

No.

IN THE

Supreme Court of the United States

IN THE INTEREST OF W.A.C, C.M.C., AND A.C.C.,
MINORS

PETITION OF S.C., MOTHER

On Petition for Writ of Certiorari to the Supreme
Court of Pennsylvania for Its Denial of Allocatur of
the Decision of the Superior Court of Pennsylvania

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1) Did the Opinions of the Pennsylvania Courts constitute erroneous factual findings and / or misapplications of properly stated rules of law, as well as failing to provide Petitioner with Due Process as required by the Constitution of the United States?

**LIST OF ALL DIRECTLY RELATED
PROCEEDINGS**

Court of Common Pleas of Philadelphia County, Juvenile Division; *In the Interest of W.A.C., A Minor*, Case No. CP-51-DP-0000103-2020; Order entered on April 20, 2022 and Opinion entered on June 28, 2022.

Court of Common Pleas of Philadelphia County, Juvenile Division; *In the Interest of W.A.C., A Minor*, Case No. CP-51-AP-0000184-2021; Order entered on April 20, 2022 and Opinion entered on June 28, 2022.

Court of Common Pleas of Philadelphia County, Juvenile Division; *In the Interest of C.M.C., A Minor*, Case No. CP-51-DP-0000164-2020; Order entered on April 20, 2022 and Opinion entered on June 28, 2022.

Court of Common Pleas of Philadelphia County, Juvenile Division; *In the Interest of C.M.C., A Minor*, Case No. CP-51-AP-0000183-2021; Order entered on April 20, 2022 and Opinion entered on June 28, 2022.

Court of Common Pleas of Philadelphia County, Juvenile Division; *In the Interest of A.C.C., A Minor*, Case No. CP-51-DP-0000212-2020; Order entered on April 20, 2022 and Opinion entered on June 28, 2022.

Court of Common Pleas of Philadelphia County, Juvenile Division; *In the Interest of A.C.C., A Minor*, Case No. CP-51-AP-0000182-2021; Order entered on

April 20, 2022 and Opinion entered on June 28, 2022.

Superior Court of Pennsylvania, *In the Interest of W.A.C., A Minor*, Case No. 1348 EDA 2022; Memorandum issued on January 6, 2023.

Superior Court of Pennsylvania, *In the Interest of W.A.C., A Minor*, Case No. 1349 EDA 2022; Memorandum issued on January 6, 2023.

Superior Court of Pennsylvania, *In the Interest of C.M.C., A Minor*, Case No. 1350 EDA 2022; Memorandum issued on January 6, 2023.

Superior Court of Pennsylvania, *In the Interest of C.M.C., A Minor*, Case No. 1351 EDA 2022; Memorandum issued on January 6, 2023.

Superior Court of Pennsylvania, *In the Interest of A.C.C., A Minor*, Case No. 1352 EDA 2022; Memorandum issued on January 6, 2023.

Superior Court of Pennsylvania, *In the Interest of A.C.C., A Minor*, Case No. 1353 EDA 2022; Memorandum issued on January 6, 2023.

Supreme Court of Pennsylvania, *In the Interest of W.A.C., A Minor*, Case No. 72 EAL 2023; Order issued May 31, 2023.

Supreme Court of Pennsylvania, *In the Interest of W.A.C., A Minor*, Case No. 73 EAL 2023; Order issued May 31, 2023.

Supreme Court of Pennsylvania, *In the Interest of C.M.C., A Minor*, Case No. 74 EAL 2023; Order issued May 31, 2023.

Supreme Court of Pennsylvania, *In the Interest of C.M.C., A Minor*, Case No. 75 EAL 2023; Order issued May 31, 2023.

Supreme Court of Pennsylvania, *In the Interest of A.C.C., A Minor*, Case No. 76 EAL 2023; Order issued May 31, 2023.

Supreme Court of Pennsylvania, *In the Interest of A.C.C., A Minor*, Case No. 77 EAL 2023; Order issued May 31, 2023.

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Petitioner S.C.¹ [hereinafter the “Petitioner”] respectfully asks that a Writ of *Certiorari* issue to review the Judgment of the Superior Court of Pennsylvania filed on January 6, 2023.

OPINIONS BELOW

The Order of the Supreme Court of Pennsylvania filed May 31, 2023 denying Petitioner’s petition to grant allocator is available at 72 EAL 2023, 73 EAL 2023, 74 EAL 2023, 75 EAL 2023, 76 EAL 2023, and 77 EAL 2023, and attached hereto as Appendix “A.”

The Opinion of the Superior Court of Pennsylvania filed on January 6, 2023, affirming the decision of the Court of Common Pleas of Philadelphia County, is available as 1348 EDA 2022, 1349 EDA 2022, 1350 EDA 2022, 1351 EDA 2022, 1352 EDA 2022, and 1353 EDA 2022, and attached hereto as Appendix “B.”

The Opinion of the Court of Common Pleas of Philadelphia County, issued April 20, 2022, is available CP-51-DP-0000103-2020, CP-51-AP-0000184-2021, CP-51-DP-0000164-2020, CP-51-AP-0000183-2021, CP-51-DP-0000212-2020, and CP-51-AP-0000182-2021, and attached hereto as Appendix “C.”

¹ Because this case involves minor children, Petitioner and the said minor children are herein referred to only by their initials per S.C.O.T.U.S. Rule 34.6 and Fed. R. Civ. P. 5.2.

JURISDICTION

The Jurisdiction of this Court is invoked under 28 U.S.C § 1257. The decision of the Superior Court of Pennsylvania of which Petitioner seeks review was issued on January 6, 2023. The Supreme Court of Pennsylvania's Order denying Petitioner's timely petition for discretionary review was filed on May 31, 2023. The instant petition is filed within ninety (90) days of the Supreme Court of Pennsylvania's denial of discretionary review, under Rules 13.1 and 29.2 of this Court.

CONSTITUTIONAL PROVISIONS, STATUTES, AND POLICIES AT ISSUE

U.S. CONST. amends. V, VI, and XIV § 1 and 23 Pa. C.S. § 2511(a)(1)–(2), (5), and (8), all of which are attached hereto as Appendix “F.”

STATEMENT OF THE CASE

Petitioner is the mother of three siblings, styled herein as W.A.C., C.M.C., and A.C.C [hereinafter, collectively, the “Children”]. On or about January 19, 2020, Petitioner called 911 because the youngest child, A.C.C., was having difficulty breathing after having caught a flu-like illness from his older sibling, W.A.C. A.C.C. was hospitalized, and based on his emaciated appearance, A.C.C's two other siblings were brought to the hospital for examination. As a result of concerns for

all three siblings, described at length in the opinion of the Court of Common Pleas of Philadelphia County (App. C. at 60). W.A.C. was found to be morbidly obese at the age of 4; and C.M.C. was underweight although his condition was not as serious as A.C.C. Both A.C.C. and C.M.C. were admitted to the hospital, and DHS obtained an Order of Protective Custody (“OPC”) for W.A.C., with his temporary commitment to DHS ordered to stand on January 24, 2020. A.C.C. and C.M.C. were subsequently also committed to DHS on a temporary basis upon their respective releases from the hospital. The three were placed separately in medically certified foster homes.

On or about March 13, 2020, Petitioner² was arrested, charged and released on bail in connection with the alleged abuse and neglect. A pre-trial no-contact order was issued by the criminal division of the Philadelphia Court of Common Pleas. The children were ultimately adjudicated dependent on December 8, 2020. At the same hearing, the Children were found to be victims of child abuse Petitioner found to be the perpetrator of that abuse. The Trial Court additionally found that Aggravated Circumstances existed with respect to all three children and ordered that DHS was not to make reasonable efforts to reunify. These orders were

² The Childrens’ maternal grandmother was also arrested and charged along with Petitioner; however, the maternal grandmother is not a party to the instant appeal.

affirmed by the Superior Court on August 12, 2021 at 126, 127, 128, 129, 131 and 132 EDA 2021, *consolidated*.

Petitioner consistently made her own efforts throughout the case to understand her own role in the Childrens' harm and to remedy her ignorance: she maintained consistent contact with DHS; she asked about the Children via email and phone frequently, requested photographs, participated in the monitoring of their medical care to the extent permitted by the court and DHS, signed releases, consistently attended court hearings, maintained employment, etc. Her efforts earned her the assessment by DHS case manager as "fully compliant" with the Family Service Plan ("FSP").³ Additionally, Petitioner went beyond the FSP objectives to search out and enroll in special classes about nutrition and parenting children with complex needs.

Despite this record of effort and compliance on her part, Petitioner was stymied by the denial of visitation, despite there having been no legitimate finding of "grave threat" throughout the case. A total of 16 orders affecting visitation were entered in a two-year period between April 2020 and 2020.

³ All references herein to statements made by and / or quotations of various individuals are taken from elicited in the lower-level proceedings, and which will be supplied as part of a brief if the instant petition is granted, if not included as part of an appendix hereto.

On 3/1/22, at the start of the combined hearing for Goal Change and Termination of Parental Rights (“GC/TPR”), Petitioner requested a continuance as criminal case resolution/disposition appeared to be imminent⁴, and that development was expected to allow the court to re-assess visitation in light of Petitioner’s compliance with the FSP. This request was denied, and the Court ultimately terminated Petitioner’s parental rights. At the conclusion of testimony, the court ordered that the goals for each of the Children be changed to adoption and that Petitioner’s parental rights be terminated. Petitioner appealed the forgoing decision to the Superior Court of Pennsylvania, and, on or about January 6, 2023, the Superior Court denied Petitioners Appeal. (See App. B at 24). Petitioners then filed a Petition for Allowance of Appeal with the Supreme Court of Pennsylvania, which the Supreme Court denied on or about May 31, 2023.

REASONS WHY *CERTIORARI* **SHOULD BE GRANTED**

I. Review is warranted because Opinions of the Pennsylvania Courts constitute erroneous factual findings and / or misapplications of properly stated rules of law, as well as failing to provide Petitioner with Due Process as required by the Constitution of the United

⁴ On 7/15/22 negotiated pleas were entered on cases involving the Children. Petitioners was sentenced to five years concurrent probation. The criminal case is now closed.

States.

The Pennsylvania Courts denied Petitioner her right due process under the United States Constitution by rushing to terminate her parental rights when her ability to maintain and improve her relationship with the Children was taken out of her control by the criminal justice system before she had had the opportunity for a fair and speedy trial. Her due process was denied by the combination of the Trial Court's refusal to defer TPR and the criminal court's significant failure to provide timely resolution of her pretrial stay-away orders which in effect denied her any chance of maintaining a bond with her children before the courts had made their respective determinations of "grave threat" or criminal culpability. This created a failure of due process which violated her fundamental rights to the care and control of her Children.

It is a well-settled principle that the "the fundamental liberty interest of natural parents in the care, custody, and management of their child does not evaporate simply because they have not been model parents." *Santosky v. Kramer*, 455 U.S. 745, 753 (1982). Reaffirming this principle, the Supreme Court remarked that this liberty interest is "perhaps the oldest of the fundamental liberty interests." *Troxel v. Granville*, 530 U.S. 57, 65 (2000).

Because termination of parental rights is such a grave interference into the realm of the family a

judicial determination to terminate parental rights must be supported by clear and convincing evidence. *Santosky v. Kramer*, 455 U.S. at 102.

In Pennsylvania, the involuntary termination of parental rights is governed by 23 Pa. C.S. § 2511 [hereinafter the “Adoption Act”]. The Adoption Act enumerates a list of parental behavior which is sufficient which, if proven, may be grounds for the involuntary termination of parental rights. 23 Pa. C.S. § 2511(a) (See App. F at 176). Once one or more of the said grounds have been proven, a court will investigate whether the termination of parental rights is in the best interest of the child(ren): “court[s]... shall give primary consideration to the developmental, physical and emotional needs and welfare of the child.” 23 Pa. C.S. § 2511(b) (See App. F at 177). Courts are instructed that they shall not consider any efforts made the parent(s) to remedy that situation that gave rise the proceedings with regard to certain subsections of the Action Act (specifically sections (a)(1), (6), and (8). *Id.*

As required by *Santosky v. Kramer*, all the foregoing must be proven by clear and convincing evidence. This standard is “the highest level of proof required in any civil proceeding,” *Interest of B.L.L.*, 787 A.2d 1007, 1014 (Pa. Super 2001). Clear and convincing evidence is “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.” *In*

re A.L.D., 797 A.2d 326 (Pa Super 2002) (quoting *In re Adoption of Atencio*, 650 A.2d 1064 (Pa. 1994)).

The burden of proof is on the party seeking termination to produce clear and convincing evidence that such action is warranted. *In re B.L.W.*, 843 A.2d 380, 383 (Pa. Super. 2004).

In the instant matter, the Trial Court found—and the Superior Court affirmed—that Petitioner’s parental rights should be terminated based on sections (1), (2), (5), and (8) of the Adoption Act, which permit a court to involuntarily terminate the rights a parent if:

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

(2) The repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent.

...

(5) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency for a period of at least six months, the conditions which led to the removal or placement of the child continue to exist, the parent cannot or will not remedy those conditions within a reasonable period of time, the services or assistance reasonably available to the parent are not likely to remedy the conditions which led to the removal or placement of the child within a reasonable period of time and termination of the parental rights would best serve the needs and welfare of the child.

...

(8) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency, 12 months or more have elapsed from the date of removal or placement, the conditions which led to the removal or placement of the child continue to exist and termination of parental rights would best serve the needs and welfare of the child.

23 Pa. C.S. § 2511(a)(1), (2), (5), and (8) (See App. F at 176).

Both the Trial Court's and the Superior Court's decisions are in error, as the requirements of 2511(a) have not been proven by clear and convincing evidence. As a result, analysis under 2511(b) cannot be reached. However, even if the Courts were to have found that at least one section of 2511(a) had been proven by sufficient evidence, the analysis under (b) falls short because neither the Children nor Petitioner were given the opportunity to discover whether maintaining the parent-child relationship would best meet their needs and welfare going forward. The family was hamstrung by the pretrial no contact order of the Criminal Division of the Philadelphia Common Pleas Court responsible for disposing of the charges stemming from the same allegations of abuse and neglect. This order in a parallel division of the same court prevented a full and fair hearing on visitation in the dependency division. This resulted in a violation of Petitioner's constitutional rights to due process in a matter affecting one of the most fundamental of her rights as a citizen, her rights to her Children.

The requirements of 2511(a)(1) are not proven because Petitioner did not evidence a settled purpose of relinquishing her parental duties; quite the opposite. Petitioner performed all parental duties allowed by the court, sought out services on her own,

and has been fully compliant with the Family Service Plan throughout the case.

She further frequently contacted her DHS case manager for updates about her children, and always made herself available for any consents required for their care. The parental duties which she did not do—visiting, attending medical appointments, participating in school decisions, etc.—were not a result of refusal or failure on her part, but primarily the result of a pretrial “no contact” order entered within a few weeks of the commencement of the dependency proceedings in her concurrent criminal matters; this prevented the Trial Court from reconsidering its suspension of visitation.

The requirements of 2511(a)(2) are not proven because DHS has failed to present competent evidence that Petitioner has shown repeated and continued incapacity, abuse, neglect or refusal, or that such incapacity, abuse, neglect or refusal is causing her Children to be without essential parental care, control or subsistence necessary for the child's physical or mental well-being. On the contrary, Petitioner has been prohibited from any interaction with her children from early in the case, and the DHS worker has not had the opportunity to observe her with them. The only evidence offered of a continued incapacity is the opinion of the DHS social worker without any purported expertise in psychology. He in fact admitted that his opinion is

based in part on the record of how the case came into court. Furthermore, such expertise is routinely available to DHS through the contracted professional forensic services of a Parenting Capacity Evaluator, but the Trial Court denied Petitioner's request for a professional Parenting Capacity Evaluation.

The requirements of 2511(a)(5) and (8) are not proven since DHS did not offer competent weighty evidence that the conditions and causes or any such incapacity, abuse, neglect or refusal cannot or will not be remedied by Petitioner in that the Trial Court did not hear competent weighty evidence thereof, which a professional forensic evaluator might have provided. DHS did not meet its burden of clear and convincing proof that the services or assistance reasonably available and sought out by Petitioner through her own efforts were not likely to remedy the conditions which led to the removal of the Children within a reasonable period of time. Further, since the legal goal had remained "reunification" throughout the case, even though Petitioner had been relieved of affirmatively providing reasonable efforts to help Petitioner reunify, Petitioner was entitled to—and did—make her own efforts understand her role in the Children's abuse and neglect and to remedy the causes by educating herself. Petitioner also consistently and continually kept DHS apprised of the services she sought out and utilized.

Therefore, the prerequisite requirement of reaching the question of 2511(b) is not met.

Under the analysis above, it was an abuse of discretion and error for the Trial Court to engage in 2511(b) analysis, because the Adoption Act requires that at least one section of 2511(a) be proven first. In the event that the court properly could reach section (b), it should be considered that much of path of this case was outside Petitioner's control, given the extraordinarily inefficient administration of justice that occurred here.

But assuming, for sake of argument, that at least one of the 2511(a) sections had been sufficiently proven, it was error and/or an abuse of discretion to determine that DHS had met its burden of proof that termination of Petitioner's parental rights best meets the needs and welfare of the child. The Trial Court simply did not have sufficient information to engage in the 2511(b) analysis, and denied itself the opportunity for that information by refusing Petitioner's request for a delay pending the outcome of the criminal matter so that visitation could be considered, and refusing her request for a parenting capacity evaluation.

The Trial Court failed to consider the effect of a criminal court's pretrial order denying her visitation on the Children's bond with Petitioner, where there had been no finding by the dependency Trial Court that visitation posed a grave threat but

where the criminal court's pretrial order created a condition beyond Petitioner's control. Despite the Trial Court's statements in its Opinion, the question of whether visits would pose a grave threat was never fully considered in the context of how the visits were likely to affect the Children individually. Although the Trial Court says—mistakenly—that it adopted a hearing officer's recommendation of "grave threat" by signing off on the order, that order was a temporary pre-adjudicatory order made at the first Child's shelter care hearing, and did not result from a deliberate consideration of clear and convincing evidence by any judge.

Furthermore, when the Trial Court judge was asked to consider visitation at a later hearing, the court ordered that there was a grave concern that Petitioner should not see the child prior to his anticipated forensic interview; but the court did allow some supervised visitation with the middle child, and further said that the parties could try to reach an agreement about visits for the older boy after his interview had taken place. (See App. D at 167, 168). (The youngest child was not yet before the court as he was not yet been discharged from the hospital and DHS had not yet filed his petition.) In discussing this "grave threat," the Court indicates that it was concerned for the judicial process and not the safety of the Children, noting that it's "concern is that there will be interference with the potential testimony of the child [W.A.C.]. And there's concern that the parents may aggressively interfere with any

potential testimony.” (See App. D at 166). Later, at the same proceeding, the Court said, with regard to C.M.C., “since he is not going to a witness... I find it hard to satisfy the grave threat with respect to him.” (See App. D at 168).

Further, as A.C.C. was not before the court on this date, any formal decision with respect to his visits was not reached until February 25, 2020 when A.C.C. was before the court for the first time. At this hearing, the Court noted that it would disallow visitation “in order to preserve the sanctity of testimony,” but noted that this decision was “temporary, until we conduct a full child abuse hearing.” (See App. E at. 173).

Before the Trial Court had the opportunity to reconsider visitation at the next hearing, criminal charges had been filed against Petitioner and the Court issued a no contact order at Petitioner’s bail hearing. That order was not lifted throughout the life of the dependency matter. Subsequent visitation orders in the dependency case simply maintained the status quo of the preliminary dependency orders and pretrial criminal order, and a full hearing of the “grave threat” issue never occurred.

Further, there is evidence that the Children’s condition was caused by ignorance on the part of Petitioner, which she sought to remedy. Testimony elicited consistently showed a lack of understanding that her actions and/or inaction lead to the

conditions that formed the basis of the child abuse findings. For example, during an adjudicatory hearing, the Court heard testimony that Petitioner thought that one of the children just “looked small to her, but did not... have a reason for that or an understanding of why he was small.”

This testimony is consistent from the medical expert and the assigned DHS case worker that Petitioner did not understand this. The possibility of this sort of lack of understanding was identified in the medical expert’s own report, and read into the record by her: “Nutritional neglect is often multifactorial in etiology, psychosocial versus dietary versus economic versus intentional.”

Petitioner argues that the foregoing is a suggestion that the help for such children and their families might lie in solving psychosocial and educational deficits. Petitioner, hearing this, thereafter relentlessly sought out information to address these deficits. In fact, the DHS caseworker testified that Petitioner was fully compliant with the FSP, and even went above and beyond what was required.

Additionally, there was testimony from the DHS caseworker indicating that he did not think Petitioner understood where she went wrong when the Children were in her care.

Despite this testimony, the Court however refused to order a Parenting Capacity Evaluation.

Given that the Adoption Act standard of §2511(b) is not whether a foster home is meeting their current needs, but rather whether terminating parental rights will best meet their needs going forward, it is clear that the court did not have a full and complete understanding of that issue because of the external constraint of the criminal process' s pretrial no-contact order.

Therefore, it is clear that the Trial Court, in finding that the Adoption Act standards had been met, despite ample evidence to the contrary, did not meet the evidentiary burden established by this Court and as required by the Constitution.

Additionally, Petitioner was deprived of her fundamental rights to due process by the extraordinary delays in the administration of justice throughout the dependency process, as described at length herein the section labeled "Statement of the Case."

Because of the priority of maintaining family relationships (42 Pa. C.S. § 6301(b)(3); (See App. F at 178), the Trial Court erred in determining that the child's goal would be changed to adoption insofar as said findings failed to take into account the external circumstances of this case. The tragically

long length of time that the Children have remained in care is not, we submit, a result of Petitioner's delay, unwillingness, refusal or incapacity or but on the extraordinary "perfect storm" of pandemic and a lack of coordination between the criminal and dependent divisions of Philadelphia county's judicial system

It is often said that children's lives cannot be placed on hold in the hope that a parent will summon the ability to handle the responsibilities of parenting. True also that the lives of children and their families cannot be placed on hold in the hope that the state will summon the efficiency to handle the responsibilities of intrusion for safety's sake.

The Due Process Clauses of the United States Constitution impose a requirement of fundamental fairness in circumstances where constitutionally protected interests are at stake, as in this case. See U.S. CONST. amends. V, VI, and XIV § 1. The liberty interest of parents in the care, custody, and control of their children is perhaps the oldest of the fundamental liberty interests recognized by this Court. As a result, when the Commonwealth moves to intervene or disrupt in the parent-child relationship, it "must provide the parents with fundamentally fair procedures." Parents must be afforded fundamental, procedural fairness. See e.g., *Troxel v. Granville*, 530 U.S. at 65.

The courts are faced with a delicate balance

during the pandemic as they weigh due process concerns against health, welfare and safety concerns, protection of constitutional liberties necessitated a continuance. As noted in *Cty. of Butler v. Wolf*:

[T]he Court believes that Defendants undertook their actions in a well-intentioned effort to protect Pennsylvanians from the virus. However, good intentions toward a laudable end are not alone enough to uphold governmental action against a constitutional challenge. Indeed, the greatest threats to our system of constitutional liberties may arise when the ends are laudable, and the intent is good—especially in a time of emergency. In an emergency, even a vigilant public may let down its guard over its constitutional liberties only to find that liberties, once relinquished, are hard to recoup and that restrictions—while expedient in the face of an emergency situation—may persist long after immediate danger has passed.

486 F. Supp. 3d 883, 890 (W.D. Pa. 2020)

A termination of parental rights proceeding triggers constitutionally protected interests that mandate fundamental and procedural fairness in

these. *See, e.g., Troxel v. Granville*, 530 U.S. at 65 (“...when the Commonwealth moves to intervene or disrupt in the parent-child relationship, it must provide the parents with fundamentally fair procedures. Parents must be afforded fundamental, procedural fairness).”

In this case, given the fundamental role played by the pretrial no-contact order of the criminal division of the court, the dependency court’s denying Petitioner’s continuance request and ordering that the GC/TPR hearing and decision occur before the disposition of the related criminal matters resulted in a fundamentally unfair proceeding and therefore violated her rights to due process.

CONCLUSION

Based on the foregoing, Petitioner respectfully requests that this Court grant his Petition for Writ of *Certiorari*.

Respectfully submitted,

/s/ Faye Riva Cohen
Faye Riva Cohen, Esquire
Counsel for Petitioner

Dated: August 23, 2023

Appendix “A”

**IN THE SUPREME COURT OF
PENNSYLVANIA
EASTERN DISTRICT**

IN THE INTEREST	:	No. 72 EAL 2023
OF: W.A.C., A	:	
MINOR	:	Petition for
	:	Allowance of Appeal
PETITION OF: S.C.,	:	from the Order of
MOTHER	:	the Superior Court
	:	
IN THE INTEREST	:	No. 73 EAL 2023
OF: W.A.C., A	:	
MINOR	:	Petition for
	:	Allowance of Appeal
PETITION OF: S.C.,	:	from the Order of
MOTHER	:	the Superior Court
	:	
IN THE INTEREST	:	No. 74 EAL 2023
OF: C.M.C., A	:	
MINOR	:	Petition for
	:	Allowance of Appeal
PETITION OF: S.C.,	:	from the Order of
MOTHER	:	the Superior Court
	:	
IN THE INTEREST	:	No. 75 EAL 2023
OF: C.M.C., A	:	
MINOR	:	Petition for
	:	Allowance of Appeal
PETITION OF: S.C.,	:	from the Order of
MOTHER	:	the Superior Court
	:	

IN THE INTEREST	:	No. 76 EAL 2023
OF: A.C.C., A	:	
MINOR	:	Petition for
	:	Allowance of Appeal
PETITION OF: S.C.,	:	from the Order of
MOTHER	:	the Superior Court
	:	
IN THE INTEREST	:	No. 77 EAL 2023
OF: A.C.C., A	:	
MINOR	:	Petition for
	:	Allowance of Appeal
PETITION OF: S.C.,	:	from the Order of
MOTHER	:	the Superior Court

ORDER

PER CURIUM

AND NOW, this 31st day of May, 2023, the
Petition for Allowance of Appeal is **DENIED**.

A True Copy Phoenicia D.W. Wallace, Esquire

As of 05/31/2023

Attests: /s/ Phoenicia D.W. Wallace

Deputy Prothonotary

Supreme Court of Pennsylvania

[72 EAL 2023, 73 EAL 2023, 74 EAL 2023, 75 EAL
2023, 76 EAL 2023 and 77 EAL 2023] - 2

Appendix “B”

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

IN THE INTEREST	:	IN THE SUPERIOR
OF: W.A.C., A	:	COURT OF
MINOR	:	PENNSYLVANIA
	:	
APPEAL OF: S.C.,	:	
MOTHER	:	
	:	
	:	No. 1348 EDA 2022

Appeal from the Order Entered April 20, 2022
In the Court of Common Pleas of Philadelphia
County Juvenile Division at
No(s): CP-51-DP-0000103-2020

IN THE INTEREST	:	IN THE SUPERIOR
OF: W.A.C., A	:	COURT OF
MINOR	:	PENNSYLVANIA
	:	
APPEAL OF: S.C.,	:	
MOTHER	:	
	:	
	:	No. 1349 EDA 2022

Appeal from the Order Entered April 20, 2022
In the Court of Common Pleas of Philadelphia
County Juvenile Division at
CP-51-AP-0000184-2021

IN THE INTEREST	:	IN THE SUPERIOR
OF: C.M.C., A	:	COURT OF

MINOR : PENNSYLVANIA
:
:

No. 1350 EDA 2022

Appeal from the Order Entered April 20, 2022
In the Court of Common Pleas of Philadelphia
County Juvenile Division at
CP-51-DP-0000164-2020

IN THE INTEREST : IN THE SUPERIOR
OF: C.M.C., A : COURT OF
MINOR : PENNSYLVANIA
:
APPEAL OF: S.C., :
MOTHER :
:
:
: No. 1351 EDA 2022

Appeal from the Order Entered April 20, 2022
In the Court of Common Pleas of Philadelphia
County Juvenile Division at
CP-51-AP-0000183-2021

IN THE INTEREST : IN THE SUPERIOR
OF: A.C.C., A : COURT OF
MINOR : PENNSYLVANIA
:
APPEAL OF S.C., :
MOTHER :
:
:
: No. 1352 EDA 2022

Appeal from the Order Entered April 20, 2022
In the Court of Common Pleas of Philadelphia
County Juvenile Division at
CP-51-DP-0000212-2020

IN THE INTEREST	:	IN THE SUPERIOR
OF: A.C.C., A	:	COURT OF
MINOR	:	PENNSYLVANIA
	:	
APPEAL OF: S.C.,	:	
MOTHER	:	
	:	
	:	No. 1353 EDA 2022

Appeal from the Order Entered April 20, 2022
In the Court of Common Pleas of Philadelphia
County Juvenile Division at
CP-51-AP-0000182-2021

BEFORE: PANELLA, P.J., BENDER, P.J.E., and
SULLIVAN, J.

MEMORANDUM BY SULLIVAN, J:

FILED JANUARY 6, 2023

S.C. (“Mother”) appeals from the decrees granting the petitions filed by the Philadelphia Department of Human Services (“DHS”) to involuntarily terminate her parental rights to her sons, W.A.C. (born June 2015), C.M.C. (born May 2016), and A.C.C. (born January 2019) (collectively,

“Children”).¹ Mother also appeals from the orders in Children’s dependency cases changing their permanency goals from reunification to adoption. After careful review, we affirm the termination decrees and dismiss the appeals from the goal change orders as moot.

The relevant facts and procedural history are as follows. On January 19, 2020, DHS received a Child Protective Services (“CPS”) report alleging that A.C.C., who was one year old at the time, presented at St. Christopher’s Hospital (“the hospital”) because he was having difficulty breathing. *See* N.T., 3/1/22, at 21-25; *see also* DHS Exhibit 16, 1/19/20, at 3-4.² The report, ultimately deemed founded, alleged that A.C.C. had been malnourished: he was the size of an infant, and his bones were visible beneath his skin. *See* DHS Exhibit 16, 1/19/20; N.T. 12/8/20, at 108-09. The report stated that A.C.C.’s condition was deemed a near fatality and alleged that Mother’s and Grandmother’s neglect and abuse had caused his condition. *See* DHS Exhibit 16, at 2.

¹ On March 1, 2022, the trial court terminated the parental rights of A.B., the putative father of W.A.C. and C.M.C. On the same date, the trial court terminated the parental rights of any unknown father for C.M.C. Subsequently, on April 20, 2022, the trial court terminated the parental rights of T.G., the putative father of A.C.C., and any unknown father. No putative father or unknown father filed an appeal or participated in the instant appeals.

² At the goal change/termination hearing, the parties stipulated to the admission of DHS Exhibits 3-16. *See* N.T., 3/1/22, at 14-18.

DHS investigative worker Shaylyn Kreider (“Ms. Kreider”) saw A.C.C. in the hospital and stated that he “appeared to . . . be malnourished. I could observe his ribs. He also had bed sores on his body. And his legs were contorted and stuck together.” N.T., 3/1/22, at 24-25. Ms. Kreider testified that A.C.C. weighed nine pounds at birth, but only eight pounds when he arrived at the hospital, where doctors determined he could not walk or crawl. *See id.* at 28-30. A.C.C. was hospitalized for more than two months, until March 31, 2020. *See id.* at 29. Because of A.C.C.’s suspected abuse, the hospital requested that A.C.C.’s siblings, C.M.C. and W.A.C., be brought for physical screenings. *See* N.T., 12/8/20, at 46-47.

On January 20, 2020, DHS received a CPS report, later determined to be founded, that C.M.C., then three years old, had been admitted to the hospital, and that Mother and Grandmother had abused and neglected him. *See* N.T., 12/8/20, at 110; N.T., 3/1/22, at 22; *see also* DHS Exhibit 6, 1/20/20, at 3.

Ms. Kreider observed C.M.C. while he was at the hospital and testified, “He appeared to be malnourished. He was very thin. He also appeared to have cracked skin. And he had a hard time walking.” N.T., 3/1/22, at 24. Ms. Kreider also testified that C.M.C. and W.A.C. were initially placed in the same room at the hospital, but that the nursing staff had moved C.M.C. and fed him separately after staff saw Mother give W.A.C. food meant for C.M.C. *See id.* at 32.

DHS received a General Protective Services (“GPS”) report dated January 20, 2020, regarding W.A.C., who was four years old at the time. *See* N.T., 3/1/22, at 21-22; *see also* DHS Exhibit 5, 1/20/20. Ms. Kreider testified that W.A.C. weighed approximately 140 pounds and appeared to be morbidly obese. *See* N.T., 3/1/22, at 24.

DHS visited the hospital on January 21, 2020, and found C.M.C. to be nonverbal, and found that A.C.C. was suffering from bedsores, alopecia, influenza, and Respiratory Syncytial Virus (“RSV”), and had legs that were so contorted that he could not walk. It determined that C.M.C. had not received routine medical care for two-and-one-half years. Mother stated that C.M.C. was verbal, that A.C.C. and C.M.C. ate regularly, and that their low weight could be the result of genetic conditions. *See* N.T., 3/1/22, at 32.

Ms. Kreider, who spoke with Mother during her investigation, stated that Mother did not understand the severity of Children’s conditions. *See* N.T., 3/1/22, at 25. Mother also stated that she did not notice anything wrong with A.C.C.’s or C.M.C.’s weight or appearance. *See* N.T., 12/8/20, at 117, 121. Ms. Kreider never found medical evidence to support Mother’s contention that Children had a genetic disorder. *See id.* at 32-33.

Ms. Kreider also observed Mother’s home, where Children lived with Mother, Grandmother, and

two maternal uncles. *See* N.T., 3/1/22, at 31. Ms. Kreider testified that there was no infant formula in the home, despite A.C.C. needing it at the time. *See id.* at 26. She also stated that A.C.C.'s crib was very dirty and that C.M.C.'s Pack 'n' Play portable crib appeared to have an indent "like a body had been there for a while. It was also unkept and dirty." *See id.* It appeared A.C.C. and C.M.C. spent all day and night in their crib and Pack 'n' Play, respectively. *See id.* at 31.

On January 22, 2020, DHS obtained an Order of Protective Custody ("OPC") for W.A.C. and placed him in a foster home. At a shelter care hearing on January 24, 2020, the trial court lifted the OPC, and transferred legal custody of W.A.C. to DHS. The trial court also suspended Mother's visitation until the adjudicatory hearing. *See* Order 1/24/20.

DHS received a CPS report dated January 23, 2020 that alleged that Mother and Grandmother customarily left A.C.C. and C.M.C. in a room alone all day and did not allow them to come out of the room and play with W.A.C. DHS Exhibit 7, 1/23/20, at 3. The report, later determined to be valid, further alleged that Mother and Grandmother called A.C.C. and C.M.C. "[b]astards," "[b]itches," and "[s]tupid," and that Mother only fed A.C.C. and C.M.C. once a day and gave the majority of the food in the house to W.A.C. *See* DHS Exhibit 7, at 3.

On January 31, 2020, DHS obtained an OPC for C.M.C., who was being discharged from the hospital,

and placed him in a medical foster care home. After a February 3, 2020 shelter care hearing, the trial court ordered no contact between C.M.C. and Mother, lifted the OPC, and ordered the temporary commitment to stand. *See* Order, 2/3/20.

On March 31, 2020, upon A.C.C.'s discharge from the hospital, DHS obtained an OPC for A.C.C. and placed him in a medical foster care home. After a shelter care hearing on April 1, 2020, the trial court transferred legal custody to DHS and ordered A.C.C.'s temporary commitment to stand. *See* Order, 4/1/20.

In January 2020, February 2020, and April 2020, respectively, DHS filed dependency petitions for Children. While those petitions were pending, DHS established family service plan ("FSP") objectives requiring Mother to (1) maintain employment; (2) sign consents; and (3) obtain appropriate housing. *See* N.T., 3/1/22, at 36.

On March 12, 2020, Mother was arrested and charged with crimes relating to the neglect and abuse of Children. *See* N.T., 3/1/22, at 27; *see also* DHS Exhibits 14-16. The criminal court issued a stay away order keeping Mother and Grandmother from Children. *See* N.T. 3/1/22, at 27.³

On December 8, 2020, the trial court held an adjudicatory hearing for Children and heard the

³ The criminal court's stay-away order remained in effect through the course of the dependency matter. *See* Mother's Brief at 38.

testimony of Dr. Norrell Atkinson, a child abuse pediatrician and director of the hospital's Child Protection Unit. *See* N.T., 12/8/20, at 28.⁴ Dr. Atkinson testified that

[A.C.C.] was incredibly thin and malnourished. When he came in[,] he was 12 months of age and his weight was, at that point, only about nine -- or eight pounds when he came in. So obviously a[t one] year of age, this is much less than what a child should be weighing. It's more similar to the birth weight of an infant . . . You could see the bones from his ribcage, from his arms, his legs. His skin was essentially hanging loose. He had very minimal fat stores to his body. And he was hooked up to multiple medical devices because . . . he was so sick.

Id. at 31. Dr. Atkinson continued:

He was incredibly sick and ill when he came in. He required aggressive resuscitation with fluids, pressure support, oxygen. His blood sugars were incredibly low. He had seizures. He was

⁴ At the termination and goal change hearing on March 1, 2022, at the request of Children's guardian *ad litem* ("GAL"), the trial court incorporated into the record the notes of testimony from the December 8, 2020 adjudicatory hearing. *See* N.T., 3/1/22, at 8-9.

gravely ill which caused the hospital to certify this case as a near fatality. . . .

Id. at 37.

Dr. Atkinson also examined C.M.C. and W.A.C. during their hospitalizations. Dr. Atkinson testified that C.M.C. “was not as severely ill as [A.C.C.],” but was chronically malnourished. *Id.* at 47. C.M.C. had very little fat; he also had a bony structure, very significant eczema, and developmental delays. *See id.* Although about three and one-half years’ old, C.M.C. was the size of a thirteen-month-old child. *See id.* at 48-49.

Dr. Atkinson testified that W.A.C.’s appearance was vastly different from his brothers because he was “morbidly obese” and much larger than appropriate for a four-year-old, which presented the possibility of multiple medical complications. *See id.* at 60-63.

At the conclusion of the hearing, the trial court adjudicated Children dependent. The trial court also found under 42 Pa.C.S.A. § 6303, that Mother and Grandmother had abused all three Children, and that aggravated circumstances⁵ existed for each child

⁵ Section 6302 of the Juvenile Act provides, in relevant part:

“Aggravated circumstances.” Any of the following circumstances:

* * * *

pursuant to 42 Pa.C.S.A. § 6341(c.1). The trial court ordered that no efforts were to be made to preserve the family and reunify Children with Mother, and it ordered visitation between Mother and Children to remain suspended. *See* N.T., 12/8/20, 238-43. *see also* Orders of Adjudication and Disposition, 12/8/20; Aggravated Circumstances Orders, 12/8/20; DHS Exhibits 8-13.⁶

The court held permanency review hearings at regular intervals. On April 1, 2021, DHS filed petitions for the involuntary termination of Mother's parental rights pursuant to 23 Pa.C.S.A. § 2511(a)(1), (2), (5), (8), and (b), and separate petitions to change Children's permanency goals from reunification to adoption. On March 1, 2022, the trial court conducted an evidentiary hearing on the petitions, when Children were ages six, five, and three, respectively.

(2) The child or another child of the parent has been the victim of physical abuse resulting in serious bodily injury, sexual violence or **aggravated physical neglect** by the parent.

* * * *

42 Pa.C.S.A. § 6302(2) (emphasis added).

⁶ On January 7, 2021, Mother filed notices of appeal regarding these orders. On August 12, 2021, this Court affirmed the trial court's orders. *See In Interest. of W.A.C.*, 262 A.3d 481, 2021 WL 2560049 (Pa. Super. August 12, 2021) (unpublished memorandum).

Children were represented by a GAL and separate legal counsel. Mother was represented by counsel and testified. DHS presented the testimony of Ms. Kreider and Rodney Hill, a DHS social worker.⁷

By decrees dated and entered on April 20, 2022, the trial court involuntarily terminated Mother's parental rights pursuant to 23 Pa.C.S.A. § 2511(a)(1), (2), (5), (8), and (b). That same day, the court changed Children's permanency goals to adoption.⁸ Mother filed timely notices of appeal and concise statements of errors complained of on appeal pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b). This Court consolidated Mother's appeals *sua sponte* on June 21, 2022. The trial court filed a Rule 1925(a) opinion on August 15, 2022.

On appeal, Mother presents the following issues for our review:

1. Whether the trial court erred and/or abused its discretion when it involuntarily terminated Mother's parental rights, where

⁷ Following the March 1, 2022 hearing, the trial court held its decision regarding Mother's parental rights in abeyance. The trial court permitted Mother twenty days to sign voluntary relinquishments of her rights to Children. Mother did not sign the forms.

⁸ On July 15, 2022, Mother entered negotiated guilty pleas to endangering welfare of children and simple assault as to each Child. *See* Mother's Brief at 20-21

such determination was not supported by clear and convincing evidence under the Adoption Act[,] 23 P[a].C.S.[A.] § 2511(a)?

2. Whether [the] trial court erred or abused its discretion by not adequately considering Mother's efforts to correct the conditions which originally brought [Children] into care[?]
3. Whether the trial court erred and/or abused its discretion when it involuntarily terminated Mother's parental rights without giving primary consideration to the effect that the termination would have on the developmental, physical[,] and emotional needs of [Children] under [s]ection 2511(b) of the Adoption Act?
4. Whether the trial court erred or abused its discretion by failing to consider the effect on [Children's] bond with Mother of a criminal court's pretrial order denying her contact with [Children] pending the outcome of the criminal case; where the criminal court's pretrial order created a condition beyond Mother's control; where the

criminal case was still pending at the time of the termination decree; and where there had been no finding by the dependency trial court that visitation posed a grave threat to [Children]?

5. Whether the [trial court] denied Mother her due process under both the Pennsylvania and United States Constitutions by rushing to termination when her ability to maintain and improve her relationship with [Children] was taken out of her control by the criminal justice system before she had had the opportunity for a fair and speedy trial[?]
6. Whether the trial court erred and/or abused its discretion by changing . . . [C]hildren's permanency goals to adoption when DHS had not met its burden of proof that such a change would best serve the needs and welfare of each child[?]

Mother's Brief at 11-13 (citations and footnote omitted) (reordered).⁹

⁹ Children's GAL filed a memorandum in support of terminating Mother's parental rights and changing Children's

Mother asserts in her first and second issues that clear and convincing evidence did not support the involuntary termination of her parental rights, and that the trial court did not adequately consider Mother's attempt to correct the conditions which originally brought Children into care. As both issues related to the grounds for termination under section 2511(a), we address them together.

We review involuntary termination orders for an abuse of discretion, which requires an error of law or a showing of manifest unreasonableness, partiality, prejudice, bias, or ill-will. *See In re Adoption of L.A.K.*, 265 A.3d 580, 591 (Pa. 2021) (citation omitted). In applying this standard, appellate courts must accept the trial court's findings of fact and credibility determinations if they are supported by the record. *See Interest of S.K.L.R.*, 256 A.3d 1108, 1123 (Pa. 2021); *see also In re Adoption of C.M.*, 255 A.3d 343, 358 (Pa. 2021).

Pennsylvania's Adoption Act governs involuntary termination of parental rights proceedings. *See* 23 Pa.C.S.A. § 2101-2938. Section 2511(a) provides grounds for involuntary termination of parental rights. If the trial court finds clear and convincing evidence supporting the existence of one of the grounds for termination set forth in subsection (a), the court must then consider whether termination would best serve the child under subsection (b). *See In re Z.P.*, 994 A.2d 1108, 1117 (Pa. Super. 2010).

permanency goals to adoption.

Here, the trial court terminated Mother's parental rights pursuant to 23 Pa.C.S.A. § 2511(a)(1), (2), (5), (8), and (b). We need only agree with the trial court's decision as to any one of the grounds under subsection 2511(a), along with subsection (b), to affirm a decree terminating parental rights. *See In re B.L.W.*, 843 A.3d 380, 384 (Pa. Super. 2004) (*en banc*). Accordingly, we review the evidence relating to sections 2511(a)(8) and (b), which provide as follows:

(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:

* * * *

(8) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency, 12 months or more have elapsed from the date of removal or placement, the conditions which led to the removal or placement of the child continue to exist and termination of parental rights would best serve the needs and welfare of the child.

* * * *

(b) Other considerations.—The court in terminating the rights of a parent shall give primary consideration to the developmental, physical and emotional needs and welfare of the child. The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent. With respect to any petition filed pursuant to subsection (a)(1), (6) or (8), the court shall not consider any efforts by the parent to remedy the conditions described therein which are first initiated subsequent to the giving of notice of the filing of the petition.

23 Pa.C.S.A. § 2511(a)(8), (b).

To satisfy section 2511(a)(8), the petitioner must show three components: (1) that the child has been removed from the care of the parent for at least 12 months; (2) that the conditions which led to the removal or placement of the child still exist; and (3) that termination of parental rights would best serve the needs and welfare of the child. *In re Adoption of J.N.M.*, 177 A.3d 937, 943 (Pa. Super. 2018).

Unlike other subsections, section 2511(a)(8)

does not require the court to evaluate a parent's willingness or ability to remedy the conditions that led to the placement of the children. ***In re M.A.B.***, 166 A.3d 434, 446 (Pa. Super. 2017). The relevant inquiry regarding the second prong of section 2511(a)(8) "is whether the conditions that led to removal have been remedied and thus whether reunification of parent and child is imminent at the time of the hearing." ***In re I.J.***, 972 A.2d 5, 11 (Pa. Super. 2009).

We observe that sections 2511(a)(8) and (b) both require a court considering a termination petition to assess the needs and welfare of the relevant child or children. However, the needs and welfare analysis required by section 2511(a)(8) is distinct from the needs and welfare analysis required by section 2511(b) and must be addressed separately. ***See In re C.L.G.***, 956 A.2d 999, 1009 (Pa. Super. 2008) (*en banc*).

This Court has recognized "that the application of [s]ection [2511](a)(8) may seem harsh when the parent has begun to make progress toward resolving the problems that had led to the removal of her children." ***In re Adoption of R.J.S.***, 901 A.2d 502, 513 (Pa. Super. 2006). Nevertheless, by allowing for termination when the conditions that led to removal continue to exist after a year,

the statute implicitly recognizes that a child's life cannot be held in abeyance while a parent attempts to attain the maturity necessary to assume

parenting responsibilities. The court cannot and will not subordinate indefinitely a child's need for permanence and stability to a parent's claims of progress and hope for the future. Indeed, we work under statutory and case law that contemplates only a short period of time, to wit eighteen . . . months, in which to complete the process of either reunification or adoption for a child who has been placed in foster care.

Id.

Regarding section 2511(b), we consider whether termination of parental rights will best serve the Children's developmental, physical, and emotional needs and welfare. ***See In re Z.P.***, 994 A.2d at 1121. "In this context, the court must take into account whether a bond exists between child and parent, and whether termination would destroy an existing, necessary and beneficial relationship." ***Id.***

The court is not required to use expert testimony when conducting a bonding analysis. Social workers and caseworkers can offer evaluations as well. ***See In re Z.P.***, 994 A.2d at 1121. "In cases where there is no evidence of any bond between the parent and child, it is reasonable to infer that no bond exists. The extent of any bond analysis, therefore, necessarily depends on the circumstances of the particular case." ***In re K.Z.S.***, 946 A.2d 753, 762-63 (Pa. Super. 2008) (citation omitted). Further,

[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.

In re A.S., 11 A.3d 473, 483 (Pa. Super. 2010). “Above all else . . . adequate consideration must be given to the needs and welfare of the child. A parent’s own feelings of love and affection for a child, alone, do not prevent termination of parental rights.” *In re Z.P.*, 994 A.2d at 1121 (internal citation omitted). “[A] parent’s basic constitutional right to the custody and rearing of . . . her child is converted, upon the failure to fulfill . . . her parental duties, to the child’s right to have proper parenting and fulfillment of [the child’s] potential in a permanent, healthy, safe environment.” *In re B., N.M.*, 856 A.2d 847, 856 (Pa. Super. 2004).

With respect to section 2511(a), Mother argues that DHS did not prove the elements necessary by clear and convincing evidence. *See* Mother’s Brief at 26. Regarding subsection (a)(8) specifically, Mother contends that DHS did not offer competent evidence that “the conditions and causes [of] any such incapacity, abuse, neglect or refusal cannot or will not be remedied by Mother in that the trial court did not hear competent weighty evidence thereof, which a professional forensic evaluator might have provided.” *Id.* at 28 (italics omitted). Mother also argues that she consistently kept DHS apprised of the services she

utilized. *See id.* at 29.¹⁰

The trial court considered Mother's assertions of error and explained that it found the testimony of Ms. Kreider, the DHS investigative worker, and Mr. Hill, the DHS social worker, to be credible, clear, and convincing. *See* Trial Court Opinion, 8/15/22, at 33, 37, 41. Conversely, the trial court found "Mother's testimony . . . was [] incredible and self-serving." *Id.* at 41. The trial court thus determined that the record supports by clear and convincing evidence its decision to terminate Mother's parental rights pursuant to 23 Pa.C.S.A. § 2511(a)(8). *Id.*

Following our review, we discern no abuse of discretion by the trial court in finding that there was clear and convincing evidence for termination under section 2511(a)(8). Regarding the first element of section 2511(a)(8), there is no dispute that Children had been in DHS's care for well over twelve months at the time of the hearing. Concerning the second element, *i.e.*, that the conditions which led to the removal of Children continued to exist, the trial court

¹⁰ Mother further claims that DHS did not provide evidence that the services or assistance reasonably available and sought by Mother were not likely to remedy the conditions that led to the removal of Children within a reasonable period of time. That assertion is not a part of a section 2511(a)(8) analysis, nor is Mother's contention that the trial court failed to determine that "the conditions and causes or any such incapacity, abuse, neglect or refusal cannot or will not be remedied by Mother", which is relevant to a section 2511(a)(2) analysis, but not a section 2511(a)(8) analysis. *See* 23 Pa.C.S.A. § 2511(a)(2).

heard testimony that Children had all suffered from neglect; A.C.C. had suffered a near fatality; and Mother still lived with Grandmother, the other abuser of Children. **See** N.T., 3/1/22, at 36-37, 44, 57, 64-65. Moreover, Dr. Atkinson testified that Mother inaccurately reported what she fed A.C.C. and C.M.C. because they would have been a normal weight if they ate what Mother reported. **See** N.T., 12/8/20, at 38-39, 52. Mr. Hill testified during the termination hearing that although Mother has remained in consistent contact with him, he does not “know if [Mother] understands why [Children are] in care.” N.T., 3/1/22, at 37-38.

Mother’s own testimony demonstrated that she did not appreciate the gravity of the risk to her children. On direct examination, she was asked the following questions and provided the follow answers:

Q: What is your understanding about what happened to the boys that caused them to be brought into DHS’s care?

* * * *

A: That I didn’t properly take care of [Children] to the best of [my] abilities.

* * * *

Q: Has your understanding of how [Children] came to be in the condition

that they were in two years ago -- has your understanding of that changed over time of how it happened?

A: Yes.

Q: As we sit here today, what exactly do you think is the reason that that occurred?

A: I was just so busy and caught up with working and taking care of the house. I just fully trusted my mother and all her decisions.

Id. at 64-65, 71. In addition to blaming her mother, Mother also manifested a lack of understanding of the cause of Children's condition by stating that she participated in a nutrition and cooking course she declared was necessary because "[t]he guys were picky eater[s] and children who overeat." *Id.* at 68. This testimony showed that the conditions that led to a one-year-old child weighing less than his birth weight and a four-year-old child who weighed more than 140 pounds, namely Mother's inability to appreciate the conditions that led to Children's severe neglect, continued to exist.

Regarding the third element of section 2511(a)(8), that termination of Mother's parental rights would best serve the needs and welfare of Children, Ms. Kreider testified that over the first three months Children were in care, W.A.C., who had

been morbidly obese, began to lose weight; C.M.C., who was malnourished, gained an appropriate amount of weight and became healthier through occupational therapy; and A.C.C. had gained some weight and was receiving services to address the effects of malnourishment. *See id.* at 33-34. Additionally, Mr. Hill testified that W.A.C. is in a pre-adoptive placement, looks to his foster parent for love, protection, and support, and does not ask for Mother. *Id.* at 39-40. Similarly, Mr. Hill testified that C.M.C. is in a different pre-adoptive placement, and he looks to his foster parent for all his needs. *See id.* at 41. A.C.C. is also in a different pre-adoptive placement and is bonded with his foster mother who provides for all his needs. *See id.* at 42-43. Mr. Hill also testified that Children are not bonded to Mother, do not ask about her, and would not suffer irreparable harm if her parental rights were terminated. *See id.* at 39-44.

Based on the foregoing testimony, we conclude that the trial court properly exercised its discretion in finding grounds for termination of Mother's parental rights under Section 2511(a)(8). *See In re M.A.B.*, 166 A.3d at 446; *see also In re I.J.*, 972 A.2d at 11.

In her third issue, Mother argues that the trial court's section 2511(b) analysis failed to give primary consideration to Children's needs and welfare.¹¹

¹¹ Mother also maintains that the trial court abused its discretion in its section 2511(a) analysis. *See* Mother's Brief at 29. As discussed above, the best interest analysis under section 2511(a)(8) is separate from that of section 2511(b).

Following our review, we again discern no abuse by the trial court in concluding that termination of Mother's parental rights was in Children's best interest pursuant to section 2511(b). **See** Trial Court Opinion, 8/15/22, at 41. Mr. Hill, a DHS social worker whom the trial court found credible, testified that Children, who were six, five, and three, respectively, at the time of the termination hearing, do not have a bond with Mother, do not ask about her, and would not suffer irreparable harm if her parental rights were terminated. **See** N.T., 3/1/22, at 39-44. The trial court also heard testimony regarding Children's bonds with their respective foster parents. **See id.** Mr. Hill testified that each child is thriving in his placement having formed bonds with their foster parents, and none has had any issues with their weight since being placed. **See id.** at 39-48. Legal counsel for the Children told the trial court that all three Children want to live forever with their foster parents. **See id.** at 62-63. That evidence established that Children have no bond with Mother and that termination of Mother's parental rights was in the best interest of Children. **See Interest of M.E.**, 283 A.3d 820, 836 (Pa. Super. 2022) (citation omitted) (stating that this Court will credit the factual findings of the trial court which is on the "front lines assessing the credibility of witnesses"); **see also In re K.Z.S.**, 946 A.2d at 762-63 (stating that where there is no evidence of a bond between parent and child, it is reasonable to infer that none exists). Moreover, Mother's alleged progress toward reunification does not demonstrate the existence of a bond with Children, much less one that would be in Children's best interest. **See In re T.S.M.**,

71 A.3d 241, 268-69 (Pa. 2013) (recognizing that some bonds between parent and child are unhealthy and may cause damage if allowed to remain intact). Thus, Mother's third issue merits no relief.

In her fourth issue, Mother claims that the trial court lacked sufficient information to assess section 2511(b) because she was unable to visit Children. Specifically, Mother contends the trial court refused her request to postpone the hearing until her criminal matter was resolved so that visitation could be considered, and that the trial court refused Mother's request for a parenting capacity evaluation. *See* Mother's Brief. at 29-30. Mother further argues that the trial court failed to consider the effect of the criminal court's pretrial order, over which she had no control, improperly analyzed the "grave threat" analysis by focusing on the Children's potential future testimony rather than the grave threat she posed to them, and failed to consider whether she posed a grave threat in the context of how visits would affect Children individually. *See id.* at 30-39.

Visitation is only properly denied where it poses a grave threat to the Child, a standard met where the parent demonstrates a severe mental or moral deficiency that constitutes a grave threat to the child. *See In re C.J.*, 729 A.2d 89, 95 (Pa. Super. 1999).

Mother presents no law requiring a trial court to hold in abeyance an involuntary termination decision pending resolution of related criminal

matters, and this Court is not aware of any such holding. As in this case, the resolution of criminal matters can consume multiple years, and Children's needs and welfare are paramount in a section 2511(b) analysis. *See In re Z.P.*, 994 A.2d at 1121. We perceive no error in the failure to grant relief on Mother's claim that the pendency of the criminal proceedings required that the termination proceeding be halted.

To the extent Mother claims that the trial court misapplied the grave threat analysis in denying her visitation, Mother supports her claim by citing portions of hearing transcripts on February 6, 2020, and February 25, 2020, on the dependency docket. *See* Mother's Brief at 30-33, 34-37. Those transcripts were never entered into evidence on the adoption dockets, nor did Mother move to supplement the record with them. Thus, we may not consider them. *See In re S.S.*, 252 A.3d 681, 688 (Pa. Super. 2021).

Were we free to consider Mother's allegation – unsupported by record evidence – that the trial court should have focused its February 2020 grave threat analysis on the risk to Children rather than to their later ability to testify, we might agree that the trial court's initial focus on Children's future testimony was misplaced. Nevertheless, at a later hearing, the trial court found that aggravated circumstances existed regarding Mother's abuse and neglect of Children. *See* N.T., 12/8/20, at 241. In its opinion, the trial court cited the Children's dangerous medical conditions at the time they came into care, and "the

deplorable condition of their beds, food, lack of heating, and overall distressing, dangerous care given by [Mother].” *See* Trial Court Opinion, 8/15/22, at 47.

Based on these findings, we would not conclude the trial court abused its discretion in finding that Mother, who had malnourished one¹² child and grossly overfed another to the point of morbid obesity, posed a grave threat to Children.¹³

In her fifth issue, Mother argues that she was deprived of her due process of law under the Fourteenth Amendment to the United States Constitution by the “extraordinary delays” in the

¹² A.C.C. was not then under the court’s jurisdiction. *See* Mother’s Brief at 31.

¹³ Additionally, the criminal court issued its stay-away order on March 12, 2020, less than two months after the trial court’s stay away order. *See* N.T., 12/8/20, at 242 (trial court stating that the criminal court has issued a stay-away order against Mother and Grandmother, and that its stay-away order “just piggyback[s] on top of that.”). There were thus less than two months in which the trial court’s stay-away order was the only bar to Mother’s visitation, and that period of time began immediately after two of the Children were hospitalized with malnutrition attributable to Mother, which is probative of a grave threat. Additionally, even during that less than two months period, the trial court did not absolutely preclude visitation as to the two children who were then before it: the court ordered supervised visits with C.M.C., and allowed for the possibility of visits with W.A.C. *See* Mother’s Brief at 30-33. We decline to conclude that the trial court abused its discretion in determining that Mother presented a grave threat to Children in the less than two months when the trial court’s stay-away order was the only bar to visitation.

administration of justice throughout the dependency process. **See** Mother’s Brief at 45-48. Mother failed to assert this alleged error in her concise statements of errors complained of on appeal, and the trial court did not address it. The claim is, thus, unreviewable. **See *In re M.Z.T.M.W.***, 163 A.3d 462, 466 (Pa. Super. 2017) (“[I]t is well-settled that issues not included in an appellant’s statement of questions involved and concise statement of errors complained of on appeal are waived.”).

In her sixth and final issue, Mother argues that the trial court abused its discretion by changing Children’s permanency goals from reunification to adoption where DHS failed to meet its burden of proof that goal changes would best suit Children’s needs and welfare. **See** Mother’s Brief at 44-45. Given our disposition affirming the termination decrees, Mother’s appeals from the goal change orders are moot. Therefore, we dismiss her appeals from the goal change orders. **See *In the Interest of D.R.-W.***, 227 A.3d 905, 917 (Pa. Super. 2020) (“An issue before a court is moot if in ruling upon the issue the court cannot enter an order that has any legal force or effect.”) (citation omitted).

Termination decrees affirmed. Appeals from the goal change orders dismissed.

Judgment Entered.
/s/ Joseph D. Seletyn,
Joseph D. Seletyn, Esq.

Prothonotary

Date: 1/6/2023

Appendix “C”

**IN THE INTEREST OF: FAMILY COURT
DIVISION
JUVENILE
BRANCH –
Dependency**

S.C. Mother : CONSOLIDATED¹

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S.C. (“Mother”), Appeals from the Decrees of Involuntary Termination of Parental Rights entered by this Court on April 20, 2022. Mother also appeals the Permanency Review Orders entered on this date. Which changed the Childrens Goals to Adoption. Mother. By and through counsel. Filed Notices of Appeal and Statements of Matters Complained of on Appeal on May 20, 2022.

This Court issued Decrees of Involuntary Termination of Parental Rights on March 1. 2022 and April 20. 2022 terminating the parental rights of Fathers. A.B. and T.G. Fathers did not file Appeals.

STATEMENTS OF MATTERS COMPLAINED OF ON APPEAL

In her Statements of Matters Complained of on Appeal. Mother raises the following issues:

1. The trial court erred or abused its discretion in determining that Petitioner.

Department of Human Services (DHS), had met its burden of proof by clear and convincing evidence that Mother evidenced a settled purpose of relinquishing her claim to the Children or has refused or failed to perform parental duties, for at least six months immediately preceding the filing of the petition in that, inter alia. the goal remained reunification and Mother performed all parental duties allowed by the court, and was fully compliant with the Family Service Plan throughout the case.

2. The trial court erred or abused its discretion in determining that Petitioner, DHS, had met its burden of proof by clear and convincing evidence that Mother has shown repeated and continued incapacity, abuse. neglect. or refusal, or that such incapacity. abuse. neglect, or refusal causing her Children to be without essential parental care, control, or subsistence necessary for the Children's physical or mental well-being.
3. The trial court erred or abused its discretion in determining that Petitioner, DHS, had met its burden of proof by clear and convincing evidence that the conditions and causes or any such incapacity, abuse, neglect. or refusal cannot or will not be remedied by Mother; and in fact, the court denied Mother's timely request for a parenting capacity evaluation.

4. The trial court erred or abused its discretion in determining that Petitioner, DHS, had met its burden of proof by clear and convincing evidence that the conditions which led to the removal of the Children continue to exist.
5. The trial court erred or abused its discretion in the determining that Petitioner, DHS, had met its burden of proof by clear and convincing evidence that the services or assistance reasonably available to Mother through her own efforts are not likely to remedy the conditions which led to the removal of the Children within a reasonable period of time in that the goal had remained "reunification" throughout the case. even though Petitioner had been relieved of affirmatively providing reasonable efforts to help Mother reunify.
6. The trial court erred or abused its discretion in determining that Petitioner. DHS, had met its burden of proof by clear and convincing evidence that services or assistance for reunification were reasonably available to Mother in that Mother consistently and continually kept Petitioner apprised of the services she sought out and utilized.
7. The trial court erred or abused its discretion in proceeding to the Pa.C.S. § 2511(b) determination when the Petitioner had not first met its burden under 2511(a).

8. The trial court erred or abused its discretion in determining that Petitioner. DHS. had met its burden of proof by clear and convincing evidence that termination of Mother's parental rights best meets the needs and welfare of the Children.
9. The trial court erred or abused its discretion by not adequately considering Mother's efforts to correct the conditions which originally brought these Children into care.
10. The trial court erred or abused its discretion by failing to consider the effect on the Children's bond with Mother of a criminal court's pretrial order denying her contact with her Children pending the outcome of the criminal case: where the criminal court's pretrial order created a condition beyond Mother's control: where the criminal case was still pending at the time of the termination decree: and where there had been no finding by the dependency trial court that visitation posed a grave threat to the Children.

PROCEDURAL HISTORY:

S.C. (thereafter, " Mother") gave birth to W.C. on June 24, 2015. A.B. is listed as Father on the birth certificate. (Exhibit "B" *Certification of Birth*,

attached to DHS Petition for Involuntary Termination of Parental Rights. filed 4/01/2021).

Mother gave birth to C.C. on May 27, 2016. No Father is listed on the birth certificate. (Exhibit "B" *Certification of Birth*, attached to DHS Petition for Involuntary Termination of Parental Rights. filed 4/01/2021).

Mother gave birth to A.C. on January 9, 2019. No Father is listed on the birth certificate. (Exhibit "B" *Certification of Birth*, attached to DHS Petition for Involuntary Termination of Parental Rights, filed 4/01/2021).

On January 19, 2020. DHS received a Child Protective Services (CPS) report alleging that A.C., who is one year old, presented at St. Christopher's Hospital for Children on January 19, 2020 after his Mother noticed that A.C. was experiencing difficulty

breathing; that he had suffered from a cough and congestion the week prior to the report. that lie presented as extremely malnourished at St. Christopher's Hospital for Children; that he weighed 4.08 kilograms and had been diagnosed as suffering from failure to thrive; that he was the size of an infant; that A.C. was bradycardic, hypothermic, and cachectic; that he was also hypoglycemic and dehydrated; that he suffered from skin rashes and alopecia; that it was believed that A.C.'s medical issues were a result of neglect and/or abuse; and that his condition would be certified as anear fatality. The report further alleged that A.C. was born at full term and weighed nine pounds at his birth; that his weight began to fluctuate when he was approximately six months old; that he had been seen by apediatrician when he was six months old and

again when he was eight months old, and that Mother was attempting to contact A.C.'s Father. T.G., to obtain A.C.'s medical records. The report further alleged that the Philadelphia Police Department (PPD) was in route to the home of Mother to retrieve A.C.'s siblings, C.C. and W.C.; and that W.C. and C.C. were in the care of the Children's Maternal Grandmother. C.C., at that time. This report was indicated. (Exhibit "A" Statement of Facts, attached to DHS Petition for Involuntary Termination of Parental Rights. filed 4/01/2021. ¶ "a").

On January 19, 2020, DHS received a supplemental report detailing similar allegations to those in the CPS report. The supplemental report stated that that A.C. was subsequently transported to St. Christopher's Hospital for Children by

emergency medical services (EMS) personnel. that he appeared to be very thin and weighed only eight pounds at that time; that it appeared he had not been fed for an extended period of time; that he was lethargic; that he appeared to be a victim of neglect; that Mother and Maternal Grandmother did not appear to be concerned regarding A.C.'s low weight; that EMS personnel were initially contacted to address A.C.'s congestion; and that it was not possible for his low weight to develop in a short period of time. The report further stated that, when questioned regarding A.C.'s medical history, Mother stated that she was attempting to get his medical records from Father. T.G.; that W.C. appeared to be morbidly obese and weighed approximately 150 pounds; and that W.C. was talkative and not withdrawn. (Exhibit "A" Statement of Facts.

attached to DHS Petition for involuntary Termination of Parental Rights. filed 4/01/2021. ¶ “b”).

On January 20, 2020, DHS went to St. Christopher's Hospital for Children. W.C., A.C., C.C.. Mother and Maternal Grandmother were present in the hospital. DHS observed that A.C. was small in stature and appeared to be malnourished; that A.C. was receiving intravenous treatment; that four-year-old W.C. was morbidly obese and weighed approximately 139 pounds; that C.C. also appeared to be malnourished and weighed only eight pounds; that W.C. was active, difficult to control, and required redirection throughout the visit, and that C.C. appeared to be frail but was able to stand and walk slowly. DHS learned that A.C. would remain hospitalized at St. Christopher's Hospital for

Children for several weeks. Mother denied neglecting the three Children and denied that A.C. and C.C. were malnourished. Mother stated that A.C. had an appetite and received five-to- seven-ounce bottles of formula five times per day; that A.C. also ate baby food; that he made cooing sounds but was non-verbal; that C.C. had a healthy appetite; that W.C. and C.C.'s Father, A.B., suffered from an undisclosed genetic issue; that A.B.'s genetic issue might be the cause of W.C. and C.C.'s weight issues. Mother further stated that the Children received routine medical care through Einstein Medical Center (EMC); that she experienced difficulty scheduling appointments for the Children and their medical care was inconsistent; that W.C. had an appointment at the Children's Hospital of Pennsylvania (CHOP) on January 21, 2019, to address his obesity; that A.C.

had last been seen at EMC in or around September 2019; and that EMC provided her with PediaSure to address A.C.'s low weight, but prescribed no other follow up treatment. Mother further stated that she resided with Maternal Grandmother and the Children's Maternal Uncles, J.C. and G.C.; that she was employed; and that neither Father was involved in the Children's care. DHS spoke with Maternal Grandmother; whose statements were consistent with Mother's statements regarding the Children's weight issues. DHS noted that Mother and Maternal Grandmother did not appear to be concerned about the Children's medical issues. (Exhibit "A" Statement of Facts, attached to DHS Petition for Involuntary Termination of Parental Rights. Filed 4/01/2021. ¶ “c”).

On January 20, 2020. DHS received a General Protective Services (GPS) report alleging that W.C. was at the Emergency Department of St. Christopher's Hospital for Children; that W.C. was being evaluated for his severe obesity; and that it was unknown if W.C. would be admitted to St. Christopher's Hospital for Children. (Exhibit "A" Statement of Facts, attached to DHS Petition for Involuntary Termination of Parental Rights, filed 4/01/2021. ¶ "d").

On January 20, 2020. DHS received a CPS report alleging that C.C. was three years old and weighed 10.5 kilograms; that A.C. had been admitted to St. Christopher's Hospital for Children suffering from malnourishment; and that A.C.'s malnourishment was certified as a near fatality by hospital staff. This report was determined as valid.

(Exhibit "A" Statement of Facts, attached to DHS Petition for Involuntary Termination of Parental Rights, filed 4/01/2021, ¶ "e").

On January 21, DHS went to St. Christopher's Hospital for Children. A.C., W.C., C.C., Mother, and Maternal Grandmother were present at the hospital. DHS observed that W.C. was asleep at that time; that C.C. was in the hallway eating; and that C.C. appeared to be nonverbal and communicated with moans and grunts. Staff at St. Christopher's Hospital for Children stated that A.C. weighed only eight pounds; that A.C. currently weighed less than his birth weight of nine pounds; that A.C. had been diagnosed as suffering from malnutrition and failure to thrive; that A.C. had also been diagnosed as suffering from influenza, Respiratory Syncytial Virus (RSV), and hypothermia; that A.C. suffered multiple

seizures at the hospital during the overnight hours of January 19, 2019. that A.C. suffered from bedsores and alopecia; and that his legs were contorted, and that he was unable to walk. Staff at St. Christopher's Hospital for Children further stated that C.C. was also severely underweight and malnourished; that C.C. weighed only 22 pounds; that he appeared to be withdrawn and was nonverbal; that W.C. was morbidly obese and weighed approximately 140 pounds; that Mother appeared to be unconcerned regarding her Children's weight and nutrition; that Mother had been observed taking food from C.C. and giving it to W.C. while at the hospital; that hospital staff had to remove C.C. from the room and feed him separately; and that he exhibited a significant appetite in the hospital and his eating required monitoring. DHS learned that A.C. was admitted to

the Neonatal Intensive Care Unit (NICU); that A.C. was receiving nutrition with the assistance of a feeding tube; that he was at risk of suffering from refeeding syndrome; that his legs were also contorted, but he was able to walk; that he was expected to recover from his medical issues; that it was unknown if he would recover from his medical issues at that time; and that he was too weak to undergo an MRI at that time. DHS further learned that medical records indicated that A.C. last received routine medical care when he was one week old; that C.C. had not received routine medical care since July 2017; and that W.C. had last received routine medical care in January 2019 and was referred for the Healthy Weight Program through CHOP at that time. Mother stated that A.C. and C.C. ate regularly; that C.C. was verbal; that he had been receiving

PediaSure to address his low weight; that C.C. ate more than W.C.; that W.C. exhibited a significant appetite, and his weight had recently increased; that Wyatt's diet consisted of chicken nuggets, apple juice, pasta, and potato chips; that A.C. and C.C. were behind in their routine medical care as she was attempting to switch the Children's healthcare provider to CHOP from EMC. Mother further stated that she contacted EMS personnel for A.C. after she noticed that he was having trouble breathing; that both fathers, T.G. and A.B. had both been diagnosed as suffering from undisclosed genetic diseases; and that their medical conditions might be contributing to A.C. and C.C.'s low weight. DHS observed that Mother appeared to be nonchalant about the Children's medical issues. Maternal Grandmother denied that A.C. and C.C. were malnourished and

stated she supervised the Children when Mother was at work; that she fed A.C. and C.C. regularly; and that she read to and engaged with the Children on a regular basis. (Exhibit "A" Statement of Facts, attached to DHS Petition for Involuntary Termination of Parental Rights. filed 4/01/2021. ¶ "f").

On or around, January 21, 2020, DHS received areport from the Child Protection Team at St. Christopher's Hospital for Children as to W.C. DHS learned that his obesity was likely due to excess caloric intake; that he was also being evaluated for other metabolic and/or genetic causes of his excessive weight gain; that he required intensive outpatient management of his weight; and that his evaluation was otherwise negative for signs of abuse. (Exhibit "A" Statement of Facts. attached to DHS Petition for

Involuntary Termination of Parental Rights filed
4/01/2021. ¶ "g").

On or around January 21, 2020, DHS received a report from the Child Protection Team at St. Christopher's Hospital for Children as to A.C. DHS learned that his weight was consistent with a diagnosis of failure to thrive, that he was suffering from severe malnutrition and weighed less than 60 percent of his ideal body weight; that he weighed more at his birth than he did on January 20, 2020; that his malnutrition was likely caused by nutritional neglect; that he suffered from developmental delays likely caused by his malnutrition; that he suffered from decubitus ulcers, hair loss, and leg contractures consistent with an infant confined to the same position for an extended period of time; that his influenza and RSV infections

could certainly prove fatal due to his severe malnutrition; that his influenza and RSV infections had caused a drastic and rapid decline in his health; and that he remained hospitalized in the NICU at that time. DHS further learned that his vital signs indicated that he was critically ill upon his arrival at St. Christopher's Hospital for Children; that he required aggressive resuscitation to prevent his death; that he required positive airway support for adequate ventilation; that he was receiving a neonatal warmer to address his hypothermia; that his blood sugar levels were nearly undetectable upon his hospitalization; that his low blood sugar level led to seizure activity and required intravenous glucose; that his blood sugar level continued to remain unstable; and that he required circulatory support with fluids, dopamine, and albumin to prevent

hypotension and shock at that time. (Exhibit "A" Statement of Facts, attached to DHS Petition for Involuntary Termination of Parental Rights. filed 4/01/2021. ¶ "h").

On or around January 21, 2020, DHS received a report from the Child Protection Team at St. Christopher's Hospital for Children as to C.C. DHS learned that his weight and height were consistent with a diagnosis of failure to thrive; that he was severely malnourished and his current weight was less than 60 percent of his ideal weight; that he was last hospitalized in August 2019 for altered mental status and hypothermia; that he weighed approximately one pound more in August 2019 than he did on January 20, 2020; that his failure to thrive was most likely a result of nutritional neglect, but his medical evaluation was still in progress; that he

suffered from developmental delays that were possibly the result of malnutrition; and that he would remain hospitalized at St. Christopher's Hospital for Children. (Exhibit "A" Statement of facts, attached to DHS Petition for Involuntary Termination of Parental Rights. filed 4/01/2021. ¶ "I").

On January 21, 2020, DHS went to 3906 Arcadia Street, the address of record for Mother, Maternal Grandmother, and the Children's Maternal Uncles, G.C. and J.C. They were present in the home. DHS noted that the home lacked hot water service; that there was no PediaSure or infant formula in the home; that the Children's sleeping arrangements in the home were unclear; that there was a crib in the home, but it was dirty; and that there were only photographs of W.C. displayed in the

home. Maternal Grandmother stated that there was no formula in the home because Mother had run out of formula on January 19, 2020, prior to the family's transportation to St. Christopher's Hospital for Children. G.C. and J.C. stated that they had not observed any issues regarding the three Children. (Exhibit "A" Statement of Facts. attached to DHS Petition for Involuntary Termination of Parental Rights. Filed 4/01/2021. ¶ “j”).

On January 22, 2020, DHS obtained an Order of Protective Custody (OPC) for W.C. and placed him in a Foster Home through Northern Children's Services, where he currently remains. (Exhibit "A" Statement of Facts. attached to DHS Petition for Involuntary Termination of Parental Rights filed 4/01/2021. ¶ “k”)

On January 22, 2020, DHS spoke with W.C. during transportation. He stated that A.C. and C.C. were kept in Mother's room all day. (Exhibit "A" Statement of Facts, attached to DHS Petition for Involuntary Termination of Parental Rights, filed 4/01/2021. ¶ "1").

On January 22, 2020, DHS spoke with staff at St. Christopher's Hospital for Children. DHS learned that Mother and Maternal Grandmother had destroyed property in the hospital room after W.C.'s placement; and that Mother and Maternal Grandmother had been escorted out of the hospital by staff and security officers. (Exhibit "A" Statement of Facts, attached to DHS Petition for Involuntary Termination of Parental Rights, filed 4/01/2021. ¶ "m").

On January 23, 2020, DHS received a GPS report alleging that Mother and Maternal Grandmother left A.C. and C.C. unsupervised in a room in the home all day; that Mother and Maternal Grandmother did not allow them to leave the room to play with W.C.; that Mother and Maternal Grandmother expressed favoritism toward W.C.; that Mother and Maternal Grandmother were verbally abusive toward A.C. and C.C.; that Mother and Maternal Grandmother only fed A.C. and C.C. once a day; and that they gave the majority of the food in the home to W.C. The report further alleged that A.C. and C.C. were at St. Christopher's Hospital for Children. This report was determined as valid. (Exhibit "A" Statement of Facts, attached to DHS Petition for Involuntary Termination of Parental Rights, filed 4/01/2021, ¶ "n").

A Shelter Care Hearing was held on January 24, 2020 before Juvenile Court Hearing Officer, Vincent J. Giusini. The Court confirmed the recommendation and the OPC was lifted, and legal custody of W.C. was transferred to DHS. Placement of W.C. in Northern Foster Care. The Court ordered that W.C. be provided with a clothing voucher, that DHS and/or the Community Umbrella Agency (CUA)-Asociacion de Puertorriquenos en Marcha (APM) ensure that W.C. attended all medical appointments; that Mother's visitation with W.C. be suspended until the adjudicatory hearing, due to the grave threat posed by her presence. DHS and/or CUA-APM explore any potential kinship care resources. (Recommendation for Shelter Care—Order. 1/24/2020).

On January 27, 2020, DHS spoke with St. Christopher's Hospital for Children staff members via telephone. DHS learned that C.C. might be ready for discharge soon, and that A.C.'s discharge date remained unknown. (Exhibit "A" Statement of Facts. attached to DHS Petition for Involuntary Termination of Parental Rights. filed 4/01/2021. ¶ “p”).

DHS subsequently learned that C.C. would remain hospitalized at St. Christopher's Hospital for Children at that time; and that he was suffering from a fever and bowel-related issues. (Exhibit "A" Statement of Facts. attached to DHS Petition for Involuntary Termination of Parental Rights. filed 4/01/2021. ¶ “q”).

On January 28, 2020, DHS filed a Dependent Petition to cover W.C.'s OPC. DHS determined that

there was sufficient basis to find that Aggravated Circumstances exist pursuant to 42 Pa.C.S. § 6302 (aggravated circumstances (2)). In that the Child or another Child of the parent has been the victim of physical abuse resulting in serious bodily injury. sexual violence, or aggravated physical neglect. (Exhibit "A" Statement of Facts, attached to DHS Petition for involuntary Termination of Parental Rights, filed 4/01/2021. ¶ "r").

On January 29, 2020, DHS went to W.C.'s Northern Children's Services Foster Home and met with the Child. W.C. stated that A.C. and C.C. were kept in Mother's room in the home all day; that A.C. was kept in a crib and C.C. was kept in a playpen; that Mother was often at work during these times; that Maternal Grandmother would hit A.C. and C.C. when they cried; and that both were dirty. (Exhibit

"A" Statement of Facts, attached to DHS Petition for Involuntary Termination of Parental Rights, filed 4/01/2021 ¶ "s").

On January 30, 2020, adjudication was Deferred for W.C. and a continuance was granted by the Honorable Allan L. Tereshko. Mother and Maternal Grandmother's visitation with W.C. to be suspended until further order of the court. No Contact Rule entered as to Mother and Maternal Grandmother. DHS and/or CUA-APM to ensure that W.C.'s cellular telephone was taken from him, and that the next court date be a status of Child abuse hearing. (Continuance Order. 1/30/2020).

On January 31, 2020, DHS learned that C.C. was ready for discharge from St. Christopher's Hospital for Children and obtained an OPC for C.C. and placed him in a medical foster home through

Concern. (Exhibit "A" Statement of Facts, attached to DHS Petition for Involuntary Termination of Parental Rights, filed 4/01/2021, ¶ “u & v”).

In February 2020, DHS filed a dependent petition to cover C.C.'s OPC. DHS determined that there was sufficient basis to find that Aggravated Circumstances exist pursuant to 42 Pa.C.S. § 6302 (aggravated circumstances (2)). In that the Child or another Child of the parent has been the victim of physical abuse resulting in serious bodily injury, sexual violence, or aggravated physical neglect. (Exhibit "A" Statement of Facts. attached to DHS Petition for Involuntary Termination of Parental Rights. filed 4/01/2021. ¶ “w”).

On February 3. 2020, DHS spoke with St. Christopher's Hospital for Children staff via email. DHS learned that A.C.'s risk of refeeding syndrome

had been resolved; that his skeletal survey was negative for any fractures; that he had previously received antibiotics for his medical issues; that he was no longer receiving antibiotics; that his weight continued to fluctuate; and that he remained in the NICU. (Exhibit "A" Statement of Facts. attached to DHS Petition for Involuntary Termination of Parental Rights. Filed 4/01/2021 ¶ "x").

A Shelter Care Hearing for C.C. was held on February 3, 2020 before Juvenile Court Hearing Officer, Alexis Ciccone. Tile Court confirmed the recommendation and ordered that contact with Maternal Grandmother NOT to occur with the Child. Mother's visits remain suspended. OPC was lifted and temporary commitment to stand. (Recommendation for Shelter Care—Order. 2/03/2020).

On February 6, 2020, Adjudicatory hearings for W.C. and C.C. were held before the Honorable Allan L. Tereshko. Adjudication was deferred and the Court ordered the temporary commitment to DHS to stand. Cases were continued for the matter was contested. PLS to be done on Father. Mother to have a total of two supervised line-of-sight/hearing visits with the Child C.C. DHS to service the case until further notice. CUA not to service until further notice. however. CUA may shadow DHS until further notice. (Continuance Orders. 2/06/2020).

On February 10, 2020, DHS filed a Dependent Petition for A.C. DHS determined that there was sufficient basis to find that Aggravated Circumstances exist pursuant to 42 Pa.C.S. § 6302 (aggravated circumstances (2)). In that the Child or another Child of the parent has been the victim of

physical abuse resulting in serious bodily injury, sexual violence, or aggravated physical neglect. The Court continued A.C.'s Adjudicatory hearing to 2/25/2020; ordered that an OPC be obtained for A.C. once his placement was located; and that Mother and Maternal Grandmother were not to have any contact with A.C. A.C. remained hospitalized at St. Christopher's Hospital for Children at that time. (Exhibit "A" Statement of facts. attached to DI IS Petition for Involuntan, Termination of Parental Rights. filed 4/01/2021. ¶ “aa”).

On February 25, 2020, Adjudicatory hearing for A.C. was held before the Honorable Allan L. Tereshko. Adjudication was deferred. Child is in St. Christopher's Hospital. OPC is to be obtained once placement is located for the Child. Case continued to link case to sibling. Mother and Maternal

Grandmother are NOT to have any contact with the Child. (Continuance Order. 2/25/2020).

On March 12, 2020 Mother was arrested and charged with aggravated assault; endangering the welfare of Children; simple assault; and recklessly endangering another person. (Exhibit "A" Statement of Facts, attached to DFIS Petition for Involuntary Termination of Parental Rights. filed 4/01/2021. ¶ "dd").

On March 19, 2020, DHS spoke to A.C.'s Father. T.G., who stated that he was still in a relationship with Mother; that Mother frequently visited him at his residence but had never brought A.C. with her; that he had never seen A.C. in person; that he was not present when A.C. was born and that he had asked Mother to bring A.C. when she visited his home, but she never did. T.G. stated that he saw

A.C. in January 2020 via FaceTime and thought that A.C. appeared to be very small and thin. He stated that Mother did not allow T.G. to visit their home. T.G. stated that he was willing to care for A.C. but reacted in a nonchalant manner about A.C.'s extensive medical needs. (Exhibit "A" Statement of facts, attached to DHS Petition for Involuntary Termination of Parental Rights, filed 4/01/2021. ¶ “ee”).

On March 31, 2020, A.C. was discharged from St. Christopher's Hospital for Children, with the following diagnoses: severe malnutrition; Child neglect; Child abuse; secondary adrenal insufficiency; refeeding syndrome; acute respiratory failure; RSV infection; influenza due to influenza virus type B; hypothermia; bradycardia; hypoglycemia; delayed vaccination; failure to thrive;

an abnormal finding on a thyroid function test; growth hormone deficiency; and hypothyroidism. It was recommended that A.C. receive follow-up care with an nutritionist and his primary physician as well as specialists in endocrinology, speech therapy, occupational therapy, and physical therapy. (Exhibit "A" Statement of Facts. attached to DHS Petition for Involuntary Termination of Parental Rights, filed 4/01/2021. ¶ “ff”).

On March 31.2020, DHS obtained an OPC for A.C. and placed him in a medical foster care home through Concern. (Exhibit "A" Statement of Facts. attached to DHS Petition for Involuntary Termination of Parental Rights, filed 4/01/2021. ¶ “gg”).

A Shelter Care Hearing for A.C. was held on April 1, 2020, before Juvenile Court Hearing Officer,

Michael G. Campbell. The Court confirmed the recommendation and ordered that legal custody transfer to DHS, and placement in Medical Foster Care. OPC lifted and temporary commitment stands. Mother, Father and Maternal Grandmother are NOT to have any contact with Child. (Recommendation for Shelter Care—Order, 4/01/2020).

On April 21, 2020, an Adjudicatory hearing for A.C. was held before the Honorable Allan L. Tereshko. Adjudication was deferred. Child is currently in Medical Foster Care through Concern. Request for continuance was granted. Father permitted virtual visits as arranged. Mother and Maternal Grandmother's visits to remain suspended until further order of Court. (Continuance Order, 4/21/2020).

On April 29, 2020. Adjudicatory hearings for the three Children were held before the Honorable Allan L. Tereshko. Adjudication was deferred and temporary commitments to stand. W.C. is in Medical Foster Care through Concern. C.C. is in Medical Foster Care through APM, and A.C. is in Medical Foster Care through Concern. Cases continued. ACS did PLS on A.B., Father of Children. C.C., and W.C, with an address of 101 Clifford Brown Walk, Wilmin-
ton. DE. No Contact order as to Mother and Maternal Grandmother to Stand. (Continuance Orders. 2/25/2020).

On June 16. 2020, Adjudicatory hearings for the three Children were held before the Honorable Allan L. Tereshko. Adjudication was deferred and temporary commitments to stand. Cases were

continued for Child Abuse hearing at next listing.
(Continuance Orders, 6/16/2020).

On July 8, 2020, DHS held an initial Family Service Plan (FSP)/Single Case Plan (SCP) meeting. The primary goal identified for the Children was "Return to Parent;" with a concurrent goal of "Adoption." The parental objectives established for Mother were to: 1) attend parenting classes to address the all-around care of her Children; 2) complete a psychological evaluation to address the issues that brought her Children into DHS care; 3) to maintain contact with DHS and providers and to update DHS with any changes to her contact information; 4) attend all court hearings; 5) sign off on any medical releases/consents or authorizations of service; 6) provide DHS with a list of family/friends placement resources to care for the Children; and 7)

maintain housing and employment. (Exhibit "A" Statement of Facts, attached to DHS Petition for Involuntary Termination of Parental Rights" filed 4/01/2021. ¶ "jj").

On Jul,21. 2020, Adjudicatory hearings were held for the Children. The Court found that the Children remained in their medical foster care placements. The Court deferred the Children's adjudication; the Court ordered that all discovery be passed to all counsel and to the potential expert witness 14 days prior to the next hearing; and counsel for Mother and Maternal Grandmother were to submit a separate discovery order to Judge Tereshko. The Children's matters were continued due to further investigation. (Continuance Orders. 7/21/2020).

On December 8, 2020, Adjudicatory Hearings were held for the Children before the Honorable Allan L. Tereshko. Legal Custody of the Children transferred to DHS. And placement of the three Children remains in Medical Foster Care. Visitation between Mother, maternal Grandmother, the Fathers, and the Children remains suspended until further order of the Court. The Court determined that the Children were Dependent Children. All Children were found to be victims of Child abuse as defined at 23 Pa. C.S. §6303. No efforts are to be made to preserve the family and reunify the Children with the Mother. All CPS reports were upgraded from Indicated to Founded as to Mother and Maternal Grandmother. The Court appointed W.C. and C.C.'s foster parents as the Children's educational decision makers. W.C. were referred to

the Behavioral Health System (BHS) for an evaluation and/or consultation to connect with trauma- focused therapy. (Orders of Adjudication. 12/08/2020) (Aggravated Circumstances Orders, 12/08/2020).

On January 7, 2021 Mother filed Notices of Appeal of the Orders of Adjudication and Disposition, finding the Children Dependent, and the Aggravated Circumstances Orders finding Child Abuse. to the Superior Court of Pennsylvania. (126, 127, 128, 129, 131 and 132 EDA 2021).

On January 29, 2021. DHS held an FSP/SCP revision meeting. The primary goal identified for the Children was "Adoption;" with a concurrent goal of "placement with a fit and willing relative." The parental objectives established for Mother were to: 1) maintain contact with DHS and providers and to

update DHS with any changes to her contact information; 2) attend all court hearings; 3) sign off on any medical releases/consents or authorizations of service; and 4) maintain housing and employment. (Exhibit "A" Statement of Facts, attached to DHS Petition for Involuntary Termination of Parental Rights. filed 4/01/2021, ¶ "rr").

Permanency Review Hearings for all three Children were held on April 21, 2021, before the Honorable Allan L. Tereshko. Legal custody remains with DHS and placement continues in medical foster care through Concern. All prior orders for Mother to stand. Children may be moved prior to next court date. Cases continued for TPR counsel to be appointed and DACAU to remain as GAL. (Permanency Review Orders. 4/20/2021).

On July 6, 2021 Status Review Hearings were held before the Honorable Allan L. Tereshko. All prior orders to stand. Mother's visits to remain suspended per Criminal Stay-Away Order. ACS request for continuance Granted. (Status Review Orders. 7/06/2022).

On August 12, 2021 the Superior Court of Pennsylvania Affirmed this Courts Orders issued on December 8, 2020 Adjudicating the Children Dependent and victims of Child abuse by Mother. (126. 127. 128. 129. 131 and 132 EDA 2021).

Permanency Review Hearings for all three Children were held on November 16, 2021 before the Honorable Allan L. Tereshko. Legal custody remains with DHS and placement continues in medical foster care through Concern. Remain as committed. Cases continued because Mothers counsel unavailable.

Children safe as of 11/06/2021. (Permanency Review Orders. 11/16/2021).

Permanency Review Hearings for all three Children were held on March 1, 2022 before the Honorable Allan L. Tereshko. Legal custody remains with DHS and placement continues in medical foster care through Concern. Children doing well. W.C. completed trauma therapy through Bethanna. C.C. receives trauma therapy and caregiver sessions through Bethanna and receives physical and occupational therapy in school. A.C. receives Child Link Early Intervention Services, speech therapy and motor skills therapy. Cases continued to allow Mother the opportunity to sign Voluntary Relinquishment Petitions. Children safe as of 2/05/2022 and 2/28/2022. (Permanency Review Orders. 3/01/2022).

STANDARD OF REVIEW AND LEGAL ANALYSIS

When reviewing an appeal from a decree terminating parental rights, an appellate court is 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, an appellate court must accord the hearing judge's decision the same deference that it would give to a jury verdict. The Pennsylvania Superior Court need only agree with a trial court's decision as to any one subsection under 23 P.C.S. § 2511(a) in order to affirm a termination of parental rights. *In re D.A. T.* 91 A.3d 197 Pa.Super.2014).

The standard of review in termination of parental rights cases 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. We have previously emphasized our deference to trial courts that often have first-hand observations of the parties spanning multiple hearings. In re T.S.M., 620 Pa. 602, 71 A.3d 251, 267 (2013) (citations and quotation marks omitted) In re Adoption of C.D.R., 2015 PA Super 54, 111 A.3d 1212, 1215 (2015).

The Trial Court Properly Found that DHS had met its Burden by Clear and Convincing Evidence to Terminate Mother's Parental Rights Pursuant to 23 Pa.C.S.A. V51 (a)(1), (2), (5) (8) and 2511(b)²

² **23 Pa. C.S.A. § 2511 (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 parenting 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 parents 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 reasonable period of time and termination of the parental rights would best serve the needs and welfare of the Child. (8) The Child has been removed from the care of the parent by the court or under voluntary agreement with an agency, 12 months or more have elapsed from the date of removal or placement, the conditions which led to the removal or placement of the Child continue to exist and termination of the parental rights would best serve the needs and welfare of the Child.

23 Pa.C.S.A. §2511 (b). Other Considerations.—The court in terminating the rights of a parent shall give primary

Involuntary termination of parental rights is governed by § 2511 of the Adoption Act, 23 Pa. C.S. §§ 2101-2938. As the party petitioning for termination of parental rights, DHS “must prove the statutory criteria for that termination by at least clear and convincing evidence.” *In re T.R.*, 465 A.2d 642, 644 (Pa. 1983). 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 hesitancy, of the truth of the precise facts in issue." *Matter of Sylvester*, 555 A.2d 1202, 1203-04 (Pa.1989).

consideration to the developmental, physical, and emotional needs and welfare of the Child. The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing, and medical care if found to be beyond the control of the parent.

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

Termination of parental rights is governed by Section 2511 of the Adoption Act 23 Pa.C.S.A. §§ 2101-2938, which requires a bifurcated analysis. 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. 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 L.M.*, 923 A.2d 505. 511 (Pa. Super.2007) (citations omitted). *In re Adoption of C.J.J.P.*, 2015 PA Super 80, 114 A.3d 1046, 104950 (2015). The Court need only agree with the orphans' court as to any one subsection of 23 Section 2511 (a). as well as Section 251 1(b), in order to affirm. *In re Adoption of C.J.J.P.*, 2015 PA Super 80. 114 A.3d 1046. 1050 (2015).

Mother alleges this Court committed reversible error when it involuntarily terminated her parental rights where such determination was not supported by clear and convincing evidence under 23 Pa.C.S.A. §§ 2511 (a)(1), (2), (5), (8) and (b). This Court disagrees.

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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.

On December 8, 2020 this Court found that the Children were victims of Child Abuse by Mother, as defined at 23 Pa.C.S. § 6303 (b.1)(7), "the term "Child abuse" shall mean intentionally, knowingly or recklessly doing (7) Causing serious physical neglect of a Child. "Serious physical neglect", defined as "Any of the following when committed by a perpetrator that endangers a Child's life or health, threatened a

Child's wellbeing, causes bodily injury, or impairs a Child's health, development, or functioning: (1) A repeated, prolonged, or egregious failure to supervise a Child in a manner that is appropriate considering the Child's developmental age and abilities."

On December 8, 2020, this Court held adjudicatory hearings for the Children and heard the testimony of Dr. Norrell Atkinson, a Child abuse Pediatrician, and Director of the Saint Christopher's Hospital for Children's Child Protection Unit. All parties stipulated to the finding that Dr. Atkinson is an expert in forensic Child Abuse and that she would testify and offer opinions in the area of her expertise. (N.T., 12/08/2020. p.27 at 1-25, p.28 at 1-2).

Dr. Atkinson testified A.C., a one-year-old Child was brought to the Emergency Room of the hospital by ambulance on 1/19/2020. His Mother.

S.C., accompanied him to the hospital. She testified the Child was very ill and was brought in because he had breathing difficulties, and he arrived with a very low body temperature. His heart rate was also lower than it should have been for a Child of his age. The Child was seen and found to be incredibly malnourished. The Child required an extra level of care in the emergency room before he was admitted to the critical care unit. (N.T., 12/08/2020. p.29 at 6-25, p.30 at 1-20).

Dr. Atkinson testified she conducted a Child abuse consultation on A.C. on 1/20/2020, which also included a physical examination of the Child. She observed A.C. and saw that he was incredibly thin and malnourished. He came in at 12 months of age and his weight was about 9 pounds. She noted that obviously at one year of age, this is much less than

what a child should be weighing. It was more similar to the birth weight of an infant, and she noted that with that size and weight his bones were incredibly visible. She could see the bones from his ribcage, from his arm, his legs. His skin was essentially hanging loose, and he had very minimal fat stores to his body. When she saw him, he was hooked up to multiple medical devices because he was requiring a high level of care because he was so sick. She took photographs of the Child, and they accurately represented how A.C. appeared when she conducted the examination of 1/20/20. (N.T., 12/08/2020, p.30 at 21-25, p.31 at 1-25, p.32 at 1-4).

During her testimony, Dr. Atkinson reviewed various photographs of A.C., which included his face and head. These photos showed the Child's hair was very sparse and thin and the back of the head had no

hair. She noted this is not what you normally see in a Child of his age. Other photos showed A.C.'s chest and his anus, which depicted the prominence of his ribs, his humerus bone in his arm and his shoulder area and showed the looseness or hanging of the skin in his upper arm. Other photos showed A.C.'s left hip or thigh area and the prominence of the bony structures, and his bones protruding because he had such minimal fat stores. These photos showed body structures that are not normally seen in anormal one-year-old Child. (N.T., 12/08/2020, p.32 at 5-25, p.33 at 1-25, p.34 at 1-24).

Dr. Atkinson testified as to other photographs she took during her examination. A.C.'s legs were bent in a contracted position. and the bottom of his feet were very swollen. and the skin was dry and scaly, which is abnormal in a one-year-old Child. She

also testified A.C. suffered from decubitus ulcerations on his scrotum. This area is the diaper area, if he is lying on his back with his legs up in the air. Dr. Atkinson testified these ulcerations are pressure sores, bed sores. They are area of the skin that when were exposed to prolonged period of pressure. She noted this is not a normal thing for Children but normally found in potentially elderly patients in nursing, homes. Dr. Atkinson described A.C. being incredibly sick when he came into the hospital, and required aggressive resuscitation with fluids, pressure support and oxygen. His blood sugars were low, and he had seizures, he was gravely ill, which caused the hospital to certify this case as a near fatality. (N.T.. 12/08/2020. pp.35-36 at 1-25. p.37 at 1-22).

Dr. Atkinson testified she also conducted an interview with Mother, who reported that A.C. had developed cold symptoms, and that her older Child, W.C. had recently been hospitalized with pneumonia, and her other Child. C.C. had also developed some cold symptoms. Mother reported A.C. was not affected by the cold symptoms until the night he was brought to the hospital. Mother stated he was acting normally and was taking about 5-7 ounces of formula per feeding and was having the usual number of wet diapers and his stools were normal. Dr. Atkinson testified that Mother's account of A.C.'s alleged condition was not consistent with how he appeared when she saw him because a Child consuming what Mother stated would not have appeared the way A.C. appeared. Mother also stated A.C. was born healthy and that he had a pediatrician visit one week after

his birth and had a 3-month visit. Mother stated his 6-month was delayed but she had taken him to an appointment when he was around 7 or 8 months old. Dr. Atkinson was able to verify that A.C. received 1 visit that occurred after discharge from the birth hospital. No records were found of A.C. receiving a 3-month or 6-month visit, as Mother reported. (N.T.. 12/08/2020. p.37 at 23-25. pp.38-39 at 1-25. p.40 at 1-6).

Dr. Atkinson testified she interviewed Mother and she told her that she became concerned about A.C.'s weight when he was 7 months old and stated a Pediatrician had requested bloodwork to assess whether there was a medical reason for him not gaining weight and that she was in the process of transferring his care to Children's Hospital of Philadelphia. Mother did not provide any

documentation that A.C., had received any testing regarding his weight and Mother alleged they could not draw blood when she took him to the Pediatrician. Dr. Atkinson opined Mother did not seem to have an understanding of the seriousness of A.C.'s condition. (N.T., 12/08/2020, p.40 at 7-25, p.41 at 1-15).

Dr. Atkinson opined that A.C.'s condition and appearance was a result of conditions that were occurring over the span of weeks to months. Regarding the contractures on A.C.'s legs, she opined that would be caused by aChild not being able to move or straighten their lees for a prolonged period of time, as well as the sores on the back of his body was consistent with aChild who had been confined in a single position for a prolonged period of time. She noted A.C., was in the NICU for approximately two

weeks and then was transferred to the general medical floor. A.C. was in St. Christopher's Hospital for 72 days and during his stay he received various medical testing to determine if there was a cause of his weight loss. She noted he had developed hormonal deficiencies, which were thought to be secondary to severe chronic malnutrition. However, he was able to feed by mouth appropriately after he was introduced to food. He did have delayed oral skills, likely from not taking food by mouth for a prolonged period of time. But what was determined was that his body's multiple systems and his body had been affected by this severe and chronic malnutrition that he sustained. Any deficiencies that were found in his condition were a sequela result of the chronic malnutrition. She noted A.C.'s condition was certified as a near fatality because he was

incredibly ill—his high blood pressure, his heart rate, his blood sugars, all of the things necessary for an infant to survive were in critical status. And so, had he not received medical care he certainly would have died. Therefore, Dr. Atkinson was able to determine by a reasonable degree of medical certainty that the cause of A.C.'s chronic malnutrition and his severe developmental delays were most consistent with neglect. A.C., was 1 year old and weighed 9pounds on 1/19/2020. (N.T.. 12/08/2020. p.41 at 1625, pp.42-43 at 1-25, p.44 at 1-19).

Dr. Atkinson testified that whenever aChild comes into the hospital and there is a concern for abuse or neglect it is routine to have physical screening exams of any other Children in the home to ensure they do not have similar findings as the Child initially presented at the hospital. As a result,

both of A.C.'s siblings. C.C., and W.C., were also examined by her. She examined C.C. on 1/20/2020 and saw that he was not as seriously ill as his brother, but he was incredibly thin and had similarly significant developmental delays. C.C. had very little fat stores to his body, the prominence of bony structures, had significant eczema to his skin. had contractures, as well, not as severe as A.C., but had contractures to his lower extremities. Dr. Atkinson took photographs of C.C., and noted that he was very small, about 3½ years of age, and he was more consistent with a 13-month-old. He was quite thin and small and had agastric tube placed when he came in to help with providing him with nutrition. The photographs of C.C. showed sparse thinning hair that is seen in Children who have been chronically malnourished. His legs were very thin and somewhat

contracted and not as mobile as you would expect with a 3½ year old Child. His ribs and shoulder blades showed bony prominence and he had thin sparse amount of fat stores on his upper extremities. C.C. was admitted to the hospital on a general medical floor and received supplemental nutrition. (N.T.. 12/08/2020. p.45 at 2225, pp.46-50 at 1-25, p.51 at 1-7).

Dr. Atkinson interviewed Mother regarding C.C., and she did not provide any explanation for C.C.'s condition, stating that he was feeding well at home, that he was small, but he did not have difficulties feeding or eating. Mother told her C.C., ate large amounts of food but was unable to gain weight. Dr. Atkinson noted that Mother's assertions were not consistent with how the Child appeared on 1/20/2020. She noted that if the Child is eating what

the Mother reported—he should have certainly been above or at a normal weight of a healthy Child without any medical problems. Regarding C.C.'s routine medical care. Mother told her the Child was seen at Einstein Pediatric at about 2 years old for a physical and immunizations. Dr. Atkinson was able to verify that C.C. had been seen at Einstein up until 13 months of age, and he had been seen at Saint Christopher's Hospital in August 2019. At that time, he had an episode of choking while drinking formula at home and had gone unresponsive, required CPR at home and had low body temperature, low heart rate or bradycardia. He was admitted for further evaluation and Mother was to follow up with cardiology, and serology as recommended after he was discharged. His speech delays were noted and a referral to the Pediatrician for early intervention was

also recommended. Dr. Atkinson noted that verification of any follow up appointments was not found. (N.T., 12/08/2020, p.51 at 8-25, pp.52-53 at 1-25).

Dr. Atkinson testified Mother did not provide any explanation for C.C.'s condition and did not appear to understand the seriousness of his condition. C.C., remained hospitalized for 11 days and during that time he exhibited difficulty eating because he was eating too fast, shoving food into his mouth. She noted that in kids who have been deprived of nutrition for a prolonged period of time this can be dangerous because his gut essentially has slowed down because he was not used to eating the same quantity. The hospital staff had to work with him and train him with how to slow down his eating so that his intestinal system would not be disrupted

and lead to distention or bloating, that he was experiencing while eating at the hospital. (N.T.. 12/08/2020, p.54 at 1-25, p.55 at 1-6).

Dr. Atkinson testified testing was done on C.C., because of concerns for developmental disabilities and his appearance. She noted he did not show difficulty with gaining weight once he was given an appropriate number of calories or just allowed to eat independently. In the Consultation Report-Final Report, DFIS-1 1. Dr. Atkinson noted that C.C., gained approximately 4 pounds during his 11-day hospital stay while being fed a regular diet. He demonstrated more than appropriate weight gain while hospitalized. and this indicated that C.C., was not receiving adequate calories at home, which would be considered nutritional neglect. She noted Mother inaccurately reported that what she fed C.C.,

because he would have gained and not have been severe and chronically malnourished if he had received such a diet. There were no abnormalities found and no medical cause was found which would prevent C.C., from gaining weight, therefore. Dr. Atkinson was able to determine by a reasonable degree of medical certainty that the cause of C.C.'s chronic malnutrition and his developmental delays were most consistent with neglect. C.C. was 3½ years old and weighed 22 pounds on 1/20/2020. (N.T., 12/08/2020, p.57 at 7-23)

Finally, Dr. Atkinson testified she also examined W.C. on 1/20/2020, and noted that he had a very different appearance compared to his other two brothers in that he was morbidly obese. She took photographs of W.C., who was four year of age and his size was much larger than what is appropriate

for a four-year-old. She was concerned for W.C. because a child who is morbidly obese can suffer various multiple medical complications. Dr. Atkinson interviewed Mother and she related that Mother did not appear to be concerned about his health and stated that he eats similar to C.C.'s diet, and that he had recently been evaluated by a Pediatrician whether there were concerns brought up about his weight, so he had been referred to a program at CHOP. Dr. Atkinson noted that tests were done to determine if there was a medical cause of his weight. All tests were negative. She did have concerns regarding Mother and Maternal Grandmother's behavior, which focused predominately on W.C., rather than on C.C., when they shared the same hospital room, when W.C., was hospitalized for 2

days. (N.T., 12/08/2020, p.59 at 6-25. p.60- at 1-25, pp.62-63 at 1-25. p.64 at 1-21, p.65 at 14).

Dr. Atkinson testified Prader-Willi Syndrome testing was done on W.C., to determine if there was a genetic condition to the Child being so large because those suffering from that disorder eat excessively. but the test was negative. Therefore. Dr. Atkinson was able to determine to a reasonable degree of medical certainty that the cause of W.C.'s condition was neglect. She noted that although neglect is often thought of in terms of being too thin or malnourished, but obesity carries many complications with it as well, and so certainly a Child of this size is one that requires medical intervention. And so, she opined that is well consistent with a diagnosis of neglect. W.C. was 4 ½ years old and

weighed 136 pounds on 1/22/2020. (N.T., 12/08/2020. p.64 at 22-25. p.65 at 1-6, p.66 at p.6-21).

On cross-examination by Kathleen Knese, Esquire, Dr. Atkinson testified A.C. had delayed oral skills. She explained that infants who begin to feed have a coordinated suck and swallow when they learn to chew food. And food, again, is introduced from the time the Child was born. And so, these innate skills develop over time. The concern with A.C., was that he did not have these, and he spent time with a speech therapist helping him to develop these oral skills. Therefore, Dr. Atkinson opined that Mother's assertion that A.C., was eating normally was unlikely and he could not eat nonnally. She also noted that there were no structural abnormalities in A.C.'s pituitary gland and he had a normal brain MRI. A.C., was born without any medical condition

that would have caused difficulty with him gaining weight but had subsequently developed these issues with hormonal deficiencies at the point of his hospitalization. A.C., weighed almost 10 pounds at his full-term birth. Dr. Atkinson noted that the decubitus ulcer, the lack of hair on the back of A.C.'s head and the leg contractures indicate that he was not able to move independently, and this was a result of malnutrition and neglect. She further noted that both A.C. and C.C., had developed lanugo, which is fine hair on the skin that is commonly seen in premature infants but is also present in young kids when there's chronic malnutrition. Finally, Dr. Atkinson opined that any Child who has chronic malnutrition, even if they have weight gain are still at risk for having long term developmental abnormalities. and both A.C. and C.C., are at risk for

the rest of their lives. She noted that any reasonable prudent person or caregiver who just looked at A.C. would realize that he was chronically malnourished and in need of emergency medical care. (N.T., 12/08/2020, p.68 at 16-25, p.69 at 1-9, p.71 at 1-22, p.73 at 17-25, p.74 at 15, p.75 at 9-25).

This Court heard credible, persuasive, and convincing evidence from Shaylyn Kreider, DHS Investigator, at the March 1, 2022 hearing and incorporated her testimony from the Notes of Testimony of the Child abuse hearing held on December 8, 2020. Ms. Kreider testified she investigates GPS and CPS reports of suspected Child abuse. She referenced a CPS report dated 1/19/2020 regarding A.C., who presented at Saint Christopher's Hospital as a near fatality, suffering from hypothermia and malnourishment. The alleged

perpetrators listed on the report were Mother and Maternal Grandmother of the Child. Ms. Kreider determined the report was indicated as to both Mother and Maternal Grandmother. (N.T., 12/08/2020, p.105 at 13-25. pp.106-108 at 125). (N.T., 3/01/2022, p.20 at 12-25, p.21 at 1-14).

She also referenced a CPS report dated 1/20/2020 regarding C.C., who was treated at the same hospital for malnourishment and low weight. The alleged perpetrators listed on the report were Mother and Maternal Grandmother of the Child. Ms. Kreider determined the report was indicated as to both Mother and Maternal Grandmother. (N.T., 12/08/2020. p.109 at 7-25. p.110 at 1-16) (N.T., 3/01/2022, p.20 at 12-25, p.22 at 12-25, p.23 at 1-2).

Ms. Kreider referenced a GPS report dated 1/20/2020, regarding W.C., who was treated at the

same hospital because his two siblings were seen and treated, and W.C., was severely obese. She determined the report was valid as to both Mother and Maternal Grandmother. (N.T., 12/08/2020, p. Illat 3-25, p.112 at 1-16). (N.T., 3/01 / 2022, p.21 at 15-25, p.22 at 1-11).

Ms. Kreider also referenced a GPS report dated 1/23/2020, regarding both A.C. and C.C., and the allegations were isolation, that both Mother and Maternal Grandmother kept both Children in a room all day. She determined the report was valid as to both Mother and Maternal Grandmother. (N.T., 12/08/2020, p.109 at 7-25. p. 110 at 1-16). (N.T., 3/01/2022, p.23 at 3-18) (Exhibit-DHS-7-CPS Report. 1/23/2020).

Ms. Kreider testified that her investigation began at the hospital when she saw A.C. on

1/21/2020 at the ICU unit. He appeared to be very malnourished, and she saw bed sores on him, he was very dirty, and his legs were contorted. She also saw C.C., on the 4th floor in the Pediatric Unit. He appeared to also be malnourished and looked very thin. She saw him gorging himself with food and his limbs were not properly in sync. She also saw W.C., on 1/21/2020 at the Pediatric Unit of the hospital, and he was sleeping at the time. He appeared to be severely obese. (N.T.. 12/08/2020, p.115 at 1-25. p.116 at 1-11). (N.T., 3/01 /2022. p.23 at 19-25, p.24 at 1-25. p.25 at 1).

Ms. Kreider testified she interviewed Mother during the investigation and Mother did not seem to understand the severity of her Children's conditions. She noted that A.C.'s condition was certified as a near fatality, and he remained hospitalized for

several months. She testified that prior to DHS involvement, Mother and the Children were living at 3901 Arcadia Street with Maternal Grandmother and Maternal Uncles. She noted there were concerns with the home because there was no formula for A.C. and the sleeping arrangements were inadequate and A.C.'s crib was dirty. There was a Pack 'n Play for C.C. that had an indent like a body had been there for awhile and it was also unkept and dirty. (N.T., 3/01 /2022, p.25 at 1-25, p26 at 1-11).

Ms. Kreider testified the caregivers for the Children at that time were Mother and Maternal Grandmother. She stated the OPC's were obtained for all three Children and they were placed in foster care. A.C. and C.C. were placed in medical foster care upon release from the hospital and W.C. was placed

in general foster care. (N.T., 3/01/2022. p.26 at 12-25, p.127 at 1-4).

Ms. Kreider Further testified Mother was arrested in relation to the condition of the Children and there was a Criminal Stay-Away Order put in place with respect to all the Children. She stated she had no contact with Father, A.B., and was only provided with an address in Wilmington, DE. She made outreach to him but did not receive a response. Finally, Ms. Kreider testified she was present at the Adjudicatory hearing for the Children on 12/08/2020 when they were found to be Dependent, and victims of Child Abuse as to Mother and Maternal Grandmother. She stated this Court also made a finding of Aggravated Circumstances and ordered that DHS did not need to make efforts to reunify the

Children with Mother. (N.T.. 3/01/2022, p.27 at 5-25, p.28 at 1-11).

On cross-examination by Kathleen Knese. Esquire, Child Advocate, Ms. Kreider testified that when she saw A.C. in the hospital he was a year old and weighed 8 pounds. She noted A.C. weighed 9 pounds at his birth. The Child had bed sores on his skin and had skin hanging off his bones, which were visible. A.C. was in the ICU unit at the hospital, was not able to crawl or walk, and could not move independently. A.C. was admitted into the hospital on 1/19/2020 and an OPC was obtained on 3/31/2020. (N.T., 3/01/2022, p.28 at 18-25. p.29 at 1-25. p.30 at 1-4).

Ms. Kreider further testified on cross-examination that C.C. was 4½years old at the time she saw him, and he weighed 20 pounds. He had

trouble walking and his legs would go inwards when he tried to walk. The bones of his legs would knock together, and he required assistance and occupational therapy. Ms. Kreider testified that A.C. and C.C. slept on the third floor of the home and slept separately from the rest of the family. She further noted the crib and Pack 'n Play where A.C. and C.C. slept showed signs the two boys spent day and night there and not removed. She noted that when she asked where W.C. slept, she was told he either slept on the second floor in the middle bedroom or on the couch in the living room, but she was never given a clear answer. (N.T.. 3/01/2022. p.30 at 5-25, p.31 at 1-23).

Ms. Kreider testified she visited the Children at the hospital and C.C. and W.C. were originally placed together in the same room. C.C. had to be

taken out of the room by the nursing staff and fed separately because Mother was observed taking food from C.C. and giving it to W.C. When confronted, Mother stated the C.C. was a picky eater and W.C. had a genetic condition, however, there was no medical evidence to support Mother's statement about W.C.'s genetic disorder. There was also no underlying condition that would have contributed to W.C.'s obesity. (N.T., 3/01/2022, p.31 at 24-25, p.32 at 1-25, p.33 at 1-4).

Finally, Ms. Kreider testified during the three months that she observed the Children, W.C. began to lose weight at the foster home, and C.C. got healthier through occupational and physical therapy and he gained an appropriate amount of weight. Regarding A.C., she testified he was placed in a medical foster home and began receiving services to

address some of the effects of the malnourishment and had gained some weight. (N.T., 3/01/2022, p.33 at 5-25, p.34 at 1-18).

This Court heard credible, persuasive, and convincing evidence from Rodney Hill, DHS Social Worker, at the March 1, 2022 hearing and incorporated his testimony from the Notes of Testimony of the Child abuse hearing held on December 8, 2020. He testified he was assigned the case in January of 2020. He stated Mother's SCP objectives were to maintain employment, obtain appropriate housing, and sign consents. He noted that Mother is employed and provided him with documentation. Regarding housing, Mother still resides with Maternal Grandmother at 3906 Arcadia Street. He noted that Maternal Grandmother was also found to be the perpetrator of Child abuse with

respect to the Children, therefore, this home would be inappropriate for the Children to return to. He noted that Mother has made herself available to sign consents and has maintained contact throughout the life of the case. Mother did complete parenting class; however, Mr. Hill opined Mother's completion of parenting class is not sufficient to remedy why these Children came into care. Regarding visitation. Mr. Hill further testified Mother has not had visits with the Children since 2020 due to the Criminal Stay-Away Order and Dependency Court Orders suspending visitation. He stated there are concerns with the Children being in Mother's care because of the nature of the case. (N.T., 3/01/2022. p.35 at 24-25, p.36 at 1-25, p.37 at 1-21. p.38 at 1- 14).

Mr. Hill opined Mother has not demonstrated an understanding of why her Children are in care

and Mother is not capable of caring for these Children because of the facts of the case. Regarding the current status of the Children, he testified W.C. has not asked for Mother and he believes there is no parent-Child bond between them. The Child is currently in a pre-adoptive placement in a medical foster home through Concern. He was safe as of 2/28/2022 and he is doing great with his foster parent and her grandchildren. He noted the foster parent meets all of W.C.'s needs and the Child looks to her for love, protection, and support. He is doing very well. His weight is down, and he does not have any ongoing issues with his weight. He completed trauma therapy through Bethanna and is currently in first grade. Mr. Hill opined W.C. would not suffer irreparable harm if Mother's parental rights were

terminated. (N.T., 3/01/2022. p.38 at 16-25, p.39 at 1-25. p.40 at 1-16).

Regarding C.C., Mr. Hill testified the Child does not ask for Mother and he opined there is not a Child-parent bond between the two. He is currently in a pre-adoptive medical foster home through Concern. C.C. was safe as of 2/05/2022 and all his needs are being met by his foster parent. He noted C.C.'s relationship with his foster parent is a very good relationship and he looks to the foster parent for love, protection and support. C.C. has not had any ongoing issues with his weight since placement. He is in kindergarten and receives trauma therapy through Bethanna. Mr. Hill opined C.C. would not suffer irreparable harm if Mother's parental rights were terminated. (N.T., 3/01 /2022, p.40 at 17-25, p.41 at 1-25. p.42 at 1-8).

Regarding A.C., Mr. Hill testified this Child came into care when he was 1 year old and there is no Child-parent bond between the two. A.C. is currently placed in a pre-adopted medical foster home through Concern. A.C. has not had any ongoing issues with his weight since he was placed in the foster home. He was safe as of 2/05/2022 and all his needs were being met by his foster parent. A.C. is bonded to his foster parent and there is an older Child in the home also and they play well together. Mr. Hill opined A.C. would not suffer irreparable harm if Mother's parental rights were terminated. (N.T., 3/01/2022, p.42 at 9-25. p.43 at 1-25).

On cross-examination by Ms. Knese, Esquire, Child Advocate, Mr. Hill testified there has been sibling contact between the Children on Zoom and the foster parents indicated a willingness to continue

to foster a sibling relationship between them if it appears to be in their best interest. (N.T., 3/01 /2022, p.48 at 10-21).

Frances Odza, Esquire, TPR counsel reported to this Court she met with the Children on 2/25/2022. A.C. is three years old and non-verbal. He has a speech issue, but he did relate to her that he likes daycare. His foster parent stated they are working on his speech and his motor skills are fine. The foster parent has a two-year-old Child and a 24-year-old daughter living in the home. A.C. appeared to be very happy, very bonded, and very close to his resource parent. When asked if he wanted to remain in this home forever. A.C. was very jubilant and said yes. (N.T., 3/01/2022, p.61 at 25. p.62 at 1-13).

Ms. Odza also reported she met with W.C. on 2/25/2022 and the Child is very happy in his

placement. He lives in a home with two other foster Children, who he refers to as brother and sister. He attends school and is a voracious reader and likes dinosaurs and dragons. His weight is controlled, and he is not currently receiving any services. He is bonded with his foster parent and they are very close. He stated he was very happy in the foster home and understands his foster parent may become his mother. He stated he wants to remain in his forever home. (N.T., 3/01/2022, p.62 at 14-23).

Lastly, Ms. Odza reported that she met with C.C. on 2/25/2022. The Child is 5 years old and attends kindergarten. He continues to have some delays, but he is no longer receiving speech therapy. He receives physical and occupational therapy in school. He is a happy Child and showed her his room. he is very close to his foster parent and close to the

foster parent's biological Child. He stated he would like to remain in his forever home. (N.T., 3/01/2022. p.62 at 24-25. p.63 at 1-5).

Mother testified at the March 1, 2022 hearing and stated she now understands the Children came into care because she did not properly take care of them. She has now done research and classes to fully understand everything that has transpired. She has bettered herself with dieting and having the time from work to take them to their medical appointments as needed. Mother's next Criminal court date is May 1, 2023 and she has repeatedly requested that the Stay-Away Order be lifted because she wants to visit her Children. (N.T., 3/01/2022, p.65 at 2-25. p.66 at 1-12).

Mother testified she attended online and obtained Stanford and Duke Certificates to

understand the nutritional value in Children and how to introduce different foods. She completed various online classes in July 2021. One was an introduction of food and health; another was a class on human physiology about the makeup of the body and how it receives its food. Another online class was on Children's nutrition and cooking. (N.T., 3/01/2022. p.66 at 13-25, p.67 at 1-25, p.68 at 1-5).

Mother stated she wanted the three boys returned to her care. She has stability and has a job. She stated her Mother could live somewhere else if that is required. She will make daycare and schooling arrangements. Mother further stated she requested that Voluntary Relinquishment papers be prepared so she can go over them. Mother stated the Children came into care because she fully trusted her Mother to care for the Children and she was working

and just too busy to be involved with their care.

(N.T.. 3/01/2022, p.70 at 1-17, p.71 at 1-14).

This Court finds the testimony of Ms. Kreider and Mr. Hill the DHS workers to be credible and clear and convincing. Mother's testimony, on the other hand, was found to be incredible and self-serving. This Court found the record clearly establishes, based on the evidence presented, that DHS provided clear and convincing evidence that termination of Mother's parental rights meets the developmental, physical, and emotional needs and welfare of the Children. The record does establish the statutory requirements to terminate Mothers parental rights, pursuant to 23 Pa.C.S.A. §2511(a)(1), (2), (5), (8) and § 2511(b).

**Trial Court Properly Found that the Goal
Chance from Return to Parent to Adoption was
in the Children's Best Interest and the Court's
Disposition was Best Suited to the Safety,
Protection and Physical, Mental and Moral
Welfare of the Children Pursuant to 42 Pa.
C.S.A. § 6351 (f.1)(2).**³

The concept of a "goal change" is consistent with the statute which requires the trial court, at the conclusion of a permanency hearing in a child dependency proceeding, to order the continuation, modification, or termination of placement or other disposition which is best suited to the safety, protection and physical, mental, and moral welfare of the child; an order to continue, modify, or terminate

³ **42 Pa. C.S.A. § 6351-Disposition of dependent Child.—(f.1). Additional determinations.** Based upon the determinations made under subsection (f) and all relevant evidence presented at the hearing, the court shall determine on of the following: (2) If and when the Child will be placed for adoption, and the county agency will file for termination of parental rights in cases where return to the Child's parent, guardian or custodian is not best suited to the safety, protection, and physical, mental, and moral welfare of the Child.

the current placement, as required by the statute, is synonymous with a decision to continue or change the permanency plan goal. 42 Pa.C.S.A. § 6351(g). Once reunification is ruled out, the second preferred permanency option is Adoption.

Mother alleges this Court erred or abused its discretion in determining that DHS had met its burden of proof that changing the Children's permanency goal to adoption would best serve the needs and wellare ofthe Children. This Court disagrees.

This Court heard credible, persuasive testimony from Ms. Kreider and Mr. Hill, the DHS social workers, Ms. Kreider testified during the three months that she observed the Children, W.C. began to lose weight at the foster home, and C.C. got healthier through occupational and physical therapy

and he gained an appropriate amount of weight. Regarding A.C., she testified he was placed in a medical foster home and began receiving services to address some of the effects of the malnourishment and had gained some weight. Mr. Hill testified W.C. has not asked for Mother and he believes there is no parent-Child bond between them. The Child is currently in a pre-adoptive placement in a medical foster home through Concern. He was safe as of 2/28/2022 and he is doing great with his foster parent and her grandchildren. He noted the foster parent meets all of W.C. needs and the Child looks to her for love, protection, and support. He is doing very well. His weight is down, and he does not have any ongoing issues with his weight. He completed trauma therapy through Bethanna and is currently in first grade. Regarding C.C., Mr. Hill testified the Child

does not ask for Mother and he opined there is not a Child-parent bond between the two. He is currently in a pre-adoptive medical foster home through Concern. C.C. was safe as of 2/05/2022 and all his needs are being met by his foster parent. He noted C.C.'s relationship with his foster parent is a very good relationship and he looks to the foster parent for love, protection and support. C.C. has not had any ongoing issues with his weight since placement. He is in kindergarten and receives trauma therapy through Bethanna. Regarding A.C., Mr. Hill testified this Child came into care when he was 1 year old and there is no Child-parent bond between the two. A.C. is currently placed in a pre-adopted medical foster home through Concern. A.C. has not had any ongoing issues with his weight since he was placed in the foster home. He was safe as of 2/05/2022 and all his

needs were being met by his foster parent. A.C. is bonded to his foster parent and there is an older Child in the home also and they play well together.

This Court finds the record sustains the factual findings and legal conclusions that reunification is not feasible, and that enough competent evidence exists to change the Permanency Goals of the Children From Reunification to Adoption.

**VISITATION and GRAVE THREAT
STANDARD:**

Mother alleges this Court failed to consider the effect on the Children's bond with her, as the criminal court's pretrial order denied her contact with her Children pending the outcome of the criminal case. Mother alleges the criminal court's pretrial order created a condition beyond Mother's

control, where the criminal case was still pending at the time of the termination decree, and where there had been no finding by the dependency trial court that visitation posed a grave threat to the Children. This Court disagrees.

The standard in evaluating frequency of visitation is based on the best interest of the Child. *In re Long*, 313 Pa.Super. 47, 459 A.2d 403 (1983); *In re E.F.V.*, 315 Pa.Super. 246, 461 A.2d 1263 (1983). As a usual rule, parental visitation is not denied except where a grave threat to the Child can be shown. The policy underlying the "grave threat" standard reflects the desirability of continuing contact between the parent and child. It underscores the importance of each parent to maintain a meaningful and sustaining relationship with the Child. The "grave threat" to the Child standard is

applied to visitation both where the Child is in custody of a natural parent and where the Child is in foster care and in the custody of the state. When making the determination whether there exists clear and convincing evidence that visitation with a dependent child would present a grave threat to the child, courts must take into consideration the express legislative policy of preservation of the family.

"The 'grave threat' standard is met when the evidence clearly shows that apparent is unfit to associate with his or her children." **Interest of L.B., 229 A.3d 971, 975 n.3 (Pa. Super. 2020).** This Court finds the evidence has clearly and convincingly shown Mother is unfit to associate with these Children.

This Court was informed that on March 12, 2020 Mother was arrested and charged with

aggravated assault; endangering the welfare of Children; simple assault; and recklessly endangering another person. A no contact order was also included in the criminal court case.

This Court adopted and ordered a Recommendation for Shelter Care Order on January 24, 2020 after Juvenile Court Hearing Officer Vincent J. Giusini held a Shelter Care hearing for W.C. The Court found that, "it is a grave threat to the Child and hereby suspends Mother's visits until the Adjudicatory hearing." At the Shelter Care hearing for C.C. on February 3, 2020, Juvenile Court Hearing Officer, Alexis Ciccone, recommended findings that Mother's visits remain suspended. At a hearing on February 6, 2020 for both W.C. and C.C., this Court continued the cases and ordered that Mother and Maternal Grandmother's visits be

suspended due to grave threat. On February 25, 2020, on A.C.'s case, this Court granted ACS request for a continuance and ordered Mother and Maternal Grandmother NOT to have any contact with the Child. At the Shelter Care hearing for A.C. on April 1, 2020, Juvenile Court Hearing Officer. Michael G. Campbell, recommended findings that Mother, Maternal Grandmother, and Father "were NOT to have any contact with the Child. At a hearing held on April 21, 2020, this Court continued A.C.'s case and ordered Mother's visits to remain suspended until further order of the Courts. Subsequent Continuance Orders made by this Court regarding all the Children on 4/29/2020, and 6/16/2020 ordered No Contact orders as to Mother and Maternal Grandmother were to remain.

This Court assessed Mother's visitation with her Children at every hearing and found that her visits were to remain suspended because Mother continued to pose a grave threat to these Children, and it was in their best interest not to visit with her. These determinations and orders were made independently by the Dependency Court and were not made in conjunction with the Criminal Stay-Away Order.

Subsequently at the Adjudicatory Hearings held on December 8, 2020, this Court heard credible, persuasive expert testimony from Dr. Atkinson, the Child abuse expert witness, and the testimony of the DHS investigator and case worker, this Court found on December 8, 2020 that the condition of these Children constituted "serious physical neglect," justifying a finding of Abuse under 23 Pa.C.S. §

6303(b.1)(7)⁴. The medical evidence was clear and convincing regarding the life-threatening malnourished condition of A.C., and C.C., and the condition of W.C.'s morbid obesity. The evidence presented by the DHS investigator regarding the condition of the Children's beds, food, lack of heating, and overall care given by the Mother and Maternal Grandmother placed these Children in a dangerous situation.

After finding the three Children Dependent, this Court also found the evidence presented was sufficient to establish that Aggravated Circumstances existed as to all three Children pursuant to 42 Pa.C.S.A. § 6341(c.1)⁵. This finding of

⁴ **23 Pa.C.S.A. 6303 Definitions. (b.1) Child abuse**—The term "Child abuse" shall mean intentionally, knowingly, or recklessly doing any of the following: (7) Causing serious physical neglect of a Child.

⁵ **§ 6341. Adjudication-General rule.**—After hearing the evidence on the petition the court shall make and file its

the existence of Aggravated Circumstances in this case is used as a basis for determining where to place the Children. Although a Court might consider reasonable efforts to return Dependent Children to their family, a finding of Aggravated Circumstances requires the Court to carefully evaluate whether to follow that course or to prevent such a return. This Court found the evidence sufficient to grant DHS's

findings as to whether the Child is a dependent Child. **(c) Finding of dependency.**—If the court finds from clear and convincing evidence that the Child is dependent, the court shall proceed immediately or at a postponed hearing, which shall occur not later than 20 days after adjudication if the Child has been removed from his home, to make a proper disposition of the case. **(c.1) Aggravated circumstances.**—If the county agency or the Child's attorney alleges the existence of aggravated circumstances, and the court determines that the Child is dependent, the court shall also determine if aggravated circumstances exist. If the court finds from clear and convincing evidence that aggravated circumstances exist, the court shall determine whether or not reasonable efforts to prevent or eliminate the need for removing the Child from the home or to preserve and reunify the family shall be made or continue to be made and schedule a hearing as required in section 6351(e)(3) (relating to disposition of dependent Child).

request for a finding of Aggravated Circumstances and there be no efforts at reunification.

This Court finds the evidence is clear and convincing of the dangerous medical conditions of the Children at the time they came into care, and the deplorable condition of their beds, food, lack of heating, and overall distressing, dangerous care given by this Mother. Mother now claims she can be a different parent and care for these boys, this Court is not convinced. Mother continues to be a grave threat to these Children and is not able to parent them.

For the foregoing reasons, this Court respectfully requests that the Decrees of Involuntary Termination of Parental Rights issued on April 20.2022 and the Permanency Review Orders also

issued on this date. changing the goal to Adoption be

AFFIRMED.

BY THE COURT:

/s/ Tereshko

ALLAN L. TERESHKO, Sr. J.

June 28th, 2022

DATE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPINION dated 6-28-22 has been served upon the following parties by the manner as designated:

Family Court Electronic Transmission

Maureen Pie, Esq.
Counsel for Appellant Mother, S.C.

Kristina Helmers, Esq.
Robert Aversa, Esq.
Kathleen Bola Kim, Esq.
Counsel for DHS

Frances M. Odza, Esq.
TPR Counsel for Children

Faryl Bernstein, Esq.
GAL Counsel for Children

Susan M. Rubinovitz, Esq.
Counsel for Father, T.G.
(Father of Child, A.C.)

Carlin Talib Saafir, Esq.
Counsel for Father, A.B.

(Father of C.C. and W.C.)

/s/ Allen L. Tereshko
ALLAN L. TERESHKO, Sr. J.

6-28-22
DATE

Appendix “D”

EXCERPTS FROM NOTES OF TESTIMONY OF
THE FEBRUARY 6, 2020 HEARING

...

- [1] MS. HELMERS: And then, Your Honor,
with
[2] respect to the visitation last week you did
suspend
[3] visits and contact between mother, maternal
grandmother,
[4] and [W.A.C.]. We would be asking for the same
with respect
[5] to [C.M.C.] at this time due to the allegation.
[6] Additionally, [W.A.C.] is scheduled for a PCS
on
[7] 2/11, correct?
[8] MS. KREIDER: Yes.
[9] MS. HELMERS: And we would ask that
there be no
[10] contact so there's no influence from that PCA.
[11] THE COURT: Will [C.M.C.] be
interviewed at
[12] the same time?
[13] MS. HELMERS: He is nonverbal, Your
Honor, so
[14] he will not be having a PCA Interview.
[15] THE COURT: Okay.

...

- [18] MS. RYAN: And, Your Honor, I would like to
be

[19] heard opposing the ACS's recommendation for visitation.

[20] THE COURT: Go ahead.

[21] MS. RYAN: Per the Pennsylvania Superior Court

[22] visitation, the Constitutional right of a parent's

[23] visitation can only be suspend if grave threat is met.

[24] Grave is defined as there is no practicable way that a

[25] parent can visit a child while the child is being kept

[1] safe. Most of the validation in this case center around

[2] neglect. I would argue that line of sight, line of sound

[3] visits at DHS, and I would even agree to after the

[4] schedule PCA visit would not cause the child harm and

[5] would protect the parent's constitutional right to

[6] visitation.

[7] THE COURT: Will [W.A.C.] be called as a witness

[8] at trial?

[9] MS. HELMERS: I don't believe so, Your Honor.

...

[21] MS. RYAN: And, Your Honor, if it's

mainly

[22] nutrition-based concerns they can be allayed
by line of

[23] sight, line of sound visits at DHS. And I'm
sure,

[24] hopefully, the children are being adequately
fed

[25] currently in their foster homes so we can also
create an

[1] order that parents are not provide food or have
any thing

[2] to do with food during the visits.

[3] THE COURT: Well my concern is that
there will

[4] be interference with the potential testimony of
the child

[5] [W.A.C.]. And there's also a concern that the
parents may

[6] aggressively interfere with any potential
testimony.

[7] I'm going to order that the suspension - I'm

[8] just suspending it. I'm going to review it at the
next

[9] listing, that the visitation remains in place
based upon

[10] what I perceive to be a grave concern
regarding the

[11] perpetrators ability to affect the testimony of
the

[12] children or child going forward.

[13] MS. PIE: Your Honor, may I just have a
[14] clarification?

[15] THE COURT: Yes, ma'am.

[16] MS. PIE: With regard to [C.M.C.], the
[17] younger child, he's not being interviewed.
There is no
[18] such concern about any sort of interference
with the
[19] testimony.
[20] THE COURT: All right. They'll be two
visits
[21] with [C.M.C.]. Supervised at the agency.
[C.M.C.]
[22] only. Line of sight, line of hearing for one hour
each.
[23] MS. PIE: Is that two visits per month?
[24] THE COURT: No, it's two visits in total.
[25] MS. KNESE: And, Your Honor, I would
object to
[1] that. I would just argue that one of the issues
here
[2] that I believe creates a grave risk even though
[C.M.C.]
[3] will not be interviewed by PCA is the wildly
disparate
[4] treatment that the children were subjected to
while the
[5] home, while in the hospital.
[6] And I have just a couple of additional
[7] questions for Ms. Kreider in regard to that.
And I'm
[8] concerned about the contact with [C.M.C.].
[9] And if I could just ask a couple of questions?
[10] THE COURT: I'm concerned also. That's
why I'm
[11] ordering it to be line of sight, line of hearing

with

[12] this child only, and only with mother, not with
[13] grandmother.

[14] I have to preserve – it's a narrow – it's a
[15] thin line that I'm walking, but I'm attempting
to court

[16] what I perceive to be reasonable behavior. I'm
concerned

[17] about it, but since [C.M.C.] is not going to be a
[18] witness as indicated by counsel, I find it hard
to

[19] satisfy the grave threat with respect to
[C.M.C.], but I

[20] have no problem with the other children.

[21] MS. PIE: Your Honor, would you allow,
once the

[22] PCA interview is completed, would you allow a
visit with

[23] [W.A.C.]?

[24] THE COURT: If you can agree on it,
yes, but

[25] I'm not going to order it right now. I don't
know what

[1] the outcome of the PCA will be and I don't
know what the

[2] collateral issues that would be developed
under the PCA

[3] if you can agree on it or if you want me to
review that

[4] or revisit that I will, but for now it remains
suspended

[5] until the next listing.

[6] MS. KNESE: And, Your Honor, there is

an active

[7] law enforcement investigation as well.

[8] THE COURT: Again, the issue is not
the

[9] investigation. I think I've covered that. That

[10] eventuality and I've covered – I think I've
protected the

[11] potential witnesses in that case. And at some
point, the

[12] broad brush does not work in cases like this.

We have to

[13] identify the threats per each child. And I have
done so

[14] for the record.

[15] Very well.

Appendix “E”

**EXCERPTS FROM NOTES OF TESTIMONY OF
THE FEBRUARY 25, 2020 HEARING**

...

- [18] MS. PIE: Yes, sir.
- [19] Your Honor, with regard to visitation we would
- [20] ask Your Honor to allow mother a reasonable visitation
- [21] once a week as long as [A.C.C.] is able to get to the
- [22] agency to have supervised. Because of the allegations we
- [23] would agree to line of sight, line of hearing,
- [24] absolutely.
- [25] Your Honor did address the issue which is the
- [1] same for this case as well about whether or not we have
- [2] grave threat. And after that discussion on [C.M.C.]'s
- [3] case you did allow two visits prior to August or April
- [4] 16th.
- [5] [C.M.C.] we're asking that Your Honor find
- [6] that there is no grave threat for mom and grandmom who
- [7] have raised the children together to have at least the
- [8] same visitation if not weekly because there is no grave
- [9] threat that can be established at this time.
- [10] Furthermore, Your Honor, in terms of the

older

[11] sibling, at the time Your Honor ordered no visitation

[12] that child was undergoing a PCA Interview. That's done

[13] now. The interviews completed. We all have reports

[14] though we haven't seen the video, but it was completed

[15] two weeks ago. So there's no reason even to deny visits

[16] on that case.

[17] So for that reason I'm asking Your Honor to

[18] simply allow supervised line of sight, line of hearing

[19] for both mom and grandmom.

[20] THE COURT: Grandmom has no standing, so I will

[21] be declining to enter any visitation on behalf of

[22] grandmom. She's, as counsel points out, she's an alleged

[23] perpetrator of child abuse.

[24] As far as the visitation of the other child,

[25] the one that received an interview, I just had the

[1] opportunity to look at the interviews and –

[2] MS. KNESE: In this case, Your Honor?

[3] THE COURT: No in another case and I was struck

[4] by what I believe to be not poor quality, but a quality

[5] of review that is quite different than hearing the child

[6] as a child witness in open court. And I don't believe
[7] that a PCA Interview would resolve the issue that I have
[8] with protecting a child from interference with proposed
[9] testimony in a serious child abuse case.
[10] So, I'm still going to maintain the no contact
[11] order. Only because I believe that the ability to
[12] contact, communicate with the child can potentially
[13] affect the child's testimony going forward. And a child
[14] abuse case is a grave threat to the future safety of the
[15] child. And it's just a temporary suspension.
[16] Once I hear the child abuse case than I'll be
[17] in a position to enter a visitation order which is more
[18] structured, but my main concern today is to protect the
[19] sanctity of the testimony and/or evidence which may be
[20] offered from either child.
[21] I addressed the issue of the younger child and
[22] that child would not be a potential witness.

Appendix “F”

U.S. CONST. amend. VI

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. CONST. amend. VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

U.S. CONST. amend. XIV § 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are

citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

23 Pa. C.S. § 2511(a)(1)–(2), (5), and (8)

(a) The rights of a parent in regard to a child may be terminated... on any of the following grounds:

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

(2) The repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent.

...

(5) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency for a period of at least six months, the conditions which led to the removal or placement of the child continue to exist, the parent cannot or will not remedy those conditions within a reasonable period of time, the services or assistance reasonably available to the parent are not likely to remedy the conditions which led to the removal or placement of the child within a reasonable period of time and termination of the parental rights would best serve the needs and welfare of the child.

...

(8) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency, 12 months or more have elapsed from the date of removal or placement, the conditions which led to the removal or placement of the child continue to exist and termination of parental rights would best serve the needs and welfare of the child.

23 Pa. C.S. § 2511(b)

(b) Other considerations.—The court in terminating the rights of a parent shall give primary consideration to the developmental, physical and emotional needs and welfare of the child. The rights

of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent. With respect to any petition filed pursuant to subsection (a)(1), (6) or (8), the court shall not consider any efforts by the parent to remedy the conditions described therein which are first initiated subsequent to the giving of notice of the filing of the petition.

42 Pa. C.S. § 6301(b)

(b) Purposes.—This chapter shall be interested and construed as to effectuate the following purposes:

...

(3) To achieve the foregoing purposes in a family environment whenever possible, separating the child from parents only when necessary for his welfare, safety or health or in the interests of public safety[.]