NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

IN RE: ADOPTION OF: N.R.N.-W., A MINOR	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
APPEAL OF: J.C.N.-G., FATHER	:	No. 656 MDA 2026

Appeal from the Order Entered April 6, 2026
In the Court of Common Pleas of Cumberland County
Orphans' Court at No: 079-ADOPT-2025

BEFORE: LAZARUS, P.J., STABILE, J., and BENDER, P.J.E.

MEMORANDUM BY STABILE, J.: **FILED NOVEMBER 06, 2026**

J.C.N.-G. ("Father") appeals from the April 6, 2026 order which granted the petition filed by T.M.W. ("Mother") and her husband, A.W.S. ("Stepfather") (collectively, "Appellees") and involuntarily terminated Father's parental rights to his natural daughter, N.R.N.-W. ("Child"), born in February of 2020, pursuant to 23 Pa.C.S.A. § 2511(a)(1) and (b). After careful review, we affirm.

We gather the relevant factual and procedural history of this matter from the record. Mother and Father never married and were no longer in a relationship at the time of Child's birth. Mother exercised primary physical custody, without court involvement, and Father visited Child in Mother's home, which we discern was in York County, on weekends for the first fourteen months of her life. ***See*** N.T., 2/6/2026, at 12, 23, 37-38. The record reveals,

however, that Father visited Child inconsistently during that time. ***See id.*** at 19, 23.

Thereafter, Mother filed a protection from abuse ("PFA") petition against Father in the Court of Common Pleas of York County, and the trial court issued an order on her behalf on February 17, 2021, for a term of one year. The PFA order prohibited Father from contact with Mother that was "harassing" and "abusive," but did not prevent him from being in Mother's physical presence. Mother's Exhibit E at 2. It is important to note that the PFA order was not applicable in any respect to Child.

In April of 2021, during a visit between Father and Child, which occurred in Mother's presence, Mother testified that Child "threw a major tantrum." N.T., 2/6/2026, at 49-50. Mother explained that Father "got mad; and he said, I never want to see her again and left." ***Id.*** Father never interacted with Child in-person again.

In October of 2021, Father was criminally charged in York County with sexual assault and terroristic threats with intent to terrorize another.[1] ***See*** Mother's Exhibit H. He was arrested in connection with these charges on November 1, 2021, and incarcerated in York County Prison. ***See*** Father's Exhibit 3.

[1] Mother was not the victim of these crimes. ***See*** N.T., 2/6/2026, at 21.

Mother facilitated telephone and video calls between Father and Child, then twenty months old, for approximately the first two weeks of Father's incarceration. Father testified that in one of their final calls, Mother told him that she was moving, but he did not ask for her updated address. ***See*** N.T., 2/6/2026, at 40-41.

Mother testified that she stopped accepting Father's telephone calls after his call with Child on November 15, 2021, and at some undisclosed point thereafter, she changed her phone number. ***See id.*** at 16-17, 24, 26. In February of 2022, Mother and Child relocated to the home of Stepfather in Cumberland County.[2]

In January of 2023, Father pleaded guilty to the aforementioned charges, and the criminal court imposed an aggregate sentence of fifty-four to 108 months of confinement. ***See*** Mother's Exhibit H. On May 31, 2023, Father was transferred from York County Prison to SCI Camp Hill, where he remained at the time of the subject hearing. ***See*** Father's Exhibit 3. Father testified that his minimum release date is December 24, 2026, and his maximum is March 24, 2032. ***See*** N.T., 2/6/2026, at 41, 43.

Father continued to make telephone calls to Mother from prison through 2023, and his attempts to contact Mother by telephone dropped significantly

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[2] Appellees were married on December 16, 2023, and have two biological children together, who are ages three and one, respectively.

in 2024. ***See*** Father's Exhibits 1-3. Father made two attempts to contact Mother via telephone in 2025. ***See id.*** Father never attempted to communicate with Child in any other fashion or to enforce his custodial rights in court. ***See*** N.T., 2/6/2026, at 19-20, 31, 41, 44-45.

On December 18, 2025, Appellees filed a petition to involuntarily terminate Father's parental rights to Child pursuant to 23 Pa.C.S.A. § 2511(a)(1) and (b). On the same day, Appellees filed a petition for adoption. On December 22, 2025, the orphans' court appointed Jamie Frohm, Esquire, to represent Child, who was then nearly six years old.[3]

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[3] Our Supreme Court has mandated that this Court conduct *sua sponte* review to ensure that orphans' courts have properly appointed counsel to represent the legal interests of children in contested termination of parental rights proceedings in compliance with 23 Pa.C.S.A. § 2313(a). ***See In re Adoption of K.M.G.***, 240 A.3d 1218, 1234-36 (Pa. 2020). When one attorney is appointed to the dual role of representing both a child's best interests as their guardian *ad litem* ("GAL") and their legal interests as legal counsel, this Court must also conduct *sua sponte* review as to whether "the orphans' court determined that the child's best interests and legal interests did not conflict." ***Id.*** at 1236. It is well-established "that a single attorney cannot represent a child's best interests and legal interests if those interests conflict." ***Id.*** (citing ***In re T.S.***, 192 A.3d 1080, 1082 (Pa. 2018)).

In this case, the orphans' court's appointment order did not specify if Attorney Frohm was appointed as Child's GAL, her legal counsel, or both. ***See*** Order, 12/22/2025 (stating that she was "hereby appointed to represent the child listed in paragraph 7 of the petition."). Accordingly, we remanded to the orphans' court to clarify if the court had intended to appoint Attorney Frohm in a dual role and, if so, whether Child's best and legal interests conflicted. ***See*** Remand Order, 7/21/2026. In its response, the orphans' court confirmed that Attorney Frohm represented both Child's best and legal interests based upon the court's determination that no conflict existed. ***See*** Supplemental Opinion, 8/4/2026. Thus, we discern no structural error. ***See K.M.G.***, 240 A.3d at 1236.

The orphans' court held an evidentiary hearing on February 6, 2026. Appellees were represented by counsel and separately testified on their own behalf. Father was likewise represented by counsel and testified via video conference from SCI Camp Hill. Several documentary exhibits were proffered by Father and Appellees, which were admitted by the court without objection. ***See*** N.T., 2/6/2026, at 6-9, 36-37.

By order dated April 2, 2026, and entered on April 6, 2026, the orphans' court granted the subject petition and involuntarily terminated Father's parental rights. On April 22, 2026, Father timely filed a notice of appeal and a contemporaneous concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b). The orphans' court filed its Rule 1925(a) opinion on May 4, 2026.

On appeal, Father raises the following issues for our review:

> I. Did the orphans' court err as a matter of law and abuse its discretion when it found sufficient grounds existed for the termination of Father's parental rights to Child, despite a lack of clear and convincing evidence, thus contravening Section 2511(a) of the Adoption Act, 23 Pa.C.S.A. § 2511(a)(1)?
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> II. Did the orphans' court err as a matter of law and abuse its discretion when it failed to consider the developmental, physical, and emotional needs and welfare of Child, thus contravening Section 2511(b) of the Adoption Act, 23 Pa.C.S.A. § 2511(b)?

Father's Brief at 4 (cleaned up; suggested answers omitted).[4]

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[4] Attorney Frohm has not filed a responsive brief in this appeal.

Our standard of review in this context is well-established:

> In cases concerning the involuntary termination of parental rights, appellate review is limited to a determination of whether the decree of the termination court is supported by competent evidence. When applying this standard, the appellate court must accept the trial court's findings of fact and credibility determinations if they are supported by the record. Where the trial court's factual findings are supported by the evidence, an appellate court may not disturb the trial court's ruling unless it has discerned an error of law or abuse of discretion.
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> An abuse of discretion does not result merely because the reviewing court might have reached a different conclusion or the facts could support an opposite result. Instead, an appellate court may reverse for an abuse of discretion only upon demonstration of manifest unreasonableness, partiality, prejudice, bias, or ill-will. This standard of review reflects the deference we pay to trial courts, who often observe the parties first-hand across multiple hearings.
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> In considering a petition to terminate parental rights, a trial court must balance the parent's fundamental right to make decisions concerning the care, custody, and control of his or her Child with the Child's essential needs for a parent's care, protection, and support. Termination of parental rights has significant and permanent consequences for both the parent and Child. As such, the law of this Commonwealth requires the moving party to establish the statutory grounds by clear and convincing evidence, which is evidence that is so clear, direct, weighty, and convincing as to enable a trier of fact to come to a clear conviction, without hesitance, of the truth of the precise facts in issue.

Interest of M.E., 283 A.3d 820, 829-30 (Pa. Super. 2022) (cleaned up).

The involuntary termination of parental rights is governed by Section 2511 of the Adoption Act, which calls for a bifurcated analysis that first focuses upon the eleven enumerated grounds of parental conduct that may warrant termination. ***See*** 23 Pa.C.S.A. § 2511(a)(1)-(11). If the orphans' court determines the petitioner has established grounds for termination under one

of these subsections by "clear and convincing evidence," the court then assesses the petition pursuant to Section 2511(b), which focuses upon the child's developmental, physical, and emotional needs and welfare. ***In re T.S.M.***, 71 A.3d 251, 267 (Pa. 2013); ***see also*** 23 Pa.C.S.A. § 2511(b).

Here, the orphans' court involuntarily terminated Father's parental rights pursuant to Section 2511(a)(1) and (b), which provide as follows:

> **(a) General Rule.**—The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds:
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> > (1) The parent by conduct continuing for a period of at least six months immediately preceding the filing of the petition either has evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties.
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> . . .
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> **(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)(1), (b).

With respect to Section 2511(a)(1), "the moving party must produce clear and convincing evidence of conduct, sustained for at least the six months prior to the filing of the termination petition, which reveals a settled intent to

relinquish parental claim to a child or a refusal or failure to perform parental duties." ***In re Adoption of L.A.K.***, 265 A.3d 580, 587 (Pa. 2021). In ***In re Adoption of S.P.***, 47 A.3d 817 (Pa. 2012), our Supreme Court discussed ***In re Adoption of McCray***, 331 A.2d 652 (Pa. 1975), wherein the Court considered the issue of the termination of parental rights of incarcerated persons involving abandonment, which is currently codified at Section 2511(a)(1). The ***S.P.*** Court stated:

> Applying in ***McCray*** the provision for termination of parental rights based upon abandonment, now codified as [Section] 2511(a)(1), we noted that a parent "has an affirmative duty of love, protect and support his child and to make an effort to maintain communication and association with that child." ***Id.*** at 655. We observed that the father's incarceration made his performance of this duty "more difficult." ***Id.***

S.P., 47 A.3d at 828. Our Supreme Court continued:

> [A] parent's absence and/or failure to support due to incarceration is not conclusive on the issue of abandonment. Nevertheless, we are not willing to completely toll a parent's responsibilities during his or her incarceration. **Rather, we must inquire whether the parent has utilized those resources at his or her command while in prison in continuing a close relationship with the child. Where the parent does not exercise reasonable firmness in declining to yield to obstacles, his other rights may be forfeited.**

Id. (citing ***McCray***, 331 A.2d at 655) (emphasis added); ***see also In re Adoption of C.M.***, 255 A.3d 343, 369 n.14 (Pa. 2021) ("[E]ven an incarcerated parent has a duty to utilize those resources at his or her command to continue a meaningful relationship with his or her child, or parental rights may be forfeited.") (citing ***S.P.***, 47 A.3d at 828).

Indeed, a parent does not perform his parental duties by displaying a "merely passive interest in the development of the child." ***In re B.,N.M.***, 856 A.2d 847, 855 (Pa. Super. 2004) (citations omitted). While not required to preserve parental rights in the context of this subsection, our Supreme Court has held that "[i]t is crystal clear . . . that a parent's legal efforts to enforce custodial rights demonstrate affirmative performance of a positive parental duty." ***C.M.***, 255 A.3d at 367-68.

In assessing Section 2511(a)(1), orphans' courts should consider the entire history of the case and avoid applying the statutory six-month requirement mechanically. ***See L.A.K.***, 265 A.3d at 592. However, the General Assembly's emphasis on the six months immediately preceding the filing of the termination petition indicates this timeframe is the "most critical period for evaluation" of a parent's conduct. ***Id.*** (citation omitted).

Turning to Father's first issue, he argues that the orphans' court abused its discretion when it terminated his parental rights pursuant to Section 2511(a)(1). ***See*** Father's Brief at 9-14. Father does not dispute that he has not had contact with Child since November of 2021. ***See id.*** at 10. Instead, Father contends that Mother obstructed his ability to perform his parental duties by failing to answer his telephone calls and advise that she changed both her telephone number and mailing address. ***See id.*** at 10-14 (citing ***In re Adoption of B.D.S.***, 431 A.2d 203, 208 (Pa. 1981), *overruled on separate grounds by* ***In re Adopt. of J.J.***, 515 A.2d 883, 891 (Pa. 1986); ***Adoption***

of S.H., 383 A.2d 529, 532 (Pa. 1978)). We are not persuaded by Father's arguments.

Father relies upon ***B.D.S.*** and ***S.H.*** in arguing that "this Court should consider Mother's efforts to exclude Father from having contact with [Child]." Father's Brief at 11. We conclude that these cases are unavailing.

B.D.S. and ***S.H.*** involved situations in which a custodial mother obstructed a non-custodial father's attempts to maintain a relationship with the child. In contrast to this case, the orphans' courts found that the fathers in ***B.D.S.*** and ***S.H.*** exercised reasonable firmness in declining to yield to obstacles imposed by the mothers in maintaining a relationship with their respective children. ***See B.D.S.***, 431 A.2d at 205-08 (indicating that the father engaged in communications over a three-year period that involved unsuccessful attempts to maintain a relationship with his child through letters, telephone calls, gift-giving, financial contributions, and home visits); ***S.H.***, 383 A.2d at 532-33 ("The father's course of conduct during the period in question consistently aimed at maintaining his relationship with his son. The father's extended attempts . . . demonstrate the reasonable firmness in declining to yield to obstacles, which will preserve parental rights.") (internal punctuation omitted). As such, this Court affirmed the orders denying the involuntary termination petitions.

Instantly, the orphans' court found that Father failed to utilize those resources at his command while in prison to continue a close relationship with Child, as follows:

> Prison records reveal that after speaking with Mother on November 15, 2021, Father attempted to call her 56 times, with two of those calls occurring on July 27, 2025, and August 3, 2025, within the six-month lookback period. ***See*** Father's Exhibit 3 (stipulation regarding phone records). The successful phone call on November 15, 2021, . . . was the last contact Father had with Child . . . Thus, for over four years Father has had no contact with Child. . . .
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> Father argues that the phone calls were the only means available to contact Child but acknowledged on cross that **he did not attempt to send any letters, cards, gifts or otherwise reach out to contact Mother** . . . ***See*** N.T., 2/6/2026, at 42-46. Therefore, but for the attempted calls, there is no evidence of any genuine attempts to contact Mother or Child for at least four years.
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> . . .
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> Although Father attempted two phone calls to Mother in the six-month lookback period, in the context of this case we do not accord that any elevated status. Father points to the calls as evidence of his efforts to maintain a relationship with Child. We could engage in a statistical battle, noting, for instance, that he only made these calls on a total of 41 days over the course of approximately 45 months, or about one call per month. Further, the calls decreased in frequency significantly in 2024. And, only two calls occurred in 2025, almost a year after the last call in 2024. Ultimately, we are unpersuaded by statistics.
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> . . .
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> [Father has not] made any efforts to contact Child . . . through the numerous means available in the 21st century. As Mother noted in response to a question from the court, her email has not changed. ***See*** N.T., 2/6/2026, at 31. Not only has Father failed to contact Child, but he has failed to pursue his rights through legal channels. The barriers to filing lawsuits when one is incarcerated may seem great . . ., but [we] receive legal filings

> from prison every day. Common sense tells us that if Father wished to file a custody action to gain some form of contact with Child, he would have been granted *in forma pauperis* status quickly.

Opinion, 4/6/2026, at 2-6 (cleaned up; emphasis added).

The record evidence supports the orphans' court's findings. The phone records from both York County Prison and SCI Camp Hill confirm that Father made 56 unanswered phone calls to Mother between November 17, 2021, and August 5, 2025. ***See*** Father's Exhibits 1-3. The records reveal that only 10 of those 56 calls occurred in the two years preceding the petition. ***See id.*** Importantly, Father called just twice within the most critical six-month lookback period under Section 2511(a)(1), *i.e.*, June through December of 2025.[5] ***See id.***

Father has offered no explanation for his failure in attempting any other method of communication or association with Child. For instance, Mother testified that her email address had not changed, but Father never communicated with her by email for any reason. ***See*** N.T., 2/6/2026, at 31. Further, Father acknowledged that he knew Mother intended to relocate with Child, but he never attempted to learn whether they had moved. ***See id.*** at 40-41. Indeed, Father admitted that he did not send Child cards, letters, or

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[5] Father testified that, while his funds are limited in prison and phone calls and mail cost money, he could indeed afford a stamp and had regular phone contact with his father. ***See*** N.T., 2/6/2026, at 40, 46-47.

gifts. ***See id.*** at 44. Moreover, Father never filed a child custody action to enforce his custodial rights. ***See id.*** at 47.

Based upon the foregoing, the record supports the court's finding that Father failed to utilize the resources at his command while in prison to continue a close relationship with Child. Rather than exercise reasonable firmness, Father yielded to the obstacles he encountered in communicating with Child for more than four years prior to the filing of the termination petition. Therefore, we discern no abuse of discretion with respect to the orphans' court's termination of Father's parental rights pursuant to Section 2511(a)(1).

In his second and final issue, Father argues that the orphans' court abused its discretion in terminating his parental rights pursuant to Section 2511(b), which requires that it "give primary consideration to the developmental, physical and emotional needs and welfare of the child." 23 Pa.C.S.A. § 2511(b); ***see also T.S.M.***, 71 A.3d at 267. Our Supreme Court has directed that a Section 2511(b) inquiry must include consideration for the bond between the parent and the child. ***See In re E.M.***, 620 A.2d 481, 485 (Pa. 1993). Further, the High Court has explained that "[i]t is only a necessary and beneficial bond, after all, that should be maintained." ***Interest of K.T.***, 296 A.3d 1085, 1109 (Pa. 2023). The ***K.T.*** Court described the "severance of a necessary and beneficial relationship [as] the kind of loss that would

predictably cause 'extreme emotional consequences' or significant, irreparable harm." ***Id.*** at 1109-10 (internal citations omitted).

The extent of the "bond-effect analysis necessarily depends on the circumstances of the particular case." ***In re Adoption of J.M.***, 991 A.2d 321, 324 (Pa. Super. 2010). Our Supreme Court has recognized that "case law indicates that bond, plus permanency, stability and all 'intangible' factors may contribute equally to the determination of a child's specific developmental, physical, and emotional needs and welfare, and thus are all of 'primary' importance in the Section 2511(b) analysis." ***K.T.***, 296 A.3d at 1109.

Here, in reaching its conclusion that termination was warranted pursuant to Section 2511(b), the orphans' court found:

> Sadly, there is no evidence that there is, or ever was, a bond between Child and Father . . . Of course, Father claims he was prevented from developing or maintaining a bond with Child, but the fault lies with him, not Mother.
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> Conversely, both Mother's testimony and that of Stepfather reveal a safe and secure home environment for the past four years. The only positive bonds in Child's life are with Mother, Stepfather, and their family.

Opinion, 4/6/2026, at 6-7 (cleaned up). These findings are well-supported by the certified record.

Tellingly, Father acknowledges that there is no bond of any kind between him and Child. ***See*** Father's Brief at 16. Our review confirms that there is no record evidence that speaks to the existence of a bond between them. Indeed, the absence of a bond between Child and Father is a logical consequence of

his four years without contacting her. Thus, we conclude that the court did not abuse its discretion pursuant to Section 2511(b). ***See In re K.Z.S.***, 946 A.2d 753, 762-63 (Pa. Super. 2008) ("[I]n cases where there is no evidence of a bond between a parent and child, it is reasonable to infer that no bond exists.").

In addition, Mother testified that Child is bonded to Stepfather and recognizes him as her father. ***See*** N.T., 2/6/2026, at 12-13, 22. Appellees, who were married for two years at the time of the hearing, testified that they believed that Stepfather's adoption of Child is in her best interests. ***See id.*** at 22, 35.

As such, we discern no abuse of discretion in the orphans' court's determination that Child's developmental, physical, and emotional needs and welfare were best served by terminating Father's parental rights pursuant to Section 2511(b). Thus, we affirm the order involuntarily terminating Father's parental rights to Child pursuant to Section 2511(a)(1) and (b).

Order affirmed.

Judgment Entered.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/06/2026