNAPP, CAROL ANN, a/k/a  
CAROL A. KNAPP, a/k/a  
CAROL KNAPP,  
deceased**

Late of the Township of Fairview, County of Erie and State of Pennsylvania

*Executrix:* Mary G. Gollmer, 2322 Rice Avenue, Lake City, PA 16423

*Attorney:* Ronald J. Susmarksi, Esq., 4030 West Lake Road, Erie, PA 16505

**KUDLOCK, MARILYN E., a/k/a  
MARILYN KUDLOCK,  
deceased**

Late of the City of Erie, County of Erie

*Executor:* Kurt P. Kudlock, 4313 East Center Street, Conneaut, Ohio 44030

*Attorney:* Kari A. Foress, Esquire, CARNEY & GOOD, 254 West Sixth Street, Erie, Pennsylvania 16507

**McCALLUM, PHYLLIS M.,  
deceased**

Late of Erie, Erie County, Pennsylvania

*Co-administratrices:* Celeste McCallum, 318 E. 25th St., Erie, PA 16503 and Samone L. Norton, 862 E. 28th St., Apt. 2, Erie, PA 16507

*Attorney:* Michael E. Megrey, Esquire, Woomer & Talarico LLC, 2945 Banksville Road, Suite 200, Pittsburgh, PA 15216-2749

**STRASSER, YVONNE M.,  
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Co-executors:* Robert W. Strasser, Jr. and David M. Strasser, c/o Jerome C. Wegley, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**UHT, GERARD T., a/k/a  
GERARD T. UHT, SR., a/k/a  
JERRY T. UHT,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania  
*Personal Representative:* PNC Bank N.A., c/o Thomas C. Hoffman, II, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Thomas C. Hoffman, II, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**SECOND PUBLICATION**

**BURCH, KATHLEEN MARIE,  
a/k/a KATHLEEN M. BURCH,  
deceased**

Late of Lake City, Erie County, Commonwealth of Pennsylvania  
*Administratrix:* Diane Kaputa, c/o Kevin W. Barron, Esq., 821 State Street, Erie, PA 16501  
*Attorney:* Kevin W. Barron, Esq., 821 State Street, Erie, PA 16501

**COLLINS, PATRICIA A.,  
deceased**

Late of 2638 Hazel Street, City of Erie, Erie County, Pennsylvania  
*Executor:* Frank E. Scutella, c/o 2580 West 8th Street, Erie, Pennsylvania 16505  
*Attorney:* Ralph R. Riehl, III, Esquire, 2580 West 8th Street, Erie, Pennsylvania 16505

**DANGELO, PAUL JOHN, JR.,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania  
*Administratrix:* Heather Barnard, c/o Nathaniel K. Conti, Esq., 234 West Sixth Street, Erie, PA 16507  
*Attorney:* Nathaniel K. Conti, Esq., Bernard Stuczynski Barnett & Lager, PLLC, 234 West Sixth Street, Erie, PA 16507

**DUDA, LEON A., a/k/a  
LEON DUDA, a/k/a  
LEON DUDA, JR., a/k/a  
LEON ANTHONY DUDA, JR.,  
a/k/a LEON A. DUDA, JR.,  
deceased**

Late of North East, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Richard M. Duda, c/o W. Atchley Holmes, Esq., Suite 300, 300 State Street, Erie, PA 16507  
*Attorney:* W. Atchley Holmes, Esq., MARSH SCHAAF, LLP., Suite 300, 300 State Street, Erie, PA 16507

**GRACZYK, JOSEPH R.,  
deceased**

Late of Greene Township, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Emme A. Graczyk, 8709 Kirsch Road, Erie, PA 16510  
*Attorneys:* MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

**JABLONSKI, KENNETH E.,  
a/k/a KENNETH EUGENE  
JABLONSKI,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Andrew A. Jablonski, c/o Kurt L. Sundberg, Esq., Suite 300, 300 State Street, Erie, PA 16507  
*Attorney:* Kurt L. Sundberg, Esq., MARSH SCHAAF, LLP, Suite 300, 300 State Street, Erie, PA 16507

**KOWALCZYK, WANDA,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania  
*Executrix:* Marlene R. Brannon, c/o Nadia A. Havard, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Nadia A. Havard, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**MANGOLD, PAUL R., a/k/a  
PAUL R. MANGOLD, JR., a/k/a  
PAUL MANGOLD,  
deceased**

Late of the Borough of Girard, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Mari Joanne Martinelli, 345 Tony Drive, Conneaut, OH 44030  
*Attorney:* Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**PETRONE, PATRICIA IRENE,  
a/k/a PATRICIA KIRSCH  
PETRONE,  
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Christine A. Gant, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506  
*Attorney:* Melissa L. Larese, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

**RICHARDSON, ANNA L.,  
deceased**

Late of Millcreek Township, County of Erie and Commonwealth of Pennsylvania  
*Executor:* PNC Bank, National Association, 901 State Street, Erie, PA 16501  
*Attorneys:* MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

**RODAK, AIMEE E., a/k/a  
AIMEE ELVA RODAK,  
deceased**

Late of Edinboro Borough, Erie County, Pennsylvania  
*Executrix:* Rhonda R. Kurczewski, c/o Jeffrey D. Scibetta, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Jeffrey D. Scibetta, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**SCHOEN, BONITA J.,  
deceased**

Late of North East Township, Erie County, North East, PA  
*Executor:* Christopher Schoen, c/o 33 East Main Street, North East, Pennsylvania 16428  
*Attorney:* Robert J. Jeffery, Esq., Knox McLaughlin Gornall & Sennett, P.C., 33 East Main Street, North East, Pennsylvania 16428

**SHEARER, LINDA L., a/k/a  
LINDA SHEARER, a/k/a  
LINDA LEE SHEARER,  
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Ronald D. Washe, 5440 Herman Drive, Erie, PA 16509  
*Attorney:* Grant M. Yochim, Esq., 24 Mean St. E., P.O. Box 87, Girard, PA 16417

**SUNDBERG, VIRGINIA L., a/k/a  
VIRGINIA LEE SUNDBERG,  
deceased**

Late of the Township of Fairview, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Eugene C. Sundberg, Jr., c/o Kurt L. Sundberg, Esq., Suite 300, 300 State Street, Erie, PA 16507  
*Attorney:* Kurt L. Sundberg, Esq., MARSH SCHAAF, LLP, Suite 300, 300 State Street, Erie, PA 16507

**SZCZESNY, ALICE H.,  
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Kathleen A. Olson, 2247 Clark Road, Erie, PA 16510  
*Attorneys:* MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

**TEAS, MARY, a/k/a  
MARY A. TEAS, a/k/a  
MARY ANN TEAS,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Juliette S. Olshock, c/o James J. Bruno, Esquire, 3820 Liberty Street, Erie, PA 16509  
*Attorney:* James J. Bruno, Esquire, 3820 Liberty Street, Erie, PA 16509

**WOLF, RICHARD J.,  
deceased**

Late of 8167 Highline Boulevard, Summit Township, Erie County, Pennsylvania  
*Administratrix:* Margaret Wolf, c/o 2580 West 8th Street, Erie, Pennsylvania 16505  
*Attorney:* Ralph R. Riehl, III, Esquire, 2580 West 8th Street, Erie, Pennsylvania 16505

**ZAVASKY, DOROTHY,  
deceased**

Late of the City of Erie, Erie County, Commonwealth of Pennsylvania  
*Executor:* Michael S. Zavasky, c/o Knox Law Firm, 120 W. 10th St., Erie, PA 16501  
*Attorney:* Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West 10th Street, Erie, PA 16501

**THIRD PUBLICATION**

**BRIGAMAN, GLENN K., JR.,  
a/k/a GLENN K. BRIGMAN, a/k/a  
GLENN BRIGAMAN, JR., a/k/a  
GLENN BRIGAMAN,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Kevin G. Brigaman, c/o 210 West 6th Street, Erie, PA 16507  
*Attorney:* Joseph T. Messina, Esquire, 210 West 6th Street, Erie, PA 16507

**DANKO, VIOLA, a/k/a  
VIOLA PEARL DANKO,  
deceased**

Late of McKean Twp., Erie County, PA  
*Administrator D.B.N. C.T.A.:* Robert L. Cowan, c/o Kristen R. Matthews, Esq., 17 W. Miner St., West Chester, PA 19382;  
*Attorney:* Kristen R. Matthews, Esq., MacElree Harvey, Ltd., 17 W. Miner St., West Chester, PA 19382

**ELLER, CAROLA.,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Linda C. Sauers, c/o James E. Marsh, Jr., Esq., Suite 300, 300 State Street, Erie, PA 16507  
*Attorney:* James E. Marsh, Jr., Esq., MARSH SCHAAF, LLP, Suite 300, 300 State Street, Erie, PA 16507

**FATH, CHARLES ANTHONY, III,  
a/k/a CHARLES A. FATH, a/k/a  
CHARLES FATH, a/k/a  
CHUCK FATH,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Co-administrators:* Casey R. Fath and Shelly C. Fath, c/o 504 State Street, 3rd Floor, Erie, PA 16501  
*Attorney:* Michael J. Nies, Esquire, 504 State Street, 3rd Floor, Erie, PA 16501

**HULTMAN, CALEB THEODORE, deceased**

Late of Warren City, Warren County, Pennsylvania  
*Administrator:* Stephen Hultman, c/o Andrew G. Rothey, Esq., Rosen & Perry, P.C., The Frick Building, Suite 200, 437 Grant Street, Pittsburgh, PA 15219  
*Attorney:* Andrew G. Rothey, Esq., Rosen & Perry, P.C., The Frick Building, Suite 200, 437 Grant Street, Pittsburgh, PA 15219

**LIEGL, LOUISE J., a/k/a LOUISE LIEGL, a/k/a LOUISE J. LIEGEL, deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Richard F. Liegl, c/o 504 State Street, 3rd Floor, Erie, PA 16501  
*Attorney:* Michael J. Nies, Esquire, 504 State Street, 3rd Floor, Erie, PA 16501

**MARINO, JUDITH A., a/k/a JUDITH A. NUNES MARINO, deceased**

Late of the City of Erie, County of Erie and State of Pennsylvania  
*Executrix:* Karen M. Feron, c/o Denis W. Krill, P.C., 309 French Street, Erie, Pennsylvania 16507-1542  
*Attorney:* Denis W. Krill, Esquire, Denis W. Krill, P.C., 309 French Street, Erie, Pennsylvania 16507-1542

**PETRONE, THOMAS A., a/k/a THOMAS PETRONE, deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Shauna Thompson, 4559 Franklin Road, Fairview, PA 16415  
*Attorney:* Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**SEMELKA, ROBERT A., deceased**

Late of North East Township, Erie County, Pennsylvania  
*Executor:* Robert D. Semelka, c/o Thomas C. Hoffman, II, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Thomas C. Hoffman, II, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**VIEIRA, AUDREY A., a/k/a AUDREY ARLENE VIEIRA, deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Co-executors:* James A. Vieira and Therese A. Vieira, c/o John J. Shimek, III, Esquire, Sterrett Mott Breski & Shimek, 345 West 6th Street, Erie, PA 16507  
*Attorney:* John J. Shimek, III, Esquire, Sterrett Mott Breski & Shimek, 345 West 6th Street, Erie, PA 16507

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## **ECBA Mid-year Membership Meeting**

**Wednesday, June 9 via Zoom**

**11:00 a.m.**

**Accountants and Financial Planners:  
What Your Small Business Clients and Your Firm Should Know**  
hosted by the Women's Division, CLE 1 substantive

**12:00 p.m.**

**Close of CLE/Start Mid-year Meeting**

**12:05 p.m.**

**Opening Remarks/Agenda Preview  
Approval of 2020 Annual Meeting Minutes  
Financial Report  
ECBA Business Report**

**12:35 p.m.**

Diversity and Inclusion Division presents  
**"African Americans in Erie County: Trail of a Shared Heritage"**  
by educator and Erie community historian Johnny Johnson  
chronicles key people, places and events and how they contributed to  
the region's economic, political and cultural history

**Register at:**

**<https://www.eriebar.com/events/public-registration/1726>**

## CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

MARK J. KUJAR .....814-870-7603  
MacDonald Illig Jones & Britton LLP  
100 State Street, Suite 700  
Erie, PA 16507 .....*mkujar@mijb.com*



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