No.

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IN THE SUPREME COURT OF THE UNITED STATES

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P.H., MOTHER,

PETITIONER,

IN THE INTEREST OF P.H., A MINOR

ON PETITION FOR A WRIT OF CERTIORARI TO
THE PENNSYLVANIA SUPREME COURT

PETITION FOR A WRIT OF CERTIORARI

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Question Presented

Was the state court's termination of P.H.'s parental rights on the grounds of P.H.'s mental health issues consistent with P.H.'s fundamental constitutional right as a parent under the Due Process Clause of the Fourteenth Amendment?

Parties to the Proceedings

Petitioner, P.H, Mother, was the defendant in the Pennsylvania Court of Common Pleas, the appellant in the Pennsylvania Superior Court, and the petitioner in the Pennsylvania Supreme Court. Respondent, Cumberland County Children and Youth Services (the "Agency"), was the plaintiff in the Pennsylvania Court of Common Pleas, the respondent in the Pennsylvania Superior Court, and the respondent in the Pennsylvania Supreme Court. P.H., Minor, was represented by a guardian throughout the state court proceedings.

Statement of Related Proceedings

There are no proceedings in any court that are directly related to this case.

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Petition for a Writ of Certiorari

Petitioner P.H., Mother, respectfully petitions for a writ of certiorari to review the decisions of the Pennsylvania Supreme Court, Superior Court, and Court of Common Pleas, terminating P.H.'s parental rights to care and custody of her five-year-old daughter, P.H.

Opinions Below

The Order of the Pennsylvania Supreme Court denying review was issued on June 18, 2024, and appears at Appendix A hereto. The Decision of the Pennsylvania Superior Court was issued on April 1, 2024, and appears at Appendix B. The Decision of the Pennsylvania Court of Common Pleas was issued on October 27, 2023, and appears at Appendix C.

Jurisdiction

The Order of the Pennsylvania Supreme Court was entered on June 18, 2024. This Court's jurisdiction is invoked under 28 U.S.C.A. § 1257.

Constitutional and Statutory Provisions Involved

"[N]or shall any state deprive any person of life, liberty, or property, without due process of law," U.S. Const. amend. XIV.

Statement of the Case

P.H. was born in October 2017. The Agency was already involved with the family at that time regarding P.H.'s older daughter (P.H.'s parental rights to her older daughter were ultimately terminated on May 25, 2018).

The Agency never alleged that P.H. had abused or deliberately neglected her children, however. She loved and cared for them as best she could. She met her children's basic needs. All acknowledged that. The Agency initially raised a concern about lack of "stable housing," but P.H. addressed the issue and maintained stable housing thereafter. By trial, the court acknowledged that housing was not part of the ground on which the Agency was seeking termination of parental rights.[1]

[1] When the Child was born, P.H. was living in an apartment in Shippensburg, where she had lived for the prior three years. In 2018, P.H. moved and lived with the Child in a series of hotels, while keeping the Agency apprised of her location. P.H. then was able to obtain a government-subsidized apartment, where she lived throughout the remaining proceedings below. Housing was no longer an issue by the

Rather, the grounds on which the Agency sought termination of P.H.'s parental rights to her young daughter, P.H., revolved around P.H.'s long-term struggle with her mental health. As the Superior Court later noted in its decision, "there could be no question that the primary cause of the Child's removal was Mother's untreated mental health issues and the impact those issues had on Mother's ability to parent."

Still, the Agency's goal for most of the proceedings was reunification – with P.H. to participate in recommended mental health services and ongoing mental health treatment. P.H. complied with many (though not all) of the recommendations and requirements. In the latter part of 2021, however, P.H.'s therapist reported that P.H. had stopped the counseling and ceased medication management. This led to the Child being placed into foster care in February 2022.

Even at that point, the goal remained reunification -- because P.H. was a loving mother who was not abusive or deliberately neglectful of her daughter. This was a woman who, through no fault of her own, was

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termination trial. As the Superior Court noted in its decision (Appx. B), "The [Orphans'] court determined that, to the extent that Mother's housing was a cause for the Child's removal, this condition had been remedied."

grappling with uninvited mental health issues that had been foisted upon her. The Agency's goals thus remained:

1) For Mother to maintain her safe and stable housing;

2) For Mother to work with Alternative Behavioral Consultants on parenting skills, including obtaining a Fast Evaluation and following through with recommendations;

3) For mother to participate in mental health treatment;

4) For Mother to maintain visitation with her daughter.

Even by the termination trial, the testimony showed that P.H. was complying and advancing toward those goals:

Housing - Mother maintained housing at the Mt. Holly location that she moved into on the weekend of September 11, 2021, until the termination of her parental rights in August of 2023. At the time of the hearing in August 2023, Mother provided documentation that her lease had been renewed for another year, effective September 1, 2023. Mother had furniture at the home, including a trundle bed and dresser for the Child and lots of books, toys, puzzles, games, etc.

Agency caseworker Edwards and the CASA worker who visited Mother's home on August 3, 2023 confirmed that they saw the child's bedroom and that P.H.'s home was appropriate and ready for the Child to return to her mom. P.H. was receiving Supplemental Social Security Income of $914 per month, which was sufficient to support herself and the Child.

Parenting Skills - Supervisor Gan Fry confirmed that Mother had always been able to take care of the Child's basic needs. This was demonstrated through the fact that Mother had ensured that her daughter had received proper treatment for her heart murmur when she was a baby. After a FAST evaluation through Alternative Behavioral Consultants ("ABC"), it was recommended that P.H. participate in skills sessions with ABC Services. The Agency affirmed that P.H. was compliant with the recommended services and willing and ready to participate in the sessions. She ultimately completed five sessions with ABC worker Debbie Bush in January and February 2023.

The record showed it was the Agency who was responsible for delays and hiccups in the provision of recommended services, in fact.

For example, P.H. tried to start working with Andrew Som's parenting program because she was unable to begin sessions with ABC and felt that ABC was not going to move forward; Caseworker Edwards acknowledged that P.H. was continually attempting to get services started with Andrew Som. The Agency claimed that these services could not be "accommodated," however. P.H. then attempted to resume the parenting program through ABC but was unable to do so.

Similarly, regarding visitation, P.H. was set to begin supervised visitation with her daughter, in P.H.'s home, at the end of February 2023. Caseworker Bush cancelled visitation, however, after an argument she had with P.H. P.H. sent several emails to Bush to try to alleviate the problem so that P.H. could begin the in-home visits with her daughter, but the Agency ignored P.H. Caseworker Edwards testified that it was her belief that Mother and the ABC workers had different points of view, which caused a misunderstanding and a breakdown of communication between Mother and ABC.

Visitation - Despite the clashes with caseworkers, the record showed that P.H. never missed any of her scheduled visitations with her

daughter, and all visits showed a loving and appropriate mother-child bond. Caseworker Edwards noted that Mother was able to execute appropriate parenting skills at the visits (apart from one visit where she reported an issue with assisting the child with cleaning up after the visit). The Permanency Plan dated August 4, 2023, stated that Mother had met the goal to maintain visitation with her daughter.

Despite all those efforts and strides that P.H. made towards reunification with her daughter, the Agency marched forward to termination nonetheless -- premising its petition on P.H.'s struggles with her mental health and the Agency's claims that P.H. was not sufficiently cooperative with mental health services.

The record showed that P.H. was cooperative and always trying to address the mental health issues, however. At a Permanency Hearing held on October 5, 2018, for example, it was noted that Mother participated in a psychiatric evaluation and was following through with the therapy recommended. At a Permanency Hearing held on June 19, 2019, it was reported that Mother was participating in recommended therapy for her mental health. The goal identified on the Service Plan

was for Mother to participate with Medication management and counseling through Merakey, which P.H. did. The Service Plan for the case provided that the mental health goal was for P.H. to participate in medication management and treatment through the Merakey Partial Hospitalization Program. Mother obtained a psychological evaluation through Merakey and participated in their partial program and outpatient services as well, the record showed.

During the termination trial, Jana Mobray, the director of the Merakey Partial Hospitalization Program, testified that, not only was P.H. consistent with her attendance at Merakey, but was cooperative and fully engaged in her therapy. Ms. Mobray testified that Merakey was working with P.H. on managing symptoms in a healthy way, managing stressors, and working on taking things less personally. Ms. Mobray had seen an increase in Mother's insight and ability to "edit" herself. Ms. Mobray had observed P.H.'s increase in her ability to try to work and cooperate with people. Ms. Mobray affirmed that P.H. attended to her medication checks and obtained timely refills. Ms. Mobray saw P.H. several times each week and affirmed that there was no indication that

Mother was not taking her medications as prescribed. Prior to trial, no one at the Agency (or anyone else) had told P.H. that her program with Merakey was not sufficient to address her mental health needs, or that P.H. needed to participate in a supplementary program of any sort in order to avoid termination of her parental rights to her young daughter. The Agency did not ask P.H. to participate in any evaluations other than the FAST evaluation through ABC Services.

With regard to P.H.'s behavior, nothing in the record showed that her mental health issues, whatever they were, had caused her daughter to be abused (there were no allegations of abuse), or purposely neglected. No evidence showed that P.H. acting inappropriately towards her daughter or as a parent generally.

All the Agency could muster was that P.H. became angry, at times, with caseworkers or others involved in the proceedings instituted against her. For example, Supervisor Fry said that the biggest concern was P.H.'s reaction when she becomes angry. P.H. had sent angry emails to the Agency and other service providers. CASA workers and the Guardian *ad litem* had received emails from Mother that contained "inappropriate"

messages. None of these personal issues were demonstrated to have had any direct impact on the Child. Supervisor Fry admitted that she had not seen P.H.'s actions to have affected the Child. In fact, Linda Wiser, the CASA worker who had worked with P.H. previously, affirmed that when she (Ms. Wiser) was reappointed to P.H.'s case in June 2023, Ms. Wiser saw a significant change in P.H. – who sounded peaceful and was in a better place mentally. Ms. Wiser testified that P.H. appeared to have gained additional tools through her mental health therapy and medication management.

The Pennsylvania Courts' Rationale for Termination

Despite the absence of abuse or purposeful neglect by this Mother -- who all acknowledged was loving and cared as best she could for her daughter, the Orphans' Court ordered termination of P.H.'s parental rights per 23 Pa. Stat. and Cons. Stat. Ann. § 2511(a)(8), (b), which provides for termination where "[t]he 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." (Appendix C)

In affirming the termination decision (Appendix B), the Superior Court noted that once the twelve-month timeframe was established, "the court must next determine whether the conditions that led to the child's removal continue to exist. The relevant inquiry in this regard is whether the conditions that led to removal have been remedied. In re I.J., 2009 PA Super 48, 972 A.2d 5, 11 (2009). Termination pursuant to 23 Pa. Stat. and Cons. Stat. Ann. § 2511(a)(8) does not include an evaluation of a parent's willingness or ability to remedy the conditions that led to the removal of the child. See Matter of Adoption of M.A.B., 2017 PA Super 202, 166 A.3d 434, 446 (2017)." (Appx. B at 15). The court said, "there could be no question that the primary cause of the Child's removal was Mother's untreated mental health issues and the impact those issues had on Mother's ability to parent…" Whether termination would "best serve the needs and welfare of the Child," the Superior Court acknowledged P.H.'s argument that "there was no evidence that Mother's personality disorder" had inflicted or "would inflict substantial physical or mental

harm on the Child" (Appx. B at 20) but said that "Mother's untreated mental health concerns adversely affected the Child" such that termination was warranted.

REASON FOR GRANTING THE PETITION

The Court should grant Certiorari to clarify that a parent's involuntary mental health issues, standing alone, are not sufficient ground on which to terminate parental rights where the parent has made significant progress and given great efforts toward addressing the issues toward reunifying with her child, and the parent's personal mental health issues are not shown to have resulted in abuse or purposeful neglect of the child.

The right to raise one's children has long been recognized as one of our most basic. Skinner v. State of Okl. ex rel. Williamson, 316 U.S. 535, 62 S. Ct. 1110, 86 L. Ed. 1655 (1942); Washington v. Glucksberg, 521 U.S. 702, 720, 117 S. Ct. 2258, 138 L. Ed. 2d 772 (1997) ("In a long line of cases, we have held that, in addition to the specific freedoms protected by the Bill of Rights, the 'liberty' specially protected by the Due Process Clause includes the righ[t] ... to direct the education and upbringing of

one's children"); Santosky v. Kramer, 455 U.S. 745, 753, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982) (discussing "fundamental liberty interest of natural parents in the care, custody, and management of their child"); Parham v. J. R., 442 U.S. 584, 602, 99 S. Ct. 2493, 61 L. Ed. 2d 101 (1979) ("Our jurisprudence historically has reflected Western civilization concepts of the family as a unit with broad parental authority over minor children. Our cases have consistently followed that course."); Quilloin v. Walcott, 434 U.S. 246, 255, 98 S. Ct. 549, 54 L. Ed. 2d 511 (1978) ("We have recognized on numerous occasions that the relationship between parent and child is constitutionally protected" because the right to "custody, care and nurture of the child reside[s] first in the parents"); Wisconsin v. Yoder, 406 U.S. 205, 232, 92 S. Ct. 1526, 32 L. Ed. 2d 15 (1972) ("The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition"); Stanley v. Illinois, 405 U.S. 645, 651, 92 S. Ct. 1208, 31 L. Ed. 2d 551 (1972) ("It is plain that the interest of a parent in the

companionship, care, custody, and management of his or her children 'come [s] to this Court with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements.'")

The Court should clarify the extent to which the Due Process Clause and the Court's precedent cited above permits termination of parental rights based on the parent's involuntary mental health issues.

Some courts have noted that termination of parental rights due to mental illness is permissible only upon a finding that the parent's mental condition renders them truly unable to provide sufficient care for their child, *see, e.g.*, In re Sylvia M., 82 A.D.2d 217, 443 N.Y.S.2d 214 (1981), aff'd sub nom. Matter of Guardianship & Custody of Nereida S., 57 N.Y.2d 636, 439 N.E.2d 870 (1982); People in Int. of C.B., 740 P.2d 11 (Colo. 1987); In re Doe, 123 N.H. 634, 465 A.2d 924 (1983); In re Welfare of H.S., 94 Wash. App. 511, 973 P.2d 474 (1999), as corrected (Apr. 15, 1999). The government must demonstrate that the parent's mental health issues directly impact the child's best interests and the parent's ability to care for the child, Matter of Daniel A. D., 106 Misc. 2d 370, 431

N.Y.S.2d 936 (Fam. Ct. 1980); In re Sylvia M., 82 A.D.2d 217 (noting New York permits termination of parental rights only if parent's mental illness presently or foreseeably renders parent incapable of caring for child, and termination is in best interests of child).

The Court should clarify that termination cannot be automatic based simply on a parent's mental illness. Rather, the government must prove that the mental illness renders the parent unable to provide the child with the minimum requirements of care, as several state courts have said, *see, e.g.*, People in Interest of C.B., 740 P.2d 11; Matter of Jason Y., 1987-NMCA-120, 106 N.M. 406, 744 P.2d 181; In Int. of A.F., 543 S.W.3d 90 (Mo. Ct. App. 2018). This aligns with substantive due process that focuses on a parent's conduct or ability to engage in specific conduct rather than penalizing the parent for being mentally ill, the Court should clarify by granting Certiorari here, *see, e.g.,* In re Sylvia M., 82 A.D.2d 217.

The Court should clarify, further, that the Due Process Clause requires the government to demonstrate this by clear and convincing evidence -- that the mental illness affects the parent's ability to care for

the child and that termination is the least detrimental alternative available to protect the welfare of the child, *see, e.g.*, In re David B., 91 Cal. App. 3d 184, 154 Cal. Rptr. 63 (Ct. App. 1979); cf. In re Doe, 123 N.H. 634 (noting termination proceedings must ensure due process, including the necessity for specific findings beyond a reasonable doubt about the detrimental effects of the parent's mental illness on the child).

This is consistent with the principle that a parent's constitutional right is a fundamental one, requiring that governmental are narrowly tailored to serve a compelling interest. Thus, while a parent who actively abuses or purposely neglects a child is subject to termination of parental rights, Reno v. Flores, 507 U.S. 292, 113 S. Ct. 1439, 123 L. Ed. 2d 1 (1993); Lassiter v. Dep't of Soc. Servs. of Durham Cnty., N. C., 452 U.S. 18, 101 S. Ct. 2153, 68 L. Ed. 2d 640 (1981), a parent with involuntary mental health issues like P.H. does not fall within that permissible category. While it is not improper to consider mental health issues in a termination proceeding, the decision must be based on a comprehensive assessment of the parent's ability to care for the child and the child's best interest, rather than solely on the parent's mental health status – thus

ensuing adherence to due process and substantive due process principles guaranteed by the Fourteenth Amendment.

The record in P.H.'s case here does not meet those constitutional standards, we submit. The record shows that P.H. gave her best efforts toward addressing her long-time mental health issues -- which are involuntary. As summarized above and the state court record shows, P.H. consistently participated in the Merakey program; maintained her medications; obtained and then maintained stable and appropriate housing for her and her daughter, etc. P.H. was financially self-supportive. Supervisor Fry admitted that P.H.'s ability to care for and love her daughter has never been an issue. This was not a parent who simply ignored her mental health issues and made no efforts or progress toward reunification; P.H. faithfully worked toward the reunification goal that the Agency had established but then cruelly snatched away.

Significantly, per the governing standard we urge the Court to adopt, there was no showing that P.H.'s personal mental health issues had resulted in abuse or purposeful neglect of the Child – or had impacted P.H.'s ability to understand and meet her daughter's needs or safely care

for her. While the Agency focused much of its presentation on P.H.'s "inappropriate" expressions of anger and related feelings, these were directed towards caseworkers and others involved in the proceedings against P.H.; nothing showed that this had any impact on the Child herself. This is not clear and convincing evidence on which termination of a fundamental constitutional right may be premised, the Court should stress here (indeed, what parent wouldn't be angry against those who have removed her child from her? The Guardian *ad litem* acknowledged that P.H. and her daughter share a strong bond).

A stale, five-year-old mental health evaluation – completely belied by all the other evaluations and recorded evidence presented in a termination proceeding -- does not satisfy the due process clause's protection of the parent's right, the Court should hold.

Here, Dr. Shienvold's evaluation was not merely old, it was contradicted by the Social Security Disability Administration, which had determined that P.H. qualified for SSI benefits only because of anxiety, depression, and post-traumatic stress disorder diagnoses – with no mention whatsoever of "paranoid personality disorder."

Dr. Shienvold's evaluation was also contradicted by an updated, comprehensive Psychiatric Evaluation Report from November 2020, diagnosing Mother with obsessive-compulsive disorder, post-traumatic stress disorder, depressive disorder unspecified, unspecified psychotic and schizophrenia spectrum disorder, adjustment disorder with anxiety, sensory integration problem with sound and recommended psychotherapy – not the "paranoid personality disorder" Dr. Shienvold had claimed afflicted P.H.

Relying on Dr. Sheinvold, the family judge terminated petitioner's parental rights on the claim that petitioner "is paranoid and has trust issues" – but this does not mean that petitioner suffered from "Paranoid Personality Disorder" as defined by mental health professionals. The record showed that petitioner had a history of homelessness and instability, yes, but petitioner resolved these issues in May 2016, when she moved into an apartment and maintained it thereafter. The claims of "paranoia" were from 2016-17, moreover, not in the time preceding the termination proceeding.

Dr. Shienvold *assumed* that the Mother's isues with homelessness and instability were due to "paranoia" and what he said was "paranoid personality disorder," but there are various things that can cause homelessness and instability. Dr. Shienvold's flawed "diagnosis" presupposed a history of paranoia dating back to youth or early adulthood – without any record evidence demonstrating this was so. The record in the state court showed at most that petitioner suffered from anxiety, depression, and PTSD (aggravated, of course, by the termination proceediings seeking removal of her children). These diagnoses – absent demonstration that it resulted in abuse or purposeful neglect by the parent – are insufficient to satisfy the rigors of the due process clause and the Court's governing caselaw cited above, the Court should clarify by grant of Certiroari here.

Clarifying this area of law is important because it impacts not just P.H. and her daughter but so many parents struggling with mental health issues throughout our Country. Pennsylvania law itself is inconsistent in this area of termination of parental rights. In Matter of Adoption of M.A.B., 2017 PA Super 202, for example, the Pennsylvania

Superior Court said that termination was appropriate because "the cause of the Children's placement in February 2014 was Mother's mental health and substance abuse problems," and the "evidence showed that Mother was not in therapy, had gone off her medications without medical supervision, had failed to show up for court-ordered urinalyses, and failed to provide documentation from medical professionals to support her excuses for why she had failed to show up and, had obtained a prescription for Suboxone, the very opioid that led to the Children's placement in February 2014." P.H.'s efforts in this case were far greater, as the record shows, yet her parental rights were terminated too. In In re Adoption of A.H., 2021 PA Super 33, 247 A.3d 439 (2021), the Superior Court said that termination was proper because of repeated and continued incapacity as well as abuse and neglect by the parent, whose mental health issues interfered with her ability to parent while she "refused" to submit to the agency's mental health evaluations, and where the child had been out of the mother's care for 28 months all the while – far longer than P.H.'s case here, yet P.H.'s parental rights were terminated too. In In re L.M., 2007 PA Super 120, 923 A.2d 505 (2007),

termination was held proper because of the mother's mental health problems and failure to comply with treatment recommendations or provide documentation of her attendance at therapy – again, unlike the record of P.H.'s case, yet P.H.s rights were terminated as well.

The Court should stress that when the government premises a petition for termination on a parent's mental health issues, something more than a five-year-old mental health evaluation is required. Not only was Dr. Shienvold's 2018 report in the state court proceedings in this case stale, and its admission violative of P.H.'s due process rights,[2] the Agency never advised P.H. that the mental health services being provided were not sufficient to address her issues and move towards reunification.

P.H.'s rights to her older daughter were terminated in 2018. But this was a different child. P.H. sought a fresh start after the 2018 termination and had made great strides in treating her mental health

[2] The Pennsylvania court said that bringing up Dr. Shienvold's evaluation was not an "unfair surprise." It was a surprise to P.H. and her counsel, however, because Dr. Shienvold's evaluation had not been mentioned in previous court proceedings, was not included in the goals identified for P.H. on her Permanency Plan and was not among the identified exhibits that the Agency proffered for introduction at the termination trial.

issues. She deserved a chance to raise and care for her younger daughter – not a preordained conclusion premised on a stale and flawed evaluation containing "predictions" based on P.H.'s "track record."

The Due Process Clause and this Court's governing precedents demand more than what the government presented in support of its termination petition in this case. Indeed, the Agency presented not a single expert witness who claimed that P.H.'s mental health issues had inflicted or would inflict substantial physical or mental harm to her daughter, cf. In re Adoption of B.G.S., 418 Pa. Super. 588, 614 A.2d 1161 (1992) (trial court sufficiently considered mother's psychological records in parental rights termination case where court apprised of their substance through testimony and reports of court-appointed psychologist and both parties' experts). All the evidence showed that P.H. loved and appropriately cared for her daughter for years until the Agency took the child away. P.H. does not have the kind of mental health issues, moreover, that by their nature present a danger of harm to a child in the parent's care, cf. In re Involuntary Termination of Parental Rts. to R.B.W., 73 Pa. D. & C.2d 369 (Pa. Com. Pl. 1975) (where mother of minor

was a paranoid schizophrenic, able to exercise control of her impulses while under medication, but undependable and erratic as to the taking of the medication, with a prognosis of nonrecovery, and had provided no support for the minor since birth, although evidencing a continuous interest and concern for the minor, the best interests of the child and of the public were served by an order terminating the mother's parental rights). All of these factors were greatly significant; the Due Process Clause and this Court's governing precedents cited above require that they be carefully considered before termination is ordered against such a parent, the Court should clarify by grant of Certiorari here.

CONCLUSION

The Court should grant this Petition for a Writ of Certiorari.

Respectfully submitted,

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Dated: September 2, 2024

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

IN THE INTEREST OF: P.H., A MINOR	:	No. 205 MAL 2024
	:	
	:	
PETITION OF: P.H., MOTHER	:	Petition for Allowance of Appeal
	:	from the Order of the Superior Court
IN THE INTERESTED OF: P.H., A MINOR	:	No. 206 MAL 2024
	:	
	:	
PETITION OF: P.H., MOTHER	:	Petition for Allowance of Appeal
	:	from the Order of the Superior Court

ORDER

PER CURIAM

AND NOW, this 18th day of June, 2024, the Petition for Allowance of Appeal is **DENIED**.

APPX. A

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

IN THE INTEREST OF: P.H., A MINOR	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
APPEAL OF: P.H., MOTHER	:	No. 1275 MDA 2023

Appeal from the Order Entered October 3, 2023
In the Court of Common Pleas of Cumberland County Juvenile Division at
No(s): 089-ADOPT-2022,
CP-21-DP-0000187-2017

IN THE INTERESTED OF: P.H., A MINOR	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
APPEAL OF: P.H., MOTHER	:	No. 1278 MDA 2023

Appeal from the Decree Entered August 21, 2023
In the Court of Common Pleas of Cumberland County Orphans' Court at
No(s): 089-ADOPT-2022

BEFORE: PANELLA, P.J.E., KUNSELMAN, J., and COLINS, J.*

MEMORANDUM BY KUNSELMAN, J.: **FILED: APRIL 1, 2024**

P.H. (Mother) appeals the decree entered by the Cumberland County Orphans' Court, which granted the petition filed by the local Children Youth Services Agency (the Agency) to involuntarily terminate her rights to her 5-year-old daughter, P.H. (the Child), pursuant to the Adoption Act. ***See*** 23

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* Retired Senior Judge assigned to the Superior Court.

Pa.C.S.A. § 2511(a)(8), (b).[1] Separately, Mother appeals the decision to change the permanency goal of the dependency proceedings from reunification to adoption. ***See*** 42 Pa.C.S.A. § 6351(f). After careful review, we affirm the termination decree and dismiss the goal change appeal as moot.

The history of this case depicts Mother's mental health struggles, and the juvenile court's efforts to preserve the parent-child relationship. The Child was born in October 2017. At that time, the Agency was already involved with the family. The Child's older sister was the subject of ongoing dependency proceedings, due to concerns about Mother's mental health and lack of stable housing. When the subject Child was born, the Agency received a report that Mother was presenting "as paranoid and suspicious, and failed to provide any information to the hospital staff." ***See*** Trial Court Opinion, 10/27/23, at 2 (citation to the record omitted). In December 2017, the juvenile court adjudicated the Child dependent, but the court kept the Child in Mother's care. The Child's first permanency review hearing was in May 2018, the same day that the court terminated Mother's rights to the older sister.

As to the subject Child's dependency case, Mother's service plan goals were to maintain safe and stable housing, obtain a parenting assessment, participate in any recommended services, and to obtain ongoing mental health treatment. During much of the dependency proceedings, Mother lived in various hotels and moved frequently until she obtained a government-

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[1] E.T. (Father) voluntarily relinquished his parental rights.

subsidized apartment which she maintained for the last two years. However, Mother's struggles with mental health continued.

In May 2018, Dr. Kasey Sheinvold stated that Mother had a paranoid personality disorder; she "has kind of a pervasive and enduring kind of mistrust of the world around [her] and a very cynical view of the world." ***Id.*** at 5 (citation to the record omitted). Dr. Sheinvold's concern was that Mother "is not going to be able to teach this Child to be kind of warm and open to new experience or kind of trust that the world is a safe place. So, in that long run, that can have a very negative impact on a child's ability to have healthy ideas about what a relationship is supposed to be or how to solve problems or resolve conflict because of – our parents are our earliest kind of role models for those sorts of things." ***Id.***

In August 2018, Mother obtained a parenting assessment through Alternative Behavior Consultants ("ABC"), which recommended services, but in December 2018, Mother stopped participating. In January 2019, Mother did not appear at the permanency review hearing, but the court observed:

> The court is fully supportive of Mother's being able to keep [the Child] in her care. The court understands her struggles with her mental health issues, particularly her paranoid personality disorder diagnosis. The court does not want to see her make the same mistakes she made with regard to the older child by refusing to cooperate, feeling that everybody is against her. The court would have a comfort level ending dependency in this matter so long as Mother continues to cooperate with the caseworker, ABC, her attorney, and her mental health counselor. The court will not hold her failure to appear in court against her as long as she cooperates with those individuals.

Id. at 6 (citations to the record omitted) (style adjusted).

The dependency case proceeded this way over the next 18 months. Mother retained custody of the Child, but the case was still court-active. Mother's refusal to work with the service providers meant that the Agency and the juvenile court still had concern for the Child's wellbeing. In August 2019, the court appointed the Child a new guardian *ad litem* (GAL) in the hopes that Mother would be more trustful and cooperative. By February 2020, the court determined: "It has been painfully obvious to this court for years that Mother needs counseling to address her paranoia." ***Id.*** at 8.

In July 2020, in a final effort to accommodate Mother and give her a fresh start, the presiding juvenile court judge (the Honorable Edward Guido, P.J.) recused himself. Mother had accused the judge of "having a great deal of fun watching her suffering during [the sister's] termination of rights hearing," and that the judge was "humiliating" and "taunting" her; Mother accused the judge of having the "audacity" to expect Mother to appear at ongoing dependency hearings regarding the Child after the judge terminated Mother's rights to the sister. ***See*** T.C.O. at 3 (citations to the record omitted). The judge concluded that because of his history with Mother, her mental health status, and her perception of his motives, Mother would not make progress on her mental health while he was involved. ***Id.***

The Child's dependency case was transferred to the Honorable Christylee Peck. Notwithstanding the change of judge, the court continued to accommodate Mother in the hope that Mother would eventually address her

mental health issues. The court described this period of time as one "marked by the court, GAL, counsel for all parties, the Agency, and the CASA [(court appointed special advocate)] attempting to delicately interact with Mother, merely lay eyes on the Child while in her care, and/or encourage Mother to obtain the services recommended to her for parenting and mental health without pushing Mother to retreat or cut off contact from those listed above to the extent that the court could not be certain of the Child's welfare." ***Id.*** (style adjusted)

After July 2020, the court excused Mother from attending the permanency review hearing; it was arranged that Mother would wait outside of the courthouse while someone else brought the Child inside to be seen by the court. Mother was distrustful of the court, but she had been relatively high functioning. So long as the Child's safety was accounted for, the court was content to let counsel represent Mother in her absence.

In October 2020, Mother contacted ABC and requested to be evaluated for parenting services. ABC told Mother that "it would be helpful" if she knew where Mother was living, "and it would show that [Mother] was committed to the process." ***Id.*** at 10. This triggered an angry response from Mother, who then refused to engage with ABC.

In January 2021, the court received a letter from Mother explaining why she was reluctant to participate in the proceedings, namely that the court had ignored her cooperation with the Agency and her prior efforts to reunify with the Child's sibling. The court also admitted a psychiatric evaluation of Mother,

which indicated: that Mother was having difficulty getting through the day due to rituals consistent with obsessive compulsive disorder; that Mother expressed fears of driving and using public restrooms; and that she experienced hallucinations.

Over the next several months, Mother continued to resist court oversight, but she had started taking her medication again and her mental health improved. In August 2021, the court heard from the GAL that the Child – then nearly 4 years old – appeared happy and healthy, and Mother was on a waiting list for housing.

But in October 2021, the GAL reported that Mother was backsliding. The cause was Mother's frustration with the caseworker – specifically, about the Agency's resistance to arranging visits between the maternal grandparents and the Child. The GAL tried to assure Mother that the caseworker was trying to make a genuine effort with Mother, and that Mother had made significant strides. Mother responded by writing the GAL a hostile letter, at the end of which Mother said:

> I will never set foot in that courtroom, so don't hold your breath. If that judge is waiting for me to participate in person before she'll end dependency, then I need to move to another state that will be more reasonable and realize there is not even a case here.

Id. at 14 (citations to the record omitted).

The juvenile court ordered Mother to appear at the next court hearing in person and to allow visits between the GAL and the Child. The court further

ordered the Agency to set up visits between the Child and the maternal grandparents, obtain a therapist for the Child, and enroll the Child in the Head Start program. Mother did not come to the ensuing hearing. Mother sent a letter asking the court to excuse her appearance, in part, because she had appeared before the magistrate the day prior (regarding an altercation with her neighbor) and she was still recovering from the experience. The court, frustrated with Mother's apparent ability to attend other court proceedings, ordered her to come to the next permanency review hearing.

At that January 2022 permanency hearing, the presiding judge met Mother for the first time. Mother had yet to complete mental health or enroll the Child in Head Start. Mother went to the parenting assessment, but evidently told the service provider that it was too late for the Agency to provide services and that she did not want to participate. ***Id.*** at 15-16.

Mother's limited participation in her mental health and parenting goal finally came to a head in February 2022. The juvenile court had learned: Mother did not attend any medication management appointments with her psychiatrist since October 2021; she was discharged from outpatient counseling in December 2021; she deleted her email and would not answer phones calls; she had rescheduled the Child's March 2022 cardiology appointment against medical advice; she was not answering her attorney's attempts to contact her; and the Child was not enrolled in Head Start. On February 18, 2022, the juvenile court gave the Agency approval to remove the Child and place her in foster care.

The juvenile court held a permanency review hearing in March 2022. Mother had restarted mental health services, though she was not yet scheduled to see the psychiatrist. The court explained to Mother that she needed to receive a psychiatric evaluation, whereupon Mother said "that is not happening" and stormed out of the courtroom. ***Id.*** at 17. The court further ordered Mother to obtain a parenting assessment at ABC and continue with medication management. In May 2022, the Agency requested that the juvenile court make a finding of "aggravated circumstances" on the basis that Mother's rights had been previously terminated as to the Child's sister. ***See*** 42 Pa.C.S.A. § 6302 (defining "aggravating circumstances" as a circumstance where: "(5) The parental rights of the parent have been involuntarily terminated with respect to a child of the parent."). The court eventually found aggravated circumstances but did not relieve the Agency of its obligation to make efforts toward reunification.[2]

From March 2022 until October 2022, Mother had twice-weekly visits with the Child at ABC. Mother requested a different ABC employee supervise the visits. Mother was accommodated, but the change meant that the visits had to decrease to once per week, due to scheduling availability.

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[2] The Juvenile Act provides, if the child is dependent, and the court determines that aggravated circumstances exist, then "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…." ***See*** 42 PA.C.S.A. § 6341(c.1)

At the January 2023 review hearing, the court learned that Mother had again stopped her mental health treatment for approximately three months but that she had re-entered treatment. The court also learned that Mother blocked the Agency's phone calls and did not respond to the parenting evaluation sent to her by mail. However, Mother indicated to her attorney that she would work on the parenting recommendations.

Mother had obtained a parenting assessment from ABC in September 2022, which recommended an intensive program of no less than six months. Parenting services with ABC did not begin until February 2023. The immediate goal was to prepare for home sessions and set expectations, which necessitated Mother completing assignments, or "homework." Mother did not complete the assignments; still, ABC informed Mother at the end of the fifth session that the Child would be coming to Mother's home for a visit the following week. This caused Mother to become agitated. Mother sent a series of emails, which included her list of conditions, which ABC would not accommodate. Mother then told ABC that she did not want to work with them anymore and that she wanted to have visits at the Agency's office.

In May 2023, the Agency petitioned to terminate Mother's rights and change the permanency goal from reunification to adoption. Shortly thereafter, Mother alleged that the Child told her that the foster father touched "her private area," and that the Child described the foster father's private parts. Following the report, the foster father voluntarily moved out of the

home for three weeks, so that the Agency did not have to remove the Child pending the investigation. The report was eventually deemed unfounded.

In June 2023, Mother sent an email to the foster mother (and others, including Mother's attorney and Agency caseworker) wherein she called foster father a child molester and a pedophile; Mother also called the foster parents "murderers on top of pedophiles;" alluding to the death of foster parents' son, who, in 2021, passed away due to complications from COVID-19 and a pre-existing brain defect. ***Id.*** at 22.

In July 2023, the foster parents withdrew from fostering the Child, because they feared for their safety; they had reported seeing a vehicle outside of their home that looked like Mother's. However, visits still occurred between the Child and the foster family, and ultimately the foster family said that they wanted the Child to be part of their family forever. For her part, the Child competently testified that she wanted to be adopted by the foster family, although she enjoyed spending time with Mother, who she refers to by her first name.[3]

The court presided over the consolidated goal change and termination hearing on August 16, and 18, 2023. The court determined that the causes of the Child's placement – namely, Mother's untreated mental health issues –

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[3] Following her removal in February 2022, the Child had initially been placed in a different foster home. She has resided with her current foster home since January 2023. We further note that, at the termination hearing, the Child was appointed separate counsel under 23 Pa.C.S.A. 2313(a), notwithstanding the fact the Child's best interests and legal interests did not conflict.

still existed. The court subsequently terminated Mother's rights pursuant to 23 Pa.C.S.A. § 2511(a)(8), (b); and the court changed the permanency goal to adoption. Mother timely filed this appeal, wherein she presents the following five issues, which we have reordered for ease of disposition:

1. Whether the trial court erred as a matter of law and abused its discretion when it found that Mother's parental rights should be terminated pursuant to 23 Pa.C.S.A. § 2511(a)(8) as the Agency did not provide sufficient evidence at the hearing on the Agency's petition for termination of Mother's parental rights to establish that the conditions which led to the removal of the child from Mother's care and placement of the child in foster care continue to exist and termination of parental rights would best serve the needs and welfare of the child?

2. Whether the trial court erred as a matter of law and abused its discretion when it found that the Child's permanency goal of reunification was neither appropriate not feasible, and ordered a goal change to adoption, thus contravening 42 Pa.C.S.A.§ 6351(f)?

3. Whether the trial court erred as a matter of law and abused its discretion in changing the goal from reunification to adoption when the conditions which led to removal/placement of the child no longer existed or were substantially eliminated, thus contravening 42 Pa.C.S.A.§ 6351(f)?

4. Whether the trial court erred as a matter of law and abused its discretion determining the best interests of the child would be served by changing the goal to adoption when Appellant had met or was meeting all her permanency plan goals, and was ready, willing, and able to parent the child and provide for her needs, thus contravening 42 Pa.C.S.A.§ 6351(f)?

5. Whether the trial court erred as a matter of law and abused its discretion in determining that there was minimal compliance with the permanency plan and that there were continued concerns about Mother's mental health when the only mental health professional who

> testified at the hearing provided testimony that Mother was progressing with her mental health treatment?

Mother's Brief at 5-6 (style adjusted).

We begin with our well-settled standard of review:

> 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. The trial court's decision, however, should not be reversed merely because the record would support a different result. 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., 71 A.3d 251, 267 (Pa. 2013) (citations and quotation marks omitted).

Our Supreme Court has repeatedly stated that in termination cases, deference to the trial court is particularly crucial. ***In re Adoption of L.A.K.***, 265 A.3d 580, 597 (Pa. 2021); ***see also Interest of S.K.L.R.***, 265 A.3d 1108, 1124 (Pa. 2021) ("When a trial court makes a 'close call' in a fact-intensive case involving…the termination of parental rights, the appellate court should review the record for an abuse of discretion and for whether evidence supports that trial court's conclusions; the appellate court should not search the record for contrary conclusions or substitute its judgment for that of the trial court.").

Clear and convincing evidence is evidence that is so "clear, direct, weighty and convincing as to enable the trier of fact to come to a clear conviction, without hesitance, of the truth of the precise facts in issue." ***In re C.S.***, 761 A.2d 1197, 1201 (Pa. Super. 2000) (*en banc*) (quoting ***Matter of Adoption Charles E.D.M., II***, 708 A.2d 88, 91 (Pa. 1998)).

Termination of parental rights is governed by Section 2511 of the Adoption Act, 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[.]

In re C.M.K., 203 A.3d 258, 261-62 (Pa. Super. 2019) (citation omitted).

We need only agree with the lower court as to any one subsection of Section 2511(a), as well as Section 2511(b), in order to affirm the court's decree. ***In re B.L.W.***, 843 A.2d 380, 384 (Pa. Super. 2004) (*en banc*); ***see also C.S.***, 761 A.2d at 1201. Instantly, the court terminated Mother's rights under 23 Pa.C.S.A. § 2511(a)(8) and (b). Those subsections provide:

> **(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:
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> […]
>
> (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).

In her first appellate issue, Mother argues the orphans' erred when it determined that the Agency provided sufficient evidence to establish termination under Section 2511(a)(8). This subsection contains three elements, which we discuss in turn.

First, Section 2511(a)(8) sets forth a twelve-month timeframe for a parent to remedy the conditions that led to the child's removal by the court. ***See In re A.R.***, 837 A.2d 560, 564 (Pa. Super. 2003). Instantly, Mother does not dispute that the first element of the analysis has been met. The orphans' court terminated Mother's rights approximately 18 months after the Child was removed in February 2022.

Second, once the court establishes the twelve-month timeframe, the court must next determine whether the conditions that led to the child's removal continue to exist. The relevant inquiry in this regard is whether the conditions that led to removal have been remedied. ***In re I.J.***, 972 A.2d 5, 11 (Pa. Super. 2009). Termination pursuant to Section 2511(a)(8) does not include an evaluation of a parent's willingness or ability to remedy the conditions that led to the removal of the child. ***See In re M.A.B.***, 166 A.3d 434, 446 (Pa. Super. 2017). This Court has acknowledged:

> [T]he application of Section (a)(8) may seem harsh when the parent has begun to make progress toward resolving the problems that had led to removal of her children. 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 the parent is unable to perform the actions necessary to assume parenting responsibilities. This 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.

In re J.F.M., 71 A.3d 989, 997 (Pa. Super. 2013) (quoting ***I.J.***, 972 A.2d at 11-12).

On this point, Mother argues that the reasons given for the Child's removal no longer existed at the time of the termination hearing. Mother maintains that she achieved stable housing and that she consistently attended and participated in the recommended mental health treatment. ***See generally*** Mother's Brief at 37-40.

While housing was an objective during the dependency case, we note that Mother maintained an apartment for two years.[4] The court determined that, to the extent that Mother's housing was a cause for the Child's removal, this condition had been remedied. ***See*** T.C.O., ***infra***. But there could be no question that the primary cause of the Child's removal was Mother's untreated mental health issues and the impact those issues had on Mother's ability to parent.

In a thorough Rule 1925(a) opinion, Judge Peck detailed extensively the basis for concluding that this condition – Mother's untreated mental health issues – led to the Child's removal and continued to exist at the time of the termination proceeding:

> The Child was removed from Mother's care after four years of dependency, in February 2022, when Mother went off the radar, deleted her e-mail, no one could get in contact with her, and the court learned she had not been to a medication management appointment or to counseling in months, all of which was on the heels of threatening to leave the Commonwealth and other erratic behavior, including sending disparaging e-mails to the GAL and caseworker in response to the GAL attempting to encourage and support Mother. Mother was not engaged in parenting services, and she was not engaged with mental health services at all at that time. These circumstances prompting removal of the Child from Mother's care did not, however, occur in a vacuum. At every turn, this court gave Mother more leeway in declining to participate in court proceedings or the family service plan goals than the court had ever given a parent in a dependency action. *Mother did not appear in court for*

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[4] It should be noted, however, that the appropriateness of the home was questioned. Mother had covered the windows with blankets or towels, and she was living out of boxes.

three years and only intermittently brought the child to be seen by the court via third-party-transport until the court specifically ordered Mother to appear given that she was appearing for other, unrelated court proceedings and was evidently simply choosing not to come to court where the court was attempting to ensure the best interests of her Child.

For the year-and-a-half when Mother was not appearing for proceedings before Judge Guido, he was persistently issuing orders expressly telling Mother *he did not want to take the Child from her care*, and indicating more than once that he was considering terminating dependency if she would cooperate with the Agency, her counsel, and her mental health counselor. She did not, and instead maintained that Judge Guido felt nothing but joy at humiliating and taunting her. Judge Guido replaced the GAL, removed the CASA, and finally recused himself, all in an effort to give Mother a fresh start and encourage her to feel comfortable in engaging in services and meeting her service plan goals.

Thereafter, Mother would engage with service providers or the GAL or the court, briefly, until she perceived someone to be "against her" or, frankly, when someone told her something she did not want to hear. In other respects, she would make just enough of an effort to begin to meet a service plan goal to avoid removal of the Child but, in the same review period, would cut off the GAL from seeing the Child or block communications from the Agency. She went to ABC in October 2020 to obtain a parenting assessment, but when Ms. Sweger asked for her address, Mother accused her of trying to take her child and she terminated the session. She sent bizarre messages to the GAL and caseworker, saying the court should not hold our breath for her to appear in court. In January 2022, the court accommodated her request to avoid ABC for parenting services and use a provider of her choice, but she ultimately declined participation upon her first meeting with that provider. Mother obtained a parenting assessment from ABC at the end of 2022, but shortly thereafter voluntarily decreased her visit time with the Child because of perceived slights by the visit-supervisor, who was "too pushy." The court appointed Mother different counsel because of perceived conflicts Mother had with her first attorney, with whom she was refusing communication. The court noted

that past counsel was conveying to Mother that this court said it needed her to attend court hearings for us to meet her and discuss what was needed of her. This court needed to make sure Mother could function in a public setting. Mother began parenting services again, finally, in February 2023, but ceased working with ABC at all after five sessions, again due to perceived slights or mistreatment from the provider, and after sending ABC a list of conditions under which she would agree to work with them. In the meantime, Mother called in a ChildLine report that the Child was being sexually abused in her foster placement and sent a letter to the foster parents calling them pedophiles and murderers.

The court recognizes that Mother was in a partial hospitalization program at the time of the termination and had been in same since January of this year. The issue remains that Mother's erratic behavior and unwillingness to work with others, obviously due to her mental health conditions, continued during that period and for months after she had been immersed in the program, and at times increased in severity. She was in the mental health program when she refused parenting services, unless ABC was willing to provide services with exactly the person she wanted, when she wanted, and how she wanted. She was also in treatment when she reported the foster family for sexually abusing the Child when, by all accounts and following investigation, the accusation was untrue, and then suggested they murdered their own son who had passed away tragically. The court must note, finally, that it was not encouraged by the testimony of the director of Mother's mental health program. Merakey[, the service provider,] did not have a release from Mother to exchange information with the Agency until just two months prior to the termination hearing (*and after the termination petition had been filed*), and Ms. Mobray's view of Mother's messages to the foster family, namely finding the e-mails comparable with people who "rant[] on Facebook," indicates to us that the providers at the program are not aware of the seriousness of Mother's history or the history of this case.

The court echoes the concerns of Ms. Sweger that Mother has not been able to handle or appropriately interact with other people under circumstances where each person associated with this case has consistently attempted to delicately interact with Mother, always careful not to push

> too hard or too far or say anything that might cause Mother to drop off the radar once again or cut off contact with the Child. If Mother would fully commit to the parenting program, for example, such tiptoeing would not occur, and she would be [] able to participate and engage and hear instruction and prompting she has, never to date, been able to hear without storming out, quitting the program, or cutting off contact. It was not our hope that this case would turn out the way it did. For nearly six years the court waited, tiptoed, and deferred to Mother's comfort level in engaging in services and in the court proceedings. We are six years into this case and Mother has yet to meaningfully engage, let alone complete, the parenting services recommended to her, in part [] due to concern for Mother's paranoia resulting in Mother's inability to care for the Child's emotional needs.
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> ***
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> From our long involvement with this case, it is apparent that Mother's mental health conditions, although at times more treated and at other times not, continue, to her and the Child's detriment, just as they did from the start. The court recognizes that Mother attained stable housing and at least has received some services for her mental health. Sadly, it appears the most Mother is able to do is the above, which may provide shelter for her and keep her from harming herself and keep her partially functioning in society. She cannot, or has not, progressed in her mental health to such a level that the court can say it is safe for the Child's well-being to be in her care.

T.C.O. at 26-31 (emphasis original) (style adjusted) (citations to the record omitted).

These findings are supported by the record, and thus we conclude the orphans' court did not err or abuse its discretion when it concluded that the conditions, which led to the Child's placement, continued to exist at the time of termination.

The third and final element of the Section 2511(a)(8) analysis requires the court to assess whether the termination would best serve the needs and welfare of the Child. Although technically distinct, we have held that the "needs and welfare" element under Section 2511(a)(8) dovetails with the analysis required by Section 2511(b); both require consideration of "intangibles such as love, comfort, security, and stability" and both require the court to discern the nature and status of the parent-child bond. ***See I.J.***, 972 A.2d at 12 (citing ***In re C.P.***, 901 A.2d 516, 520 (Pa. Super. 2006) and ***In re C.L.G.***, 956 A.2d 999, 1009 (Pa. Super. 2008) (*en banc*)). Still, the focus of the "needs and welfare" analysis vis-à-vis Section 2511(a)(8) remains on the parent. ***See C.M.K.***, 203 A.3d at 261-62.

On this point, Mother's primary argument is that the court erred, because there was no evidence that Mother's personality disorder would inflict substantial physical or mental harm on the Child. ***See*** Mother's Brief at 39. In its Rule 1925(a) opinion, the orphans' court addressed the Child's needs and welfare under Section 2511(a)(8) contemporaneously with its analysis under Section 2511(b). Mother does not challenge the court's determination under Section 2511(b), nor does she take issue with the court's consolidated analysis.

In its Rule 1925(a) opinion, the court explained why termination would best serve the Child's needs and welfare – specifically, how Mother's untreated mental health concerns adversely affected the Child:

> The Child was about to begin kindergarten at the time of the termination and goal change hearings. She is currently diagnosed with "disruptive, impulsive-control and conduct disorder," is under consideration for an anxiety disorder diagnosis, and is enrolled in play therapy.
>
> […]
>
> When the Child competently testified in May 2023 for purposes of the termination and goal-change petitions, she understood the nature of adoption and she said she enjoys living with her foster family and she wishes to be adopted by them, though she reported she enjoys visiting with her mother, whom she called by Mother's first name. The Child visits with her biological sister about once a month and enjoys those visits; her foster family has developed a positive relationship with the Child's sister's adoptive family. The Child's case manager, Addie Bitzer, said that the Child has fit in very well in her foster family, and very much enjoys having a big sister and a little sister in the foster family. Ms. Bitzer said the Child has a strong emotional connection with her foster parents, goes to them for comfort and love, needs constant reassurance from them that they love her and are going to be there for her, and calls them "mommy" and "daddy." Each time this court has met with the Child, she has appeared to us to be markedly more intelligent, observant, and vocal about her thoughts and desires than is typical of her age.

T.C.O. 23, 24-25 (citations to the record omitted) (style adjusted).

The orphans' court explained further:

> The Child had been out of Mother's care for over a year and a half at the time of the termination hearing. She had been with her foster family for eight months, with brief interruption by Mother's attempt to sabotage the placement. The Child's counsel said at the hearing that the Child reports to her that she wants to be adopted by her foster family and that she did not want to live with her Mother anymore. Counsel said she believes the Child to be tired of court involvement and of all the case participants having been part of her life since birth. The Child's foster mother, opining on behaviors following visits with Mother, said that

the Child sometimes "will say that she doesn't have a family, but that she wants a family." This is difficult evidence to hear, as our delay to not make this decision sooner out of the hope of Mother's improvement (*i.e.* ordering reasonable efforts to continue) has caused suffering to the Child.

The court is cognizant that Mother loves the Child, and that Mother kept the Child physically well. The court notes, however, that Mother's paranoia of and pushing against the assistance of those around her have several times been demonstratively adverse to the Child's best interests. In addition to attempting to disrupt the Child's stability in her foster home via the ChildLine report and accusatory letter to the foster family, Mother refused to open the door when the Agency appeared to remove the Child from her custody in February 2022; a deputy with the Cumberland County Sheriff's Office had to intervene and even then, Mother refused to send the Child with any coat or shoes in the middle of winter, which resulted in the deputy giving the Child his jacket. The removal of the Child from the home could have been made less traumatic with Mother's attention to the Child's best interests in the moment.

The court is convinced that the Child's best interests do not lie in waiting for Mother to show stability in mental health and commitment to parenting the Child safely and in attending to the Child's emotional needs and welfare, or demonstrate willingness to hear and work with those who have persistently and delicately attempted to keep the Child with Mother. As the court noted herein, the court did not wish for the case to go this way. The court is sympathetic to Mother's feelings that the court made up its mind a long time ago to take her child from her. The court doesn't doubt that Mother actually believes that. Such is of course not the case, as the court tediously laid out our efforts herein, and the court laments that Mother's distrust of those trying to help her continues. Over the life of this case, one significant concern for the Child being in Mother's care is that this very special Child will [] distrust the world around her as was the case with Child's older sister. The court notes, for example, that there was testimony that the Child reported while in foster care that her Mother closed all the blinds to the windows in their house and that she was not allowed to look out the windows. The Child, meanwhile, desperately needs permanency and has for a long time. She knows more about

> the circumstances of her placement than a child her age should, and she very much deserves to know now where she will remain.

Id. at 32-34 (citations to the record omitted) (style adjusted).

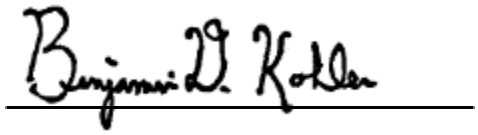
Taken together, we conclude that these findings constitute a sufficient basis for the court to find that termination would best serve the Child's needs and welfare under Section 2511(a)(8). And upon our review, we conclude that the evidentiary record supports these findings. In reaching this decision, we reiterate that this Court is not in a position to make close calls. ***See also S.K.L.R.***, 265 A.3d at 1124. It is not our rule to scour the record for contrary conclusions or to substitute our judgment for that of the lower court, whose understanding of the case and the parties appearing before it is "longitudinal." ***See id.; In re R.J.T.***, 9 A.3d 1179, 1190 (Pa. 2010). For these reasons, we conclude that that the orphans' court did not err when it determined that the Agency proved, by clear and convincing evidence, that termination was warranted under Section 2511(a)(8). Mother's first issue merits no relief.

Mother's remaining issues pertain to the lower court's decision to change the permanency goal from reunification to adoption. This Court has held that a termination of parental rights decree, once affirmed, renders moot any challenge to the dependency court's decision to change the goal of the permanency review hearing. ***See D.R.-W.***, 227 A.3d 905, 917 (Pa. Super. 2020) (holding that 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) (citing ***In re D.A.***, 801 A.2d 614, 616 (Pa. Super. 2002)) ***see also In re Adoption of***

A.H., 247 A.3d 439, 446 (Pa. Super. 2021) (holding that a decision to affirm the orphans' court's termination decree necessarily renders moot the dependency court's decision to change a child's goal to adoption). Therefore, we do not address Mother's appeal from the goal change order.[5]

Decree affirmed. Appeal from goal change order dismissed as moot. Jurisdiction relinquished.

Judgment Entered.



Benjamin D. Kohler, Esq.
Prothonotary

Date: 4/1/2024

[5] Although we do not address the goal change decision, we note that the court did not relieve the Agency of its obligation to provide reunification services, notwithstanding the finding of aggravating circumstances. We commend this decision.

IN RE: ADOPTION OF P.H., a Minor	:	IN THE COURT OF COMMON PLEAS OF CUMBERLAND COUNTY, PENNSYLVANIA
	:	
	:	
Appeal of P.H., Mother	:	89 ADOPTIONS 2022

OPINION PURSUANT TO PA.R.A.P. 1925

Peck, J., October 27th, 2023 –

Cumberland County Children and Youth Services ("CCCYS" or "the Agency") filed a Petition for Involuntary Termination of Parental Rights on May 1, 2023.[1] Following hearings held on May 16, August 16, and August 18, 2023,[2] we issued orders terminating Appellant's parental rights to the Child and changing the goal from reunification to adoption.[3] Appellant filed timely Notices of Appeal from both orders.[4] Appellant raises seven errors[5] in her Statement of Errors Complained of on Appeal in the appeal from the termination order and five errors[6] in the appeal

[1] Re: Petition for Involuntary Termination of Parental Rights of [P.H.] Under Section 2512 of the Adoption Act, filed May 1, 2023 (orphans' court docket).

[2] We took the testimony of the Child on a different day from the rest of the testimony upon request of the Guardian Ad Litem. Order of Court, In re: Termination of Parental Rights of [P.H.] and Petition to Confirm the Consent of [E.T.] to the Termination of Parental Rights, May 16, 2023 (Peck, J.) (orphans' court docket). All counsel on behalf of all parties had the opportunity to question the Child.

[3] Final Decree, Re: Petition for Involuntary Termination of Parental Rights of [P.H.] Under Section 2512 of the Adoption Act, August 21, 2023 (Peck, J.) (orphans' court docket); Permanency Review Order, dated August 16, 2023 (filed August 24, 2023) (dependency docket); Amended Permanency Review Order, dated August 16, 2023 (filed October 4, 2023) (Peck, J.) (dependency docket). We announced our rulings terminating Appellant's rights and changing the goal to adoption in open court at the close of the final hearing on August 18, though the orders (including the order amending the permanency review order to reflect the goal change) were dated and filed on differing days. On August 18, 2023, we also granted the Petition to Confirm Consent of [E.T.] to Adoption, voluntarily terminating Natural Father's parental rights to the Child. He did not appear, though his counsel did.

[4] We are filing an identical 1925 Opinion at each docket.

[5] Statement of Errors Complained of on Appeal, filed September 13, 2023 (orphans' court docket).

[6] Statement of Errors Complained of on Appeal, filed September 13, 2023 (dependency docket).

from the goal-change order, which we do not here reproduce for the sake of attempted brevity, noting that our Opinion herein is lengthy to provide meaningful context of the history of this case. We offer this Opinion in support of our judgment pursuant to Pa.R.A.P. 1925(a).

STATEMENT OF FACTS

a. Background and Appellant's Status at the Time of the Hearings

Agency involvement with Appellant began with the Child's older sister before the Child's birth due to instability in Appellant's mental health and housing.[7] Additional concerns arose later, namely, parenting concerns related to meeting basic needs for the Child and Appellant's interactions with others, both of which appeared to stem from Appellant's mental health.[8] The Child was adjudicated dependent on December 20, 2017 when she was nearly two months old.[9] The Agency had received a referral stating that Appellant had given birth and was presenting "as paranoid and suspicious, and failed to provide any information to [hospital] staff," and that she did not have any baby items needed to care for the Child.[10] Shortly thereafter, the Agency received a report from the health clinic where Appellant took the Child to be seen indicating that Appellant "failed to provide information to staff, was paranoid, suspicious, and elusive."[11]

To describe this case broadly before reaching the details, the Child was removed from Appellant's care on February 18, 2022 following over four years of

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[7] Transcript of Proceedings, In re: Termination of Parental Rights Hearing (Day 1), August 16, 2023, at 64-65 (Peck, J.) (hereinafter, "N.T. August 16, 2023 at ___"). Appellant's parental rights as to the older child were terminated in 2018. See Additional Findings and Order of Court, Permanency Review Hearing, dated May 25, 2018 (filed June 25, 2018) (Guido, P.J.) (dependency docket).

[8] N.T. August 16, 2023 at 64.

[9] Order of Adjudication and Disposition, dated December 20, 2017 (filed January 12, 2018) (Guido, P.J.) (dependency docket).

[10] Dependency Petition, filed December 15, 2017 (dependency docket).

[11] Id.

dependency, which was a period of time marked by the Court, GAL, counsel for all parties, the Agency, and the CASA attempting to delicately interact with Appellant, merely lay eyes on the Child while in her care, and/or encourage Appellant to obtain the services recommended to her for parenting and mental health without pushing Appellant to retreat or cut off contact from those listed above to the extent that we could not be certain of the Child's welfare. The undersigned judge was assigned to Appellant's case in July 2020 after Appellant wrote a letter to the Honorable Edward E. Guido, who was formerly assigned to this case, detailing her perception that Judge Guido was "having a great deal of fun watching [her] suffering during [her older child's] Termination of Rights hearing," "humiliating" and "taunting" her, and having the "audacity" to expect her to appear at hearings for the Child after Judge Guido had terminated her parental rights to P.H.'s older sister.[12] Judge Guido observed that because of his history with Appellant's case, her mental health status, and her perception of his motives, that Appellant would not make progress on her mental health while he was involved.[13] Unfortunately, Appellant's paranoia and suspicion of all persons involved in her case continued despite the reassignment of the undersigned. We held the first seven hearings, by our count, over the course of 13 months after inheriting this case before ever meeting Appellant; for some of those hearings, neither Appellant nor the Child appeared, and for others, Appellant brought the Child as far as the sidewalk outside the courthouse to allow someone else to bring the Child before the Court to be seen before being returned to Appellant.

Appellant's service plan goals (and reunification goals once the Child was removed from her care) were to maintain safe and stable housing, obtain a

[12] Mother's Exhibit No. 1, Letter, Permanency Review Hearing, July 29, 2020 (Guido, P.J.) (dependency docket).

[13] Additional Findings and Order of Court, Permanency Review Hearing, dated July 29, 2020, (filed August 20, 2020) (Guido, P.J.) (dependency docket).

parenting assessment and participate in any recommended services, participate in visitation with the Child, and obtain ongoing mental health treatment.[14] For much of the life of the case, Appellant lived in various hotels with the Child, moving frequently, until she obtained a government-subsidized apartment which she's maintained for the last two years, approximately.[15] Appellant's history and progress with the remainder of the goals require more comprehensive explanation.

For contextual background, we note that early in the life of this case, Dr. Kasey Shienvold conducted psychological testing with Appellant and completed an evaluation, about which he testified at the Child's first permanency review hearing on May 25, 2018, which was also the hearing at which Judge Guido terminated Appellant's parental rights to the Child's older sister.[16] Dr. Shienvold testified to the following, in relevant part:

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[14] N.T. August 16, 2023 at 68-69; see CCCYS Exhibit No. 1, Child's Permanency Plan, Permanency Review Hearing, August 16, 2023 (dependency docket).

[15] See N.T. August 16, 2023 at 69; Permanency Review Order, dated June 19, 2019 (filed June 25, 2019) (Guido, P.J.) (dependency docket); Additional Findings and Order of Court, Permanency Review Hearing, dated December 4, 2019 (filed December 12, 2019) (Guido, P.J.) (dependency docket); Permanency Review Order dated January 8, 2021 (filed March 2, 2021) (Peck, J.) (dependency docket); Judicial Conference Report dated August 6, 2021 (filed August 13, 2021) (Peck, J.) (dependency docket).

[16] Transcript of Proceedings, In re: Permanency Hearing, May 25, 2018, at 12-30 (Guido, P.J.) (dependency docket); Additional Findings and Order of Court, Permanency Review Hearing, dated May 25, 2018 (filed May 29, 2018) (Guido, P.J.) (dependency docket). We note that at the close of the first day of the hearing on August 16, 2023, at which some testimony was elicited related to Dr. Shienvold's evaluation, Appellant's counsel requested "the opportunity to either present him as a witness or to have him reevaluate" Appellant, as she did not expect that testimony would be presented referencing his assessment. N.T. August 16, 2023 at 139. We said at the time that we would consider testimony about Dr. Shienvold's evaluation for purposes of the history of the case, understanding that the weight of the assessment is tempered by the passage of five years' time, though we noted that Appellant had never contested the diagnoses Dr. Shienvold made. Id. at 141-42. Appellant's counsel was satisfied with these caveats. Id. at 143. While we did consider the assessment only for purposes of the history of the case, and for the diagnoses themselves, understanding they are five years old, we do note that upon further consideration, to the extent Appellant's counsel claimed unfair surprise, that Dr. Shienvold testified at *this Child's permanency review hearing in 2018,* which was also the permanency review hearing for her older sister.

> There was evidence to suggest kind of a personality disorder, which was a paranoid personality disorder. . . .
>
> A personality disorder like paranoid personality disorder is just an individual who has kind of a pervasive and enduring kind of mistrust of the world around them and a very cynical view of the world. They tend to be very hypervigilant to perceived mistreatment by others. It makes it very difficult for them to have intimate kind of close personal relationships. They tend to be seen as argumentative or distant or aloof even at times. They are obviously very guarded and secretive. . . .
>
> I do have concerns about [Appellant falling back into homelessness], Your Honor, only because of her kind of track record of not being able to work cooperatively with anyone who may have authority or decision-making power over her. . . . Because of her guardedness and her defensiveness, it's almost possible [sic] for the agency or the Court to fully evaluate her ability to provide that safe and stable environment because she won't give any information because of her kind of distorted thinking and her really negative perceptions of what the agency or any authority's kind of goal is within her life. . . .
>
> Now, mom's personality or her characterology . . . is such that she is not going to be able to teach this child to be kind of warm and open to new experiences or kind of trust that the world is a safe place. So, in that long run, that can have a very negative impact on a child's ability to have healthy ideas about what a relationship is supposed to be or how to solve problems or resolve conflict because of – our parents are our earliest kind of role models for those sorts of things.
>
> [Appellant's] track record is not one for modeling appropriate ways to handle those critical kinds of aspects in our life. She likely is one who would teach her that the world is a dangerous and scary place and that you must be mistrustful. . . . I believe in the records I reviewed it was noted that even on the day she was arrested at Subway [for threatening to shoot the clerk] with her daughter that she told her daughter not to share any information.[17]

At the close of the May 25, 2018 permanency review hearing, though Judge Guido terminated Appellant's rights as to the Child's older sister on the basis that too much time had passed without permanency, the Court expressed hope that "with successful therapy Mother will be able to parent [P.H.] and provide her a stable home."[18] At hearings in July and October 2018, Judge Guido expressed that Appellant had been cooperative with the Agency, appeared to be working toward

[17] Transcript of Proceedings, In re: Permanency Hearing, May 25, 2018, at 16-22 (filed July 11, 2018) (Guido, P.J.) (dependency docket).

[18] Additional Findings and Order of Court, Permanency Review Hearing, dated May 25, 2018 (filed May 29, 2018) (Guido, P.J.) (dependency docket).

managing her mental health, and that Appellant had stable housing.[19] Appellant had obtained a parenting assessment through Alternative Behavior Consultants ("ABC") in August 2018, which recommended parenting services and which she did engage in, but shortly thereafter, in December 2018, Appellant unilaterally ceased the services on the basis that she believed she no longer required services, citing the fact that her rights had already been terminated as to the older child.[20]

Beginning with the January 2019 permanency review hearing, we find it most illustrative of Appellant's downturn in progress to excerpt Judge Guido's orders following hearings, few of which, if any, Appellant attended. On January 16, 2019, following a permanency review hearing, Judge Guido indicated:

> [M]other did not appear. She made it known to the caseworker that appearing in court to hear the negative things about her is just too much to take. In light of the blow that she received in our termination of her parental rights to [the older child] in December, we understand her reluctance to be in court today.
>
> We are fully supportive of mother's being able to keep [P.H.] in her care. We understand her struggles with her mental health issues, particularly her paranoid personality disorder diagnosis. We do not want to see her make the same mistakes she made with regard to [the older child] by refusing to cooperate, feeling that everybody is against her.
>
> We would have a comfort level ending dependency in this matter so long as mother continues to cooperate with the caseworker, ABC, her attorney, and her mental health counselor. We will not hold her failure to appear in court against her as long as she cooperates with those individuals.[21]

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[19] Judicial Conference, dated July 25, 2018 (filed August 2, 2018) (Guido, P.J.) (dependency docket); Additional Findings and Order of Court, Permanency Review Order, dated October 5, 2018 (filed October 10, 2018) (Guido, P.J.) (dependency docket).

[20] See N.T. August 16, 2023 at 8-9.

[21] Additional Findings and Order of Court, Permanency Review Order, dated January 16, 2019 (filed January 22, 2019) (Guido, P.J.) (dependency docket). At the termination hearing, Kim Sweger, director of ABC parenting services, testified that in February 2019, Appellant contacted Ms. Sweger asking if she would meet with Appellant. N.T. August 16, 2023 at 10. Ms. Sweger met with her at a motel in Carlisle and Appellant "was asking questions about the probability and possibility of what would happen if she remained in this area and what expectations would be had of her. She used the words, ['']I'm testing the waters to see what's going to happen if I stay here.['']" Id. Ms. Sweger said Appellant relocated to Virginia after that time and she did not hear from Appellant again until October 2020. Id.

On April 3, 2019:

> [W]e share the GAL's concern that mother may fall back into a nomadic lifestyle. If that occurs, we cannot guarantee the safety of the child while she is in mother's custody. . . .
>
> We want mother to understand that we do not want to have [P.H.] removed from her care and subject to the same fate as [the older child]. . . .
>
> We hope that substantial steps towards stability have been reached by the time of the permanency review hearing on June 19, 2019 . . .[22]

On June 19, 2019:

> We have serious concerns that Mother may be falling into her prior behaviors. We have stressed to the caseworker that we do not want to have [P.H.] end up with the same fate as [the older child]. It is absolutely vital that Mother obtain stable housing. We understand that until social security disability benefits are obtained, that this may be a problem. We are willing to work with Mother so long as the following good faith efforts are put forth by her:
>
> 1. That she cooperate and maintain contact with the caseworker. To Mother's credit, this has been done throughout this case.
> 2. That she cooperate and maintain contact with the CASA and the GAL.
> 3. That she continue in her mental health therapy so that her paranoid personality disorder does not get in the way of her ability to work with us to assure [P.H.]'s safety and stability.[23]

On August 28, 2019:

> [T]he more time passes, the more things seem to be the same. We reiterate for the umpteenth time that we do not want to take the child from mother. It is important that she cooperate not only with the caseworker but also with our CASA and the G.A.L.
>
> We understand the trauma mother went through in losing her older daughter. In that regard, we appointed a new G.A.L. to give her a fresh start. We feel it is important that she meet with the CASA in a therapeutic setting to see if her issues with the CASA (which we are convinced are unfounded) can be resolved.[24]

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[22] Judicial Conference Order, dated April 3, 2019 (filed April 8, 2019) (Guido, P.J.) (dependency docket).

[23] Additional Findings of Fact, Permanency Review Order, dated June 19, 2019 (filed June 25, 2019) (Guido, P.J.) (dependency docket).

[24] Judicial Conference Report, dated August 28, 2019 (filed September 11, 2019) (Guido, P.J.) (dependency docket).

On December 4, 2019:

> [I]t appears that Mother's behaviors are decompensating yet again. She is not cooperating as she should be with her counsel, with the Agency, and with our CASA. Of course, the fault is either on those people [in her mind] or as a result of a miscommunication.
>
> It is incumbent upon the Agency to make sure that this child has stable housing and is in a safe and secure environment. If they cannot do that as a result of Mother's lack of cooperation, it is incumbent upon them to seek an Order to place the child.[25]

On February 7, 2020:

> [W]e had a Judicial Conference without the mother and child being present. We will say it, but we don't think mom will hear it, and that is, we do not want to take [P.H.] from mother. However, her continued refusal to cooperate with various caseworkers, with her counsel, with the G.A.L., and with our CASA volunteer may force our hand.
>
> It has been painfully obvious to this Court for years that mother needs counseling to address her paranoia. While we have no doubt that she is a good mother to the child, taking care of her physical and developmental needs, we are seriously concerned about mother decompensating and ending up homeless yet again. We are also concerned about mother passing on the paranoia to the new child as she had done with [the older child.] . . .
>
> We will see the family again for a Permanency Review on May 8, 2020 . . . It is important that mother bring the child to that hearing. If mother is too nervous to participate in this hearing, once the caseworker and the G.A.L. have seen and confirmed that the child is safe and healthy we will allow mother to leave and participate by phone.[26]

On May 8, 2020:

> Mother has again failed to participate in the permanency review hearing. She has again failed to participate with our CASA, with the GAL, and with her own counsel. Her cooperating with the various caseworkers has been spotty at best.
>
> We reiterate that Mother needs to deal with her mental health issues. We have no doubt that she loves her child and is capable of taking care of her physical and developmental needs.
>
> Because of Mother's mental health issues evidenced by prior testimony as well as Mother's continued paranoia, we are seriously concerned about Mother's ability to care for the child's emotional needs.

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[25] Additional Findings and Order of Court, Permanency Review Order, dated December 4, 2019 (filed December 12, 2019) (Guido, P.J.) (dependency docket).

[26] Judicial Conference Order, dated February 7, 2020 (filed February 11, 2020) (Guido, P.J.) (dependency docket).

> Mother is to have the psychiatric evaluation in place, with agency input, and a treatment plan in place at our next hearing. If Mother continues in her refusal to cooperate with the agency, or if she denies access to the home to the agency, we are to be contacted to place the child on an emergency basis.
> . . . The Mother shall bring the child to [the next] hearing. It is also imperative that the Mother grant access to the child by the GAL. Mother's refusal to allow the GAL to see the child shall result in a call to this Court for emergency placement.[27]

On July 29, 2020, following receipt of Appellant's letter[28] accusing Judge Guido of taking pleasure in "humiliating" and "taunting" her, and indicating she would not attend any hearings, as detailed supra, Judge Guido issued the following order:

> [A]fter having read Mother's Exhibit No. 1, we finally understand the depths of her feelings.
>
> There has never been a doubt in this Court's mind that Mother is able to care for the physical needs of her children. There has also never been a doubt in this Court's mind that Mother has mental health issues that need to be addressed. Unless those mental health issues are addressed, there is grave concern for the emotional well-being of the child going into the future.
>
> We are satisfied because of our history with the case, Mother's mental health issues, and Mother's perception of this Court's prior actions and motives, that she will never make progress on her mental health while this Court is involved in the case. As a result, going forward, we will recuse ourselves from further proceedings. The case will be reassigned to Judge Peck.
>
> Also, as a result of the history and Mother's misperception as to the motives of the CASA, the CASA appointment is vacated going forward. If Judge Peck believes further involvement is warranted by the CASA, that decision will be up to them.
>
> Mother is to continue cooperating with the G.A.L. and the Agency so that they may ensure the safety and well-being of the child. She is further directed to pursue her mental health counseling and to keep the Agency informed as to her progress. Once a pattern of cooperating with the Agency, G.A.L., and mental health counseling and stability has been established, we would encourage the ending of dependency.[29]

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[27] Additional Findings of Fact, Permanency Review Order, dated May 8, 2020 (filed May 18, 2020) (Guido, P.J.) (dependency docket).

[28] See Mother's Exhibit 1, Letter, Permanency Review Hearing, July 29, 2020.

[29] Additional Findings and Order of Court, Permanency Review Order, dated July 29, 2020 (filed August 20, 2020) (Guido, P.J.) (dependency docket).

In October 2020, Appellant contacted ABC and requested to be evaluated again for parenting services.[30] Kim Sweger, director of ABC parenting services, said that she met with Appellant at ABC and began the process of the parenting assessment, but when Ms. Sweger told Appellant that "it would be helpful" if she knew where Appellant was living, "and it would show that [Appellant] was committed to the process,"

> [t]hat triggered a response from [Appellant]. She got very upset and agitated and began to accuse me of trying to take her child and [of being] part of the problem, and very, very agitated and angry. And at that point I retreated, put a release on a chair and said, "If you want to continue, you can sign this release and we'll try again. If not, you're welcome to leave." I left the room and she left the building without signing the release.
>
> She had her daughter with her at the time. She still had custody of [the Child]. So that FAST [assessment] was incomplete. Did not have contact with her again until after [the Child] was placed . . . [i]n March 2022.[31]

For the bifurcated permanency review hearing held on January 8 and January 15, 2021, neither Appellant nor the Child attended but Appellant submitted a letter to this Court explaining her reluctance to participate in court proceedings, namely that the Court had previously ignored her cooperation with the Agency and the Court and her progress on reunification goals when her parental rights as to P.H.'s older sister were terminated.[32] Appellant also wrote that she had been living in hotels temporarily because she wanted dependency to end before she settled into permanent housing.[33] At the same hearing, a psychiatric evaluation report that Appellant submitted to was admitted, which indicated Appellant was experiencing "severe debilitation of getting through the day" due to rituals consistent with obsessive compulsive disorder requiring, for example, two hours to shower to

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[30] N.T. August 16, 2023 at 10.
[31] N.T. August 16, 2023 at 10-11.
[32] Mother's Exhibit No. 1, Letter, Permanency Review Hearing, January 8, 2021 (dependency docket).
[33] Id.

complete said rituals, and that Appellant expressed fears of driving and public restrooms.[34] The report also indicated that Appellant experiences hallucinations, namely seeing someone in her hotel room who is not there or the sensation of being pinched, touched, or tapped on the shoulder.[35] At the next hearing on March 5, 2021, Appellant did not appear, but we heard testimony that Appellant was attending telehealth visits with her psychiatrist and taking psychiatric medication as prescribed.[36] At that time, however, Appellant had not permitted the GAL to visit with the Child for several months, so we ordered Appellant to set up an appointment with her to allow for such visit.[37]

At the next hearing on June 4, 2021, Appellant brought the Child to the courthouse to be seen by the Court, where we observed the Child to appear well, but Appellant refused to come into the courtroom or appear by Zoom video.[38] We noted that Appellant had briefly lost her insurance through Franklin County reportedly because the county had concerns Appellant was using food stamps inappropriately in another state, but Appellant did not sign a release for the Agency to clarify the issue.[39] We also noted that Appellant had met with the Agency at a public park a number of times since the prior hearing, where she reported that "she was weaning herself off of medications (due to the funding issue), was worried she was going to do self-harm, was worried the police were going to get her and told the Agency that she may need to go into in-patient treatment and put [P.H.] in

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[34] CCCYS Exhibit No. 2, Merakey Evaluation, Permanency Review Hearing, January 8, 2021 (dependency docket).
[35] Id.
[36] Judicial Conference Report and Order of Court dated March 5, 2021 (filed March 16, 2021) (Peck, J.) (dependency docket).
[37] Id.
[38] Permanency Review Order, dated June 4, 2021 (filed June 23, 2021) (Peck, J.) (dependency docket).
[39] Id.

foster care."[40] Since that time, however, the Agency had assisted Appellant in obtaining insurance once more, she had returned to taking her medications, and her mental health was improving.[41] We directed Appellant to set up an in-person counseling session, to obtain medical coverage for the Child and get her up to date on medical appointments, including seeing the Child's cardiologist for her heart tumor, and to sign a release for the Agency to speak with the Child's therapist once same was obtained after the Child obtained medical insurance.[42] Appellant had previously told the Agency that she had not obtained medical insurance for the Child because she wanted to wait to apply once she obtained housing wherever she may live in the future.[43] We advised in the order:

> This court continues to have concerns about [Appellant's] up and down pattern with her mental health and she still does not have stable housing. She showed some progress towards a positive future in the past few weeks, so we are keeping [P.H.] with her mother for now, but she must do as ordered herein and continue on a good path.[44]

At the following judicial conference on August 6, 2021, while Appellant did not appear at the hearing, we heard reports that Appellant allowed the GAL to visit with the Child, that the Child appeared to the GAL to be happy and healthy, and that Appellant was working towards her reunification goals including obtaining health insurance for the Child and was on a waiting list for housing with an estimated wait time of four to six months.[45] At the permanency review hearing that followed on October 8, 2021, which Appellant did not attend, the GAL secured the admission of an e-mail exchange between Appellant and the GAL and a letter authored by Appellant and sent to the GAL and the Agency caseworker. These

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[40] Id.
[41] Id.
[42] Id.
[43] Id.
[44] Id.
[45] Judicial Conference Report, dated August 6, 2021 (filed August 13, 2021) (Peck, J.) (dependency docket).

exhibits showed that Appellant e-mailed the GAL asking for updates on when visits would occur between Appellant's parents and the Child, expressing dissatisfaction with the caseworker for having to "push" the caseworker to "do things she says she's going to do," and asking the GAL if she would meet Appellant on the street outside the courthouse before the hearing to escort the Child into the courtroom without Appellant.[46] The GAL responded to the e-mail in a thoughtful and supportive manner, indicating, inter alia, that she was under the impression the caseworker was waiting on a final decision from Appellant on where Appellant wished the visits with her parents to occur, that she was sorry that Appellant was struggling to work with the caseworker but could assure her that the caseworker was "trying to make a real, genuine connection" with Appellant and that the caseworker "would be open and receptive" to having a conversation with Appellant about Appellant's issues with the caseworker, and that she did not think rushing the visits with the maternal grandparents was the best course of action given that setting up the visits in a manner Appellant was "100% on board with" was more important than making speedy strides.[47] Specifically, the GAL wrote,

> I for one think that you have made huge strides recently and the fact that you are willing to start having the visits is a giant step in a positive direction for your healing and for [P.H.]'s long-term emotional well-being. I also think . . . that since you are stepping so far outside of your comfort zone with regard to setting up these visits, that it is very important that we do this right so that there are no negative experiences and further trauma. . . . I do hope that a visit *can* be accomplished soon – and we can discuss that at the hearing tomorrow and I will try to get a better idea from [the caseworker] on what the timeframe looks like . . .[48]

As to Appellant's request for the GAL to physically escort the Child into the courtroom so Appellant would not have to enter the courthouse, the GAL responded that she was happy to meet Appellant on the street, though she believed

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[46] GAL Exhibit No. 1, Mother's E-mail Thread, Permanency Review Hearing, October 8, 2021 (dependency docket).

[47] Id.

[48] Id.

this Court would like to meet Appellant, that she understood if Appellant was "not ready yet," and she hoped Appellant "will eventually feel comfortable enough to join us."[49] Appellant's letter in response, addressed to the GAL and the caseworker, included the following sentiments:

> What planet are you two on? Or maybe I should ask what drugs you're on? Are you serious? I SENT AN EMAIL A WEEK AGO (ONE FULL PAGE LONG) EXPLAINING MY THINKING BEHIND MY DECISION TO USE ABC FOR VISITS WITH MY PARENTS! . . .
> [Caseworker], what the heck is wrong with you? Do you ever read ANY of my emails? . . .
> I am so SICK AND TIRED OF YOU TELLING ME THAT YOU ARE GOING TO DO SOMETHING AND THEN YOU BLOW IT OFF. You are a despicable individual . . . I have to do everything MYSELF because you are unreliable, dishonest, and sketchy! . . .
> And [GAL], I cannot believe your rambling, preachy, diatribe about how I shouldn't be trying to "rush" getting visits started "as fast as humanly possible". . . .
> . . . You (or the supervisor who obviously isn't doing her job either) should have reprimanded [the caseworker] for being retarded enough to think that I was still "mulling" [where to have visits with maternal grandparents] over. . . .
> Do not ever lecture me again on what you think is more important than proving something to the court. . . .
> . . . I actually had my hopes up that I would be freed from the prison of Dependency Court and then (just as I was getting ready to go to bed and was looking forward to court tomorrow), I get this email from [the GAL] where she is saying, among other things, "I understand if you are not ready yet <to attend hearings>; I hope that you will eventually feel comfortable enough to join us…["] Eventually? Geez Luis, [GAL], how long are you expecting this case to drag on???? . . . I will never set foot in that courtroom, so don't hold your breath. If that judge is waiting for me to participate in person before she'll end dependency, then I need to move to another state that will be more reasonable and realize there is not even a case here.[50]

In our permanency review order issued following the hearing, we indicated that given that we had yet to meet Appellant and upon review of the e-mail exchange, we would need to meet her in person.[51] We ordered the Agency to set up visits between the Child and maternal grandparents immediately and for Appellant to

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[49] Id.
[50] Id.
[51] Permanency Review Order, dated October 8, 2021 (filed October 27, 2021) (Peck, J.).

obtain a therapist for the Child, enroll the Child at Head Start, and continue to allow the GAL to visit with the Child.[52] Appellant did not appear at the next hearing in November 2021, but we met with the Child, who appeared healthy.[53] In lieu of appearing in court as ordered, Appellant sent a letter to this Court via her counsel asking that we excuse her appearance on the basis, in part, that she had to appear before a magistrate the day prior related to an altercation with her neighbor and she was still recovering from that experience.[54] We ordered Appellant to appear at the next hearing and to stay for the entirety of the hearing, upon consideration of the fact that Appellant was evidently capable of appearing in court when she chose to do so.[55]

Appellant appeared at the next hearing on January 7, 2022, which was the first time we met Appellant. She had not yet completed the FAST assessment, which the caseworker indicated was because Appellant felt that ABC, which conducts the assessment and provides parenting services following the assessment, was more intensive than she needed. We ordered Appellant to continue with getting the Child enrolled in Head Start (for the Child's emotional well-being, social skills, and to add to the additional safeguards that accompany a child being enrolled in such a program) which Appellant reported she was actively engaged in doing, and we ordered the Agency to obtain the services of Dr. Andrew Som to

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[52] Id.

[53] Judicial Conference Report and Order, dated November 17, 2021 (filed November 19, 2021) (Peck, J.) (dependency docket). Appellant's counsel secured the admission of an e-mail from Appellant to her attorney but addressed to this Court, wherein Appellant said that seeing her parents recently for the first time in years and attending a hearing recently related to an altercation at her apartment property prompted her to request excusal from attending the judicial conference. Mother's Exhibit No. 2, E-mail, Judicial Conference, November 17, 2021 (dependency docket).

[54] Mother's Exhibit No. 2, E-mail, Judicial Conference, November 17, 2021 (dependency docket).

[55] See Judicial Conference Report and Order, dated November 17, 2021 (filed November 19, 2021) (Peck, J.) (dependency docket).

perform a parenting assessment, a provider Appellant specifically asked to work with instead of ABC as Appellant was requesting not to use ABC.[56] Appellant did meet with Dr. Som in early February 2022 in an effort to obtain parenting services through his office, but Dr. Som testified at the termination hearing that at the end of his three-hour meeting with her, where he was discussing with her what the parenting services would look like, Appellant told him "it was a little too late for CYS to provide services to help her" and that she did not want to participate.[57]

On February 18, 2022, we gave a verbal order to the Agency to remove the Child from Appellant's custody following reports that Appellant had not attended a medication management appointment with her psychiatrist since October 2021, was discharged from outpatient counseling in December 2021, that Appellant had deleted her e-mail and would not answer phone calls, that Appellant had rescheduled the Child's March 2022 cardiology appointment (for monitoring the Child's heart tumor) to September 2022 against medical advice, that Dr. Som had been unable to contact Appellant, that Appellant was not answering her attorney's attempts to contact her, that Appellant had not enrolled the Child in Head Start, and upon consideration of recent comments Appellant had made in court and to others suggesting she may leave the Commonwealth.[58] At the hearing on the motion to modify the Child's placement on February 22, 2022, Appellant participated by telephone late in the hearing and reported she was not taking her medication as it "made her loopy" and that she planned to change her medication

[56] Judicial Conference, dated January 7, 2022 (filed January 13, 2022) (Peck, J.) (dependency docket).
[57] Transcript of Proceedings, In re: Permanency Review/Goal Change Hearing, August 18, 2023 at 6-7 (Peck, J.) (hereinafter, "N.T. at ___").
[58] See Confirmation of Verbal Order for Emergency Protective Custody, February 28, 2022 (Peck, J.) (dependency docket).

management provider but did not have an intake appointment yet.[59] We ordered the Agency to work with the foster family and Appellant to get the Child enrolled at Head Start and for the Agency to work with Dr. Som to set up a parenting assessment.[60] At the termination hearing, Dr. Som testified that he did subsequently go out to Appellant's home with an Agency caseworker in early March 2022 and knocked on her door for about 15 minutes without response.[61]

At the March 18, 2022 permanency review hearing, Appellant had just recently begun mental health services but was not scheduled to see the psychiatrist yet, was still living out of boxes in her apartment, and had not completed parenting services with Dr. Som despite her request to see Dr. Som rather than use ABC parenting services.[62] As we noted in the permanency review order, we explained to Appellant at the hearing that we were specifically ordering Appellant to obtain a psychiatric evaluation, whereupon Appellant said "that is not happening" and stormed out of the courtroom.[63] We also ordered Appellant to obtain a parenting assessment at ABC and continue with medication management.[64]

The Agency filed Motion for Finding of Aggravated Circumstances on May 5, 2022 on the basis that Appellant's parental rights had previously been involuntarily terminated as to another child.[65] Appellant did not appear at the scheduled hearing on the motion.[66] We declined to hold the hearing in her absence

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[59] Order Regarding Modification of Child's Placement, dated February 22, 2022 (filed February 25, 2022) (Peck, J.) (dependency docket).
[60] Id.
[61] N.T. August 18, 2023 at 7.
[62] Permanency Review Order, dated March 18, 2022 (filed April 8, 2022) (Peck, J.) (dependency docket).
[63] Id.
[64] Id.
[65] Motion for Finding of Aggravated Circumstances, filed May 5, 2022 (dependency docket).
[66] Judicial Conference Report, dated June 3, 2022 (filed June 9, 2022) (Peck, J.) (dependency docket).

and continued the matter.[67] We ultimately granted aggravated circumstances but directed that reunification efforts must continue.[68] In September 2022, Appellant obtained a parenting assessment, which recommended parenting services and that Appellant continue with her mental health services.[69] Kim Sweger of ABC said that ABC made it clear in the recommendations that parenting services "would need to be intensive and the duration would need to be no less than six months" so ABC could "gauge [Appellant's] ability to be stable and be able to follow through with the expectations of the program."[70] Ms. Sweger explained:

> In my history with [Appellant], she can process through things, following rules, being appropriate when expected to. She knows what she has to do and will work hard to do it. I think what needs to happen is for her not just to go through the motions but to internalize the ability to have multiple communications with people, to change the way that her daily activities go, to hear things that are uncomfortable for her and go against her train of thought and process through that with people, for her to be able to make multiple decisions about being a parent on multiple days.[71]

Ms. Sweger also said that mishandling of these sorts of challenges can pose a safety risk to the Child.[72] In the course of Appellant's parenting assessment with ABC, she reported that she felt Agency involvement "is not legitimate."[73]

From March 2022 (shortly after the Child's removal) until October 2022, Appellant was having visits with the Child twice weekly at ABC.[74] In October 2022, however, Appellant had "communication" issues with the ABC worker

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[67] Id.; Order of Court, In re: Petition for Aggravated Circumstances Taken Under Advisement, dated August 5, 2022 (filed August 8, 2022) (Peck, J.) (dependency docket).
[68] See Order of Court, In re: Aggravated Circumstances, October 27, 2023 (Peck, J.).
[69] CCCYS Exhibit No. 2, ABC FAST Report, Permanency Review Hearing, January 20, 2023 (dependency docket).
[70] N.T. August 16, 2023 at 12; CCCYS Exhibit No. 2, ABC FAST Report, Permanency Review Hearing, January 20, 2023 (dependency docket).
[71] N.T. August 16, 2023 at 24.
[72] N.T. August 16, 2023 at 25.
[73] CCCYS Exhibit No. 2, ABC FAST Report, Permanency Review Hearing, January 20, 2023 (dependency docket).
[74] N.T. August 16, 2023 at 17-18.

supervising the visits and Appellant requested a new supervisor, which was accommodated.[75] The change in supervisor, however, resulted in Appellant's visits being decreased from twice per week to once per week due to the second supervisor's availability.[76] At the time of the January 2023 permanency review hearing, we heard testimony that Appellant had previously stopped mental health treatment for about three months but had re-entered treatment, blocked the Agency's phone calls, and did not respond to the parenting evaluation sent to her by mail but responded through her attorney that she would work on the recommendations that came out of the evaluation.[77] Parenting services began in February 2023, at which time Appellant had five sessions with ABC preparing for home sessions and preparing Appellant for what the expectations would be, discussing what the parenting objectives were, and getting "homework" assignments in preparation.[78] Appellant did not complete the assignments.[79] At the end of the fifth visit in February 2023, Appellant was informed that the Child would be coming to Appellant's home for the next session the following week, and Appellant

> became agitated, that her voice was not being heard, her timeline was not being respected. She felt that we were not responding to her in a fashion that was at her desire and she ended the skills program at that time. She did say she was going to continue with the visitation. Although, again, at some period during that week she decided that she didn't want to work with ABC at all anymore and then she went to Children & Youth to continue visitation [at the Agency's office]. . . .
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> [Telling Appellant the Child would be coming to the following session] appeared to be an anxiety trigger. And that was followed by a myriad of e-mails

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[75] Permanency Review Order, dated January 20, 2023 (filed February 8, 2023) (Peck, J.) (dependency docket). Appellant's issues with that first supervisor were, in part, that the supervisor was "too pushy" and gave too many prompts and "was always watching her." N.T. August 16, 2023 at 21.

[76] N.T. August 16, 2023 at 17-18, 21.

[77] Permanency Review Order, dated January 20, 2023 (filed February 8, 2023) (Peck, J.) (dependency docket).

[78] N.T. August 16, 2023 at 12-13.

[79] N.T. August 16, 2023 at 14.

> saying, can we have one more session, can the session be tomorrow, can the session be next week, can we do this, why can't we do this, you're not listening to me. All over the course of a couple days. And then it sort of blew up with, [Appellant expressing,] I don't want to work with you anymore.[80]

Following this incident, Ms. Sweger of ABC attempted to console Appellant and asked her "to just relax and give us a couple days, that there was a lot of coordination and we were hearing her," but "[t]hat seemed to not be satisfying to [Appellant]."[81] In March 2023, as Ms. Sweger said, Appellant's visits with the Child switched to occurring at the Agency's office following Appellant's refusal to have visits at ABC at all.[82] On this point, we note that Kim Sweger testified that Appellant sent an e-mail to ABC with

> five conditions under which she would return [to ABC]. The conditions included when she wanted services, whom she wanted to provide services, where she wanted services to continue, and that we would not be bringing up anything about the challenge that she had had with the prior person. So when I said those conditions were not going to be appropriate for us, she decided she didn't want to work with ABC anymore.[83]

Visits with the Child did revert back to occurring at ABC with Appellant's cooperation in June of 2023, and the visits were positive and appropriate.[84] Kim Sweger said that since that time, Appellant had expressed desire to participate in parenting services and has discussed same with Ms. Sweger.[85] Ms. Sweger said that in the preceding six months or so, Appellant had been more "level-headed" in her communications, but at the time, ABC was "trying very hard to make [Appellant] feel safe and comfortable and communicate in a way that she is

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[80] N.T. August 16, 2023 at 12-14.
[81] N.T. August 16, 2023 at 14.
[82] N.T. August 16, 2023 at 17-18, 81-82.
[83] N.T. August 16, 2023 at 19.
[84] N.T. August 16, 2023 at 15-16; Permanency Review Order, dated June 9, 2023 (filed July 7, 2023) (Peck, J.) (dependency docket).
[85] N.T. August 16, 2023 at 20.

able."[86] Ms. Sweger said that parent education services "will be a challenge because [ABC] will be pushing and challenging and testing, and letting [Appellant] hear things that are hard to hear."[87] By the time of the goal change and termination hearing held on August 16 and August 18, 2023, Appellant had still not completed the parenting services recommended following the parenting assessment, which would be a six-month service period of intensive in-home parent education before ABC would be able to make assessments as to how Appellant is functioning and/or recommend reunification with the Child, which was what Appellant was briefly engaged in before ceasing services after five sessions in February 2023.[88] Appellant was not engaged in any parenting services recommended by the parenting assessment at the time of the hearing.[89]

Meanwhile, in May 2023, shortly after the petition for termination of parental rights was filed, Appellant made a ChildLine report indicating that the Child told her at a visit that the Child's foster father touched "her private area," and that the Child described the foster father's private parts.[90] The report resulted in the foster father removing himself from the foster home for three weeks, which was a decision made by the foster family to prevent the Child from having to be removed during the investigation in order to keep her home stable.[91] Following investigation, the report was determined to be unfounded.[92] At the end of June 2023, two months prior to the termination hearing, Appellant sent an e-mail to the

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[86] N.T. August 16, 2023 at 22-23.
[87] N.T. August 16, 2023 at 23.
[88] N.T. August 16, 2023 at 16-17.
[89] N.T. August 16, 2023 at 16.
[90] N.T. August 18, 2023 at 86-88. We note that we heard testimony about this ChildLine report through various witnesses, and it was contextually clear that Appellant had made the report, though, of course, no witness revealed the identity of the caller directly until Appellant testified that she was in fact the reporter.
[91] N.T. August 16, 2023 at 55.
[92] Id.

Child's foster mother (and others, including Appellant's attorney and the Agency caseworker), in which Appellant called the Child's foster father "a child molester and a pedophile," and said that the foster parents "probably caused the death of their own 12-year-old son just a couple of years ago, [which] makes them murderers on top of pedophiles."[93] The foster parents' son had passed away two years prior as a result of Covid-19 complications related to a preexisting brain defect.[94]

Appellant has participated in a partial hospitalization program at Merakey twice, first from March to September of 2022 and again from January to the time of the termination and goal-change hearings.[95] The director of the partial program, Jana Mobray, testified that Appellant is "working on managing symptoms in a healthy way, managing stressors and working on taking things less personally."[96] Ms. Mobray said that Appellant is making progress and appears to have an "increased understanding of how her responses to people might affect their response back to her and impact her ability to achieve her goals for that interaction."[97] Ms. Mobray said that she has no reason to think Appellant is not taking medications as prescribed.[98] When asked about the e-mail Appellant had recently sent accusing the foster family of being pedophiles and murderers, Ms. Mobray said that "everybody gets angry sometimes" and while some people "post[] rants on Facebook, [Appellant] sends e-mails."[99] Ms. Mobray had not seen the e-mail, but had talked about it with Appellant.[100] Appellant did not sign a

[93] CCCYS Exhibit No. 11, E-mail, August 16, 2023 (orphans' court docket); N.T. August 16, 2023 at 45-46.
[94] N.T. August 16, 2023 at 134-36.
[95] N.T. August 16, 2023 at 25-26.
[96] N.T. August 16, 2023 at 29.
[97] N.T. August 16, 2023 at 29-30, 33.
[98] N.T. August 16, 2023 at 31.
[99] N.T. August 16, 2023 at 34.
[100] N.T. August 16, 2023 at 31-35.

release to allow the Agency to have input in her treatment, namely to share information with her treatment provider, until June 2023, two months before the termination hearing and long after the petition had been filed.[101] Similarly, Appellant did not sign a release for Merakey to release information to the Agency about her treatment outside of attendance and participation until June 2023, at which time Appellant initially signed a release which she covered in notations listing the limits to transfer of information, though after "several discussions" she subsequently signed a less limited release.[102]

b. The Child's Status at the Time of the Hearings

The Child was placed with her initial foster family on February 18, 2022, and subsequently placed with her current foster family on January 20, 2023.[103] The Child was about to begin kindergarten at the time of the termination and goal-change hearings.[104] She is currently diagnosed with "disruptive, impulsive-control and conduct disorder," is under consideration for an anxiety disorder diagnosis, and is enrolled in play therapy.[105] As discussed supra, when Appellant made the ChildLine call reporting that the Child's foster father had sexual contact with the Child, the Child's foster family opted to have the foster father live outside the home for three weeks while the matter was investigated in order to preserve the Child's stability.[106] Shortly after, however, when Appellant wrote the e-mail discussed herein accusing the foster family of being "murderers on top of

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[101] See Permanency Review Order, dated June 9, 2023 (filed July 7, 2023) (Peck, J.) (dependency docket); see Re: Petition for Involuntary Termination of Parental Rights of [P.H.] Under Section 2512 of the Adoption Act, filed May 1, 2023 (orphans' court docket).
[102] See N.T. August 16, 2023 at 84-85; CCCYS Exhibit No. 12, Release, August 16, 2023 (orphans' court docket).
[103] N.T. August 16, 2023 at 40, 77; Permanency Review Order, dated January 20, 2023 (filed February 8, 2023) (Peck, J.) (dependency docket); Confirmation of Verbal Order for Emergency Protective Custody, February 28, 2022 (Peck, J.) (dependency docket).
[104] N.T. August 16, 2023 at 42.
[105] N.T. August 16, 2023 at 42-43.
[106] N.T. August 16, 2023 at 55.

pedophiles," and suggesting that they killed their son who died tragically, the Child's foster family withdrew from fostering the Child for about a month beginning in July 2023 to preserve the safety of their family from the strained relationship with Appellant.[107] The foster family reported fear of Appellant following seeing a vehicle that looked like hers outside of their home.[108] The Child's foster mother said her family kept in touch with the Child and visited with her during this time, that the family knew they needed the Child to return because they love her and missed her and she is part of their family, and that they have no hesitation about the Child remaining a part of their family forever.[109]

When the Child competently testified in May 2023 for purposes of the termination and goal-change petitions, she understood the nature of adoption and she said she enjoys living with her foster family and she wishes to be adopted by them, though she reported she enjoys visiting with her mother, whom she called by Appellant's first name.[110] The Child visits with her biological sister about once a month and enjoys those visits; her foster family has developed a positive relationship with the Child's sister's adoptive family.[111] The Child's case manager, Addie Bitzer, said that the Child has fit in very well in her foster family, and very much enjoys having a big sister and a little sister in the foster family.[112] Ms. Bitzer said the Child has a strong emotional connection with her foster parents, goes to them for comfort and love, needs constant reassurance from them that they love her and are going to be there for her, and calls them "mommy" and "daddy."[113]

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[107] N.T. August 16, 2023 at 45-47.
[108] N.T. August 16, 2023 at 46.
[109] N.T. August 16, 2023 at 128-29.
[110] Order of Court, In re: Termination of Parental Rights of [P.H.] and Petition to Confirm the Consent of [E.T.] to the Termination of Parental Rights, dated May 16, 2023 (filed May 17, 2023) (Peck, J.) (dependency docket).
[111] N.T. August 16, 2023 at 58.
[112] N.T. August 16, 2023 at 59-60.
[113] N.T. August 16, 2023 at 60.

Each time this Court has met with the Child, she has appeared to us to be markedly more intelligent, observant, and vocal about her thoughts and desires than is typical of her age.

DISCUSSION

We begin by addressing the standard of review applicable to Appellant's claims. Pennsylvania appellate courts "adhere[] to the view that the trial court is in the best position to determine credibility, evaluate the evidence, and make a proper ruling." In re R.I.S., 36 A.3d 567, 572 (Pa. 2011). Absent an abuse of discretion or error of law, where the trial court's findings are supported by competent evidence, an appellate court must affirm the trial court even though the record could support the opposite result. In the Interest of R.J.T., 9 A.3d 1179, 1190 (Pa. 2010); Interest of S.K.L.R., 256 A.3d 1108, 1123-24 (Pa. 2021) (applying the abuse of discretion standard in equal force to terminations as has been applied to goal changes). Pennsylvania courts have held that "an abuse of discretion does not result merely because the reviewing court might have reached a different conclusion. Instead, a decision may be reversed for an abuse of discretion only upon demonstration of manifest unreasonableness, partiality, prejudice, bias, or ill-will." In re Adoption of S.P., 47 A.3d 817, 826 (Pa. 2012) (internal citations omitted).

a. Appeal from Termination of Parental Rights

When evaluating a petition for termination of parental rights, a court must conduct a two-part analysis. First, a court must determine if the Agency has proven that at least one of the statutory grounds of termination set out in 23 Pa.C.S. § 2511(a) has been met. See In re B.L.W., 843 A.2d 380, 384 (Pa. Super. 2004). The focus of this prong is on the conduct of the parent. In re: L.M., 923 A.2d 505, 511 (Pa. Super. 2007). Second, the court must evaluate whether the termination is in the best interest of the child, as required by 23 Pa.C.S. § 2511(b). Id. The burden is

on the Petitioner to prove by clear and convincing evidence[114] that the asserted grounds for seeking the termination of parental rights are valid. In re R.N.J., 985 A.2d 273, 276 (Pa. Super. 2009).

1. Sufficiency of Evidence of a Statutory Ground under 23 Pa.C.S. § 2511(a)

The fulfillment of any one subsection of Section 2511(a) satisfies a threshold sufficient for a court to proceed to evaluate the best interests of the child under Section 2511(b). In re B.L.W., 843 A.2d 380, 384 (Pa. Super. 2004). The Agency alleged several grounds in its petition to terminate Appellant's parental rights, though we will limit our analysis to one, Section 2511(a)(8), as we need find only one satisfied. Section 2511(a)(8) provides:

> 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)(8). As to this subsection, Appellant claims in her Statement of Errors that the Agency produced insufficient evidence to establish this ground, that Appellant is doing well in her mental health treatment and has "engaged in a consistent pattern of pursuing parenting education and had achieved all of the other goals," and that we erred in finding "that Mother had not sufficiently established progress with the circumstances that necessitated placement" and that termination was in the Child's best interest.[115]

We disagree. The Child was removed from Appellant's care after four years of dependency in February 2022 when Appellant went off the radar, deleted her e-

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[114] "Before terminating a parent's rights, the trial court must receive testimony 'that is so clear, direct, weighty and convincing as to enable the trier of fact to come to a clear conviction, without hesitance, of the truth of the precise facts in issue.'" In re Adoption of A.C., 162 A.3d 1132-33 (Pa. Super. 2017) (quoting In re Adoption of Atencio, 650 A.2d 1064, 1066 (Pa. 1994)).

[115] Statement of Errors Complained of on Appeal, filed September 13, 2023 (orphans' court docket).

mail, no one could get in contact with her, and we learned she had not been to a medication management appointment or to counseling in months, all of which was on the heels of threatening to leave the Commonwealth and other erratic behavior, including sending disparaging e-mails to the GAL and caseworker in response to the GAL attempting to encourage and support Appellant. Appellant was not engaged in parenting services, and she was not engaged with mental health services at all at that time. These circumstances prompting removal of the Child from Appellant's care did not, however, occur in a vacuum. At every turn, this Court gave Appellant more leeway in declining to participate in court proceedings or the family service plan goals than we have ever given a parent in a dependency action. *Appellant did not appear in court for three years* and only intermittently brought the Child to be seen by the Court via third-party-transport until we specifically ordered Appellant to appear given that she was appearing for other, unrelated court proceedings and was evidently simply choosing not to come to court where we were attempting to ensure the best interests of her child.

For the year-and-a-half when Appellant was not appearing for proceedings before Judge Guido, he was persistently issuing orders expressly telling Appellant *he did not want to take the Child from her care*, and indicating more than once that he was considering terminating dependency if she would cooperate with the Agency, her counsel, and her mental health counselor. She did not, and instead maintained that Judge Guido felt nothing but joy at humiliating and taunting her. Judge Guido replaced the GAL, removed the CASA, and finally recused himself, all in an effort to give Appellant a fresh start and encourage her to feel comfortable in engaging in services and meeting her service plan goals.

Thereafter, Appellant would engage with service providers or the GAL or the Court, briefly, until she perceived someone to be "against her" or, frankly, when someone told her something she did not want to hear. In other respects, she would

make just enough of an effort to *begin* to meet a service plan goal to avoid removal of the Child but, in the same review period, would cut off the GAL from seeing the Child or block communications from the Agency. She went to ABC in October 2020 to obtain a parenting assessment, but when Ms. Sweger asked for her address, Appellant accused her of trying to take her child and she terminated the session. She sent bizarre messages to the GAL and caseworker, saying we should not hold our breath for her to appear in court. In January 2022, we accommodated her request to avoid ABC for parenting services and use a provider of her choice, but she ultimately declined participation upon her first meeting with that provider. Appellant obtained a parenting assessment from ABC at the end of 2022, but shortly thereafter voluntarily decreased her visit time with the Child because of perceived slights by the visit supervisor, who was "too pushy." We appointed Appellant different counsel because of perceived conflicts Appellant had with her first attorney, with whom she was refusing communication. We note that past counsel was conveying to Appellant that this Court said we needed her to attend court hearings for us to meet her and discuss what was needed of her. This Court needed to make sure Appellant could function in a public setting. Appellant began parenting services again, finally, in February 2023, but ceased working with ABC at all after five sessions, again due to perceived slights or mistreatment from the provider, and after sending ABC a list of conditions under which she would agree to work with them. In the meantime, Appellant called in a ChildLine report that the Child was being sexually abused in her foster placement and sent a letter to the foster parents calling them pedophiles and murderers.

We recognize that Appellant was in a partial hospitalization program at the time of the termination and had been in same since January of this year. The issue remains that Appellant's erratic behavior and unwillingness to work with others, obviously due to her mental health conditions, continued during that period and for

months after she had been immersed in the program, and at times increased in severity. She was in the mental health program when she refused parenting services, unless ABC was willing to provide services with exactly the person she wanted, when she wanted, and how she wanted. She was also in treatment when she reported the foster family for sexually abusing the Child when, by all accounts and following investigation, the accusation was untrue, and then suggested they murdered their own son who had passed away tragically. We must note, finally, that we were not encouraged by the testimony of the director of Appellant's mental health program. Merakey did not have a release from Appellant to exchange information with the Agency until just two months prior to the termination hearing (*and after the termination petition had been filed*),[116] and Ms. Mobray's view of Appellant's messages to the foster family, namely finding the e-mails comparable with people who "rant[] on Facebook," indicates to us that the providers at the program are not aware of the seriousness of Appellant's history or the history of this case.

We echo the concerns of Ms. Sweger that Appellant has not been able to handle or appropriately interact with other people under circumstances where each person associated with this case has consistently attempted to *delicately* interact with Appellant, always careful not to push too hard or too far or say anything that might cause Appellant to drop off the radar once again or cut off contact with the Child. If Appellant would fully commit to the parenting program, for example, such tiptoeing would not occur, and she would be required to be able to participate and engage and hear instruction and prompting she has, never to date, been able to hear without storming out, quitting the program, or cutting off contact. It was not our

[116] See 23 Pa.C.S. § 2511(b) ("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.").

hope that this case would turn out the way it did. For nearly six years we waited, tiptoed, and deferred to Appellant's comfort level in engaging in services and in the court proceedings. We are six years into this case and Appellant has yet to meaningfully engage, let alone complete, the parenting services recommended to her, in part recommended due to concern for Appellant's paranoia resulting in Appellant's inability to care for the Child's emotional needs. On this point, as the GAL explained:

> . . . [T]he primary reason why I was not recommending placement [in the beginning] was because whenever I would visit with [Appellant] and [the Child], [the Child] was happy. She was clean. She was interacting with her mother and with me. I didn't see any issues of safety.
>
> [Appellant] would correct the child just fine. The child would climb up on a picnic table, she would, you know, make her get down so she didn't fall and hurt herself. It was very apparent to me that the two of them were very closely bonded.
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> I understand that children need to have that bond and I know that severing that bond by removing a child from a situation is a very big deal, and I felt like I needed to see something different in order to make that recommendation in good conscience; however, that was when the child was young and could not understand what she was lacking in stability and relationships and the way that her mother interacts with the adults[;] she was oblivious to all of that back then and now she's not.
>
> So as she was getting older and able to communicate more and noticed more I began to get more and more worried about what she was being exposed to and [t]hat her mother's mental health state and relationships with other people was going to influence her and change the way that she's developing. . . .
>
> . . . My primary concern was when [Appellant] had cut off communication with everyone. I could not reach her. I was calling her on the phone. I was not getting through. Like it wouldn't even go through to voice mail. It was just like the phone was shut off.
>
> There was no email. Emails I sent to her would get bounced back. At that time she was not allowing regular visits. So it was up to somebody, me or the caseworker, to be able to lay eyes on the child every 30 days and [the caseworker] had not been able to. And I had not been able to.
>
> And I was very concerned about that given [Appellant's] history when [the Child] was a small baby of leaving the state even though she was dependent and then having to be told you can't leave the state, you have to come back here, as well as her lifestyle with [the Child] when they were living in the car before she was dependent[,] I was very afraid that she would take [the Child] and disappear and we wouldn't be able to see her anymore. So then I was very concerned about [the Child's] well-being.

> . . . [Appellant] is able to do what she needs to do when she needs to do it but she can't maintain it. That has been a recurrent pattern.
>
> She still is not moved into her apartment fully and she's been there now for two years. She still requires a release with a three-paragraph explanation of what they're not allowed to say. She still is unable to trust the professionals who are trying to help her.
>
> She still doesn't acknowledge her role in anything that she has done to lead to placement of her child and the continued placement of her child in the foster home. She's still, even today after understanding that there has been an unfounded report, still talked about how she believed that the foster father abused her child.
>
> I don't see a change in her demeanor, how she's communicating with people. She's still sending five-minute-long voice mails to people angry. She's still sending emails at 4:00 a.m. to people angry.
>
> I don't know that the services that she's receiving [are] going to be able to help her in the long term be a stable person for this very special child to live with.[117]

From our long involvement with this case, it is apparent that Appellant's mental health conditions, although at times more treated and at other times not, continue, to her and the Child's detriment, just as they did from the start. We recognize that Appellant attained stable housing and at least has received some services for her mental health. Sadly, it appears the most Appellant is able to do is the above, which may provide shelter for her and keep her from harming herself and keep her partially functioning in society. She cannot, or has not, progressed in her mental health to such a level that we can say it is safe for the Child's well-being to be in her care. As to the best-interests requirement of Section 2511(a)(8), we are convinced it is in the Child's best interest to terminate parental rights, which we address infra.

2. Sufficiency of Evidence that Termination of Parental Rights was in the Child's Best Interest under 23 Pa.C.S. § 2511(b)

Section 2511(b) requires that this Court determine whether termination is in the best interests of the child. A trial court "shall give primary consideration to the developmental, physical and emotional needs and welfare of the child." 23 Pa.C.S.

[117] N.T. August 18, 2023 at 133-36.

§ 2511(b). Furthermore, "the rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent." 23 Pa.C.S. § 2511(b). Pennsylvania appellate courts have stated that the emotional needs and welfare of the child have properly been interpreted to include "intangibles such as love, comfort, security, and stability." In re K.M., 53 A.3d 781, 791 (Pa. Super. 2012). When making a Section 2511(b) determination, the courts are to focus on the child, not the parent. In Re Adoption of C.L.G., 956 A.2d 999, 1008 (Pa. Super. 2008). A major consideration "concerns the nature and status of the emotional bond that the child has with the parent, 'with close attention paid to the effect on the child of permanently severing any such bond.'" Interest of K.M.W., 238 A.3d 465, 475 (Pa. Super. 2020) (quoting In re Adoption of N.N.H., 197 A.3d 777, 783 (Pa. Super. 2018)).

The Child had been out of Appellant's care for over a year and a half at the time of the termination hearing. She had been with her foster family for eight months, with brief interruption by Appellant's attempt to sabotage the placement. The Child's counsel said at the hearing that the Child reports to her that she wants to be adopted by her foster family and that she did not want to live with her mother anymore.[118] Counsel said she believes the Child to be tired of court involvement and of all the case participants having been part of her life since birth.[119] The Child's foster mother, opining on behaviors following visits with Appellant, said that the Child sometimes "will say that she doesn't have a family, but that she wants a family."[120] This is difficult evidence to hear, as our delay to not make this

[118] N.T. August 18, 2023 at 124-25.
[119] N.T. August 18, 2023 at 125.
[120] N.T. August 16, 2023 at 126.

decision sooner out of the hope of Appellant's improvement (i.e. ordering reasonable efforts to continue) has caused suffering to the Child.

We are cognizant that Appellant loves the Child, and that Appellant kept the Child physically well. We note, however, that Appellant's paranoia of and pushing against the assistance of those around her have several times been demonstratively adverse to the Child's best interests. In addition to attempting to disrupt the Child's stability in her foster home via the ChildLine report and accusatory letter to the foster family, Appellant refused to open the door when the Agency appeared to remove the Child from her custody in February 2022; a deputy with the Cumberland County Sheriff's Office had to intervene and even then, Appellant refused to send the Child with any coat or shoes in the middle of winter, which resulted in the deputy giving the Child his jacket.[121] The removal of the Child from the home could have been made less traumatic with Appellant's attention to the Child's best interests in the moment.

We are convinced that the Child's best interests do not lie in waiting for Appellant to show stability in mental health and commitment to parenting the Child safely and in attending to the Child's emotional needs and welfare, or demonstrate willingness to hear and work with those who have persistently and delicately attempted to keep the Child with Appellant. As we noted herein, we did not wish for the case to go this way. We are sympathetic to Appellant's feelings that the Court made up its mind a long time ago to take her child from her. We don't doubt that Appellant actually believes that. Such is of course not the case, as we tediously laid out our efforts herein, and we lament that Appellant's distrust of those trying to help her continues. Over the life of this case, one significant concern for the Child being in Appellant's care is that this very special child will

[121] N.T. August 18, 2023 at 26.

develop to distrust the world around her as was the case with Appellant's older sister. We note, for example, that there was testimony that the Child reported while in foster care that her mother closed all the blinds to the windows in their house and that she was not allowed to look out the windows.[122] The Child, meanwhile, desperately needs permanency and has for a long time. She knows more about the circumstances of her placement than a child her age should, and she very much deserves to know *now* where she will remain. We discern no error.

b. Appeal from Goal Change

Finally, Appellant complains on appeal that we erred in changing the goal to adoption. When considering a petition for a goal change to adoption of a dependent child, the trial court will evaluate:

> the continuing necessity for and appropriateness of the placement; the extent of compliance with the service plan developed for the child; the extent of progress made towards alleviating the circumstances that necessitated the original placement; the appropriateness and feasibility of the current placement goal for the child; and, a likely date by which the goal for the child might be achieved.

In Interest of A.N.P., 155 A.3d 55, 66 (Pa. Super. 2017) (quoting In re A.K., 936 A.2d 528, 533 (Pa. Super. 2007)).

Although reunification of the family is the primary permanency goal, the Juvenile Act mandates the arrangement of "another alternative permanent family when the unity of the family cannot be maintained." 42 Pa.C.S. § 6301(b)(1). Accordingly, reuniting a child with his or her biological parent(s) rather than changing the goal to adoption should not become "rigid adherence to the principle regardless of the circumstances." In re J.S.W., 651 A.2d 167, 170 (Pa. Super. 1994). Changing a child's goal to adoption is based on the policy that "[a] child's life simply cannot be put on hold in the hope that the parent will summon the

[122] See N.T. August 18, 2023 at 27.

ability to handle the responsibilities of parenting." In re Adoption of M.E.P., 825 A.2d 1266, 1276 (Pa. Super. 2003) (quoting In re J.T. and R.T., 817 A.2d 505, 509-10 (Pa. Super. 2003)). The best interests of the child must direct our reasoning, and the "[s]afety, permanency, and well-being of the child must take precedence over *all* other considerations, including the rights of the parents." In re N.C., 909 A.2d 818, 823 (Pa. Super. 2006).

We found the Agency proved by clear and convincing evidence that reunification was no longer an appropriate or feasible goal, among the other factors noted supra. Appellant's progress with showing stability in mental health and commitment to the parenting services has remained stagnant, if not decreased, over the life of the case. Perhaps more to the point, Appellant has engaged in a push-and-pull with this Court, the Agency, the GAL, and the service providers at every step; she will finally agree to get a parenting assessment, for example, but blow up at the first perceived encroachment on her comfort level. Without repeating what we have discussed in detail herein, we note that the Child has been outside of Appellant's care for a year and a half and Appellant has yet to meaningfully engage in parenting services without losing her temper at the provider and terminating services, either because the timeline is not moving exactly as she wants it to or because she perceives an employee tasked with supervising her visit to be watching her too closely. While such a reaction may be normal for a parent in a situation such as this once or twice or in response to certain persons, Appellant's behavior is persistent across the board with all people and ever-present. It is obvious it is a detriment that stems from her mental health dysfunction, that is, paranoia and distrust, which affect her ability to function in the world. This case has had this Court at a loss for where to go for much too long. We wanted Appellant to show some semblance of trust in the process, or making some showing of goodwill that she could work with the providers at least long enough to

demonstrate ability to safely care for the Child, or allow the GAL to see the Child consistently, or allow the Agency to exchange information with her mental health provider to prevent testimony at the hearing that strongly indicates her provider is seeing half the picture and/or telling Appellant her demonstration of anger vis-à-vis e-mailing the foster mother to say she probably murdered her child is normal or healthy or a positive outlet for her frustration. We have been hoping and waiting for Appellant to demonstrate temperament capable of progressing on her goals. Appellant claims in her Statement of Errors that she had made substantial efforts to complete the parenting education recommended by the Agency; such is far from true. Appellant was not engaged in parenting services as recommended at the time of the hearing, as she had several times terminated the services, and completion of same would take six months of intensive services, which Appellant's conduct has never indicated is likely to occur. The Child cannot wait any longer, nor will we. We discern no error.

BY THE COURT,

Christylee L. Peck, J.

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No.

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IN THE SUPREME COURT OF THE UNITED STATES

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P.H., MOTHER,

Petitioner,

IN THE INTEREST OF P.H., A MINOR
PETITION OF P.H., MOTHER

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1(h), I certify that the petition for a writ of certiorari contains 5,245 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

/s/ *Michael Confusione*

Michael Confusione

Dated: September 2, 2024