IN THE FAMILY COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES (DSCYF),	§	File No.: **CN25-02085** **25-11-06TN**
Petitioner,	§	Petition Nos.: **25-06634** **25-26077**
v.	§	
C------ G------- AND J---- B----	§	
Respondents.	§	

ORDER

Date Submitted:	January 13, 2026
Date Decided:	February 5, 2026
Date Written Decision Signed:	February 5, 2026
Date Written Decision Mailed:	February 5, 2026

Victoria Witherell, Esquire, Attorney for Petitioner, Department of Services for Children, Youth, and Their Families

Emily Maguire, Esquire, Attorney for Respondent, J---- B----

Megan Mahle, Esquire, Attorney for Respondent, C------ G-------

Roxanne Eastes, Esquire, Child Attorney

In the Interests of: S----- B----, born ----- --, 2025

Newell, C.J.

INTRODUCTION

Pending before the Court is a Petition for Termination and Transfer of Parental Rights ("TPR") filed by the Department of Services for Children, Youth, and Their Families ("DSCYF") against C------ G------- ("Mother") and J---- B---- ("Father") concerning S----- B----, born ----- --, 2025.

The Court held trial on the TPR petition on January 13, 2026. Present for the trial were: Victoria Witherell, Esquire ("Ms. Witherell"), attorney for DSCYF; Father, represented by Emily Maguire, Esquire ("Ms. Maguire"); Megan Mahle, Esquire ("Ms. Mahle"), Mother's attorney; and Roxanne Eastes, Esquire ("Ms. Eastes"), on behalf of S-----. Also present for the hearing were: E--- N----- ("Ms. N-----"), DSCYF treatment worker; A----- B------- ("Ms. B-------"), DSCYF; S----- K------ ("Ms. K------"), Children and Families First ("CFF") foster care team leader; A----- P------ ("Ms. P------"), S-----'s foster mother; W------ K---- ("Mr. K----"), S-----'s foster father; M------- M---------- ("Ms. M----------"), observer from DSCYF; D---- K----- ("Mr. K-----"), New Behavioral Network; and P------ C------- ("Mr. C-------"), Father's probation officer.[1]

Mother failed to appear for the present trial and has not appeared since the Review Hearing held on August 25, 2025. She has failed to appear for the following hearing dates: April 2, 2025, May 6, 2025, June 2, 2025, and November 17, 2025. At the TPR trial, Ms. Mahle represented to the Court that she has been unable to contact Mother. The Court confirmed that Mother was served by publication. DSCYF offered testimony from Ms. N----- and Ms. P------. Ms. Eastes offered testimony from Ms. K------.

[1] Ms. Witherell represented to the Court that Mr. K----- and Mr. C------ were witnesses for DSCYF's case against Father. However, since DSCYF was not going to present a case against Father due to his consent to termination of his parental rights, the Court allowed Ms. Witherell to release Mr. K----- and Mr. C------.

At the outset of the trial, Ms. Maguire stated that she had a discussion with Father about his desire to consent to the termination of his parental rights. The Court recessed to allow Ms. Maguire and Father to confer and execute a written consent. Father submitted his consent to the termination of his parental rights to S----- by and through his counsel, Ms. Maguire. The Court, after a detailed colloquy with Father, accepted his consent as being knowingly, freely, and voluntarily given.

Pre-Trial Motion

Ms. Mahle stated to the Court that she did not receive a witness list from the Petitioner. She made an oral pretrial motion requesting that DSCYF be prevented from calling witnesses, given that DSCYF did not produce a witness list by January 5, 2026, as ordered by this Court on December 22, 2025. The Court allowed the witnesses to testify and informed Ms. Mahle that she could raise any issues of prejudice at the conclusion of the trial. At the conclusion of the trial, Ms. Mahle did not raise any issues of prejudice regarding DSCYF's presentation of its witnesses, despite not having the list in advance.

For the reasons set forth below, the Court **GRANTS** DSCYF's Petition for TPR as to Mother and Father. Pursuant to this Order, the parental rights of Mother and Father are **TERMINATED** and **TRANSFERRED** to DSCYF until S----- is adopted.

PROCEDURAL HISTORY & FACTUAL BACKGROUND

On January 13, 2026, DSCYF offered the Court's prior dependency/neglect orders in this case into evidence as DSCYF Exhibit 1, collectively, without objection. The social report was admitted as DSCYF Exhibit 2, without objection. Pursuant to *Powell v. DSCYF*, the Court reviews these prior orders under a clear and convincing

standard.[2] The certified criminal history of Mother was admitted as DSCYF Exhibit 3, without objection. The certified criminal history of Father was admitted as DSCYF Exhibit 4, without objection. The orders terminating Mother's parental rights involuntarily regarding her other children were admitted as DSCYF Exhibit 5, without objection.[3]

DSCYF became involved after receiving a report that immediately after giving birth to S-----, both Mother and S----- tested positive for marijuana and cocaine, both of which Mother admitted to DSCYF she used on the day of S-----'s birth.

Ex Parte Order

On March 28, 2025, the Court signed an *Ex Parte* Order awarding temporary emergency custody to DSCYF. S----- remained in the hospital due to substance exposure.

Preliminary Protective Hearing

On April 2, 2025, the Court held a Preliminary Protective Hearing. Mother and Father were not present for the hearing. S----- was set to be released from the hospital on March 26, 2025, but was still hospitalized as of April 2, 2025. DSCYF reported that Mother indicated a desire to place S----- for adoption, and Father had a family member who wanted to adopt her. However, Mother did not complete any of the necessary paperwork, meet with a social worker at the hospital, or follow up with DSCYF for support. DSCYF reported that no family had visited S----- in the hospital.

By Order dated April 2, 2025, the Court found probable cause existed to believe that S----- continued to be dependent in the care of Mother and Father, as defined by 10

[2] *Powell v. Dep't of Servs for Child., Youth & Their Fams.*, 963 A.2d 724, 737 (Del. 2008).
[3] Ms. Witherell noted that these orders are the same copies that were admitted in the dependency/neglect case.

Del. C. § 901(8) because DSCYF had limited contact with Mother and no contact with Father. The Court found that it was in S-----'s best interest for custody to remain with DSCYF. The Court also found that DSCYF made reasonable efforts to prevent the unnecessary removal of S----- from the home and to reunify the family. The Court found that DSCYF exercised due diligence to identify and provide notice of S-----'s placement in foster care to all adult relatives, including those suggested by Mother. DSCYF had not identified any relatives who could act as possible placements. The Court ordered DSCYF to identify other possible familial placements for S-----, and prior to the Adjudicatory Hearing.

Adjudicatory Hearing

On May 6, 2025, the Court held an Adjudicatory Hearing. Father appeared for the hearing, but Mother did not. Ms. M-------, the DSCYF investigation worker, reported that Mother has a history of substance abuse. Mother used heroin for ten years but stopped using it seven months before S-----'s birth. Mother began using cocaine seven months before S----- was born. Ms. M------- reviewed a plan of safe care with Mother and had her sign the plan, which was admitted as DSCYF Exhibit 1, without objection. Ms. M------ last spoke with Mother two days before the Preliminary Protective Hearing. During that conversation, Mother indicated that one of Father's relatives wanted to adopt S-----, but she never provided their contact information. Since then, Ms. M------- had contacted Mother six to seven times by text message or call with no response. Ms. M------- explained that DSCYF had not established visitation with Mother because she was unresponsive to communication. Ms. M------- had contact with Father on April 9, 2025.

Ms. M------- stated that Father wanted a paternity test before caring for S-----. Father was incarcerated at the time of this hearing.

DSCYF placed S----- in a foster home on April 11, 2025. Ms. P------ testified that she visited S----- in the hospital every day after she got approval to do so. Ms. P------ testified that at first, she had to give S----- medication for substance exposure, but S----- no longer needed medication. Ms. P------ testified that S----- was scheduled to see an infectious disease doctor at Nemours Children's Hospital ("Nemours") on May 2, 2025, for HIV and Hepatitis C testing. S-----'s next appointment with the infectious disease doctor was in July. She was also scheduled to see a cardiologist at Nemours for her heart murmur. Ms. P------ testified that S----- was beginning to bond with her and Mr. K-----.

Ms. M------- testified that Mother's parental rights in her other three children were involuntarily terminated. The Court took judicial notice of the two prior TPR orders. On April 22, 2025, DSCYF filed a Motion for No Reasonable Efforts stating that Mother's parental rights were involuntarily terminated as to her older children. DSCYF requested that the Court grant its motion and excuse DSCYF from case planning pursuant to 13 *Del. C.* § 1103(d) because the provisions of 13 *Del. C.* § 1103(a)(7) were met. On May 5, 2025, Mother filed a response to DSCYF's motion indicating that she wanted to case plan and opposed the motion.

By Order dated May 14, 2025, the Court found by clear and convincing evidence that Mother's parental rights were involuntarily terminated based on the judicial notice of the prior orders terminating Mother's parental rights in her older children. The Court granted DSCYF's Motion for No Reasonable Efforts and held that DSCYF was not

required to case plan with Mother. The Court found by a preponderance of the evidence that S----- continued to be a dependent child as defined by 10 *Del. C.* § 901(8) because Mother had substance abuse issues and failed to respond to DSCYF, and Father was unable to care for S----- because he was incarcerated. The Court found that it was in S-----'s best interest to remain in the custody of DSCYF. The Court also found that reasonable efforts had been made to prevent the unnecessary removal of S----- from her home. Lastly, the Court found that DSCYF had exercised due diligence to identify and provide notice of S-----'s placement in foster care to all adult grandparents and other adult relatives of S-----, including any other adult relatives suggested by Mother.

Dispositional Hearing

On June 2, 2025, the Court held a Dispositional Hearing. Father appeared for the hearing, but Mother did not. Ms. N----- reported that she continued to have no contact with Mother, and that her last contact was on March 31, 2025, which was two days before the Preliminary Protective Hearing on April 2, 2025. Mother had no visits with S-----. Ms. N----- last met with Father on May 27, 2025. Father remained incarcerated. Ms. N----- testified that once released, DSCYF would arrange visitation for Father. Ms. N----- reviewed the case plan with Father.[4] The mental health element of Father's case plan was removed by an addendum as DSCYF had no concerns about his mental health. Father and DSCYF signed the case plan and addendum, which were admitted as DSCYF Exhibit 1. Father's case plan included the following elements: substance use,

[4] The collective case plans for Father and S----- were incorporated by reference in the Dispositional Order dated June 9, 2025, and were attached as Exhibit "A."

legal system, daily parenting behaviors, basic needs and financial resources, and housing.

Ms. N----- testified that S----- remained in the same placement and there were no concerns. S----- did not attend day care and remained with her foster parents during the day. Ms. N----- reported that S-----'s initial test results for HIV and Hepatitis C were negative. She had an appointment with a cardiologist for a heart murmur on July 3, 2025, and a follow-up appointment with an infectious disease doctor on July 21, 2025. Ms. N----- created a child plan for S-----, which was admitted as DSCYF Exhibit 2, without objection. Father's paternity results indicated that there was a 99.99% probability that he was S-----'s biological father. Father acknowledged that he was S-----'s father and was adjudicated as her biological father. The Court inquired about the status of Father's pending criminal case. Father indicated to the Court that his criminal case was in the pretrial stage.

By Order dated June 9, 2025, the Court found by a preponderance of the evidence that S----- continued to be a dependent child because Mother had substance abuse issues and failed to respond to communications from DSCYF, and Father was unable to care for S----- because he was incarcerated. The Court found that it was in S-----'s best interest to remain in the custody of DSCYF. The Court also found that reasonable efforts had been made to prevent the unnecessary removal of S----- from her home. DSCYF had placed S----- in an appropriate home under the care of Foster Parents. Lastly, the Court found that DSCYF had exercised due diligence to identify and provide notice of S-----'s placement in foster care to all adult grandparents and other adult relatives of S-----, including any other adult relatives suggested by Mother. DSCYF

adequately considered giving preference to an adult relative over a non-related caregiver when determining placement for S-----.

Review Hearing

On August 25, 2025, the Court held a Review Hearing. Mother and Father were present at the hearing. Ms. N----- testified that she continued to have no contact with Mother, as the record reflected that her last contact with her was on March 31, 2025, which was two days before the Preliminary Protective Hearing on April 2, 2025. Ms. N----- testified that DSCYF was excused from case planning with Mother, but Mother could still schedule visitation with S-----. Ms. N----- reported that Mother had no visits with S----- and provided no financial support for her.

Ms. N----- testified that Father was unemployed and homeless. Father was released from incarceration on July 15, 2025. Father pled guilty to second degree burglary and was on level three probation. Ms. N----- testified that Father provided no financial support for S-----. Visitation between Father and S----- had not been established. Father failed to attend an icebreaker meeting scheduled on August 20, 2025. Father last saw S----- at the Dispositional Hearing on June 2, 2025. Mother testified that she was living in ---------- and wanted visitation with S-----. Mother further testified that because she now had “support and somewhere to go,” she was no longer interested in adoption and consenting to termination of her parental rights.

Ms. P------ testified that S-----’s health had improved, and she was meeting all milestones. S----- was cleared by her cardiologist and infectious disease doctors, and she did not need any more follow-ups. Ms. P------ testified that S----- was part of the family and that she had loved S----- since first meeting her in the neonatal intensive care

unit. Ms. P------ reported that S----- went on playdates, had been to the beach, and would start swim lessons.

By Order dated August 28, 2025, the Court found by a preponderance of the evidence that S----- continued to be a dependent child as defined by 10 *Del. C.* § 901(8). Mother had substance abuse issues and failed to respond to communications by DSCYF, and Father was unable to care for S----- because he was recently released from prison and was homeless. The Court found that it was in S-----'s best interest to remain in the custody of DSCYF. The Court also found that reasonable efforts had been made to prevent the unnecessary removal of S----- from her home. Lastly, the Court found that DSCYF had exercised due diligence to identify and provide notice of S-----'s placement in foster care to all adult grandparents and other adult relatives of S-----, including any other adult relatives suggested by Mother. The Court ordered DSCYF to establish a visitation plan with Mother and Father that provided for supervised visitation.

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On September 17, 2025, Ms. Eastes filed a Motion to Change Permanency Plan to TPR/Adoption. The permanency plan at the time was reunification. Ms. Eastes also requested that the Court convert the hearing scheduled for November 17, 2025, to a permanency hearing. Ms. Eastes argued that reunification efforts had been unsuccessful, and that reunification was no longer practicable as a permanency plan. Ms. Eastes argued that Father failed to case plan with DSCYF, and Mother wanted to place S----- for adoption.

On September 29, 2025, Ms. Maguire filed a response to the motion stating that, after numerous attempts, she had been unable to contact Father to ascertain his

position on the motion. Ms. Maguire was therefore unable to take a position on the motion and requested the Court to stay the motion until the November 17, 2025, hearing or further Court Order.

On September 30, 2025, Mother, through her counsel, Ms. Mahle, filed a response objecting to the change in the permanency plan. Mother argued that DSCYF did not attempt to reunify her with S----- and that the parents did not have much time to make strides to address the issues. Mother denied Ms. Eastes's assertion that she wanted to give S----- up for adoption.

On October 13, 2025, Ms. Finamore, DSCYF's attorney at the time, filed an amended response supporting the Motion, stating that DSCYF did not oppose the next hearing being a Permanency Hearing. Further, Ms. Finamore represented that on October 9, 2025, the DSCYF Permanency Planning Committee ("PPC") considered the case and recommended that the permanency plan be changed to TPR/Adoption.

By Order dated October 27, 2025, the Court deferred ruling on the Motion until the Review Hearing on November 17, 2025.

Second Review Hearing

On November 17, 2025, the Court held a second review hearing. Mother and Father failed to appear for the hearing. The Court deferred ruling on the Motion to Change Permanency Plan until the end of the hearing regarding the change of the permanency goal. Mr. C------- testified that Father was on Level III probation with a GPS monitor. Ms. N----- testified that on October 1, 2025, the PPC met and recommended TPR as to both Mother and Father. Father did not attend the meeting.

Ms. N----- testified that Father was unemployed. She was unaware of his housing arrangements, as she was unable to contact him. Father participated in the ice breaker meeting on September 12, 2025, at the CFF office. S-----, S-----'s foster parents, Mother, and Father participated. According to Ms. N-----, Father did not interact much with S-----. Father again met S----- on September 19, 2025, at the CFF office, which was his last visit with her. During the September 12, 2025, visit, Ms. N----- reported that Mother engaged more with S----- than Father, was attentive to S-----, and talked to S-----. Ms. N----- attempted to contact Mother via text and phone on September 15, 2025, and was unsuccessful. Mother did not contact Ms. N-----. Ms. F--------- testified that family time between Mother, Father, and S----- was scheduled every Thursday from 12:30 pm to 1:30 pm at the CFF ---------- location. Of the scheduled family time/visits, Mother and Father attended only two – September 12 and September 19. Ms. N----- testified that no family members had been identified for placement options for S-----. Neither Mother nor Father had provided contact information for persons who could be explored for placement options for S-----.

Ms. P------ testified that she invited Mother and Father to S-----'s swimming lessons and made them aware of S-----'s doctors' appointments. Ms. P------ also invited Mother and Father to visit S----- aside from the scheduled visits. Ms. P------ provided Mother and Father with her phone number and encouraged them to contact her, indicating that she was willing to FaceTime with them or send videos of S-----. Mother never contacted Ms. P------. Father asked Ms. P------ for pictures of S----- the day she gave him her number. After that, Father never contacted Ms. P------ or attended visits, appointments, or lessons. Other than a bag of clothing, Mother and Father had not

contributed physically, financially, or emotionally to S-----'s care. Ms. P------ testified that S----- was healthy. She was up to date medically, and her weight improved since being born prematurely and underweight. Ms. F--------- testified that S-----'s last medical appointment was on October 3, and her next appointment was on December 30, 2025.

Ms. Eastes argued in her Motion to Change Permanency Plan dated September 17, 2025, that changing the permanency plan to TPR/Adoption was in the best interests of S-----. She argued that 13 *Del. C.* § 1103(a)(5) and the child's best interests are the grounds to change Father's permanency plan. Ms. Eastes argued 13 *Del. C.* § 1103(a)(7) as the basis for terminating Mother's parental rights. Ms. Mahle and Ms. Maguire opposed the change in permanency goal. Ms. Witherell indicated that she would file a petition for TPR and argued that the next hearing should be a TPR Hearing. Ms. Eastes supported the next hearing being a TPR hearing, while Ms. Mahle and Ms. Maguire opposed.

By Order dated December 22, 2025, the Court granted the Motion to Change Permanency Plan. The goal was changed to TPR/Adoption with a concurrent goal of reunification. The Court noted that Mother and Father were not prohibited from making good faith efforts to case plan. The Court held that the next hearing would be a TPR Hearing. The Court found by a preponderance of the evidence that S----- continued to be a dependent child as defined by 10 *Del. C.* §901(8) because Mother had substance abuse issues and failed to engage with or respond to communications with DSCYF, and Father failed to communicate with DSCYF, was homeless, and had substance use issues. Additionally, the Court held that S----- would remain in the custody of DSCYF. The Court found that reasonable efforts had been made to prevent the unnecessary

removal of S----- from her home. Lastly, the Court found that DSCYF exercised due diligence to identify and provide notice of S-----'s placement in foster care to all adult grandparents and other adult relatives of S-----, including any other adult relatives suggested by Mother and Father. The Court's prior order, establishing regular supervised visitation with Mother and Father remained in effect. Subsequently, on November 20, 2025, DSCYF filed its Petition to Terminate and Transfer Parental Rights.

TPR Trial

On January 13, 2026, the Court held trial on the TPR Petition. Mother was not present. Father was present and consented to the TPR by and through his counsel, Ms. Maguire. Ms. Maguire confirmed that she reviewed the consent form with Father, and that he signed it in her presence. She also signed a confirmation statement attesting to the above. As previously mentioned, the Court read the appropriate colloquy, to which Father verbally confirmed his consent to the termination of his parental rights of S-----. The Court accepted Father's consent as being knowingly, freely, and voluntarily given, and, at his request, he was excused for the remainder of the hearing. Ms. Maguire remained present for the hearing.

Ms. N----- testified that Mother and Father have not had any visits with S----- since September 19, 2025, nor have they contacted DSCYF to learn about S-----'s well-being. Ms. N----- testified that Mother needed to contact her or the CFF office to have visits with S-----. Ms. N----- gave Mother several ways to contact her, including her phone number, e-mail, and desk number. Ms. N----- reported that Mother did not contact her directly or through anyone else. Further, Ms. N----- testified that neither Mother nor Father sent gifts to S----- nor has offered her financial or emotional support.

Ms. N----- testified that no family members of Mother and Father have served as a placement resource for S-----. Ms. N----- also stated that, to her knowledge, Mother has not established meaningful employment, engaged in any substance abuse programs, or completed a substance abuse program.

Ms. N----- testified that S----- has bonded well with her foster family. The foster parents have taken her to all her doctor's appointments and kept up with her medical needs. Ms. N----- reported that the foster parents have taken S----- on family vacations and enrolled her in swim lessons. Ms. N----- testified that S----- has no community other than that provided by the foster parents.

Ms. P------ testified that S----- is meeting all milestones, crawling, pulling herself up, and has teeth. S----- is forming relationships with her and Mr. K----, their dogs, and family and friends. Specifically, Ms. P------ testified that her aunt is a major figure in the family's life, as she watches S----- while Ms. P------ and Mr. K---- attend court hearings. Further, Ms. P------ testified that S----- has contact with Ms. P------'s mother, father, sister, and cousins, who have children of similar ages to S-----. Moreover, S----- plays with Ms. P------'s friends' children. Ms. P------ testified that S----- has adjusted to these individuals and loves them. Ms. P------ testified that she intended to enroll S----- in survival swim lessons within the next few weeks following the hearing. Ms. P------ reported that S----- is not in daycare, other than going to the ---- daycare for about an hour while she and Mr. K---- work out. S----- interacts with other children at the YMCA and loves being around them. Ms. P------ testified that she has not worked full-time since S----- came into their care, explaining that they wanted to give S----- more stability. Ms. P------ testified that they have taken S----- to every scheduled doctor's appointment,

that S----- is in good health, and that she no longer needs to be followed by several specialists.

Ms. P------ testified that aside from one text message with Father about exchanging pictures of S-----, she has had no further communication with him. Ms. P------ testified that the last time she took S----- to a visit was in September. Neither Mother nor Father nor anyone on their behalf contacted Ms. P------ to inquire about S-----'s well-being. Ms. P------ testified that she did not receive any holiday cards or gifts for S----- on behalf of Mother or Father. Ms. P------ testified that she gave Mother and Father her cell phone number and the date and time of S-----'s swim lessons and medical appointments, but neither attended nor did they call about attendance.

Ms. P------ testified that she and Mr. K---- are interested in adopting S-----. Ms. P------ and Mr. K---- have complied with everything the CFF agency has asked them to do, including completing a CFF program that would enable them to adopt S-----. Ms. P------ testified that CFF approved her and Mr. K---- as an adoptive resource. Lastly, Ms. P------ reported that neither she nor Mr. K---- has any mental health or physical health concerns that would impact their ability to be a resource for S-----.

Ms. K------ testified that she is the CFF foster care team leader and supervised the social worker assigned to the family. She also worked with the family during the social worker's maternity leave for about 12 weeks.

Ms. K------ testified that since the last hearing on November 17, 2025, there have been no scheduled visits with Mother because the worker was unable to contact her. Ms. K------ testified that visits were scheduled weekly. Ms. K------ testified that about 18 visits would have been scheduled since the August 25th Review Hearing. Mother and

Father were made aware during the September 19th visit that visits would take place every Thursday from 12:30 to 1:30. Ms. K------ testified that A----- F--------- ("Ms. F---------"), the assigned social worker, sent Mother a text message on September 19, 2025, informing her that visits would take place every Thursday from 12:30 to 1:30. Ms. F---------- also called Mother twice and left a voicemail on her phone number on September 25, 2025. On November 7th, December 10th, December 30th, and January 2nd, Ms. F--------- attempted to contact Mother, but the calls could not go through due to calling restrictions on Mother's phone. Ms. K------ testified that Ms. F--------- also tried to text Mother on January 7th, but the text did not go through. Ms. K------ testified that Ms. F---------' last contact with Father was September 30th. After that, attempts to reach him were unsuccessful.

Mother underwent a mental health evaluation with Dr. Z------ on January 19, 2016.[5] As a result of the evaluation, she was diagnosed with Adjustment Disorder with Mixed Disturbance of Emotion and Conduct.[6] Dr. Z------ indicated that Mother was experiencing depression and anxiety.[7] Father was diagnosed with Amphetamine-type substance use disorder, mild, on October 2, 2025.[8] The Court's analysis of the evidence and the parties' positions are as follows.

Positions of the Parties

DSCYF argues that there is clear and convincing evidence that it is in S-----'s best interest for the parental rights of Mother to be terminated and transferred to DSCYF on the grounds that Respondent's parental rights over another child have been

[5] DSCYF Exhibit 2, Social Report at 2.
[6] *Id.*
[7] *Id.*
[8] *Id.* at 3.

involuntarily terminated pursuant to 13 *Del. C.* § 1103(a)(7). Further, Father's parental rights of S----- should be terminated because he has consented to the termination.

On behalf of Mother, Ms. Mahle noted that DSCYF must prove by clear and convincing evidence that it would be in S-----'s best interest for Mother's parental rights to be terminated.

On behalf of S-----, Ms. Eastes supported DSCYF's position that it is in S-----'s best interest for parental rights to be terminated based on Father's consent and Mother's prior involuntary terminations of parental rights. Ms. Eastes argued that Mother and Father did not take advantage of the multiple opportunities to engage with the Court, the DSCYF, CFF, and S-----'s foster parents. Ms. Eastes emphasized that, in S-----'s ten months of life, she has seen her parents only twice for a total of two hours.

DISCUSSION

A. Legal Standard for Termination of Parental Rights

The United States Supreme Court has held that a parent's interest in his or her children is one of the "oldest of the fundamental liberty interests recognized by [the] Court."[9] In addition, the Supreme Court has found that so long as a parent is fit, "there will normally be no reason for the State to inject itself into the private realm of the family to further question the ability of that parent to make the best decisions concerning the rearing of that parent's children."[10] Likewise, the Delaware Supreme Court has found

[9] *Troxel v. Granville*, 530 U.S. 57, 65 (2000).

[10] *Id.* at 68-69.

that parental rights are “fundamental liberties” which may not be abrogated absent compelling circumstances.[11]

Although parental rights are important liberty interests, both the United States Supreme Court and the Delaware Supreme Court have acknowledged that the State has the power to limit parental rights to protect a child’s health and welfare.[12] In addition, the federal Adoption and Safe Families Act of 1997 (“ASFA”) emphasizes the importance of child safety and a child’s need for permanency by placing limits on the amount of time in which parents may rehabilitate themselves and assume their parental responsibilities, provided that the State has developed a meaningful case plan for the parents and made reasonable efforts to reunify the family.[13] In accordance with Court rules, a hearing addressing permanency for children in foster care must be “held not later than 12 months from the time the child has ‘entered foster care.’”[14] Further, in cases where reunification with a parent continues to be the permanency plan, the Court shall schedule a review hearing within 90 days.[15] These permanency review hearings must be conducted, at the minimum, every six months following the permanency hearing, as long as the child remains in DSCYF custody.[16]

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[11] *In re Stevens*, 652 A.2d 18, 24 (Del. 1995). *See also Daber v. Div. of Child Protective Srvs.*, 470 A.2d 723, 726 (Del. 1983).

[12] *See Prince v. Massachusetts*, 321 U.S. 158, 166-167 (1944); *In the Matter of Burns,* 519 A.2d 638, 645 (Del. 1986); *See also Daber,* 470 A.2d at 726 (“A society which arrogates to itself the power to intervene and disrupt [the parent-child relationship] can do so only for the most compelling reasons necessary to correct or protect a child from circumstances which directly threaten or affect the minor's physical or emotional health.”).

[13] *In re K.L.T.*, 2001 WL 493113 (Del. Fam. Ct. Jan 22, 2001).

[14] Del. Fam. Ct. Civ. R. 218(a).

[15] Del. Fam. Ct. Civ. R. 218(e).

[16] Del. Fam. Ct. Civ. R. 219.

In Delaware, the statutory standard for terminating parental rights consists of a two-part analysis.[17] First, the Court must be satisfied that one or more of the enumerated statutory grounds set forth in 13 *Del. C.* § 1103(a) has been established.[18] Second, the Court must find that severing the parental ties is in the best interests of the child, as defined by 13 *Del. C.* § 722.[19]

A clear and convincing standard is required for terminating parental rights due to the permanent nature of the proceedings and the importance of the parental rights at stake.[20] The clear and convincing standard requires greater factual certainty than a preponderance of the evidence standard, thereby striking a fair balance between the rights of the parent and the State's legitimate concerns.[21] The Delaware Supreme Court has described the clear and convincing standard of proof as "evidence that 'produces in the mind of the trier of fact an abiding conviction that the truth of [the] factual contentions [is] 'highly probable.'"[22] In addition, clear and convincing evidence "means

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[17] *See Shepherd v. Clemens*, 752 A.2d 533, 536-37 (Del. 2000).

[18] *Id.*; *See also In re Hanks*, 553 A.2d 830, 833 (Del. 1982).

[19] *In re Hanks*, 553 A.2d at 833.

[20] *See Patricia A.F. v. James R.F.,* 451 A.2d 830, 832 (Del. 1982).

[21] *Id.*

[22] *Hudak v. Procek*, 806 A.2d 140, 147 Del. Supr. (2002). Citing *Cerberus Int'l v. Apollo Mgmt.,* 794 A.2d 1141 (Del. Supr. 2002) (quoting *In re Rowe*, 566 A.2d 1001, 1003 (Del.Jud.1989)). *See also Shipman v. Division of Social Services*, 454 A.2d 767, 769 (Del.Fam.Ct.1982) (holding that clear and convincing means the degree of proof that will produce in the mind of the fact-finder "a firm belief or conviction as to allegations sought to be established"), *aff'd*, *Betty J.B. v. Division of Social Services*, 460 A.2d 528 (Del. Supr.1983). Accord 29 Am. Jur.2d Evidence § 157 (1994) (collecting cases); 2 John W. Strong, Mccormick On Evidence § 340 (5th ed. 2001) ("It has been persuasively suggested that [the clear and convincing standard] could be more simply and intelligibly translated to the jury if they were instructed that they must be persuaded that the truth of the contention is 'highly probable.'").

to prove something that is highly probable, reasonably certain, and free from serious doubt."[23]

The Court makes the following findings of fact and conclusions of law under the clear and convincing standard described above.

B. Statutory Grounds for Termination of Parental Rights

Pursuant to 13 *Del. C.* § 1103(a)(7), DSCYF seeks to terminate Mother's parental rights to DSCYF on the grounds of prior involuntary termination.[24] Recent decisions from the Delaware Supreme Court have upheld the Family Court's decisions to terminate parental rights based on prior involuntary termination.[25] Because Mother's parental rights over her other children have been involuntarily terminated on December 19, 2016, and September 10, 2018, by this Court, this ground is established by clear and convincing evidence.

Under 13 *Del. C.* § 1103(a)(1), the Court finds that Father's knowing, free, and voluntary consent to terminate his parental rights in S----- has satisfied the statutory ground for termination of parental rights.[26] Father has not withdrawn his consent pursuant to 13 *Del. C.* § 1106B.[27]

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[23] *Clark v. Clark*, 994 A.2d 744 (Table) *3 (Del. Supr. 2010).

[24] Pursuant to 13 *Del. C.* § 1103(a)(7), "Prior involuntary termination: The respondent's parental rights over another child have been involuntarily terminated."

[25] *See Davis v. DSCYF*, 2025 WL 3554445 (Del. Dec. 11, 2025); *Mitchell v. DSF*, 342 A.3d 295 (Del. 2025); *Schnell v. DSCYF* 338 A.3d 1279 (Del. 2025).

[26] Pursuant to 13 *Del. C.* § 1103(a)(1), the consent of a "parent of the child, or a person or organization holding parental rights over the child desires to relinquish parental rights for the purpose of adoption, and the Court, in its discretion, accepts the consent or the parent has satisfied the requirements under § 907A of Title 16."

[27] 13 *Del. C.* **§** 1106B, "Revocation of consent to termination and transfer of parental right:
(a) A consent may be revoked if any of the following occur:

As such, the Court finds that the statutory grounds for termination are satisfied as to Father under 13 *Del. C.* § 1103(a)(1) and Mother under 13 *Del. C.* § 1103(a)(7).

C. Best Interest of the Child

After concluding that the statutory grounds for termination of parental rights exist, the Court must next determine that termination of Mother's and Father's parental rights is in S-----'s best interests.[28] In reaching its decision, the Court applies the factors set forth in 13 *Del. C.* §722.[29] The Court balances the § 722 factors "in accordance with the

(1) Within 14 days of executing the consent, the parent who executed the consent delivers written notification of revocation to the agency or individual to which the parental rights are to be transferred.
(2) The parent complies with another instruction for revocation which was specifically stated in the consent under § 1106A(b)(2)c. of this title.
(3) The individual who executed the consent and the agency or individual that accepted the consent agree to its revocation."

[28] *See Div. of Family Services v. Hutton*, 765 A.2d 1267, 1271 (Del. 2001).

[29] Pursuant to 13 *Del. C.* § 722:

(a) The Court shall determine the legal custody and residential arrangements for a child in accordance with the best interests of the child. In determining the best interests of the child, the Court shall consider all relevant factors including:
(1) The wishes of the child's parent or parents as to such child's custody and residential arrangements;
(2) The wishes of the child as to such child's custodian or custodians and residential arrangements;
(3) The interaction and interrelationship of the child with such child's parents, grandparents, siblings, persons cohabiting in the relationship of husband and wife with a parent of the child, any other residents of the household or persons who may significantly affect the child's best interests;
(4) The child's adjustment to such child's home, school and community;
(5) The mental and physical health of all individuals involved;
(6) Past and present compliance by both parents with their rights and responsibilities to their child under § 701 of this title;
(7) Evidence of domestic violence as provided for in Chapter 7A of this title; and
(8) The criminal history of any party or any other resident of the household including whether the criminal history contains pleas of guilty or no contest or a conviction of a criminal offense.
(b) The Court shall not presume that a parent, because of such parent's sex, is better qualified than the other parent to act as a joint or sole legal custodian for a child or as the child's primary residential parent, nor shall it consider conduct of a proposed sole or joint custodian or primary residential parent that does not affect such parent's relationship with the child.

factual circumstances presented to the Family Court in each case."[30] In some situations, the weight of one factor will counterbalance the combined weight of the other factors.[31]

Best Interest Analysis – Mother

(1) The wishes of the child's parent or parents as to such child's custody and residential arrangements;

Mother initially expressed a desire to place S----- for adoption shortly after she was born. However, Mother testified at the Review Hearing that she was no longer interested in adoption and consenting to a termination of her parental rights. Despite this testimony, Mother has attended only one out of six scheduled Court hearings, including the TPR trial. Mother has had only two visits with S----- since she was born, and the last was on September 19, 2025. Additionally, Mother has not contacted DSCYF or S-----'s foster parents to inquire about S-----'s well-being since September 19, 2025, despite having their contact information. Therefore, this factor weighs in favor of termination.

(2) The wishes of the child as to such child's custodian or custodians and residential arrangements;

S----- is less than a year old and therefore cannot relay her wishes. The Child Attorney supports termination of parental rights. As such, this factor weighs in favor of termination.

(3) The interaction and interrelationship of the child with such child's parents, grandparents, siblings, persons cohabiting in the relationship of husband and wife with a parent of the child, any other residents of

[30] *Ross v. Ross,* 992 A.2d 1237 (Table) *3 (Del. Supr. 2010).

[31] *Id*., at *3 (citing *Fisher v. Fisher*, 691 A.2d 619, 623 (Del. Supr. 1997)).

the household or persons who may significantly affect the child's best interests;

Mother did not visit S----- in the hospital after she was born, and, as noted above, Mother has had only two visits with S----- since birth and has not seen S----- since the last visit on September 19, 2025. Ms. P------ and Mr. K---- invited Mother to S-----'s swimming lessons and offered visitation and contact outside of the scheduled visits. They also informed Mother of S-----'s doctor's appointments. However, Mother did not attend any of these events, nor did she contact Ms. P------ and Mr. K----. Moreover, S----- has no relationship with any of Mother's relatives. Finally, as reflected in all the Court's orders, Mother never contacted the Department or S-----'s foster parents to learn about the well-being of S----- since her last visit on September 19, 2025. As such, this factor weighs in favor of terminating Mother's parental rights.

(4) The child's adjustment to such child's home, school and community;

Since April 11, 2025, and throughout this case, S----- has been in the same foster home. Ms. P------ and Mr. K---- have expressed their intent to be an adoptive resource for S-----. S----- has bonded with her foster parents, their extended family, their pets, and their friends and their children. S----- is not in daycare, as she is in the home with her foster parents during the day. S----- has adjusted very well to the community in which her foster parents have immersed her. Therefore, this factor weighs in favor of termination.

(5) The mental and physical health of all individuals involved;

Mother completed a mental health evaluation in 2016, which indicated that she was diagnosed with Adjustment Disorder with Mixed Disturbance of Emotion and Conduct. Per the evaluation from 2016, Mother also experienced depression and

anxiety. Additionally, Mother tested positive for marijuana and cocaine at the time of S-----'s birth. Mother has not consistently contacted or been engaged with DSCYF throughout this case. While the Department was excused from case planning with Mother, this Court made it expressly clear that Mother was able to case plan and provide evidence of her ability to care for S-----, if she so chose. The Court did not receive any evidence as to whether Mother has recently completed a mental health evaluation or is engaged in any mental health treatment.

S----- was born substance exposed and had exposure to Hepatitis C and HIV. She also had a heart murmur. Since being placed in foster care, her foster parents have taken her to every scheduled doctor's appointment. S----- has been cleared by her specialty doctors and is currently only seeing her pediatrician. S----- is meeting all of her milestones. Lastly, S-----'s foster parents, Ms. P------ and Mr. K----, do not have any mental health or physical health concerns that would impact their ability to be a resource for S-----. Therefore, this factor weighs in favor of termination.

(6) Past and present compliance by both parents with their rights and responsibilities to their child under §701 of this title;

Mother has never served as S-----'s caregiver. After birth, S----- remained hospitalized before being immediately placed into a foster home on April 11, 2025. Mother's visitation with S----- has been minimal throughout this case. Out of 18 scheduled visits since September 2025, Mother has attended only two visits with S-----. The last time Mother saw S----- was on September 19, 2025. Additionally, Mother never contacted DSCYF about visits thereafter. S----- has never resided with Mother or any of her relatives. Lastly, Mother has never provided any financial support to S-----, other than a bag of clothing. Therefore, this factor weighs in favor of termination.

(7) Evidence of domestic violence as provided for in Chapter 7A of this title; and

The Court did not receive any evidence at the trial under this factor regarding Mother. As such, this factor is neutral.

(8) The criminal history of any party or any other resident of the household including whether the criminal history contains pleas of guilty or no contest or a conviction of a criminal offense.

According to her Delaware certified criminal history, Mother was convicted of seven misdemeanors, including resisting arrest in 2021, possession of drug paraphernalia in 2021, and theft under $1,500 in 2019. Mother also has two pending charges from October 2025, for possession of a controlled or counterfeit substance and possession of drug paraphernalia. Mother has a capias for failure to appear for a case review for both pending charges. This factor weighs in favor of termination.

Best Interest Analysis – Father

As previously stated, the Court found that DSCYF established by clear and convincing evidence that Father consented to the termination of his parental rights to S-----. Before granting the termination, the Court must also find that it is in S-----'s best interest that Father's parental rights are terminated based on § 722 analysis.[32]

(1) The wishes of the child's parent or parents as to such child's custody and residential arrangements;

Father consented knowingly, freely, and voluntarily to the termination of his parental rights of S----- at the beginning of the TPR trial. Father understood that he would no longer have any legal relationship with S-----. Further, Father did not revoke

[32] *See DSCYF/DFS v. G.S., G.J.H.*, 2017 WL 3493857, at *14 (Del. Fam. Ct. May 22, 2017) (although Mother consented to terminate her parental rights, the Court must also find that it is in the child's best interest to terminate a parent's parental rights to the child).

his consent within the statutory 14-day period.[33] Therefore, the Court finds that this factor favors terminating his parental rights in S-----.

(2) The wishes of the child as to such child's custodian or custodians and residential arrangements;

S----- cannot relay her wishes as to her custodial and residential arrangements, as she is less than a year old. Given Father's consent, this factor favors termination of parental rights.

(3) The interaction and interrelationship of the child with such child's parents, grandparents, siblings, persons cohabiting in the relationship of husband and wife with a parent of the child, any other residents of the household or persons who may significantly affect the child's best interests;

Out of 18 scheduled visits, Father has had only attended two visits with S----- and has not seen her since September 19, 2025. During those visits, Father was observed to be less engaged with S----- than Mother. Other than texting S-----'s foster mother one time, between the August and November Review hearings, asking for photos of S-----, Father has not inquired with DSCYF or the foster family regarding S-----'s well-being. Ms. P------ and Mr. K---- invited Mother and Father to attend events and appointments related to S-----. However, Father did not attend any of them. Lastly, S----- has had no interaction with any of Father's relatives. Therefore, this factor weighs in favor of termination.

(4) The child's adjustment to such child's home, school and community;

The Court noted, *supra*, that S----- is well adjusted in her current placement with Ms. P------ and Mr. K----. This factor weighs in favor of terminating Father's parental rights.

[33] 13 *Del. C.* § 1106B(a)(1).

(5) The mental and physical health of all individuals involved;

Father was diagnosed with Amphetamine-type substance use disorder, mild, on October 2, 2025. The Court received no evidence regarding Father's physical health. The Court finds that S----- is doing very well in Ms. P------ and Mr. K----'s care. She is meeting all of her milestones, has been cleared by her specialty doctors, and only sees a pediatrician. Father has not participated in any of S-----'s doctor's appointments. Therefore, the Court weighs this factor in favor of terminating Father's parental rights.

(6) Past and present compliance by both parents with their rights and responsibilities to their child under §701 of this title;

The record does not reflect that Father has been compliant with his rights and responsibilities regarding S-----. Father has never served as S-----'s caregiver and has provided no financial support to her. As noted above, Father has not maintained consistent contact with S-----. Further, Father has not had stable housing or employment throughout these proceedings. As such, this factor weighs toward termination.

(7) Evidence of domestic violence as provided for in Chapter 7A of this title; and

The Court did not receive any evidence at the hearing under this factor regarding Father. This factor is neutral.

(8) The criminal history of any party or any other resident of the household including whether the criminal history contains pleas of guilty or no contest or a conviction of a criminal offense.

According to his Delaware certified criminal history, Father was convicted of three violent felonies: burglary in the second degree in 2025, drug dealing in 2019, and distribution, delivery, or possession of a controlled substance in 2002. He was convicted

of two non-violent felonies, including conspiracy in 2004. He has also been convicted of 34 misdemeanors, including no child restraint in 2019, fugitive from another state in 2025, and possession of a controlled or counterfeit substance in 2012. Father was incarcerated during these proceedings until his release from incarceration on July 15, 2025. Father has been on probation but as of the TPR trial was incarcerated again. Considering the nature and number of Father's convictions and his current incarceration, this factor weighs in favor of terminating Father's parental rights to S-----.

§ 722 Conclusion

The Court finds clear and convincing evidence under § 722 to establish that it is in the best interest of S----- to terminate Mother's and Father's parental rights. Factors (1), (2), (3), (4), (5), (6), and (8) weigh in favor of terminating Mother's parental rights. Factors (1), (2), (3), (4), (5), (6), and (8) weigh in favor of terminating Father's parental rights.

Factor (1) weighs against Mother because she has not engaged with S----- or DSCYF since September 19, 2025, and the Court since the August 25, 2025, Review Hearing. Factor (1) conclusively weighs against Father because he consents to the termination of his parental rights to S-----. On behalf of S-----, Ms. Eastes believes it is in S-----'s best interest to terminate Mother's and Father's parental rights. Thus, factor (2) weighs against Mother and Father. Factor (3) weighs against Mother because Mother has not seen S----- since September 19, 2025, or contacted DSCYF about S-----'s well-being. Factor (3) also favors terminating Father's parental rights.

Factor (4) weighs against Mother and Father because S----- has adjusted well to Ms. P------ and Mr. K----'s home and community. Ms. P------ and Mr. K---- have tended

to all of S-----'s needs since she was placed in their care. Factor (5) favors terminating Mother's and Father's parental rights because S-----'s health has improved since her placement with Ms. P------ and Mr. K----. S----- has been cleared by her specialty doctors, and her health is very good.

Factor (6) weighs against Mother for the above reasons. Mother has never been S-----'s caregiver, has had limited visits with S-----, and has not attempted to contact DSCYF to arrange visitation since September 19, 2025. Factor (6) also weighs against Father because he has never been S-----'s caregiver, has had limited visits with her, and has provided no support to her.

The evidence under factor (8) suggests that both Mother and Father have concerning criminal histories. Mother's criminal convictions include possession of drug paraphernalia and theft under $1,500 in 2019. She also has two pending criminal charges for drug possession. Because S----- was born substance exposed, factor (8) supports a finding that termination of parental rights is in S-----'s best interest as to Mother. Father has numerous criminal convictions on his record, including burglary in the second degree in June 2025 and drug dealing in November 2019. As of the TPR trial, Father was incarcerated. Accordingly, the Court finds that factor (8) weighs against Father.

Based upon the analysis above, the Court finds that it is in S-----'s best interest for Mother's and Father's parental rights to be terminated. Factors (1), (2), (3), (4), (5), (6), and (8) all support a finding that it is in S-----'s best interest for Mother's parental rights to be terminated. Although factor (7) is neutral, that factor is outweighed by the evidence presented under factors (1), (2), (3), (4), (5), (6), and (8).

The Court also finds that it is in S-----'s best interest for the parental rights of Father to be terminated. Factors (1), (2), (3), (4), (5), (6), and (8) all support the Court's decision to terminate his parental rights, and factor (7) is neutral.

CONCLUSION

DSCYF has established clear and convincing evidence that Father's parental rights should be transferred to DSCYF on the grounds stated in 13 *Del. C.* § 1103(a)(1), as Father has consented to the termination of his parental rights regarding S-----.

DSCYF has established clear and convincing evidence that Mother's parental rights should be terminated on the grounds stated in 13 *Del. C.* § 1103(a)(7).

The Court further finds clear and convincing evidence under 13 *Del. C.* § 722 that it is in S-----'s best interest to terminate the parental rights of Mother and Father.

Therefore, the Court **GRANTS** DSCYF's Petition for the Termination and Transfer of Parental Rights. The parental rights of C------ G------- and J---- B---- are **TERMINATED** and/or **TRANSFERRED** to DSYCF until S----- is adopted.

IT IS SO ORDERED.

/ Michael K. Newell /

MICHAEL K. NEWELL, Chief Judge

MKN/md

cc: Victoria Witherell, Esquire (by email)
Megan Mahle, Esquire (by email)
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Date emailed: 2/5/2026