

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

IN THE INTEREST OF: S.A.R., A
MINOR

: IN THE SUPERIOR COURT OF
: PENNSYLVANIA

APPEAL OF: R.R., FATHER

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: No. 704 EDA 2026

Appeal from the Order Entered February 11, 2026
In the Court of Common Pleas of Philadelphia County Juvenile Division at
No(s): CP-51-DP-0000470-2023

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MINOR

: IN THE SUPERIOR COURT OF
: PENNSYLVANIA

APPEAL OF: R.R., FATHER

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: No. 705 EDA 2026

Appeal from the Decree Entered February 11, 2026
In the Court of Common Pleas of Philadelphia County Juvenile Division at
No(s): CP-51-AP-0000309-2025

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

MEMORANDUM BY SULLIVAN, J.:

FILED AUGUST 20, 2026

R.R. ("Father") appeals from the decree involuntarily terminating his parental rights to his son, S.A.R. ("Child"), born in May 2023.¹ Father also appeals from the order that changed Child's permanency goal from

¹ By separate decree entered on the same date, the trial court also involuntarily terminated the parental rights of Child's mother, C.H. ("Mother"). Mother did not file an appeal or participate in the instant appeal.

reunification to adoption. Father's counsel ("Counsel") has filed an application to withdraw and an accompanying brief, pursuant to ***Anders v. California***, 386 U.S. 738 (1967), and ***Commonwealth v. Santiago***, 978 A.2d 349 (Pa. 2009). After careful review, we grant Counsel's application to withdraw, affirm the involuntary termination decree, and dismiss the appeal from the goal change order as moot.

We summarize the relevant factual and procedural history of this matter from the certified record. This family has been known to the Philadelphia Department of Human Services ("DHS") since 2017. Relevant to this appeal, in May 2023, DHS received a report alleging that Mother and Child tested positive for illicit substances immediately following his birth. **See** N.T., 1/12/26, at 11. In May 2023, upon Child's discharge from the hospital, a court placed Child in the emergency protective custody of DHS. Following a shelter care hearing, the trial court placed Child in the legal and physical custody of DHS. On August 15, 2023, a court adjudicated Child dependent and established his initial permanency goal as reunification. In furtherance of that goal, the court ordered Father to, *inter alia*: participate in weekly supervised visitations with Child; submit to random drug screens; and undergo an assessment for recommended services through the clinical evaluation unit ("CEU"). **See id.** at 25; **see also** Order of Adjudication and Disposition, 8/15/23, at 2. DHS assigned a Community Umbrella Agency

("CUA") to administer Father's reunification services. Between August 2023, and January 2026, the court held regular permanency review hearings.

In May 2023, Father attended two supervised visits with Child, who was just a few weeks old. **See** N.T., 1/12/26, at 28, 37. The record indicates Father was then incarcerated from June 2023 until approximately March or April 2024. **See id.** at 28-29, 77.² Father apparently maintained contact with CUA while incarcerated; however, Father was not permitted to have visits with Child while he was incarcerated. **See id.** at 36. Following his release from incarceration, Father attended one supervised visit with Child in June 2024. **See id.** at 61. Thereafter, Father ceased all contact with DHS, CUA, and Child. **See id.** at 26, 57, 61. At a permanency review hearing in December 2025, CUA learned that Father had been incarcerated since April 2025. **See id.** at 61, 69.³

On July 1, 2025, DHS filed a petition to involuntarily terminate Father's parental rights to Child pursuant to 23 Pa.C.S.A. § 2511(a)(1), (2), (5), (8),

² The record contains no evidence concerning the reasons for Father's incarceration from 2023 to 2024, the charges he faced, or the disposition of the charges.

³ The record also does not contain information concerning Father's incarceration in 2025, but he remained incarcerated at the conclusion of the termination hearing, and it appears he was awaiting some form of sentencing. **See** N.T., 1/12/26, at 74, 84; **see also** N.T., 2/11/26, at 7-9.

and (b). The same day, DHS separately filed a petition to change Child's permanency goal from reunification to adoption.

The trial court held an evidentiary hearing on DHS's petitions in January and ruled on the petitions in open court in February 2026, at which time Child was two years old.⁴ DHS presented the testimony of CUA case manager, Samir Ismail ("Mr. Ismail"), and CUA permanency specialist, Thea Irby ("Ms. Irby"). Counsel represented Father during the involuntary termination proceeding. Father testified on his own behalf at the January 2026 hearing, but he did not attend court in February 2026. **See** N.T., 2/11/26, at 7-9.⁵

⁴ The trial court indicated that DHS presented sufficient evidence to terminate Father's parental rights at the January 2026 hearing but continued the matter to February 2026 based on concerns over whether to terminate Mother's parental rights and whether to sever its rulings on Father's and Mother's parental rights. **See** N.T., 1/12/26, at 90-95. The only evidence taken at the February 2026 court date was testimony by a sheriff to explain Father refused to attend court in February 2026. **See** N.T., 2/11/26, at 7-9.

⁵ Our Supreme Court has held that "appellate courts should engage in *sua sponte* review to determine if orphans' courts have appointed counsel to represent the legal interests of children in contested termination proceedings, in compliance with" 23 Pa.C.S.A. § 2313(a); ***In re Adoption of K.M.G.***, 240 A.3d 1218, 1235 (Pa. 2020). However, this Court has recognized that "if the preferred outcome of a child is incapable of ascertainment because the child is very young and pre-verbal, there can be no conflict between the child's legal interests and his or her best interests; as such, the mandate of [s]ection 2313(a) of the Adoption Act . . . is satisfied where the court has appointed an attorney-guardian *ad litem* who represents the child's best interests during such proceedings." ***In re T.S.***, 192 A.3d 1080, 1092-93 (Pa. 2018).

Here, two-year-old Child was represented solely by his guardian *ad litem* ("GAL") from his dependency matter through the subject hearing. We discern no error by the court inasmuch as Child's dual interests cannot be in conflict
(Footnote Continued Next Page)

By decree dated and entered on February 11, 2026, the trial court involuntarily terminated Father's parental rights pursuant to section 2511(a)(1), (2), (5), (8), and (b). On the same date, the trial court entered a separate order that changed Child's permanency goal from reunification to adoption.

Father timely filed separate notices of appeal and concise statements of errors complained of on appeal pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b), and this Court consolidated the appeals *sua sponte*. The trial court filed a statement pursuant to Rule 1925(a), directing this Court to its reasoning stated on the record in open court in February 2026. As noted above, Counsel filed a petition to withdraw and an **Anders** brief in this Court.⁶

When counsel seeks to withdraw pursuant to **Anders** and its progeny, this Court may not review the merits of the appeal without first addressing counsel's request to withdraw. **See In re Adoption of M.C.F.**, 230 A.3d

because of his very young age and being pre-verbal. **See T.S.**, 192 A.3d 1092-93. We also note that the trial court did not issue an order appointing the GAL to represent Child in the termination proceeding. The **T.S.** Court recognized that, it would "be a better practice for the court to place an order on the record formalizing the GAL's role for termination purposes" but declined "to elevate form over substance" when the child received appropriate legal representation. **Id.** at 1090 n.19. Thus, we find no structural error with respect to section 2313(a).

⁶ The **Anders** procedure extends to appeals from orders involuntarily terminating parental rights. **See In re V.E.**, 611 A.2d 1267, 1275 (Pa. Super. 1992).

1217, 1219 (Pa. Super. 2020). To satisfy the procedural requirements in requesting to withdraw from representation, counsel must:

1) petition the court for leave to withdraw stating that, after making a conscientious examination of the record, counsel has determined that the appeal would be frivolous; 2) furnish a copy of the [**Anders**] brief to the [appellant]; and 3) advise the [appellant] that he or she has the right to retain private counsel or raise additional arguments that the [appellant] deems worthy of the court's attention.

Commonwealth v. Cartrette, 83 A.3d 1030, 1032 (Pa. Super. 2013) (*en banc*) (citation omitted). Counsel must also "attach to their petition to withdraw a copy of the letter sent to their client advising him or her of their rights." **Commonwealth v. Millisock**, 873 A.2d 748, 752 (Pa. Super. 2005).

In addition, our Supreme Court has set forth the following requirements for **Anders** briefs:

[W]e hold that in the **Anders** brief that accompanies court-appointed counsel's petition to withdraw, counsel must: (1) provide a summary of the procedural history and facts, with citations to the record; (2) refer to anything in the record that counsel believes arguably supports the appeal; (3) set forth counsel's conclusion that the appeal is frivolous; and (4) state counsel's reasons for concluding that the appeal is frivolous. Counsel should articulate the relevant facts of record, controlling case law, and/or statutes on point that have led to the conclusion that the appeal is frivolous.

Santiago, 978 A.2d at 361.

Here, Counsel has filed an application to withdraw citing **Santiago**, but his petition does not include a statement that he conducted a conscientious review of the record and determined Father's appeal would be frivolous.

However, Counsel includes this required averment in his **Anders** brief.⁷ **See Anders** Brief at 10. Counsel's brief also includes an adequate summary of the factual and procedural history of the case with citations to the record, a list of issues that could arguably support Father's appeal, and Counsel's analysis of why Father's appeal is wholly frivolous. Finally, Counsel avers that he mailed Father copies of his petition, **Anders** brief, and **Millisock** letter explaining Father's rights to retain private counsel or proceed *pro se* and raise any additional arguments he believes are meritorious.⁸ Therefore, we conclude that Counsel has substantially complied with the technical requirements of **Anders**. **See Commonwealth v. Wrecks**, 934 A.2d 1287, 1290 (Pa. Super. 2007) (noting that substantial compliance with **Anders** requirements is sufficient). Accordingly, we will conduct an independent review to determine whether this appeal is wholly frivolous.

We begin with the involuntary termination decree, which we review for an abuse of discretion. **See Interest of M.E.**, 283 A.3d 820, 829 (Pa. Super. 2022). This Court has explained:

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

⁷ We remind Counsel that **Anders** procedures require that he "petition the court for leave to withdraw **stating that, after making a conscientious examination of the record, counsel has determined that the appeal would be frivolous**[.]" **Cartrette**, 83 A.3d at 1032 (emphasis added).

⁸ To date, Father has not filed any response in this Court.

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.

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.

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 hesitation, of the truth of the precise facts in issue.

Id. at 829-30 (citations and quotation marks omitted).

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. ***Id.*** at 830; ***see also*** 23 Pa.C.S.A. § 2511(a)(1)-(11). If the trial court determines the petitioner has established grounds for termination under one of the grounds under subsection (a), the court must then "give primary consideration to the developmental, physical and emotional needs

and welfare of the child” under subsection (b). ***In re T.S.M.***, 71 A.3d 251, 267 (Pa. 2013). This Court need only agree with the trial court’s determination as to any one ground under section 2511(a), in addition to section 2511(b), in order to affirm termination. ***See M.E.***, 283 A.3d at 830 (citing ***In re B.L.W.***, 843 A.2d 380, 384 (Pa. Super. 2004) (*en banc*)).

In his ***Anders*** brief, Counsel avers that the trial court properly terminated Father’s parental rights pursuant to section 2511(a) and (b). ***See Anders*** Brief at 9-18. Counsel explains Father’s lack of contact with the Child established his parental incapacity could not be remedied due to his refusal to meaningfully participate in offered services, his failure to complete all of the objectives, and his continual imprisonment. ***See id.*** at 17. Counsel further notes Father had only three visits with Child while Child was in DHS’s care, and there was no evidence of a bond between Father and Child, or that Father performed any parental duties for Child. ***See id.*** at 15-16.

Our review will focus on section 2511(a)(2) and (b),⁹ 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:

* * * *

(2) The repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without

⁹ By analyzing only section 2511(a)(2), we draw no conclusions as to the trial court’s findings with respect to the remaining relevant subsections of 2511(a). ***See M.E.***, 283 A.3d at 830.

essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent.

* * * *

(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.

23 Pa.C.S.A. § 2511(a)(2), (b).

In order to satisfy section 2511(a)(2), the petitioning party must establish: “(1) repeated and continued incapacity, abuse, neglect or refusal; (2) that such incapacity, abuse, neglect or refusal caused the child to be without essential parental care, control or subsistence; and (3) that the causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied.”

In re Adoption of A.H., 247 A.3d 439, 443 (Pa. Super. 2021) (citation and quotation marks omitted). The grounds for termination under section 2511(a)(2) due to parental incapacity are not limited to affirmative misconduct; those grounds may include acts of refusal and incapacity to perform parental duties. ***See In re S.C.***, 247 A.3d 1097, 1104 (Pa. Super. 2021), *abrogated on other grounds by Interest of K.T.*, 296 A.3d 1085, 1110 n.23 (Pa. 2023).

Further, this Court has stated that

incarceration, while not a litmus test for termination, can be determinative of the question of whether a parent is incapable of providing “essential parental care, control or subsistence” and the length of the remaining confinement can be considered as highly relevant to whether “the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent,” sufficient to provide grounds for termination pursuant to [section 2511(a)(2)].

In re Adoption of S.P., 47 A.3d 817, 830 (Pa. Super. 2012) (citations omitted). The termination of parental rights is justified” pursuant to section 2511(a)(2), when “a parent has demonstrated a continued inability to conduct his . . . life in a fashion that would provide a safe environment for a child, whether that child is living with the parent or not, and the behavior of the parent is irremediable . . .” ***In re Z.P.***, 994 A.2d 1108, 1118 (Pa. Super. 2010). Overall, we emphasize that “[p]arents are required to make diligent efforts toward the reasonably prompt assumption of full parental duties.” ***A.H.***, 247 A.3d at 443 (citation omitted).

In terminating Father’s parental rights under section 2511(a)(2), the trial court noted Father had been incarcerated for a lengthy period of time during Child’s life. ***See*** N.T., 2/11/26, at 20. The court emphasized, however, that even when Father was out of prison, he only visited Child three times and failed to maintain a place of importance in Child’s life, which demonstrated that Father’s repeated parental incapacity caused Child to be without essential parental care and that the causes of the incapacity could not or would not be remedied. ***See id.*** at 20-22.

In this case, our independent review of the record evidence confirms Counsel's conclusion that any claim regarding section 2511(a)(2) would be wholly frivolous. Specifically, the evidence in the certified record firmly supports the trial court's findings and legal conclusions. Here, Mr. Ismail, CUA case manager for the family from outset of the case to November 2024, testified Father attended two supervised visits with Child immediately following Child's placement in May 2023. **See** N.T., 1/12/26, at 28, 37, 72. Mr. Ismail testified in June 2023, however, Father was arrested and incarcerated. **See id.** at 24, 28. Mr. Ismail stated Father and Child, who was then only a few months old, were not permitted to engage in visitation while Father was incarcerated. **See id.** at 36. Father remained in prison until approximately March or April 2024. **See id.** at 28-29.

Mr. Ismail and Ms. Irby, the CUA permanency specialist assigned to family since the beginning of the case, testified that, following Father's release from prison in March or April 2024, Father had one supervised visit in June 2024 and then ceased all communication with CUA, DHS, and Child. **See id.** at 26, 57, 61.¹⁰ Father was then re-incarcerated in April 2025 for reasons not disclosed in the record. **See id.**, at 79-80. Father confirmed he remained

¹⁰ Although Father claimed he made various efforts to contact the agencies during this time, the trial court did not find him credible in this regard. **See** N.T., 1/12/26, at 80-83, 93; **see also**, N.T., 2/11/26, at 19-20.

incarcerated at the time of the hearing, and he had no knowledge of when he would be released from custody. ***See id.*** at 74, 84.

The foregoing evidence amply demonstrates that Father's repeated and continued incapacity, namely, his continued criminal conduct resulting in his incarcerations, and his refusal to maintain contact with Child and the agencies even when not in prison, have caused Child to be without essential parental care, control, or subsistence necessary for his physical or mental well-being. The record also supports the trial court's conclusion that Father's incapacity and refusal will not be remedied inasmuch as Child has been in placement for almost three years by the end of the termination hearings, and Father made no progress towards achieving reunification, and he remained incarcerated without a projected release date. Therefore, an appeal based on the trial court's determination that termination of Father's parental rights was warranted pursuant to section 2511(a)(2) would be frivolous.

Turning to section 2511(b), our Supreme Court has directed that a court's 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). With respect to the bond analysis, we have explained:

The orphans' court must determine whether the parent and child share an emotional bond and assess whether the bond is necessary and beneficial to the child, such that maintaining the bond serves the child's developmental, physical, and emotional needs and welfare. If a bond exists, the court must ascertain the effect upon the child of severing the bond.

In re Adoption of G.W., 342 A.3d 68, 90 (Pa. Super. 2025) (*en banc*) (citations and quotation marks omitted). “In cases where there is no evidence of any bond between the parent and child, it is reasonable to infer that no bond exists. The extent of any bond analysis, therefore, necessarily depends on the circumstances of the particular case.” ***In re K.Z.S.***, 946 A.2d 753, 762-63 (Pa. Super. 2008) (citation omitted). When evaluating a parental bond, “the court is not required to use expert testimony. Social workers and caseworkers can offer evaluations as well.” ***Z.P.***, 994 A.2d at 1121 (citations omitted).

Moreover, the section 2511(b) analysis does not end with the evaluation of the parent-child bond. ***See G.W.***, 342 A.3d at 91. The trial court must also consider:

the child’s need for permanency and length of time in foster care . . . ; whether the child is in a pre[-]adoptive home and bonded with foster parents; and whether the foster home meets the child’s developmental, physical, and emotional needs, including intangible needs of love, comfort, security, safety, and stability.

Id. (citation omitted). These considerations are all of “primary importance in the [s]ection 2511(b) analysis” and “may contribute equally to the determination of a child’s specific developmental, physical, and emotional needs and welfare.” ***K.T.***, 296 A.3d at 1109 (quotation marks omitted). Indeed, the trial court’s discretion includes placing “appropriate weight on each factor present in the record” when conducting “a full [section 2511](b) analysis focused on the child.” ***Id.*** at 1113.

With respect to section 2511(b), the trial court determined here that termination best met Child's needs and welfare where Child had bonded with his foster parents and severing "whatever bond [C]hild may have had with [F]ather" would not result in irreparable harm. N.T., 2/11/26, at 23. Our independent review confirms Counsel's assessment that any potential argument that Father could raise with regard to section 2511(b) would be wholly frivolous.

Ms. Irby testified that Father last visited with Child in June 2024, more than one year before the filing of the petition to terminate his parental rights. **See** N.T., 1/12/26, at 61. Ms. Irby indicated it was in Child's best interest to be freed for adoption; she further stated Child and Father do not share a bond due to Father's absence in Child's life, and, therefore, Child would not suffer irreparable harm if the trial court involuntarily terminated Father's parental rights. **See id.** at 55, 62-63. Ms. Irby also testified Child has been thriving in his foster placement, which is pre-adoptive, where he has resided for nearly two years. **See id.** at 53-54, 63. She further indicated that Child shares a parental bond with his foster parents who provide him with love, protection, and support. **See id.** at 53-54, 67-68.

Based upon the foregoing support for the trial court's conclusion that Child's developmental, physical, and emotional needs and welfare were best served by termination of Father's parental rights, any issue Father would raise

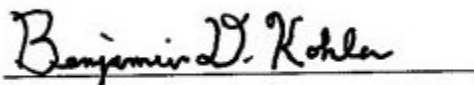
as to subsection (b) would be frivolous. We therefore affirm the subject decree involuntarily terminating Father's parental rights.

Lastly, with respect to Father's appeal from the goal change order, we conclude that appeal is moot given our disposition regarding his appeal from the involuntary termination decree. ***See Interest of A.R.***, 311 A.3d 1105, 1114 (Pa. Super. 2023) (holding that the affirmance of termination of parental rights renders an appeal of the goal change to adoption moot). Thus, we dismiss the goal change order appeal as moot.

In sum, following an independent review, we agree with Counsel's assessment that this appeal is wholly frivolous and discern no non-frivolous issues that would arguably support Father's appeal. Therefore, we grant Counsel's petition to withdraw from his representation of Father, affirm the decree involuntarily terminating Father's parental rights to Child pursuant to 23 Pa.C.S.A. § 2511(a)(2) and (b), and dismiss Father's appeal from the goal change order as moot.

Petition to withdraw granted. Decree affirmed. Appeal from the goal change order dismissed as moot.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 8/20/2026