



MEMORANDUM BY NICHOLS, J.:

**FILED JULY 22, 2020**

A.A. (Father) appeals from the orders involuntarily terminating his parental rights to K.D.A., born in August 2010, K.K.A., born in July 2011, and K.A., born in April 2015 (collectively, Children), under 23 Pa.C.S. § 2511(a)(2) and (b).<sup>1</sup> We affirm.

We summarize the procedural history of this matter from the record. On February 15, 2017, DHS received a child protective services (CPS) report alleging Mother's and Father's medical neglect of Children's sibling (Sibling).<sup>2</sup> At that time, Mother was living with a relative, and Father was in prison for charges of robbery and related offenses in Philadelphia.<sup>3</sup> During the investigation into the CPS report, Children came to DHS's attention because their medical checkups were not up to date.

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<sup>1</sup> The trial court also terminated the parental rights of K.B. (Mother). Mother has not appealed.

<sup>2</sup> The trial court found aggravated circumstances in the case involving Sibling and adjudicated Sibling dependent on May 1, 2017. The trial court terminated Parents' rights to Sibling on March 27, 2019. N.T., 1/27/20, at 18.

In addition to Children and Sibling, Mother gave birth to another child in May 2018. Father was not the biological father of the fifth child, and that child is not subject to this appeal.

<sup>3</sup> Father pled guilty to the Philadelphia charges, and in October 2017, the trial court sentenced him to two-and-one-half to five years' imprisonment and three years' probation in one case and two-and-one-half to five years' imprisonment in another case. **See** DHS Ex. 1. We refer to Father's Philadelphia criminal cases as the Philadelphia convictions in this memorandum.

DHS took Sibling into protective custody the same day it received the CPS report. Children remained in Mother's care with Mother's relatives providing supervision. As part of Sibling's case, the trial court ordered referrals for Father to (1) the Achieving Reunification Center (ARC) for parenting, housing, and employment issues, (2) Menergy for anger management issues, and (3) the Clinical Evaluation Unit (CEU) for drug screens, as well as substance abuse and mental health issues.

On April 11, 2017, DHS filed dependency petitions regarding Children.<sup>4</sup> On April 27, 2017, the trial court adjudicated Children dependent. Children remained with Mother on the condition that Mother remain in her relative's home. The trial court maintained its referrals of Father to ARC, Menergy, and CEU, although Father remained incarcerated on the Philadelphia convictions. **See** Orders, 4/11/17 & 10/18/17.

Following a March 7, 2018 meeting to revise the single case plan (SCP), Father's goals were to (1) cooperate with services, (2) make himself available and participate in a community umbrella agency (CUA) case management services, (3) complete and follow recommendations of a CEU evaluation, and (4) submit three court-ordered random drug screens. In April 2018, Father failed to participate in a CUA meeting despite being invited to do so.

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<sup>4</sup> K.A. was approximately two years old when DHS removed her from Mother's care.

Following Mother's arrest for retail theft and endangering the welfare of children,<sup>5</sup> the trial court committed Children to DHS's custody on May 24, 2018. On November 19, 2018, the trial court permitted Father to have monthly supervised visits with K.D.A. and K.K.A. in prison, or supervised visits at a CUA if he was released from prison. On March 6, 2019, Father was released from prison for the Philadelphia convictions. At a March 7, 2019 hearing, the trial court ordered that Father have supervised visits with Children and undergo a paternity test with respect to K.A.

On May 30, 2019, DHS filed petitions seeking the involuntary termination of Father's rights to Children under 23 Pa.C.S. § 2511(a)(1), (2), (5), (8), and (b). At the next permanency review hearing held on June 6, 2019, the trial court granted Father weekly supervised visits and referred Father to CEU for assessments and drug screens. The trial court appointed a child advocate attorney as legal counsel for K.D.A. and K.K.A.<sup>6</sup> Father's drug

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<sup>5</sup> DHS alleged that Mother and a companion left Children in a running car while they committed the thefts.

<sup>6</sup> The guardian *ad litem* (GAL) from the dependency proceedings continued to represent Children's best interests after DHS filed the petitions to terminate Father's parental rights. The records and dockets do not contain orders appointing legal counsel for K.D.A. and K.K.A. However, based on the notations of the individuals who appeared at continuance hearings, it appears that the trial court appointed legal counsel at some time between June 6, 2019 and September 25, 2019. The trial court later noted that it did not appoint legal counsel for K.A. because K.A. "didn't really understand the process and couldn't make an informed decision." N.T. at 59.

tests in June 2019 and October 2019 were positive for opiates. In November 2019, Father was incarcerated on felony-two retail theft charges in Blair County.<sup>7</sup>

The trial court held a hearing on the petitions to terminate on January 27, 2020. Father's counsel appeared at the hearing, and Father participated by telephone from Blair County prison. Father stipulated to the statement of facts in DHS's petitions to terminate Father's parental rights. The trial court also admitted into evidence a report of Father's convictions.

Thereafter, DHS presented the testimony of Tiana Dixon, a CUA caseworker, regarding the history of the case, Father's incarcerations, and Father's contacts with Children. Ms. Dixon noted that Father's compliance with the SCP was minimal throughout the case, even when Father was not incarcerated. Father submitted two drug screens that were positive for opiates. Ms. Dixon testified that the bond among Father and Children was more like a sibling bond than a parent-child bond. She opined that termination would be in the best interests of Children and that severing their relationship with Father would not result in irreparable harm to Children.

Father testified on his own behalf. Father acknowledged failing the drug tests, but asserted that he was in an accident and was going to therapy.

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<sup>7</sup> Counsel for DHS asserted that Father was arrested in November 2019. Father did not dispute that assertion, and in his appellate briefs, he has repeated the November 2019 date when referring to the date of his incarceration for the Blair County charges.

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