

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

IN RE: A.E.R.G., A MINOR	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
APPEAL OF: T.T.M., MOTHER	:	
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	:	
	:	
	:	
	:	No. 1651 EDA 2026

Appeal from the Decree Entered April 27, 2026
In the Court of Common Pleas of Northampton County Orphans' Court at
No(s): OC-2026-0005

BEFORE: McLAUGHLIN, J., KING, J., and BECK, J.

MEMORANDUM BY KING, J.:

FILED OCTOBER 1, 2026

Appellant, T.T.M. ("Mother"), appeals from the decree entered in the Northampton County Court of Common Pleas, granting the petition of Appellee, Northampton County Division of Children, Youth, and Families ("CYF"), for involuntary termination of Mother's parental rights to her minor child, A.E.R.G. ("Child"). For the following reasons, we vacate and remand for further proceedings.

The relevant facts and procedural history of this case are as follows. Mother and C.X.G. ("Father") are Child's birth parents. Child was born in March 2018. CYF became aware of the family in 2023, when it received reports that Father had sexually abused Mother's two daughters from a prior relationship. Subsequent investigation revealed that the family was homeless, and Mother suffered from substance abuse issues. (**See** CYF's Termination

Hearing Exhibit 6, submitted 4/20/26, at ¶6(a)-(e)).

In June 2023, Mother signed a voluntary agreement to place Child and her son, O.G., with CYF for thirty days. At the time, Mother “threatened to kill herself,” and “disclosed that she was having a mental breakdown.” (Involuntary Termination Petition, filed 2/9/26, at ¶15). Mother was previously diagnosed with various mental health issues, including depression and bipolar disorder. Upon expiration of the voluntary placement, CYF filed a dependency petition for Child on July 6, 2023. Following a hearing, the court adjudicated Child dependent. The court also issued a permanency plan and interim order directing Mother to attend visits with Child once every two weeks, cooperate with mental health counseling services, cooperate with in-home services, complete parenting education and life skills training, and maintain stable income and housing. (***See id.*** at ¶20).

Initially, Mother complied with her reunification goals by obtaining mental health treatment, engaging in parenting education, and visiting Child twice per week. Nevertheless, Mother subsequently failed to maintain stable housing. Mother also failed to visit Child for almost all of 2025. On February 9, 2026, CYF filed petitions seeking the involuntary termination of Mother and Father’s parental rights. The court conducted a termination hearing on April 20, 2026, and Mother appeared with counsel. At the hearing, the court received testimony from Mother, the CYF case managers, and a licensed psychologist. The guardian *ad litem* (“GAL”), Attorney Newton, also appeared

and made an on-the-record recommendation in favor of termination. (**See** N.T. Termination Hearing, 4/20/26, at 130-31).

On April 27, 2026, the court issued its findings of fact and final decree terminating Mother and Father's parental rights. Specifically, the court found that termination was appropriate under 23 Pa.C.S.A. § 2511(a)(1), (a)(8), and (b). Mother timely filed a notice of appeal and concise statement of matters complained of on appeal on May 22, 2026. Father is not a party to the current appeal.

Mother now raises five issues for our review:

Did the trial court err as a matter of law and abuse its discretion in finding that [CYF] met its burden of proving by clear and convincing evidence that [Mother's] parental rights should be terminated under 23 Pa.C.S.A. § 2511(a)(1)?

Did the trial court err as a matter of law and abuse its discretion in finding that [CYF] met its burden of proving by clear and convincing evidence that [Mother's] parental rights should be terminated under 23 Pa.C.S.A. § 2511(a)(8) when the evidence presented demonstrated that [Mother] made progress through compliance with services such that the conditions that led to the child's removal no longer continue to exist or, in the alternative, will not continue to exist for the reasonable future?

Did the trial court err as a matter of law and abuse its discretion in concluding that terminating [Mother's] parental rights best serves the developmental, physical, and emotional needs and welfare of the child under 23 Pa.C.S.A. § 2511(b)?

Did the trial court err in terminating [Mother's] parental rights without properly weighing the strong emotional bond between [Mother] and the child, and the impact severing that bond would have on the child?

Did the trial court err in terminating the parental rights of [Mother]?

(Mother's Brief at 7-8).

Appellate review in termination of parental rights cases implicates the following principles:

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. This standard of review corresponds to the standard employed in dependency cases, and requires appellate courts to accept the findings of fact and credibility determinations of the trial court if they are supported by the record, but it does not require the appellate court to accept the [trial] court's inferences or conclusions of law. That is, if the factual findings are supported, we must determine whether the trial court made an error of law or abused its discretion. An abuse of discretion does not result merely because the reviewing court might have reached a different conclusion; we reverse for an abuse of discretion only upon demonstration of manifest unreasonableness, partiality, prejudice, bias, or ill will. Thus, absent an abuse of discretion, an error of law, or insufficient evidentiary support for the trial court's decision, the decree must stand. We have previously emphasized our deference to trial courts that often have first-hand observations of the parties spanning multiple hearings. However, we must employ a broad, comprehensive review of the record in order to determine whether the trial court's decision is supported by competent evidence.

In re Adoption of C.M., 667 Pa. 268, 294-95, 255 A.3d 343, 358-59 (2021)

(internal citations and quotation marks omitted).

Mother's issues are related, and we address them together. Initially, Mother contends that external constraints necessitated infrequent visitation

with Child from Christmas 2024 until March 2026. Mother emphasizes that CYF “did not assist in ensuring visitation occurred between Mother and [C]hild,” which forced Mother to coordinate with foster parents on her own. (Mother’s Brief at 30). Mother posits that “the foster parents were unwilling to assist her in scheduling visits at mutually convenient times and locations.” (*Id.* at 31). Mother also asserts that, for a significant period, she did not have a vehicle to travel to visits. Although Mother concedes that CYF provided bus passes to facilitate visitation, she notes that she does not live near public transportation. Mother maintains that “[a]ny lapse in visitation was largely due to financial constraints, travel limitations, and the failure of the foster parents to coordinate visitation at mutually agreeable locations and times.” (*Id.*) Despite these obstacles, Mother claims that she had a “great” relationship with Child, and Child “would benefit from an ongoing relationship with Mother.” (*Id.*)

Regarding Section 2511(b), Mother emphasizes that termination is improper if based solely on environmental factors. Mother maintains that she “has remedied every other issue that led to the child’s placement by fully complying with [CYF] services. The **only** remaining hurdle is traditional housing.” (Mother’s Brief at 35) (emphasis in original). Mother argues that her failure to obtain traditional housing was outside of her control:

Much of Mother’s inability to locate housing is due to her financial situation. Mother’s difficult financial situation is impacted by the significant portion of her income that is paid, in part to [CYF], in the form of child support. Mother

has been employed as a full-time employee for most of this dependency matter. [CYF] is taking the financial resources Mother needs to meet housing demands and then using her lack of traditional housing as grounds for termination.

(Mother's Brief at 36). Mother adds that she secured housing with Maternal Grandmother by the time of the termination hearing, but CYF "failed to do the bare minimum and visit that home to determine its appropriateness for the child." (Mother's Brief at 33).

Mother also relies on CYF's evidence from the termination hearing, which "confirmed that the child and Mother have a strong bond." (*Id.*) Mother notes that Child still calls her "Mom," Child willingly attends visits, and the visits go well. Moreover, Mother complains about the lack of evidence "as to the effect of severing the child's bond with Mother[.]" (*Id.* at 38). Based upon the foregoing, Mother concludes the court erred and abused its discretion by terminating her parental rights. We disagree.

CYF filed a petition for the involuntary termination of Mother's parental rights on the following grounds:

§ 2511. Grounds for involuntary termination

(a) General rule.—The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds:

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

* * *

(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). “Parental rights may be involuntarily terminated where any one subsection of Section 2511(a) is satisfied, along with consideration of the subsection 2511(b) provisions.” ***In re Z.P.***, 994 A.2d 1108, 1117 (Pa.Super. 2010).¹

“A court may terminate parental rights under subsection 2511(a)(1) when the parent demonstrates a settled purpose to relinquish parental claim to a child or fails to perform parental duties for at least six months prior to the filing of the termination petition.” ***In re I.J.***, 972 A.2d 5, 10 (Pa.Super. 2009).

Once the evidence establishes a failure to perform parental duties or a settled purpose of relinquishing parental rights, the court must engage in three lines of inquiry: (1) the parent’s explanation for his or her conduct; (2) the post-abandonment contact between parent and child; and (3) consideration of the effect of termination of parental rights on the child pursuant to Section 2511(b).

¹ CYF also sought the involuntary termination of Mother’s parental rights under Section 2511(a)(8), but we need only analyze Section 2511(a)(1) for purposes of this appeal.

In re Z.S.W., 946 A.2d 726, 730 (Pa.Super. 2008) (quoting ***Matter of Adoption of Charles E.D.M., II***, 550 Pa. 595, 602, 708 A.2d 88, 92 (1998)).

Regarding the six-month period prior to filing the termination petition:

[T]he trial court must consider the whole history of a given case and not mechanically apply the six-month statutory provision. The court must examine the individual circumstances of each case and consider all explanations offered by the parent facing termination of his or her parental rights, to determine if the evidence, in light of the totality of the circumstances, clearly warrants the involuntary termination.

In re B., N.M., 856 A.2d 847, 855 (Pa.Super. 2004), *appeal denied*, 582 Pa. 718, 872 A.2d 1200 (2005) (internal citations omitted).

If the court determines that there are grounds to terminate parental rights under Section 2511(a), the court must “engage in the second part of the analysis pursuant to Section 2511(b): determination of the needs and welfare of the child under the standard of best interests of the child.” ***In re L.M.***, 923 A.2d 505, 511 (Pa.Super. 2007). “Intangibles such as love, comfort, security, and stability are involved when inquiring about the needs and welfare of the child. The court must also discern the nature and status of the parent-child bond, paying close attention to the effect on the child of permanently severing the bond.” ***In re C.P.***, 901 A.2d 516, 520 (Pa.Super. 2006). “In this context, the court must take into account whether a bond exists between child and parent, and whether termination would destroy an existing, necessary and beneficial relationship.” ***In re Z.P., supra*** at 1121.

Additionally:

The Section 2511(b) inquiry must also include consideration of other important factors such as: the child's need for permanency and length of time in foster care...; whether the child is in a preadoptive 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. These factors and others properly guide the court's analysis of the child's welfare and all [their] developmental, physical, and emotional needs. ... Trial courts have the discretion to place appropriate weight on each factor present in the record before making a decision regarding termination that best serves the child's specific needs.

Interest of K.T., ___ Pa. ___, ___, 296 A.3d 1085, 1113 (2023) (internal citations and footnotes omitted).

Instantly, the court received testimony from Megan Serrano, a CYF supervisor. Ms. Serrano became familiar with the family in April 2023 when CYF received a referral concerning Mother's homelessness and mental health issues. When Mother voluntarily placed Child in CYF's custody for thirty days, Ms. Serrano recalled that CYF immediately connected Mother with various shelter and housing programs. Specifically, CYF referred Mother to Third Street Alliance, 211 Catholic Charities, and Pathways to obtain "rapid housing" assistance. (N.T. Termination Hearing at 13). Mother did not take advantage of these resources.

After the court adjudicated Child dependent, CYF connected Mother with two more housing programs to assist Mother in finding "stable and secure housing as soon as possible[.]" (***Id.*** at 18). Ms. Serrano noted that CYF does

not “normally do two of the same type of providers for one family,” but she believed it was necessary under the circumstances. Ms. Serrano also observed that the family lacked kinship resources. Ms. Serrano testified about “conflict between Mother and the maternal grandmother,” and the maternal grandmother “had kicked [Mother] and the children out on several occasions[.]” (*Id.* at 21).

The court received additional testimony from Ericka Gardner, a CYF caseworker who was assigned to the family in December 2023. Ms. Gardner testified that Mother briefly obtained a suitable apartment prior to the March 2024 permanency review. Unfortunately, Mother was evicted after approximately five months. CYF then connected Mother with Justice Works to secure new housing. Justice Works, however, discharged Mother due to her failure to meet with a caseworker on a consistent basis. During Ms. Gardner’s 15 months of involvement with the family, Mother maintained stable housing for a mere four months. (*Id.* at 52-53).

Regarding the bond between Mother and Child, Ms. Gardner testified that Mother attended “about three visits” with Child. (*Id.* at 34). On “rare” occasions, Mother “would do a Zoom visit with [Child].” (*Id.* at 34). The Zoom visits ceased because they caused Child to have “an emotional disturbance” causing her behavior to “regress from where she was with the foster family.” (*Id.* at 35). In comparison, Ms. Gardner testified that Child and the foster parents had a “great relationship.” (*Id.* at 43). Child treats

the foster parents “as if they were her parents.” (*Id.*). Moreover, Child became “very close” with the foster parents’ two biological daughters, and “[t]hey would play like siblings, argue like siblings, love like siblings.” (*Id.*).

CYF caseworker Jordyn Ferrari, who managed this case beginning in March 2025, explained that Mother continued to struggle with housing instability at that time. Mother “turned down several different shelter spots and apartment listings due to their location being on the second floor.” (*Id.* at 79). Mother lived with Maternal Grandmother sporadically during this period. Mother told Ms. Ferrari that her relationship with Maternal Grandmother was “an unhealthy, unstable relationship and she no longer wanted her to stay there.” (*Id.* at 76). Ms. Ferrari also highlighted Mother’s infrequent visitation with Child, recalling only two visits that “were coordinated with foster parents at the Lehigh Valley Mall.” (*Id.* at 80). Mother’s visitation with Child increased only after CYF served Mother with the termination petition: “Mother had reported to [Ms. Ferrari] that it was clear that she was being held accountable for how long she was seeing [Child] and asked to see [Child] on a weekly basis after that.”² (*Id.* at 81).

Further, Ms. Ferrari explained that Child is “clearly thriving off the

² We reiterate: “With respect to any petition filed pursuant to subsection (a)(1), ... 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(b) (emphasis added).

structure” provided by the foster parents’ home, and Child has seen a “huge increase in her confidence” from speech, painting, and dance classes that the foster parents have enrolled her in. (*Id.* at 82, 83). Importantly, Ms. Ferrari testified that she “would be concerned for [Child] to be removed from the foster family. I believe it could be detrimental to her.” (*Id.* at 86). As far as some type of “continued connection” between Mother and Child, Ms. Ferrari equivocated:

I believe if Mother was able to be consistent, I do believe some type of relationship would absolutely be beneficial to her. But looking at the time [Child] has spent in care, I do understand that [CYF] has the obligation to seek permanency for her, and I do believe that would be in her best interest.

(*Id.* at 86-87).

The court considered the testimony and determined that CYF had provided clear and convincing evidence in support of termination. When explaining its decision, the court stated:

[W]e find that Mother has failed to perform essential parental duties. While she has made a good faith effort to comply with most services, Mother largely failed to maintain contact with the child for over a year, from late 2024 to March 2026. ... While some difficulty with transportation would make it understandable that Mother would have difficulty seeing the child often, it is very significant to the court’s determination that Mother obtained a vehicle in summer 2025 and continued for a period of roughly nine months to not see the child. By so doing, Mother has failed to exhibit a determination to maintain her relationship with [Child]. In addition, the record does not reflect that Mother sought to preserve her relationship through other means within her control when she lacked transportation, such as the sending of cards or letters, or engaging in telephone or

video calls.

* * *

The court recognizes that Mother has maintained employment for nearly the entire period of this case, and Mother is to be commended for maintaining her mental health treatment for the entire period of this case. However, despite the passage of nearly three years, there is no end date in sight for when Mother will be able to fully resolve the circumstance that led to the child's initial placement, *i.e.* her lack of stable housing.

* * *

While the court would not conclude that Mother is incapable of ever remedying the conditions that led to [Child's] placement, the child's life cannot be placed on hold indefinitely for Mother to be ready to provide a stable home for her.

The child is thriving in her current placement. She is happy, healthy, well cared for, well-adjusted, and bonded with her caregivers. Her foster family includes a mother and father who treat her as one of their own, and two sisters who are close in age with whom she is very bonded as well. All three girls act as sisters. The child is engaged in a number of activities with her foster sisters as well, and has learned to speak Spanish fluently from the family. All of the child's physical and emotional needs are being met by the foster family, who are an adoptive resource for the child. The home is clean and appropriate, and the child has plenty of clothes and toys. The child has a need for, and is entitled to, security and stability in her life. She has been in her current placement for the better part of three years. Both the caseworker and the guardian *ad litem* are of the opinion that it would be detrimental to the child to remove her from the foster home at this time.

(Trial Court Opinion, filed 4/27/26, at 9-10, 11-12). We accept the court's analysis, which is supported by the record.

With respect to Section 2511(a)(1), the court correctly determined that

Mother failed to perform parental rights for at least six months prior to the filing of the termination petition. **See *In re I.J., supra***. Additionally, the testimony from the CYF supervisor and caseworkers established Mother's infrequent visitation and parenting of Child, which left Child dependent upon her foster family for stability and comfort. Regarding Section 2511(b), the court correctly concluded that terminating Mother's parental rights would not destroy an existing, necessary, and beneficial relationship for Child. **See *In re Z.P., supra***. Based upon the foregoing, we cannot say that the court erred in terminating Mother's parental rights. **See *Adoption of C.M., supra***.

Nevertheless, we also observe that "[i]n cases involving children, the law acknowledges two separate and distinct categories of interest: a child's legal interests, which are synonymous with the child's preferred outcome, and a child's best interests, which the trial court must determine." ***In re Adoption of L.B.M.***, 639 Pa. 428, 432, 161 A.3d 172, 174 (2017) (internal footnotes omitted). More specifically:

'Legal interests' denotes that an attorney is to express the child's wishes to the court regardless of whether the attorney agrees with the child's recommendation. 'Best interests' denotes that a guardian *ad litem* is to express what the guardian *ad litem* believes is best for the child's care, protection, safety, and wholesome physical and mental development regardless of whether the child agrees.

In re T.S., 648 Pa. 236, 240 n.2, 192 A.3d 1080, 1082 n.2 (2018).

"Section 2313(a) [of the Domestic Relations Code] requires counsel to advocate on behalf of the children's legal interests" in termination of parental

rights and adoption cases. ***In re Adoption of L.B.M., supra*** at 444, 161 A.3d at 182. Specifically, the statute provides:

The court shall appoint counsel to represent the child in an involuntary termination proceeding when the proceeding is being contested by one or both of the parents. The court may appoint counsel or a guardian *ad litem* to represent any child who has not reached the age of 18 years and is subject to any other proceeding under this part whenever it is in the best interests of the child. No attorney or law firm shall represent both the child and the adopting parent or parents.

23 Pa.C.S.A. § 2313(a). Further, “a single attorney cannot represent a child’s best interests and legal interests if those interests conflict,” and “the [O]rphans’ [C]ourt must determine whether counsel can represent the dual interests before appointing an individual to serve as GAL/Counsel for a child.” ***In re Adoption of K.M.G.***, 663 Pa. 53, 82, 240 A.3d 1218, 1236 (2020). “[T]he failure to appoint a separate attorney to represent the child’s legal interests constitutes structural error, meaning it is not subject to a harmless-error analysis,” and the issue is “non-waivable, because the right belonged to the child who, given that he or she was unrepresented, could not have challenged the lack of counsel.” ***Id.*** at 81-82, 240 A.3d at 1235.

As such, this Court can raise *sua sponte* “(1) whether the [O]rphans’ [C]ourt appointed counsel to represent the legal interests of the children; and (2) if the appointed counsel also serves as [GAL], whether the [O]rphans’ [C]ourt determined that the child’s best interests and legal interests did not conflict.” ***Id.*** at 83, 240 A.3d at 1236. Appellate review of these questions, however, “does not involve second-guessing whether GAL/Counsel in fact had

a conflict, ... but solely whether the [O]rphans' [C]ourt made the determination in the first instance." **Id.** at 82, 240 A.3d at 1235-36. "[T]his limited review strikes an appropriate balance between protecting children who cannot assert their own right to counsel, while insuring the least disruption to the process of orderly judicial decision making in termination proceedings." **Id.** at 83, 240 A.3d at 1236 (internal citation and quotation marks omitted). Thus, "the potential conflict of interest in a GAL/Counsel's representation of a child is not something that appellate courts should review *sua sponte*, without the benefit of appellate advocacy." **Id.** at 84, 240 A.3d at 1237.

"Generally, an attorney acting as a child's legal counsel must, at a minimum, attempt to ascertain the child's preference and advocate on the child's behalf." **In re P.G.F.**, 665 Pa. 37, 55, 247 A.3d 955, 966 (2021). If a child is too young to be able to express a preference, there is no conflict between a child's legal and best interests, and the child's Section 2313(a) right to counsel is satisfied by an attorney/GAL who represents the view of the child's best interests. **In re T.S., supra** at 251 n.17, 192 A.3d at 1089-90 n.17 (noting that children aged two and three years old who are pre-verbal do not have subjective, articulable preference concerning their legal interests; comparing children aged five or six years old, who are old enough to have opinions that are entitled to weight in legal proceedings concerning their custody).

Instantly, the record does not include an order appointing counsel to

represent Child's legal interests during the termination proceedings. Likewise, the record does not include the original order appointing Attorney Newton as the GAL. The record includes the 2023 order of adjudication, which already listed Attorney Newton as the GAL. (**See** Order, filed 8/3/23, at 1). The subsequent permanency review orders continued to list Attorney Newton as the GAL with no attorney designated as Child's legal counsel.³ Further complicating matters, the Orphans' Court's statement of reasons in support of involuntary termination provided: "The interests of the child were represented by her [GAL]." (Orphans' Court Opinion, filed 4/27/26, at 2). The Orphans' Court did not expressly state whether the GAL represented both Child's best and legal interests.

At the termination hearing, Attorney Newton identified himself only as GAL for Child. (**See** N.T. Termination Hearing at 6). At the conclusion of the hearing, Attorney Newton provided the following argument:

Judge, this is a difficult case and, you know, based on my involvement in the case over the last nearly three years, and based on the testimony received today and all of the factors that I believe are relevant to a termination case, I have to come to the reluctant conclusion that I think termination best serves the needs and interests of this young lady, and it is clearly in her best interest at this time.

It's been nearly three years. We don't have any realistic

³ The permanency review orders also stated: "The views of the Child regarding the permanency plan have been ascertained to the fullest extent possible and communicated to the court by the ... Guardian *ad Litem*." (Permanency Review Order, filed 10/27/25, at 1). Thus, the GAL appears to have been aware of Child's preferences pertaining to the permanency plan.

timeframe of when the circumstances might resolve themselves that necessitated the placement of this young lady outside of her mother's home.

Instability of the current situation does not give me any confidence, especially given the fact that [Mother's] been asked to leave [Maternal Grandmother's] residence twice. She's not on the lease, doesn't have a legal right to remain there. She hasn't had housing—appropriate housing for, I would say, 30 of the 33 months of this case, most notably over the last year and a half.

So accordingly, I believe that the child's best interests are served by remaining with the foster family where she is and being freed for adoption. They are meeting her needs. She's bonded with the family. She's bonded with the foster family. And she's bonded with her foster siblings that are living there.

That being said, it would be my hope that there would be ongoing contact between Mother and her daughter, in that this foster family would consider an arrangement ... for continued contact.

(***Id.*** at 130-31) (emphasis added). While he did not state whether Child preferred termination and adoption, the fact that the GAL wanted to keep the door open to future contact between Mother and Child is significant.

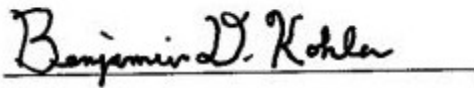
On this record, we cannot tell if the court determined whether Child's best interests and legal interests conflicted before proceeding with Attorney Newton as Child's only attorney at the termination hearing.⁴ ***See In re Adoption of K.M.G., supra.*** Therefore, we are unable to fulfill our duty to

⁴ Although this Court is not permitted to review *sua sponte* whether a conflict existed (***see In re Adoption of K.M.G., supra***), we note that Child was eight years old at the time of the hearing. Thus, we cannot say that Child's age alone eliminated the potential for any conflict. ***Compare In re T.S., supra.***

verify *sua sponte* that Attorney Newton could represent Children's dual interests without a conflict. **See id.** Accordingly, we vacate the decree involuntarily terminating Mother's parental rights and remand for the court to fulfill its Section 2313(a) duty and determine whether Attorney Newton may represent both Child's legal and best interests. **See Matter of Adoption of S.T.K.**, No. 279 WDA 2023 (Pa.Super. filed Aug. 25, 2023) (unpublished memorandum)⁵ (providing similar remand instructions). Upon remand, the court shall conduct additional proceedings as it sees fit.⁶

Decree vacated. Case remanded with instructions. Jurisdiction is relinquished.

Judgment Entered.

A handwritten signature in cursive script that reads "Benjamin D. Kohler". The signature is written in black ink and is positioned above a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 10/1/2026

⁵ **See** Pa.R.A.P. 126(b) (stating we may rely on unpublished decisions from this Court filed after May 1, 2019 for their persuasive value).

⁶ To the extent Child's preferred outcome differs from her best interests, the court shall appoint separate legal counsel for Child to represent her legal interests. If Child is unable to articulate a preferred outcome in this case, or if, following a hearing, the court determines that Child's best and legal interests do not conflict, the court may decide to reinstate its termination decree, from which Mother may pursue limited issues on appeal. **See Commonwealth v. Lawson**, 789 A.2d 252, 253 (Pa.Super. 2001) (explaining "where a case is remanded to resolve a limited issue, only matters related to the issue on remand may be appealed").