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.: **CN22-05754** **25-02-02TN**
Petitioner,	§	Petition Nos.: **24-04264** **25-02410**
v.	§	
A----- R----- AND J------- M-----	§	
Respondents.	§	

ORDER

Date Submitted:	October 21, 2025
Date Decided:	December 5, 2025
Date Written Decision Signed:	December 5, 2025
Date Written Decision Mailed:	December 5, 2025

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

Emily Maguire, Esquire, Attorney for Respondent, A----- R-----

Vernon Vassallo, Esquire, Attorney for Respondent, J------- M-----

David Holloway, Esquire, Child Attorney

In the Interests of: C----- M-----, born ------- --, 2015
A------ M-----, born --- --, 2018
J--- M-----, born --- --, 2020
J------ M-----, born ------- -, 2021

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 A----- R----- ("Mother") and J------- M----- ("Father") concerning J------ M----- ("J------"), born ------- -, 2021 , J--- M----- ("J---"), born --- --, 2020, A------ M----- ("A------"), born --- --, 2018, and C----- M----- ("C-----"), born ------- --, 2015.

The Court held trial on the TPR Petition on October 21, 2025. Present for the hearing were: Victoria Witherell, Esquire ("Ms. Witherell"), attorney for DSCYF; Mother, represented by Emily Maguire, Esquire ("Ms. Maguire"); Father, represented by Vernon Vassallo, Esquire ("Mr. Vassallo"); David Holloway, Esquire ("Mr. Holloway"), on behalf of the children; and J------- F-------- ("Ms. F--------"), CASA Coordinator. Also present for the hearing were: M------ W------ ("Mr. W------"), Limen House; S------ H---- ("Ms. H---- "), DSCYF treatment worker; J----- R-------- ("Mr. R--------"), Essentials Recovery ("Essentials"); M------- M------- ("Ms. M-------"), DSCYF permanency worker; A----- M----- ("Ms. M-----"), foster parent to C-----, A------, and J---; N----- S----- ("Ms. S-----"), Pressley Ridge; and J------ M---- ("Ms. M----"), Pressley Ridge.

DSCYF offered testimony from Mr. W------, Ms. H----, Mr. R--------, Ms. M-------, Ms. M-----, and Ms. S-----. Mother and Father testified at the proceeding. Mr. Holloway proffered, without objection, about the children's wishes, which were expressed to Ms. F--------. 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 C-----, A------, J---, and J------ are adopted.

PROCEDURAL HISTORY & FACTUAL BACKGROUND

On October 21, 2025, DSCYF offered the Court's prior dependency/neglect orders in this case into evidence as DSCYF's Exhibit 1, collectively, without objection. The social report and its addendum were admitted as DSCYF's Exhibit 2[1], without objection. Pursuant to *Powell v. DSCYF*, the Court reviews these prior orders under a clear and convincing standard.[2] The certified criminal histories of Mother and Father were admitted as DSCYF's Exhibit 3 and 4, respectively, without objection.

DSCYF has had an open treatment case with the family since February 14, 2020, due to a history of physical neglect, emotional neglect, and physical abuse of all four children. Prior to the instant case, the family had twenty-four prior DSCYF investigations and three treatment cases. In the instant case, Ms. H---- testified that there have been nine intakes and five investigations, including a report by the Wilmington Police Department. On February 22, 2024, Ms. H---- met with C----- and A------ at their school, ---------- -------. Ms. H---- noticed a large burn on A------'s chest, measuring approximately seven by five inches. Ms. H---- testified that A------ sustained the burn while cooking noodles without parental supervision. All four children were taken to Nemours Children's Hospital ("Nemours") for an assessment, where the physician confirmed A------'s chest burn. Mother and Father did not seek treatment for the significant, visible burn, which raised concerns of medical neglect.

[1] The original social report dated March 27, 2025, was drafted by the DSCYF permanency worker, M------- M-------. The addendum to the social report was submitted to the Court on October 20, 2025.

[2] Powell v. Dep't of Servs for Child., Youth & Their Fams., 963 A.2d 724, 737 (Del. 2008).

Ex Parte Order

On February 22, 2024, the Court signed an *Ex Parte* Order awarding temporary emergency custody to DSCYF. When the children first came into care, they were placed together in the foster home of Ms. M-----.

Preliminary Protective Hearing

On February 28, 2024, the Court conducted a virtual hearing. Mother and Father were present for the hearing. The Court noted that paternity had not been established, although Father did not dispute paternity. The Court found probable cause to believe that the children were neglected as defined by 10 *Del. C.* § 901(18) because Mother and Father did not follow up on medical appointments and schedule dental appointments for all four children, nor did they ensure that C----- and A------ attended school. Specifically, A------ had a very large burn on his chest, which he sustained while he (age five) and/or C----- (age 8) were cooking noodles unsupervised. J------ was not up to date on immunizations and did not attend multiple well-baby check-ups. Additionally, Ms. H---- testified and noted that all four children were past-due for dental appointments. The Court found that it was in the children's best interests for custody to remain with DSCYF. The Court found that DSCYF exercised due diligence to identify and provide notice of the children's placement to all grandparents and adult relatives. Lastly, the Court ordered that Father, and the children submit to genetic testing to confirm paternity of the children.

Adjudicatory Hearing

On April 9, 2024, the Court held an Adjudicatory Hearing. Mother and Father attended the hearing. Father's paternity was established as to all four children based on

the genetic testing results. By order dated April 18, 2024, the Court found that the children were dependent, neglected, or abused in Mother and Father's care as defined by 10 *Del. C.* § 901(1), (8), and (18), and accepted Father's stipulation to dependency based on inadequate housing. The Court further found that continuing the children's residence in the home and custody of their parents was contrary to their welfare, and that it was in their best interest to remain in the custody of DSCYF. The Court found that DSCYF made reasonable efforts to prevent the unnecessary removal of the children from their home, and that DSCYF had placed the children in an appropriate home under the care of a foster parent. Lastly, the Court determined that DSCYF exercised due diligence to identify and provide notice of the children's placement in foster care to all adult grandparents and other adult relatives of the children, including any other adult relatives suggested by the parents. The Court ordered DSCYF to continue to explore relative placement with Maternal Aunt, Paternal Grandmother, and Maternal Grandmother.

Dispositional Hearing

On May 7, 2024, the Court conducted a Dispositional Hearing, for which Mother and Father appeared. Ms. Witherell presented Mother's unsigned case plan to the Court. Mother acknowledged that she understood the elements and obligations of the case plan. Mother's case plan included the following six elements: (1) Parenting Behaviors and Routines – including being referred by DSCYF to a family interventionist, and Nurturing Parenting Program where she was required to attend six to eight classes, and attend the children's school, medical, and therapeutic appointments as permitted; (2) Legal System – including attending all scheduled court dates and hearings, and not

engaging in any criminal activity or obtaining any new criminal charges that would prevent her from caring for her children; (3) Substance Use – including being referred to a provider for substance abuse evaluation and urine drug screenings, compliance with all elements of treatment as recommended by the provider, and authorizing the provider to communicate with DSCYF regarding her progress; (4) Mental Health Coping Skills – including being referred to Dr. B---------- for a mental health evaluation, completing the evaluation, following any recommended treatments, and authorizing the provider to communicate with DSCYF regarding her progress; (5) Basic Needs and Financial Resources – including obtaining and maintaining employment or some significant source of income sufficient to meet the needs of herself and the children, and working with a family interventionist to apply for any available government benefits; and (6) Children's Educational and Health Needs – including cooperating with DSCYF regarding services that the children may need, such as medical, dental, and educational appointments, in which Mother was encouraged to participate.

Mother stated that she would sign the case plan. However, regarding the parenting element, she stated that she previously completed parenting classes and had certificates of completion. Ms. Witherell argued that regardless of these parenting courses, DSCYF would still ask Mother to participate in the classes assigned by DSCYF. George Tsakataras ("Mr. Tsakataras"), Mother's attorney at the time, requested two weeks to produce the certificates before entering a formal objection to the entry of Mother's case plan. The Court afforded Mr. Tsakataras two weeks from the date of the hearing to enter a formal objection. As of the close of the business day on May 21, 2024, the Court had not received any formal objection from Mr. Tsakataras,

and as such Mother's case plan was admitted into evidence, without objection, and incorporated by reference in the Court's Dispositional Order dated May 23, 2024.

Ms. Witherell presented Father's unsigned case plan to the Court. Father acknowledged that he understood the elements and obligations of the case plan. Father's case plan addressed the following six elements: (1) Parenting Behaviors and Routines – including being referred by DSCYF to a family interventionist, and participating in the Delaware Fatherhood and Family Coalition program known as "24/7 Dad"; (2) Legal System - including attending all scheduled court dates and hearings, and not engaging in any criminal activity or obtaining any new criminal charges that would prevent him from caring for his children; (3) Substance Use - including being referred to a provider for substance abuse evaluation and urine drug screenings, compliance with all elements of treatment as recommended by the provider, and authorizing the provider to communicate with DSCYF regarding his progress; (4) Mental Health Coping Skills - including being referred to Dr. B---------- for a mental health evaluation, completing the evaluation, following any recommended treatments, and authorizing the provider to communicate with DSCYF regarding his progress; (5) Physical Characteristics of the Household - including obtaining and maintaining appropriate housing, sufficient to pass a home assessment, and providing DSCYF with a copy of the lease or rental agreement for said housing; and (6) Children's Educational and Health Needs - including cooperating with DSCYF regarding services the children may need, such as medical, dental, and educational appointments, in which Father was encouraged to participate. Ms. H---- created child plans for each of the children, which

outlined the services that DSCYF would provide for their success.[3] These services pertained to the children's educational, physical, mental, and dental health needs. C-----'s case plan included the following element: attend therapeutic services consistently to address his traumatic experiences. A------'s case plan included the following three elements: (1) have routine childcare and as-needed appointments to address his physical health; (2) have a psychoeducational evaluation completed through the school district to determine his educational and developmental needs; and (3) attend therapeutic services consistently to process his traumatic experiences. J---'s case plan included the following two elements: (1) have routine well-childcare and as-needed appointments to address his oral and physical health; and (2) have a developmental evaluation completed to determine his developmental needs. J------'s case plan included the following two elements: (1) have a routine well-childcare and as-needed appointments to address his physical health; and (2) have a developmental evaluation completed to determine his developmental needs. Regarding the children's placements, C----- and A------ remained with Ms. M-----. On March 18, 2024, J--- and J------ were relocated to the home of C-------- B--- ("Ms. B---"). As of May 1, 2024, J------ was moved from Ms. B---'s home to a foster home located in Smyrna, Delaware, with P------- T----- ("Ms. T-----").

By Order dated May 23, 2024, the Court found by a preponderance of the evidence that C-----, A------, J---, and J------ continued to be dependent children as to both Mother and Father, and it was in their best interests for custody to remain with

[3] The combined child case plans for C-----, A------, J---, and J------ were admitted into evidence, without objection, as DFS Exhibit 2 at the Dispositional Hearing. The case plans were incorporated by reference in the Dispositional order.

DSCYF. The Court also found that DSCYF exerted reasonable efforts to achieve the permanency goal, which was reunification. The Court determined that DSCYF made reasonable efforts to case plan with Mother and Father.

Review Hearing

On August 27, 2024, the Court conducted a Review Hearing. Mother was present for the hearing, but Father failed to appear. Mother was required to complete a parenting course with Children and Families First ("CFF") but failed to engage in the course and instead presented a certificate of completion for a parenting course from 2014. Ms. H---- did not believe that Mother had implemented any of the skills she learned throughout the course. Ms. H---- submitted another referral to a new parenting program, which was "therapeutic based," tailored to an individual participant's needs, and could be completed in eight weeks. Ms. H---- emphasized that mere completion of the program was insufficient, and Mother must implement the skills that she learns. Mother did not attend the children's doctor or dental appointments. However, she did attend A------'s initial appointment for therapeutic services and his Individualized Education Plan ("IEP") meeting. Mother's greatest challenge was responding to providers in a timely manner. The Court made clear that Mother's previous completion of a parenting course ten years ago did not relieve Mother of her obligation to complete a parenting course pursuant to case plan. Mother's visitation with the children was generally consistent. Sometimes, Mother would become frustrated and end the visit early.

The criminal investigation into A------'s burn was still ongoing at the time of the review hearing, though Mother stated that she settled all outstanding charges, and

averred that any criminal matter pending against her was dismissed. Mother was receiving mental health counseling and substance abuse treatment through Henrietta Johnson Medical Center ("Henrietta Johnson"), and signed all necessary consents to allow access to information about her progress. Mother remained unemployed. Mother indicated to Ms. H---- that she had an upcoming appointment with Social Security on September 4, 2024, to obtain benefits based on her bipolar disorder and depression diagnoses. Mother had no other source of income. Mother maintained housing through a Wilmington Housing Authority voucher. Ms. H---- expressed concern about Mother's housing stability, as Mother admitted that her father ("Maternal Grandfather") had substance use issues and was residing in her home. Ms. H---- confirmed that if he continued residing in Mother's home, it would impede Mother's ability to reunify with the children. Further, Maternal Grandfather was an unauthorized occupant, which could jeopardize Mother's housing pursuant to the terms of the Wilmington Housing Authority's housing plan. Mother asked Maternal Grandfather to leave her home by September 15, 2024. Mother confirmed that she and Father were no longer an intact couple, and Father moved out of her home.

Father was referred for parenting courses, but he did not engage in any course. Father was inconsistent with his visits with the children, as he missed three out of the four July visits and missed a visit during the third week of August. Father was referred for a substance use evaluation, but did not follow through, and therefore was ordered to follow up and respond to the provider. While there were no known or identified mental health issues for Father at the time of the Review Hearing, Father had not been referred by DSCYF to Dr. B---------- for a mental health evaluation to confirm whether Father had

mental health issues. Ms. H---- testified that she initiated the referral process, but because it had not been finalized, no official referral for a mental health evaluation had been submitted as to Father. Ms. H---- expected to submit the referral to Dr. B----------. Father maintained employment at ---- making $17.00 per hour. Father had not participated in the children's medical or dental appointments, despite confirming his attendance in advance. Father signed the consent form for A------'s IEP evaluation, but he did not attend the IEP meeting. Lastly, Father was responsive to signing consents for the children to receive services.

Regarding C-----'s mental health, he was attending therapeutic services through Delaware Guidance Services ("Delaware Guidance") in Dover and participated in weekly counseling. He was up to date on all medical appointments. Regarding his dental health, C----- had twelve cavities that were being addressed. C----- was in second grade at ---------- ------- ("----------"). He was referred to the ----- ---- -- ---- program, which provided him with academic oversight. C----- continued to reside with Ms. M-----.

Regarding A------'s dental health, he had five cavities that were recommended for fillings, four sealants, and two extractions. He was referred to Smyrna Pediatric Dentistry for a "baby root canal." He was also referred to an ophthalmologist regarding eye and vision concerns. A------ attended ---------- and was in the first grade. He was evaluated for an IEP, which was implemented at the beginning of the academic year. A----- was classified as having developmental delays, and he was to begin receiving speech services. Regarding A------'s mental health, he was attending weekly therapeutic counseling with Delaware Guidance. A------ continued to reside with Ms. M-----.

J--- was healthy and up to date medically. However, there were concerns about his oral health, and he was referred to the surgery center for tooth extractions. Regarding J---'s child development, he was referred to the Center for Child Development for therapeutic services. He met with a therapist, K------- B------ ("Ms. B------"), on a biweekly basis to address his behavioral and emotional needs. J--- was not currently in school, but he was in the process of receiving a developmental evaluation for preschool in the --------- ------ --------. J--- remained in the foster home of Ms. B---.

J------ was up to date medically and needed a follow up dental appointment to be scheduled. Regarding his child development, he was evaluated for autism, and it was determined that he did not have autism. However, he did have developmental delays. To address the developmental delays, he was referred to the ---------- program for a speech evaluation. J------ made notable progress at daycare since his start in May 2024. He continued to reside with Ms. T----- and M--- C--- ("Mr. C---").

Because both Mother and Father needed to resolve elements of their respective case plans, by Order dated August 30, 2024, the Court found by a preponderance of the evidence that C-----, A------, J---, and J------ continued to be dependent children as to both parents, and that it was in their best interest to remain in the custody of DSCYF. The Court also found that DSCYF had exerted reasonable efforts to achieve the permanency goal, which was reunification. The Court determined that the services provided in the case plans constituted reasonable efforts toward reunification.

Second Review Hearing

On November 19, 2024, the Court held a Second Review Hearing where Mother and Father were present. Mother completed an intake for a parenting course on

November 8, 2024. Mother was assigned D--- M---- (“Ms. M----”) as her family interventionist. Mother initially declined family intervention services, but Mother was interested in working with Ms. M---- after it was discussed that Ms. M---- could help coordinate additional visitation. Mother and Father had weekly supervised visits with the children. Mother was generally consistent attending the visits, though she was sometimes late or cancelled. Since September, Mother and Father were offered twelve one-hour visits, and they attended seven of them. Regarding the legal element of Mother’s case plan, Ms. H---- testified that to her knowledge, the criminal investigation with Wilmington Police Department in relation to the burn on A------’s chest was still ongoing. However, the child attorney stated that the State declined to prosecute the matter. Mother continued to receive mental health counseling and substance abuse treatment through Henrietta Johnson. Mother was prescribed Suboxone, Wellbutrin, Buspirone Hydrochloride, and Seroquel. Mother had biweekly appointments with Dr. O----. DSCYF requested information about Mother’s engagement with her counseling, but Henrietta Johnson was unresponsive.

Mother remained unemployed and was waiting for the results of her Supplemental Security Income (“SSI”) disability income application with the Social Security Administration, while seeking a temporary job. Mother resided in a four-bedroom home, which DSCYF deemed appropriate for children. Mother continued to maintain her housing through a Wilmington Housing Authority voucher, which covered all her housing and utility expenses. Ms. H---- was unaware whether there were unauthorized occupants in Mother’s home, including Maternal Grandfather, which would violate Mother’s lease agreement with the Wilmington Housing Authority, thereby

jeopardizing her housing. Mother was consistently attending the children's virtual appointments. She attended an intake appointment for school-based therapeutic services for C----- and A------. However, Mother failed to participate in J------'s Individual Services Plan ("ISP") meeting. On October 9, 2024, Mother participated in J---'s initial eligibility determination meeting for school-based services through the school district. Mother and Father did not engage with family or individual sessions with A------'s and C-----'s therapist.

Father completed an intake to enroll in parenting classes on November 8, 2024. Father, like Mother, was generally consistent attending the visits. Ms. H---- raised concern about Father's visit on November 6, 2024, because there was a strong odor of marijuana in the hallways and in the room where the family engaged in visitation. Ms. H--- testified that, to her knowledge, the criminal investigation with Wilmington Police Department in relation to the burn on A------'s chest was still ongoing. However, the child attorney stated that the State declined to prosecute the matter. Ms. H---- testified that as of August 16, 2024, Father had pending charges for offensive touching regarding Mother, and a no unlawful contact order was implemented. Regarding Father's substance use, Father declined the substance abuse evaluation with Holistic Evaluations. Another referral for Father was made, but he did not respond to the corresponding intake. On October 8, 2024, a referral was submitted for Essentials Recovery. Father declined this referral because he did not have health insurance and the evaluation cost $200. On October 10, 2024, Father was referred to the Bridge Clinic as they accepted referrals regardless of insurance status. Father had not completed the substance abuse evaluation. Although no mental health issues had been identified for

Father, he completed the mental health evaluation with Dr. B---------- on October 14, 2024, and the results were pending.

Father had not provided Ms. H---- with any pay stubs since August 2024, despite her requesting them. Regarding Father's housing, he was believed to be living with Mother, although he was not on her lease. Father, like Mother, had been attending the children's virtual appointments. Father attended the intake appointment for school-based therapeutic services for C----- and A------, and J------'s ISP meeting. Father provided the necessary consent to move forward with the early intervention services. On October 9, 2024, Father participated in J---'s initial eligibility determination meeting for school-based services through the district.

Regarding C-----'s mental health, C----- received services at Delaware Guidance. He also started receiving school-based therapeutic services with K---- L------ ("Ms. L------"), who specialized in trauma-informed therapy. C----- participated in 37 sessions with Ms. L------. C----- was to begin small group sessions with his peers to learn more socially acceptable behaviors. He was in the second grade at ---------- and received biweekly tutoring services from ----- ---- -- ----. C----- was up to date on medical appointments, and there were no concerns about his vision. Regarding his dental health, he had thirteen cavities. C----- continued to reside with Ms. M-----, where he was adjusting.

Regarding A------'s physical health, he was up to date medically. A------ had an eye appointment at Nemours on October 1, 2024, and he was given a prescription for eyeglasses. A------ did not have glasses yet because of insurance issues. A------'s last dental appointment revealed that he needed three teeth removed, had eight cavities,

and an abscess. A------ had a consultation for surgery on October 25, 2024, and an appointment for fillings on November 11, 2024. A------ was on a waiting list for dental surgery. Regarding A------'s child development, he attended ---------- and was in the first grade. He regularly attended school and only had three unexcused absences. There were no behavioral concerns at school regarding A------, and his participation at school had increased. A------ had an IEP for developmental delays and expressive language disorder. Additionally, he had a low IQ. A------ received speech services and small group interventions. A------ also received biweekly tutoring services from ----- ---- -- ----. He was meeting proficiency in addition and subtraction. In social studies and English, he was progressing towards proficiency. Regarding A------'s mental health, he was receiving services at Delaware Guidance. He also started receiving school-based therapeutic services with Ms. L------. These services included weekly individual sessions with Ms. L------ and group sessions with his peers. On October 10, 2024, A------ had an appointment with the psychology department at Nemours. A------ was diagnosed with adjustment disorder with mixed emotion and conduct. A------ had a follow up psychology appointment on December 5, 2024. A------ remained in the home of Ms. M----- with C---- and was still adjusting to the home.

Regarding J---'s physical health, he was healthy and up to date medically. J--- had oral surgery in September and had caps placed on his teeth. His next dental appointment was a routine cleaning in December. There were no concerns about his vision. Regarding J---'s child development, he was referred to the Center for Child Development for therapeutic services. He met with a therapist, Ms. B------, on a biweekly basis to address his behavioral and emotional needs. J--- was diagnosed with

post-traumatic stress disorder and attention-deficit/hyperactivity disorder. Ms. B------ indicated that J--- was delayed in his social and emotional skills. Ms. B------ worked with J--- on recognizing emotions and facial expressions. Additionally, Ms. B------ worked with J--- on food insecurity as there were reports that J--- would eat out of the trash, was very food driven, and wanted to eat, even when he was full. Lastly, Ms. B------ was working with J--- on how to respond when someone got hurt. J--- started full day pre-K and struggled with inappropriate urination, but this had improved. He remained in the foster home of Ms. B--- and was doing well there.

Regarding J------'s physical health, he was up to date on medical and dental appointments. He had an appointment on October 1, 2024, that noted dental decay in multiple areas and the need for x-rays. On November 1, 2024, he was scheduled for sedation to address these issues. There were no known concerns about his vision. Regarding J------'s child development, he attended daycare and preschool. He received early childhood services at the daycare and took the bus to school for speech services. J------ had an IEP for developmental delays and expressive language disorder. J------ was thriving in daycare and liked to sing, count, and recognize colors and shapes. J------ remained in the care of Ms. T----- and Mr. C---, and he was thriving in his placement.

Due to multiple elements on Mother's and Father's respective case plans being incomplete, by Order dated December 2, 2024, the Court found that C-----, A------, J---, and J------ remained dependent children by a preponderance of the evidence as to both Mother and Father, and that it was in their best interests to remain in the custody of DSCYF. The Court found that DSCYF was making reasonable efforts towards the

permanency plan in effect, which was reunification. The Court also found that the services provided in the case plans constituted reasonable efforts towards reunification.

On January 3, 2025, Mr. Tsakataras withdrew his appearance as court-appointed counsel for Mother, and Ms. Maguire entered her appearance on behalf of Mother.

Third Review Hearing

On February 11, 2025, the Court conducted a Third Review Hearing, and both parents were present. Mother and Father made progress on their case plans, but certain elements were still incomplete. Regarding the parenting element of Mother's case plan, she had two sessions of parenting courses remaining. However, Mother was not engaging with the family interventionist. It was confirmed that the State declined to prosecute the matter regarding the burn on A------'s chest, so the legal system element of Mother's case plan was satisfied. Mother continued to receive mental health and substance abuse treatment at Henrietta Johnson. Between August and November 2024, Mother had several positive drug test results for amphetamines and Methylenedioxymethamphetamine ("MDMA").[4] DSCYF would require a minimum of six consecutive months of negative urine screens before considering unsupervised visitation or reunification. Mother completed a mental health evaluation with Dr. B----------. Based on Dr. B----------'s report, Mother would need to participate in a detox or inpatient program for substance abuse. Mother remained unemployed. She was still waiting on the results of her SSI claim and looking for a temporary job. She continued to reside in a four-bedroom home, which she maintained through a Wilmington Housing

[4] MDMA is a Schedule I substance. Schedule I substances "…are defined as substances with no currently accepted medical use and a high potential for abuse." Nat'l Inst. on Drug Abuse, *MDMA (Ecstasy) Abuse* at 7 (Sept. 2017), https://nida.nih.gov/sites/default/files/1763-mdma-ecstasy-abuse.pdf.

Authority voucher. Ms. H---- testified that the home would not be appropriate for children if Maternal Grandfather was residing there. Ms. H---- reported that for the most part, both parents were attending the children's virtual school appointments. Mother was providing the necessary medical consents for the children. She had access to the Nemours application to see when the children's medical appointments were scheduled, and Pressley Ridge usually alerted Mother to the appointments. However, she only attended one out of six appointments that were scheduled between December 11, 2024, and February 5, 2025; two of the six appointments were surgical appointments, and Mother attended neither surgery DSCYF expected parents to participate in medical appointments so that they were aware of the children's needs. Mother's biggest barriers to reunification were substance abuse, mental health, parenting behaviors and routines, and employment.

DSCYF required Father to complete a parenting course, and he had two sessions remaining. Father's visitation was consistent at that time. Regarding the legal system element of Father's case plan, it was confirmed that the State declined to prosecute the matter regarding the burn on A------'s chest. However, Father's charges for offensive touching regarding Mother remained pending, and the criminal no unlawful contact order remained in place. Additionally, Father had an active warrant for failure to pay traffic-related fines in the Justice of the Peace Court. Father completed a substance abuse evaluation from Brandywine Counseling ("Brandywine"), but DSCYF did not yet have access to the results because Brandywine was unresponsive. Father completed a mental health evaluation on October 14, 2024, with Dr. B----------. DSCYF received the results, but Dr. B---------- was unable to testify at this review hearing. Father was

employed as a caregiver, but he did not provide any paystubs to Ms. H---- confirming his employment. Ms. H---- believed that Father was living with Mother. Lastly, for the most part, Father, like Mother, had been attending the children's virtual appointments. Father's biggest barriers to reunification were parenting behaviors and routines, the legal system, substance abuse, basic needs, and housing.

Regarding C-----'s mental health, he continued to receive school-based therapeutic services with Ms. L------. His coping skills were improving. He was up to date medically and dentally. There were no concerns about his vision. C----- was in second grade at ----------, and he continued to reside with Ms. M-----. He was making positive adjustments in the home.

Regarding A------'s physical health, he was up to date medically. He was given a prescription for glasses, which were ordered, and the insurance issues were resolved. A------ was up to date on his dental appointments. He had dental surgery, and all outstanding dental issues were resolved. Regarding A------'s child development, he continued to attend ---------- and was in the first grade. A------ had an IEP for developmental delays and expressive language disorder. Regarding A------'s mental health, he was receiving school-based therapeutic services with Ms. L------. A------ still lived in the home of Ms. M----- with C-----, and he was still adjusting to the home.

Regarding J---'s well-being, he was struggling with physical aggression, overturning furniture, head banging, eating food out of the trash, and had difficulty sleeping. On January 15, 2025, J--- saw a pediatrician to address these concerns. The pediatrician recommended a low dose of sleeping medication, which was unsuccessful. The pediatrician referred J--- to the psychiatric department for evaluation; he was also

referred to ophthalmology. J--- had a psychiatric appointment scheduled for February 25, 2025. There were no concerns regarding J---'s dental health. There were concerns about J---'s tight hips that caused him to struggle to go up and down stairs. J--- was receiving mental health services at the Center for Child Development. J--- attended weekly therapy sessions with Ms. B------. He was diagnosed with post-traumatic stress disorder and attention-deficit/hyperactivity disorder. Ms. B------ was to begin family sessions with the parents, so they would know how to support J---. J--- would also begin receiving in-home therapy services with Ignacio Bravo for parent child interaction therapy ("PCIT"). J--- attended pre-K at the --------- ----- --------- ------ and had an IEP for developmental delays and speech concerns. J--- was residing in the foster home of Ms. B--- but because of the enumerated challenges, Ms. B--- put in a notice to have J--- removed from the home.

Regarding J------'s physical health, he was up to date on medical and dental appointments. His dental surgery on February 5, 2025 went well. There were no concerns about his vision. Regarding J------'s child development, he attended daycare and preschool. He received early childhood services at the daycare and took the bus to school for speech services. Further, J------ had an ISP for developmental delays and expressive language disorder. J------ was not receiving mental health services. J------ remained in the care of Ms. T----- and Mr. C---, and he was doing well there.

On January 7, 2025, DSCYF filed a Motion to Change the Permanency Plan to Termination of Parental Rights/Adoption. Both Mother and Father filed responses objecting to the change and requested that if the Court granted the Motion, the Court also grant a concurrent goal of reunification. The Court deferred its ruling on the motion

until the Permanency Hearing. By Order dated February 25, 2025, the Court found by a preponderance of the evidence that C-----, A------, J---, and J------ continued to be dependent children as to both Mother and Father, and that it was in their best interests for custody to remain with DSCYF. The Court also found that DSCYF exerted reasonable efforts to achieve the permanency goal, which was reunification. The Court found that the services provided in the case plans constituted reasonable efforts toward reunification.

Permanency Hearing

On April 8, 2025, the Court held a Permanency Hearing, and both parents attended. Unchanged since the Court's February 11, 2025, hearing, Mother continued to have two sessions of parenting classes remaining for completion. Mother was assigned T----- V--- ("Ms. V---") as her family interventionist. However, Mother did not engage with Ms. V--- in a one-on-one setting. Ms. V--- testified that communication with Mother was inconsistent, but Ms. V--- contacted Mother at least once a week. Mother consistently attended the weekly supervised visits with the children and was engaged with them during the visits. Mother, as well as Father, missed team meetings. To satisfy the parenting behaviors and routines element of Mother's case plan, Mother needed to complete her parenting course, demonstrate an understanding of the lessons learned in the course, and work with the family interventionist. The legal system element of Mother's case plan was satisfied.

Mother continued to receive substance abuse treatment through Henrietta Johnson. Mother again tested positive for MDMA on January 18, 2025. Mother's most recent disclosure of MDMA use to Henrietta Johnson was on February 7, 2025. Mother

completed a mental health evaluation with Dr. B----------. Based on her evaluation of Mother, Dr. B---------- opined that the treatment program at Henrietta Johnson was insufficient because it lacked a mental health or therapy component. Dr. B---------- stated that Mother's ongoing substance use could affect her psychological stability, but Mother's psychological issues could not be treated while substance abuse was active. Dr. B---------- testified that substance use affects the ability to diagnose mental health disorders, and that Mother would need six weeks of clean urine screens before a complete mental health diagnosis could be made. Dr. B---------- had concerns about Mother's ability to raise four young children while abusing substances, because it could affect her ability to stay alert, pay attention, and respond appropriately. Dr. B---------- stated that Mother's substance abuse could also impact her impulse and anger control. Dr. B---------- opined that Mother had no insight into the impact her substance use may have on the children. Dr. B---------- testified that Mother needed to participate in a detox or inpatient program for her substance abuse issues and recommended that Mother participate in mental health counseling as part of an intensive substance abuse program. Dr. B---------- opined that Mother should get a psychiatric evaluation after she treated her substance abuse. Ms. V--- gave Mother information on Banyan Treatment Center ("Banyan"), where DSCYF has had success sending parents in the past. This program was 28 days with detox, group therapy, and individual therapy. Mother was prescribed Wellbutrin, Buspirone Hydrochloride, and Seroquel.

Mother remained unemployed. She had a job interview on March 3, 2025, but was never contacted about the position. Mother had not provided DSCYF any documentation of an income or a plan showing how she could support the children.

Mother continued to reside in a four-bedroom home, maintaining it through the housing voucher for no cost. Regarding the children's educational and health needs element of Mother's case plan, Mother missed J------'s last IEP meeting despite the school sending her reminders and requesting her availability. Overall, Mother had missed some appointments for the children. Ms. H---- was not sure how many appointments Mother missed but remembered that Mother did not participate in the teleconference with J------'s speech therapist. Ms. M------- reported that Mother attended A------'s IEP meeting.

DSCYF required Father to complete a parenting course, and he continued to have two sessions remaining. Father was assigned Ms. V--- as his family interventionist. Father did not meet with Ms. V--- one-on-one. Father and Mother continued to have weekly supervised visitations with the children. Father, as well as Mother, missed team meetings scheduled for February 12, 2025, and March 19, 2025. Father's pending charges for offensive touching were resolved. Father completed a substance abuse evaluation at Brandywine Counseling ("Brandywine") in November 2024 and February 28, 2025. However, the results of the evaluation were not obtained as of the date of the Permanency Hearing. No mental health issues had been identified as to Father, and Dr. B---------- opined that Father did not need a referral for a psychiatric evaluation. Based on Dr. B----------'s psychological evaluation she completed for Father on October 14, 2024, Dr. B---------- diagnosed Father with cannabis use disorder, and recommended substance abuse treatment for Father to explore why he used marijuana daily. Dr. B---------- expressed concerns about Father exposing the children to substance abuse and his ability to stay focused and have enough energy to care for the children. Based on a visitation on December 6, 2024, Dr. B---------- observed that Father was very relaxed

and passive, mostly allowing Mother to care for the children and only stepping in when needed. Dr. B---------- reported that when conflict arose between Mother and Father, Father tended to leave. Dr. B---------- raised concerns about Father leaving the children with Mother during conflict when Mother seemed psychologically unstable. Dr. B---------- testified that Father lacked insight into his parenting challenges because he believed he was present and willing to step in for the children; however, Dr. B---------- opined that in reality Father has had extended absences from the children and historically relied on Mother to care for the children.

Father remained employed at ---------- as a caregiver and provided DSCYF with paystubs as recent as April 2, 2025. Regarding housing, Father was believed to be living with Mother. Father needed to obtain his own housing to satisfy this element of his case plan. Like Mother, Father missed some medical and educational appointments for the children. Father was more responsive than Mother, but he did not always follow through. Housing and parenting behaviors were the most important outstanding elements in Father's case plan.

Regarding C-----'s mental health, he continued to attend school-based therapeutic services with Ms. L------. His coping skills were improving. Furthermore, C----- completed an intake at Delaware Guidance to receive additional therapy outside of school. C----- was also to be referred for medication management due to displaying attention deficit hyperactivity disorder ("ADHD") behavior. He was up to date on all medical and dental appointments. C----- continued to attend ---------- and was in the second grade. C----- continued to reside with Ms. M-----. Ms. M----- testified that after visitation with Mother and Father, C----- would tell her that Mother told the children that

they are coming home soon. Further, on one occasion, C----- shared with Ms. M----- that he was told that Father got him a Play Station 5 (“PS5”), but that he could not play with it until he was home.

Regarding A------’s physical health, he was up to date on all medical and dental appointments. He continued to attend ---------- and was in the first grade. A------ had an IEP for developmental delays and expressive language disorder. Regarding A------’s mental health, he was receiving school-based therapeutic services with Ms. L------. A------ completed an intake at Delaware Guidance to receive additional therapy outside of school. He was also being referred for medication management due to displaying ADHD behavior. A------ was still living in the home of Ms. M-----.

Regarding J---’s physical health, he was up to date on medical and dental appointments. He was referred to physical therapy due to concerns about tightness in his legs, but additional treatment was not necessary. J--- was receiving mental health services at the Center for Child Development. J--- attended weekly therapy sessions with Ms. B------. He was diagnosed with post-traumatic stress disorder and ADHD. Ms. B------ testified that J---’s attitude towards Mother and Father had not changed. J--- yelled when the Mother and Father figures were introduced in play therapy, or he showed ambivalence towards these figures. Ms. B------ testified that it was important for J--- to not display dysregulation before placing him with his parents, to avoid retraumatizing him. Ms. B------ opined that it would be helpful for the parents to participate in therapy with J--- before reunification, but J--- was not yet ready for this step. Ms. B------ further testified that J--- had made progress during therapy, such as showing empathetic responses when people got hurt. His language and comprehension

had also improved. J---'s focus on food had decreased, allowing him to ignore food and water while he played. J---'s first resource parent reported to Ms. B------ that he stopped eating food out of the garbage. His current resource parent reported to Ms. B------ that he was sleeping through the night and his behaviors at home were improving. Ms. B----- was unable to continue to provide services to J--- because of his move to the M----- house in Kent County. J--- was moved into the home of Ms. M----- on March 3, 2025, and he was adjusting to the home. There was only positive or neutral feedback about J---'s placement with Ms. M-----.

Regarding J------'s physical health, he was up to date on medical and dental appointments. Regarding J------'s child development, he attended daycare and preschool. J------ received early childhood services at the daycare and took the bus to school for speech services. J------ had an ISP for developmental delays and expressive language disorder. He had completed an intake at Delaware Guidance to receive therapy. J------ was still in the care of Ms. T----- and Mr. C---.

By Order dated April 16, 2025, the Court granted DSCYF's Motion to Change Permanency Plan to Termination of Parental Rights/Adoption, and Mother's and Father's request for a concurrent goal of reunification. The Court recognized that the children had been in DSCYF custody since February 22, 2024, and stressed the importance of permanency for the children. The Court acknowledged that the parents continued to make progress on their case plans. Father was especially close to completing his case plan. While Mother had two months to enroll in a detox substance abuse program, she failed to do so. The Court stressed the importance of Mother following through on this element of her case plan. Based upon the evidence and

testimony presented, the Court found by a preponderance of the evidence that C-----, A-----, J---, and J------ continued to be dependent children as to both Mother and Father, and that it was in their best interests for custody to remain with DSCYF. The Court also found that DSCYF exerted reasonable efforts to achieve the permanency goal, which was reunification, and that the services provided in the case plans constituted reasonable efforts toward reunification.

Post-Permanency Review Hearing

On July 17, 2025, the Court held a Post-Permanency Review Hearing, and both parents attended. Mother completed the parenting course that was required by DSCYF. Mother contacted a new family interventionist. Mother missed two visits with the children in April because she was at Banyan for substance abuse treatment and missed three of four scheduled visits in May. Mother denied missing visitation in May. Mother also missed three of four scheduled visits in June and one visit in July. Mother explained that she missed visitation because of scheduling conflicts with her substance abuse treatment program. Mother emailed Ms. H---- asking to change the visitation time and received a response a week prior to the hearing. Ms. S----- testified that they were able to make a plan that accommodated both parents' schedules. Mother organized and planned activities for the children, brought snacks to the visitation, and showed pictures of family members to the children. The visits were long enough for the children to have one-on-one time with the parents and were mostly happy with some sibling bickering.

The legal element of Mother's case plan remained satisfied.

Mother had a history of substance abuse. Mother reported that in the past, she had used suboxone and Percocet but recently had issues using MDMA. Beginning in

April 2025, Mother began receiving outpatient substance abuse treatment at Essentials, Monday through Friday. She received group and individual therapy, drug screenings, and medication. Prior to receiving treatment at Essentials, Mother was at Banyan for two weeks, but did not complete the outpatient program there, explaining that she could not do therapy or visit with her children on Zoom while she was at Banyan. Mother testified that she had missed two meetings with Essentials near the time of the hearing, due to cramps and accidently taking her sleeping medication. Based on Mr. R--------'s report, Mother missed four meetings at Essentials and tested positive for alcohol. Mother was receiving medication to address her mental health issues at Essentials.

Mother remained unemployed. She planned on finding employment after she finished the program at Essentials. Her last job was at ---------- two years ago. Mother resided in a four-bedroom, two-bathroom home with her 22-year-old son. Mother and seven of her children, including the four in these proceedings, were on the lease. She maintained her housing through a Wilmington Housing Authority voucher, which continued to cover her housing and utility expenses. Mother reported that she does not attend the children's doctors' appointments because she does not get notified of the dates. In April 2025, Mother attended A------'s IEP meeting at school.

Father completed the parenting course. Father missed two visits in April. Father attended a visitation on May 7, 2025, with his mother ("Paternal Grandmother"), but Paternal Grandmother did not stay the entire time. Father also attended visitation on May 14, 2025. Father testified that he did not attend visitation from May 21, 2025, through July 2, 2025, because of scheduling conflicts with his new job. Ms. S----- reported that Father sometimes FaceTimed Paternal Grandmother during visits. Ms. S--

--- stated that J--- particularly enjoyed speaking to Paternal Grandmother. There were no pending legal charges as to Father at this time. Father completed a substance abuse evaluation at Brandywine in November 2024 and February 28, 2025. The mental health element of Father's case plan was satisfied.

Father remained employed at ---------- as a caregiver, earning $15/hour and working 50 hours per week. Father obtained a second job as a truck driver. Father did not have savings because he purchased a car. Father had two other minor children that lived with their mother and his wages were garnished for child support. Regarding housing, Father resided with the individual to whom he provided care and does not pay rent. Father completed a housing application on March 3, 2025, and was on the waiting list. Furthermore, Father testified that he understood that if Mother lived with him, she needed to complete her case plan. Regarding the children's educational and health needs element of Father's case plan, Father received emails regarding the children's appointments, but did not know about their health. Father explained that when DSCYF calls, he listens, but it is difficult for him to remember the information; he further indicated that he knows the children are in therapy, but did not know about their issues.

Regarding C-----'s mental health, he continued to attend school-based therapeutic services with Ms. L------. C----- received therapy outside of school at Delaware Guidance with G--- G----. C----- received medication to manage his ADHD. Moreover, C----- was up to date on medical and dental appointments. He completed the second grade at ---------- and would start third grade in the fall. He was meeting proficiency or making progress towards proficiency in all subjects. C----- continued to reside with Ms. M----- and was doing well in this placement. Ms. M----- testified that

following a recent visit with Mother and Father, C----- stated that he was going to receive an iPhone 16.

Regarding A------'s physical health, he was up to date on all medical and dental appointments. He also received new glasses that cannot be broken. A------ continued to attend ---------- and was going to start second grade in the fall. A------ had an IEP for developmental delays and expressive language disorder, which was accommodating him. He also received speech therapy. A------ participated in the ----- program. A------'s progress report indicated that he was making progress towards proficiency or meeting proficiency in all subjects. Regarding A------'s mental health, he was receiving school-based therapeutic services with Ms. L------. He also attended therapy at Delaware Guidance with J---- M----. A------ received medication to manage his ADHD. A------ lived in the home of Ms. M----- with C----- and J--- and was experiencing issues with bathroom accidents.

Regarding J---'s physical health, he was previously having issues sleeping, but this was resolved via medication prescribed by a psychiatrist. He was diagnosed with post-traumatic stress disorder and ADHD. J--- received mental health services at Journeys Counseling with a mobile outpatient therapist. J--- attended therapy twice a week. Ms. M----- expressed concerns about J---'s compatibility with his therapist. J--- was not listening to his therapist, threw tantrums, and hit the therapist. J--- attended pre-K at the --------- ----- --------- ------ and had an IEP for developmental delays and speech concerns. J--- resided in the home of Ms. M-----, and his transition into the home was difficult as there were increased reports of destruction.

J------ had developmental delays and expressive language disorder. He attended -------- --- --------- -------- ------ and had been referred to permanency services. He remained in the home of Ms. T----- and Mr. C---.

DSCYF made a proffer to the Court that both parents were substantiated at Level III for Medical Neglect for the incident involving A------'s burn. Mother's order was a default order entered on April 22, 2025. No objections were made to the proffer. Ms. Witherell argued that neither parent had completed their case plan, and the children had been in foster care of the Department for a period of one year, and the next hearing should be a Termination of Parental Rights ("TPR") Hearing.[5] Mother and Father objected to the scheduling of the TPR hearing. The Court held that the next hearing would be a TPR hearing. The Court acknowledged that both parents still had outstanding elements in their case plans despite having over a year to case plan. The Court was particularly concerned about Mother's substance abuse and lack of income. Father's biggest barrier was his lack of housing. Additionally, neither the Court nor DSCYF received Father's substance abuse evaluation from Brandywine Counseling, which the Court indicated would be helpful to determine whether Father's marijuana use required treatment or impaired his ability to parent. Further, the Court stressed that it was important for Mother and Father to regularly attend visitation in order to show improvements in parenting skills. Based upon the evidence, by Order dated July 31, 2025, the Court found by a preponderance of the evidence that C-----, A------, J---, and J------ continued to be dependent children as to both Mother and Father and it was in their best interests for custody to remain with DSCYF. The Court found that DSCYF

[5] 13 Del. C. § 1103(a)(5)(a).

exerted reasonable efforts to achieve the permanency goal, which was reunification. The services provided in the case plans constituted reasonable efforts toward reunification and termination of parental rights/adoption. The Court found that DSCYF made reasonable efforts to case plan with Father and Mother.

TPR Trial

On October 21, 2025, the Court held trial on the TPR Petition. Mother was present and contested the TPR petition by and through her counsel, Ms. Maguire. Father was present and contested the TPR petition by and through his counsel, Mr. Vassallo. The Court's analysis of the evidence and the parties' positions are as follows.

Positions of the Parties

DSCYF argued that it is in the children's best interests for the parental rights of Mother and Father to be terminated and transferred to DSCYF on the grounds of failure to plan pursuant to 13 *Del. C*. § 1103(a)(5). DSCYF argued that Mother and Father were given an adequate opportunity to work towards reunification but that both failed to avail themselves of DSCYF services. Although Mother participated in all the hearings in this case, she failed to fulfill the elements of her case plan which has been pending for approximately a year and a half. DSCYF emphasized that the parents have been involved with DSCYF since February 14, 2020, trying to correct the issues in the household. Three of the four children were born substance exposed, and all the children were discovered to have severe dental issues when they were first taken into DSCYF care. Additionally, they had developmental delays that were not being treated. DSCYF argued that these issues have only been addressed since the children came into its custody.

DSCYF avers that they gave Mother at least two family interventionists, who could have helped her complete the elements of her case plan, but the assignments had to close because she was not working with the interventionists. DSCYF argued that Mother failed to engage in visitations with the children. Ms. H---- testified at the TPR trial that the Department made a referral to Grandma's House on July 24, 2025, to increase visits in a home-like setting, for up to four hours per week. These visits would occur in Dover, where the children reside. Mother's referral was accepted, and orientation was scheduled for August 26, 2025. When the family interventionists were involved, they were available to assist Mother with transportation to get Mother to the appointment. The referral to Grandma's House was ultimately closed as of September 12, 2025. If Mother had engaged in the orientation at Grandma's House, DSCYF would have been able to determine whether Mother could handle all four children because the program came with a coach who would give direct feedback on parenting behaviors and routines. Had Mother engaged in the service and shown progress in her interaction with the children, DSCYF would have been able to move towards visits in her home. Mother never "graduated" to that level of care of her children. Furthermore, Mother has not had an in-person visit with the children, who are all ten years old and under, since July 11, 2025. The children have asked to see their parents, but Mother's response was that it was too far to travel and not good for her mental health.

DSCYF argued that Mother has been in treatment programs since she gave birth to substance exposed infants, but she has not managed to maintain sobriety for more than a two-month period. Mother testified that she has been sober since April

2025. However, DSCYF alleged that Mother has only been sober for two months because alcohol interfered with her sobriety.

DSCYF expressed concern about the lack of parental supervision over the children, particularly after A------ sustained a burn while cooking unsupervised; further, neither Mother nor Father sought medical evaluation or treatment for said burn. Mother and Father were substantiated and placed on Level 3 in the Child Protection Registry because of this incident.

Mother ultimately underwent a psychological evaluation with Dr. B----------. According to Dr. B----------, it was difficult to determine the type of treatment Mother needed because she needed to be sober for at least six weeks before an accurate mental health evaluation could be completed. Mother had not been sober for that period of time. DSCYF argued that Mother did not complete the subsequent mental health evaluation once she had been sober for the requisite six weeks. Furthermore, although not stated in her case plan, DSCYF recommended six months of sobriety for unsupervised visits and reunification. Additionally, it has been established that Mother has been diagnosed with bipolar disorder, anxiety, and depression, and that there was no real evidence that these mental health issues were being addressed.

Mother and others have testified that she has consistently maintained stable housing. At the TPR hearing, Mother testified that she is moving to a new house. DSCYF expressed concern that Mother was unable to provide any details regarding the new housing into which she testified she was moving. Lastly, Mother has remained unemployed throughout the duration of this case and has been unable to obtain

disability benefits or any other source of income. DSCYF argued that Mother does not have the financial means to meet the needs of herself and her children.

Lastly, DSCYF noted that neither of the parents did anything for J------'s birthday on ------- -. Mother testified that she did not do anything for J------'s birthday on ------- - because "he's in DFS custody." Ms. S----- testified that neither of the parents contacted her or anyone at Pressley Ridge about doing something special for the boys on their birthdays in -------.

It is DSCYF's position that Father has failed to fulfill the elements of his case plan, which has been pending for almost two years. Father has not visited the children since July 11, 2025, but he was able to maintain telephone contact. DSCYF expressed strong concern that Father is very passive and relegates all parental responsibility to Mother, even when Mother demonstrated inability to parent. When asked about the children's dental issues, Father said he could not take them to the dentist because he was working. He failed to provide the children with services they needed. DSCYF emphasized that Father did not know where the children were in school, does not ask them about their day, what they were learning, or what their grades were. At the TPR trial, when asked about his responsibilities as outlined by the Court, Father testified that he does not pay attention at the court hearings.

Regarding Father's housing, he now pays $300 per month to the person for whom he provides care and does not have stable housing of his own. Father requested a housing voucher through the Wilmington Housing Authority but has been on the waiting list since April. Father is working 72 hours per week for $15.00 per hour, but

DSCYF expressed concern regarding Father's lack of available funds and ability to budget in order to meet the financial needs of himself and his four children.

DSCYF argued that Father has not followed recommendations for substance abuse treatment. At the TPR trial, the parties stipulated that Father attended three sessions at Brandywine counseling, one in November of 2024, one in December of 2024, and February 2025, and that although Father was recommended services, he declined services at that time and has not returned to Brandywine. When questioned why he did not follow recommendations for substance abuse treatment, Father expressed that he did not believe he needed treatment for marijuana use because it was not the reason the children were removed and it did not impact his ability to be employed. Furthermore, at the TPR trial, Ms. H---- testified that Father's urine analysis was positive for amphetamines, and he did not engage in any treatment for this substance. Further, Father admitted that he used an E-pill.[6] When cross-examined by Ms. Witherell about whether he admitted to Brandywine Counseling that he used any drugs other than cannabis, Father testified "I don't recall, but if I did…I took an E-pill because I went to a party."

DSCYF argued that there is evidence of domestic violence between Mother and Father as evidenced by the criminal history. Father has been incarcerated for periods of time during the children's lives. DSCYF argued that he has failed to recognize that his overuse of marijuana, whether legal or not, can still impact one's ability to parent. DSCYF argued that the parents, despite completing a few elements of their case plans,

[6] An "E-pill," commonly referred to as ecstasy or MDMA, is a Schedule I substance under the Controlled Substances Act. US Department of Justice, *MDMA (Ecstasy) Fast Facts* at 1, https://www.justice.gov/archive/ndic/pubs3/3494/3494p.pdf.

are in no better position to be able to care for the children than when the children first came into DSCYF custody.

DSCYF stated that the children are adjusting very well to their current environments, considering improvements in their physical, dental, educational, and mental health. DSCYF argued that all of these factors weigh heavily in favoring terminating the parents' rights.

Mother, through counsel, requested that the petition be denied, and that custody be rescinded to her. Alternatively, she asked for a trial reunification for Mother and Father to show they can care for the children, provided that the children are not placed far from the parents' current residence, and there are no restrictions on transportation. On behalf of Mother, Ms. Maguire argued that Mother was missing some visits prior to July because she was active in treatment, which was a requirement of the case plan. Ms. Maguire stated that Mother was forced to pick between completing the treatment plan and missing the visits with the children, and Mother has made significant progress on her sobriety and will continue to engage in treatment for her substance use. Mother wanted to focus on being sober so she could move onto the next steps in getting the children back. Further, once the visits moved to Dover in July, a hardship was placed on Mother and Father to attend the visits. Mother was unable to obtain transportation, and Father's employment made it difficult to attend visitation. Ms. Maguire argued that, despite these struggles, DSCYF believed that it was not in the children's best interests to move the visits closer to the parents' residence, even though it may have only added an additional fifteen minutes to the drive. Ms. Maguire stated that Mother has consistently maintained that she has been off drugs since about April. Ms. Maguire

argued that, as Mr. R-------- testified, three of Mother's positive urinalysis tests were attributable to alcohol. Mother testified that she only drank on special occasions and drinking was not a habit. Additionally, Mother was willing to continue to work with DSCYF if the children were placed with her.

On behalf of Father, Mr. Vassallo argued that the case comes down to a best interest analysis. He argued that factors (1), (2), and (3) weigh in favor of keeping the family unit intact as Mother, Father, and the children all want to keep the family unit intact. Additionally, moving the visitations to Dover strained the parents' ability to attend and build a bond with the children. Mr. Vassallo stated that Father is employed, willing to make changes, and implement the lessons he had learned in parenting classes. Lastly, Mr. Vassallo contends that there is nothing in Father's criminal history that precludes him from having the children in his care.

Mr. Holloway argued that elements of Mother's case plan were incomplete, even though there has been progress. He argued that Mother completed a program for substance abuse, but there was testimony that she has relapsed with alcohol. It was Mother's position that alcohol did not count, and it was Essential's position that alcohol does count. Mother has not secured employment. Mr. Holloway indicated that while Mother has had stable housing through the Wilmington Housing Authority throughout this case, Mother testified that she is moving in the near future and did not provide DSCYF with a physical address of the new home, and, thus, her housing arrangement was unstable. Mr. Holloway argued that Mother did not complete her case plan elements related to mental health and substance use, as Dr. B---------- recommended a mental health evaluation at a point where Mother had been sober for a period of time,

and the record did not reflect that this had occurred. Regarding Father, Mr. Holloway stated the housing and substance use elements were outstanding on Father's case plan. Specifically, Father was recommended for substance use treatment in his case plan, but Father did not seek or engage with treatment, arguing that it was unnecessary.

Regarding the best interest factors, Mr. Holloway argued that the parent's wishes to have their children returned to them weighs in favor of Mother and Father. Further, while some of the children are very young, Mr. Holloway avers that they have expressed wanting to return to their father, if that was an option, which weighs in favor of Mother and Father. Mr. Holloway argued, however, that the majority of this case falls in the other best interest factors about the mental, physical, and emotional health of everyone involved. He emphasized the lack of dental care the children received when residing with their parents. The children's foster parents have put in significant effort to address the children's dental needs. Further, the children suffer developmental delays that must be addressed. Mr. Holloway contended that these problems were not addressed before, and that they all factor into the mental, emotional, and physical health of the children in this case. Mr. Holloway argued that factor (5) weighs strongly in favor of termination because the parents, while well-intentioned, are very overwhelmed or would have trouble getting to the children's appointments. Father's work has been an impediment to completing the items on his case plan. Mr. Holloway stated that it is not that Father does not care, it is that it does not appear that the children will be able to get everything they need if placed in Mother's and Father's care. Lastly, Mr. Holloway argued that because there have been so many third parties that have been necessarily involved, the evidence is overwhelming that the parents are unable to meet the needs of the children.

Therefore, it is in the children's best interests for Mother's and Father's parental rights to be terminated and transferred to DSCYF.

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."[7] 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."[8] Likewise, the Delaware Supreme Court has found that parental rights are "fundamental liberties" which may not be abrogated absent compelling circumstances.[9]

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.[10] In addition, the federal Adoption and Safe Families Act of 1997 ("ASFA") emphasizes the

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

[8] Id at 68-69.

[9] 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).

[10] *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.")

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.[11] 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.'"[12]

In Delaware, the statutory standard for terminating parental rights consists of a two-part analysis.[13] 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.[14] If the statutory basis is failure to plan adequately for the children's physical needs or mental and emotional health and development, the Court must also find at least one or more of the conditions listed in the statute.[15] The Court must review whether the State developed a meaningful case plan and made reasonable efforts to reunify the family or

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

[12] Fam. Ct. Civ. R. 218.

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

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

[15] 13 Del. C. §1103(a)(5), failure to plan, provides: A child is in DSCYF custody or placed by a licensed agency and the respondent is not able or has failed to plan adequately for the child's physical needs or mental and emotional health and development, and at least 1 of the following conditions are met:
a. The child has been in DSCYF custody or placed by a licensed agency for at least 1 year.
b. The child has been in DSCYF custody or placed by a licensed agency for at least 6 months and the child came into care as an infant.
c. DSCYF previously had custody of the child or another child of the respondent.
d. The respondent has a history of dependency, neglect, abuse, or lack of care of the child or another child.
e. The respondent is incapable of discharging parental responsibilities due to extended or repeated incarceration, but the Court may consider the respondent's postconviction conduct.

avoid out of home placement.[16] Second, if the Court finds a statutory basis for termination of parental rights, then the Court must determine whether severing the parental ties is in the best interests of the child, as that term is defined in 13 Del. C. § 722.[17]

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.[18] 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.[19] 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.'"[20] In addition, clear and convincing evidence "means to prove something that is highly probable, reasonably certain, and free from serious doubt."[21]

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[16] D.F.S. v. N.S. and R.T., 2009 WL 5206720, at *18 (Del. Fam. Ct. Dec 11, 2009).

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

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

[19] Id.

[20] 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.'").

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

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)(5), DSCYF seeks to terminate and transfer the parental rights of Mother and Father to DSCYF on the ground of failure to plan.

1. Failure to Plan – Mother

The Court finds that there is clear and convincing evidence showing that Mother has failed to plan for the physical and mental needs of C-----, A------, J---, and J------, as well as their emotional health and development.[22] Furthermore, the children have been in DSCYF care for a year and eight months as of the date of the hearing,[23] DSCYF has previously had custody of Mother's older children,[24] and Mother has a history of substantiations.[25]

Mother acknowledged that she understood the elements and obligations of the case plan at the Dispositional Hearing. Mother has failed to address the elements of her case plan, which is outlined in the Procedural History and Factual Background section.

Parenting Behaviors and Routines:

Mother completed a parenting course and received a certificate of completion. However, neither DSCYF nor any other party was able to determine whether Mother

[22] 13 Del. C. §1103(a)(5). The Court notes that the statutory ground of failure to plan can be established if the parent(s) "are not able, *or* [emphasis added] have failed, to plan adequately." Here, the Court finds that there is clear and convincing evidence establishing that Mother has failed to plan the children's needs.

[23] 13 Del. C. § §1103(a)(5)(a).

[24] Id. (c).

[25] Id. (d).

utilized skills she learned in the parenting program when interacting with the children, considering that the last in-person session was on July 11, 2025. A family interventionist was assigned to Mother, but services were closed due to Mother not working with them. DSCYF made a referral for Mother to Grandma's House on July 24, 2025, to increase visits in a home-like setting. The referral ultimately closed because Mother failed to engage in the orientation that was scheduled for August 26, 2025. Other than the last in-person visit Mother had with the children on July 11, 2025, Mother requested telephone contact, which took place once or twice. Mother expressed to Ms. H---- and the children over the phone that she was unable to come to Dover for the visits due to the impact on her mental health, which was troubling to the children. These phone calls from Mother to Ms. M-----'s phone were discontinued as a result. It was explained to Mother that the content of the calls was troubling to the children. Mother met with Ms. H--- monthly to obtain her availability for visitations. Initially, the main barrier was her required attendance at substance treatment with Essentials, which occurred Monday through Friday. However, once Mother transitioned to Limen House for substance use treatment, she had Tuesdays and Thursdays available for visits with the children. Mother's availability was provided to Pressley Ridge to assist with coordinating a schedule that would work. Ms. S----- testified that because she had another family visit on Tuesday, she provided Mother with the Thursday time slot. Ms. S----- testified that Mother indicated that she did not want to do the visit unless it was in ---------- or New Castle County. Further, Ms. H---- testified that Mother indicated that she could not come to Dover for the visits due to the negative impact on her mental health. Aside from the IOP treatment, Mother was not engaged in any other type of mental health treatment to

better manage her visits with the children in Dover. Mother indicated that the barrier to having the visits on Tuesdays and Thursdays was that there was too much going on and it had a negative impact on her mental health. However, at this time, she was not caring for the four children, was not working, and had Tuesdays and Thursdays off from substance use treatment at Limen House. Additionally, Mother only sporadically attended the children's school, medical, and therapeutic appointments. This element of the case plan has not been completed.

Legal System:

The legal system element of Mother's case plan was deemed satisfied pursuant to the Post Permanency Hearing Order dated July 31, 2025. However, the Court notes that Mother was substantiated for A------'s burn and received a Level III designation on the Child Protection Registry, which remains for eight years.

Substance Use:

Mr. R--------, Mother's primary therapist for substance abuse at Essentials Recovery, testified that Mother's treatment at Essentials occurred between May 9th until the end of July 2025. He testified that Mother did not successfully complete the program because she was unsuccessfully discharged. Mr. R-------- testified that Essentials offered transportation to and from the services and that there were difficulties in getting Mother to the facility. Mr. R-------- testified he was not sure of the specific reason as to why there were difficulties. He testified that Mother's attendance at the program was insufficient. Mother initially started out in the Partial Hospitalization Program ("PHP"), which was twenty hours of treatment a week. She made progress and met the criteria, and she was stepped down to IOP which was nine to twelve hours of treatment per

week. Mother made progress at the IOP level but was experiencing negative side effects from her prescribed medication. Mr. R-------- testified that Mother had difficulties with group members that resulted in shouting matches, and she displayed a temper at the group sessions.

Mr. R-------- testified that Mother tested positive for alcohol use on May 26, 2025, July 7, 2025, and July 21, 2025 despite being informed during orientation that she needed to abstain from all substances, regardless of a substance's legal status. To address her relapse, a higher level of care was offered, taking her back to PHP, which, as stated above, was twenty hours per week. Mother agreed to attend PHP. However, her conflict with the individual in the group sessions led to her unsuccessful discharge at Essentials. Mr. R-------- testified that a referral was made to Limen House's substance use program, which Mother accepted.

Mr. W------ testified that Mother successfully completed the substance abuse program at Limen House, which was approximately eight weeks starting in August 2025. During that period, Mother had a urinalysis at the intake and periodically through the eight-week cycle. Mr. W------ testified that she did not test positive for any illicit substance or alcohol. Mother also successfully completed intensive outpatient sessions. Mr. W------ testified that Limen House encourages their patients to engage in recovery communities, which are independent of Limen House's services. Mr. W------ testified that Mother was engaged in these programs while she was with Limen House.

DSCYF indicated at the Third Review Hearing that Mother needed to be substance free for a minimum of six consecutive months in order to contemplate unsupervised visits or reunification. However, the record reflects that Mother has only

been sober for about two months. Dr. B---------- testified that Mother needed to be substance free for six consecutive weeks in order to be accurately evaluated for mental health needs, including mental health treatment and coping skills identified in her case plan. While Mother may have been sober for six weeks, she has not been re-evaluated for mental health needs. Given Mother's extensive substance use history including three of the children being born substance exposed, Mother's use of MDMA and alcohol during the course of her case plan, and the incomplete treatment programs, the Court does not find this element of the case plan satisfied.

Mental Health Coping Skills:

Mother was diagnosed with bipolar disorder, depression, and anxiety. As of October 13, 2025, Mother had been engaged in medication treatment and had an appointment with a medication manager. She is currently prescribed 20 milligrams of Prozac and 100 milligrams of Seroquel. At the Permanency Hearing, Dr. B---------- recommended that Mother enroll in a detox substance abuse program with therapy components outside of a brief check in with a medical provider. Mother was expected to follow this recommendation per her case plan. Further, Dr. B---------- opined that Mother should get a psychiatric evaluation after she treats her substance abuse and has remained sober of substances for six consecutive weeks. Ms. H---- was not sure whether Mother has engaged in any type of treatment for her bipolar disorder other than working with Limen House. Mother testified that she completed the mental health evaluation but denied that Dr. B---------- recommended that she receive therapeutic services. Mother testified that she does not remember what Dr. B---------- testified to at the Permanency Hearing. Therefore, Mother has not satisfied this element of her case

plan because the record does not reflect that she has followed Dr. B----------'s recommendations.

Basic Needs and Financial Resources:

Mother has been unemployed throughout the duration of this case. Ms. H---- testified that Mother has not made efforts to find employment. According to Ms. H----, Mother intended to collect child support from Father and file for disability benefits with Social Security. She also expressed a desire to be a YouTube content creator. On cross-examination by Ms. Maguire, Ms. H---- affirmed that Mother expressed that she wanted to work with helping people with addictions. Mother testified that she needs to be clean for a year to work in this field. To Ms. H---- 's knowledge, Mother has not done any of these actions successfully. Ms. H---- testified that Mother applied for Social Security for her disability, which was denied, but Ms. H---- does not know the status of the application. When cross-examined about this element of her case plan, Mother stated that it was never part of the case plan, and it was added towards the end. However, the Court notes that in the Dispositional Order dated May 23, 2024, Mother was required to obtain and maintain employment or some significant source of income that was sufficient to meet the needs of herself and the family under the Basic Needs and Financial Resources element of Mother's case plan. When cross-examined about why Mother has not obtained a job, Mother testified that she is in recovery, taking care of herself, and doing what she needs to do to get her children back. Regarding Mother's Social Security application, Mother testified that she told Ms. H---- that she was going to get Social Security.

Mother resides in subsidized housing through the Wilmington Housing Authority with her adult son, and based on her income, the subsidy covers the entirety of her rent and utility costs. Mother testified that she would soon be relocating to alternative housing, but did not provide DSCYF or the Court with details regarding the location, stability, or adequacy of her new potential housing. Mother has failed to complete the element of her case plan by obtaining and maintaining employment or some significant source of income sufficient to meet the needs of herself and her children.

The Children's Educational and Health Needs:

Mother attended IEP meetings sporadically. Mother has been notified of the children's medical appointments throughout the case. From June 2025 through the TPR trial, Mother has not attended most of the children's dental and medical appointments. Ms. M------- expressed concern that Mother has historically and recently been unable to maintain her own medical appointments, let alone those of her four children. Moreover, Ms. M----- has been attending all the services for the children at their school and does not see the parents at any of these meetings. Lastly, Mother has not participated in any of the mental health meetings for the children.

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Based upon the evidence outlined above, the Court finds clear and convincing evidence that Mother has failed to plan for the children's physical and emotional needs. Although Mother had taken steps towards resolving the parenting element of her case plan with the completion of a parenting class, Mother failed to successfully work with a family interventionist who would have assisted her in completing the elements of her case plan. Mother's visitation has been inconsistent, and she has not seen the children

in person since July 11, 2025. Prior to that visit, Mother missed two visits in April, three of four visits in May, and three of four in June. The Court had previously stressed to Mother the importance of attending visits to allow for the assessment of her parenting skills. Since the July visit, Mother has indicated that distance and her mental health has prevented her from seeing the children.

Regarding substance use, Mother had positive drug test results for MDMA and amphetamines and Mother tested positive for alcohol on three occasions. While Mother completed her substance use treatment at Limen House, which she started in August 2025, she has only been sober for two months out of approximately the past year and a half. Mother was required to complete a subsequent mental health evaluation once she remained sober for six weeks to obtain an accurate mental health diagnosis, but the record does not reflect that Mother has completed said evaluation.

Further, Mother has failed to obtain employment or an alternative source of regular income to support herself and the four children as required in the case plan. While Mother has had stable, subsidized housing through the Wilmington Housing Authority voucher, she is relocating and did not provide DSCYF with the home's address.

Mother has infrequently attended the children's medical, dental, and educational appointments.

In addition to this finding, the statute requires that the Court find clear and convincing evidence that at least one of the conditions in 13 Del. C. § 1103(a)(5) is met. Conditions (a), (c), and (d) have been met.

a. The child has been in DSCYF custody or placed by a licensed agency for at least 1 year.

As of the date of this hearing, C-----, A------, J---, and J------ have been in DSCYF's care for a year and eight months.

b. The child has been in DSCYF custody or placed by a licensed agency for at least 6 months and the child came into care as an infant.

The facts of this case do not apply to this condition because the children were eight, five, three, and two years old when they came into DSCYF custody.

c. DSCYF previously had custody of the child or another child of the respondent.

DSCYF has previously taken custody of Mother's older children.[26] At the Adjudicatory Hearing, Mother testified and recalled that in 2013, the older four children were taken into custody because one of her son's family repeatedly reported her to DSCYF. Ms. H---- also testified that DSCYF has previously taken custody of the older four children for a period of time.

d. The respondent has a history of dependency, neglect, abuse, or lack of care of the child or another child.

In 2013, Mother was substantiated for Other Physical Abuse, Level II with a secondary finding of Emotional Abuse (Mild to Moderate), Level I, and Dependency regarding two of her older children.[27] On January 21, 2015, Mother was substantiated for Physical Neglect (Moderate), Level II and the family was transferred to a treatment

[26] DSCYF Exhibit #2 at 4.
[27] Id.

unit on March 31, 2015.[28] In February 2024, Mother was substantiated for Other Medical Neglect, Level III regarding A------'s chest burn.[29]

e. The respondent is incapable of discharging parental responsibilities due to extended or repeated incarceration, but the Court may consider the respondent's postconviction conduct

The facts of this case do not apply to this condition as to Mother.

* * * * *

The Court finds that DSCYF has established by clear and convincing evidence that three conditions set forth in 13 Del. C. § 1103(a)(5) have been met, even though only one condition would be sufficient. Thus, there is clear and convincing evidence that Mother has failed to plan for C-----'s, A------'s, J---'s, and J------'s needs and that DSCYF has established a statutory ground for terminating her parental rights.

2. Failure to Plan – Father

The Court also finds that DSCYF established by clear and convincing evidence that Father has failed to plan for C-----'s, A------'s, J---'s, and J------'s physical and emotional needs.

Ms. H---- testified at the Dispositional Hearing on May 7, 2024, that she discussed and outlined the areas of Father's case plan with him. Father acknowledged that he understood the elements and obligations of the case plan. The proposed elements were also outlined in DSCYF's testimony at the Dispositional Hearing, at which Father was present.

Parenting Behaviors and Routines:

[28] Id.
[29] Id. at 7.

Father's last in-person visit with the children was on July 11, 2025. Father had the benefit of a family interventionist, and a referral was made to Grandma's House on July 24, 2025. Father did not complete any type of program with the family interventionist. He also did not attend the orientation with Grandma's House. Without Father completing the referral to Grandma's House and engaging in in-person visits with the children, DSCYF could not transition to increased visitation and decreased supervision. Father requested assistance with a bus pass to address his transportation difficulties. However, he never picked up the bus passes from the DSCYF office.

Legal System:

Ms. H---- testified that to her knowledge, Father has no pending charges. The legal system element of Father's case plan was deemed satisfied. However, the Court notes that Father was substantiated for A------s burn and received a Level III designation on the Child Protection Registry.

Substance Use:

Father was required to undergo a substance abuse evaluation and urine drug screenings and to follow any subsequent recommendations. While Father attended three sessions at Brandywine Counseling in November of 2024, December of 2024, and February of 2025, Father declined services that were recommended to him. Ms. H---- testified that he did not engage in any other type of service to address substance abuse concerns. Furthermore, Father admitted to taking an E-pill. Additionally, Ms. H---- testified that without Father engaging in Brandywine Counseling or some other treatment program, DSCYF cannot obtain insight into the level of Father's cannabis use. Therefore, Father has not followed recommendations for substance abuse treatment.

Mental Health Coping Skills:

No mental health issues were identified as to Father but substance abuse treatment was recommended.

Basic Needs and Financial Resources:

Father remains employed as a care giver with ----------. However, Father has not obtained and maintained stable housing of his own, as Father continues to live with his client. Thus, Father has not completed the housing requirement of his case plan.

The Children's Educational and Health Needs:

Father rarely attended any educational or medical appointments during the duration of the case. Father testified that he has not received any information about how to sign up for a portal regarding the children's academics and their behavior reports. Father could not recall where the children went to school. However, in the past court hearings, there was ample evidence of the children's school attendance and educational appointments. Father was aware of the dental decay that the children had when they came into care, but he did not make an appointment to address it. Further, Father was notified of the children's medical appointments, but Ms. M------- testified that from June 2025 until October 21, 2025, Father has attended none of the children's medical and dental appointments.

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Based upon the evidence outlined above, the Court finds clear and convincing evidence that Father has failed to plan for the children's physical and emotional needs. Father has failed to successfully work with a family interventionist. Regarding substance use, Father has not engaged with the recommended treatment. Father continues to lack

appropriate, independent housing for himself and the four children. Father's visitation has been inconsistent, and at the time of trial in late October 2025, he has not seen the children in person since July 11, 2025. Lastly, Father has failed to attend many of the children's medical, dental, and educational appointments.

In addition to this finding, the statute requires that the Court find by clear and convincing evidence that at least one of the conditions listed in 13 Del. C. § 1103(a)(5) is met. Conditions (a) and (d) have been met.

a. The child has been in DSCYF custody or placed by a licensed agency for at least 1 year.

As of the date of this hearing, C-----, A------, J---, and J------ have been in DSCYF's care for a year and eight months.

b. The child has been in DSCYF custody or placed by a licensed agency for at least 6 months and the child came into care as an infant.

The facts of this case do not apply to this condition because the children were ages eight, five, three, and two when they came into DSCYF custody.

c. DSCYF previously had custody of the child or another child of the respondent.

The facts of this case do not apply to this condition as to Father.

d. The respondent has a history of dependency, neglect, abuse, or lack of care of the child or another child.

In February 2024, Father was substantiated for Other Medical Neglect, Level III regarding A------'s chest burn.[30]

[30] DSCYF Exhibit #2 at 7.

e. The respondent is incapable of discharging parental responsibilities due to extended or repeated incarceration, but the Court may consider the respondent's postconviction conduct.

The facts of this case do not apply to this condition as to Father.

* * * * *

In Father's case, the Court finds that DSCYF has established two conditions set forth in 13 Del. C. § 1103(a)(5). Thus, there is clear and convincing evidence that Father has failed to plan for C-----'s, A------'s, J---'s, and J------'s needs and that DSCYF has established a statutory ground for terminating his parental rights.

Condition (a) has been satisfied as C-----, A------, J---, and J------ have been in DSCYF's custody for one year and eight months as of the date of this hearing.

Condition (d) has been satisfied because Father and Mother were substantiated for Other Medical Neglect, Level III regarding A------'s chest burn.

3. Reasonable Efforts for Reunification

Since the Court finds that Mother and Father have failed to adequately plan for the children, the Court must now consider whether DSCYF has made reasonable efforts to reunify them with the children.

In its efforts to assist Mother with reunification, DSCYF provided her with a case plan at the Dispositional Hearing. The case plan was a reasonable plan that sought to address the circumstances which led to DSCYF's custody of the children, including a parenting behaviors and routines component, legal system component, substance abuse component, mental health coping skills component, basic needs and financial resources component, and a children's educational and health needs component.

The Court discussed the steps taken by DSCYF to contact Mother and to provide case planning services in the Procedural History section of this Order. Ms. H---- testified that she frequently went over the elements of the case plan with Mother, and DSCYF provided bus passes to assist her in case planning. The Court also takes judicial notice of its prior Orders in these proceedings[31] in which it consistently found that DSCYF made reasonable efforts to achieve reunification with Mother, which was the permanency goal until the Permanency Hearing. The Court incorporates its prior reasonable efforts findings by reference and once again finds that DSCYF made reasonable efforts to reunify Mother with the children in this case by clear and convincing evidence.

Ms. H---- testified that she reviewed the elements of the case plan with Father that included a parenting behaviors and routines component, legal system component, substance abuse component, mental health coping skills component, basic needs and financial resources component, and a children's educational and health needs component. The Court takes judicial notice of its prior Orders in these proceedings in which it consistently found that DSCYF made reasonable efforts to achieve reunification with Father. Despite numerous efforts by DSCYF, Father has not shown efforts in completing all of the elements of his plan, particularly the substance use element and housing. The Court incorporates its prior reasonable efforts findings by reference and once again finds that DSCYF made reasonable efforts to reunify Father with the children. DSCYF also has an obligation to exert reasonable efforts to identify any fit and

[31] DRE 202(d)(1) directs that a Court may take judicial notice of records of the Court in which the action is pending.

willing relatives to care for the child.[32] Exploring family members for placement is a factor in determining whether DSCYF used reasonable efforts to reunify the family.[33]

At the best interest meeting on February 27, 2024, Mother provided J--------- M----- ("Paternal Grandmother") as a resource for the children. At the Adjudicatory Hearing on April 9, 2024, Ms. H---- testified that DSCYF attempted to locate relatives who could be potential resources for the children. On February 28, 2024, relative notification letters were sent. The first letter was sent to A------, Mother's adult daughter. Ms. H---- had phone contact with her. The second letter was sent to A------ R----- ("Maternal Aunt"), with whom Ms. H---- also had phone contact. Ms. H---- informed Maternal Aunt that her nephews were in foster care and asked whether she would be interested in being a placement resource. Maternal Aunt indicated that she would need to get back to her due to the children's ages. A third letter was sent to Paternal Grandmother, who indicated that she wanted to be a placement resource. The fourth letter was sent to T---- R------- ("Maternal Grandmother"). The extent of the conversation with Maternal Grandmother was a confirmation of receipt of the letter.

At the TPR hearing, Ms. H---- testified that it is an ongoing conversation with Mother to locate potential relatives that might be able to care for the children while Mother works on her sobriety and other elements of her case plan. Ms. H---- testified that Mother has not provided any other additional persons to explore other than those outlined above. When asked about potential relatives, Mother's response was that "Her children are coming home to her." Ms. H---- testified that Maternal Aunt and Maternal

[32] 13 Del. C. § 2511(a)(6).

[33] Del. Fam. Ct. Civ. R. 209

Grandmother did not become suitable options during the time DSCYF has had the case. Ms. H---- testified that no other relatives were identified by Mother as possible resources. The children had occasional contact with Paternal Grandmother. Paternal Grandmother would attend visitation virtually when Mother or Father would call or FaceTime her. Regarding Maternal Aunt and Paternal Grandmother, DSCYF concluded that they did not pass DSCYF's assessment.

Considering that evidence, and in accordance with the Court's findings at previous hearings conducted in this matter, the Court finds by clear and convincing evidence that DSCYF made reasonable efforts to identify relatives of both Mother and Father who were willing and able to care for C-----, A------, J---, and J------.

C. Best Interests of the Child

After concluding that the statutory grounds for termination of parental rights exist, the Court must next determine that the termination is in the children's best interests.[34] In reaching its decision, the Court applies the factors set forth in 13 Del. C. §722.[35] The

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

[35] 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;

Court balances the § 722 factors "in accordance with the factual circumstances presented to the Family Court in each case."[36] In some situations, the weight of one factor will counterbalance the combined weight of the other factors.[37]

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

Mother represented her desire to reunify with C-----, A------, J---, and J------. Father also represented his desire to reunify with the children.

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

The Court did not conduct an interview with C-----, A------, J---, and J------ to ascertain their wishes regarding their custodial and residential arrangements due to their ages, and no such request was made by Mother or Father. However, the Court received evidence regarding the children's wishes from Mr. Holloway and Ms. F--------. Mr. Holloway stated that the children have made comments to Ms. F-------- that they would like to return to their Father, if that was an option.

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

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> (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.

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

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

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

Mother has not served as a primary caregiver to C-----, A------, J---, and J------ since February 2024. Since that time, C-----, A------, and J--- have resided in the foster home of Ms. M-----, while J------ has resided in the foster home of Ms. T----- and Mr. C---. Mother has not been consistent in visiting the children throughout the duration of this case. Her last visit with the children was on July 11, 2025. In the instant hearing, Ms. S------ testified that the boys know that she supervises the visits with Mother and Father and often ask her when the next visit will be. Ms. S----- stated that C----- has been negatively impacted by the lack of in-person visits with his parents since July, while A------ and J--- have not been impacted as much due to their younger age. Most of the phone contact between the parents and the children was with C----- because he is at an age where he can hold a longer conversation with his parents. The children have a relationship with Paternal Grandmother, as she would be called on FaceTime during Mother's and Father's visits with the children.

Ms. M------- testified that Mother purchased drones for the children and told them about them. The children were made to believe that they would not receive the drones until they returned home, and C----- suggested that Mother bring them to the next visit. In the Permanency Order, it was ordered that Mother not make promises to the children about giving them drones for fear it may cause disappointment. Ms. M------- testified that there had been discussions with Mother about this issue in the past. Moreover, C----- was particularly affected when Mother expressed to him that he was too far away to visit. Ms. M----- testified that when Mother expressed this, he went silent and was emotionally upset. C----- cried about this incident. The next day, this incident was the

first thing C----- mentioned to the workers at Pressley Ridge. Mother never sent the drones to Ms. M-----'s home.

Ms. M----- testified that Mother and Father would promise the children toys, but they never sent them to Ms. M-----'s home for the children to enjoy. Further, Mother and Father have never provided any financial support for the children since they have been in foster care. Mother testified that she did not do anything for J------'s birthday on ------- because "he's in DFS custody." Ms. S----- testified that neither of the parents contacted her or anyone at Pressley Ridge about doing something special for the boys on their birthdays in -------. When asked why J------ being in DFS custody stops her from doing something for his birthday, Mother stated "Because it's hard. I can't move how I want. I can't. They're not with me." Ms. M------- testified that the children reported wanting to see their parents in person, but Mother stated that it was too far and would have a negative impact on her mental health.

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

C-----, A------, and J--- reside in the foster home of Ms. M-----, while J------ resides in the foster home of Ms. T----- and Mr. C---. J------ is very happy and comfortable in the home. He is very excited, likes to sing his ABCs, name all the colors in the room, and refers to his foster parents as mommy and daddy. He attends daycare at -------- --- -------- -------- ------ and has an IEP through ------ School District for his expressive language disorder and developmental delays. Ms. T----- and Mr. C--- are working with J------ to address those areas of concern. For instance, they help name things for him and engage in communication with him. Mr. C--- is particularly engaged with J------ during the evening, as Ms. T----- works overnight as a nurse. He engages in age-appropriate

activities through daycare and has friends there. Ms. T----- has two children of her own. J------ has bonded well with the young boy in the home, but not so much with the daughter. Overall, J------ is doing well and is a very sweet boy, according to Ms. M-------.

J--- resides in the M----- household, which is a two-parent household. He has had some troubles maintaining positive behaviors in the home. He responds well to Ms. M-----, but if other adults try to give him direction, he struggles to take direction from them. He has recently exhibited concerning behaviors with smearing feces on the walls. According to Ms. M-------, he struggles with impulsive actions. J--- has been wetting the bed more frequently and started to express some aggression towards the family dog. Other than J--- and his two brothers, there are three other children in the M----- household. J--- attends kindergarten at -------- ----- --------- ------. According to Ms. M-------, he is adapting to the school setting, and she has not received any calls for concern for him. J--- has an IEP, and the last IEP meeting was in April of 2025. Ms. M----- serves as J---'s educational surrogate, which has not changed since the last court hearing. J--- was last seen for a physical in March 2025, and will not be due until March 2026. J--- would not sleep at night and would roam the home in his previous foster home. He has not been in the M----- household for as long as his brothers as he was placed there on March 3rd of 2025. J--- receives his dental care from Smyrna Pediatric Dentistry. During his last dental appointment on September 10, it was discovered that he had an infection in three teeth that were capped, which needed to be removed. Ms. M------- testified that the surgery date was scheduled for the 26th or 28th of October 2025. There were no concerns about J---'s vision. J--- engages in age-appropriate activities and loves to play with his siblings. He also has a tablet he utilizes and enjoys playing on it. Lastly, he has

a Lifebook referral in progress and is being given child specific recruitment through CFF.

A------ is in the M----- household and is comfortable there. He and C----- have been there the longest, so they understand the expectations, structure, and rules of the home. According to Ms. M-------, A------ still struggles with behaviors in the home, as he has caused plumbing and flooding issues and stuffs objects down the toilet. He has also broken his bed frame multiple times by jumping on it. A------ is in second grade at ----- ------ Elementary School. He has an IEP to address his developmental and learning delays. There was a best interest meeting for him on May 14th that supported his transition to the -------- School District. The IEP A------ had was transferred from ----------, where he was receiving mental health supports in the school setting along with small group supports. Ms. M------- explained that they have a sixty-day review process in which they determine what other additional supports would better help A------ adjust in the -------- School District. A------ attends therapy through Delaware Guidance Services and sees J---- M----. Ms. M------- submitted a higher level of care referral through PBH Inc. to help A------ receive more support, such as mobile outpatient therapy or therapeutic support for families, similar to what J--- has. The case has been open, but Ms. M------- testified that she does not believe a worker has been assigned to it yet. A------ sees A---- N---- ("Ms. N----"), who is a nurse practitioner, through Delaware Guidance Services. He was seen June 5th and was prescribed 27 milligrams of Concerta for ADHD management. At a recent appointment, Ms. N---- advised that A------ would benefit from seeing a developmental psychologist or developmental doctor. She believed that A------'s behaviors were associated with poor cognitive processing. Hence,

DSCYF contacted Nemours Children's Health to get an appointment for A------, and he is scheduled for an appointment on January 6th, 2026. DSCYF has had to get him glasses that are sturdier and have a strap, so he does not break them. A------ likes to attend community events, Bible study, and is enrolled in fall soccer.

According to Ms. M-------, C----- is doing well in the M----- household. He has had some inappropriate behavior surrounding lying. Other than that, there have been no major behavioral concerns. C----- tends to parent his younger siblings, telling them what they should or should not do. He is older than the other kids at school and tends to parent them. C----- receives services through ---- ---- ----- -------- ------ for educational supports, which has been helping him. C----- is in third grade, but should be in fifth grade, age wise. There has been discussion about advancing him up a grade level to be with kids his own age. The educational team at -------- School District advised Ms. M------ that they felt that he still needed academic support in the grade level he is currently in, but they would continue to monitor this concern. C----- was in the Talented and Gifted Program ("TAG") at ---------- -------, but Ms. M------- does not believe he has been selected for the TAG program at -------- School District yet, as it is still early in the school year. C----- attends therapy weekly and had an intake evaluation with Ms. N---- and was prescribed another 18 milligrams of Concerta for his ADHD diagnoses. Ms. M------- explained that DSCYF submitted a higher level of care referral for C-----, which has been opened but a therapist has not been assigned yet. C----- likes attending community events, Bible study, and playing sports. He is enrolled in fall basketball.

5. The mental and physical health of all individuals involved;

Mother reports having been diagnosed from bipolar disorder, depression, and anxiety. She is currently prescribed 20 milligrams of Prozac and 100 milligrams of Seroquel. Ms. H---- was not sure whether Mother has engaged in any type of treatment for her bipolar disorder other than working with Limen House. As stated above, Dr. B---------- recommended that a subsequent mental health evaluation be done on Mother after she has been sober of all substances for six weeks. Mother began sobriety as early as August 2025, but as of the TPR trial had not undergone the recommended mental health evaluation. Father completed a mental health evaluation on October 14, 2024, with Dr. B----------. Dr. B---------- opined that Father did not need a referral for a psychiatric evaluation, but did recommend a substance abuse evaluation. The Court did not receive evidence regarding any physical health issues that would affect Mother's and Father's ability to parent.

The Court is mainly concerned with the children's mental and physical health under this factor. The record reflects a significant lack of dental care the children received when residing with their parents, as demonstrated by the acuity and breadth of the dental treatment required once the children came into care, and how much work the foster parents have had put in to address the children's dental problems. Further, the children suffer developmental delays that were not evaluated or addressed when in Mother and Father's care, and which only began to be addressed once the children came into care. At the TPR hearing, Ms. M------- testified that J------ has an expressive language disorder, other developmental delays, and recently had oral surgery to fix the dental issues he came into DSCYF custody with. J------ is up to date on his physical care, is generally healthy, and up to date on appropriate vaccinations. He attends

Smyrna Pediatric Dentistry for his dental care but was referred to the Smile Place for additional dental needs. He had surgery in February of 2025, and had a post-operation visit and was seen in July of 2025 for his routine cleaning. There were no concerns with his dental surgery. Further, there were no concerns regarding his vision. During J---'s last dental appointment on September 10, he had an infection in three teeth that were capped and now need to be removed. J--- was approved for Therapeutic Support for Families ("TSF") and DSCYF requested that the TSF be put in place. J--- is on Clonidine to help with his sleep at bedtime. There have been no real concerns regarding A------'s physical health aside from the recommendation for him to be seen by a developmental doctor. A------ wears glasses and suffers from exotropia and strabismus in his left eye, conditions where the eye is misaligned and turns outward. A------'s last dental appointment was on September 10, 2025, and he will be due within six months for a cleaning. His dental health has been improving since he has been in care. He was seen by Nemours in January of 2025 and will need to be seen again. Lastly, C----- had four cavities at his dental appointment in February 2025, received fillings in March 2025, and needs braces. His last dental appointment was on September 10th, and he will be due for another appointment in six months. C----- is up to date on his physical health and attends Smyrna Pediatric Dentistry. C-----'s vision is checked by his primary care provider and was last seen in May.

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

Mother is not in compliance with her parental rights and responsibilities under this factor. The children have been in DSCYF's custody due to her failure and inability to provide for their welfare with adequate care and nurturing.

Due to the children being in the custody of DSCYF Mother has not served as a primary caregiver since February 22, 2024, when the children were ages eight, five, three, and two, respectively.

Mother's visitation with the children throughout this case has been sporadic, and she has not had in-person contact with them since July 11, 2025. Moreover, phone contact with Mother and the children was discontinued because Mother told the children troubling information about not being able to visit them in person. DSCYF provided Mother with a family interventionist, but Mother failed to engage in services and the assignment had to close because of Mother's lack of involvement. Ms. M----- testified that Mother and Father have never provided any financial support for C-----, A------, and J---, since they entered DSCYF custody.

As stated earlier in this disposition, Mother's referral to Grandma's House to increase visits in a home-like setting ultimately closed because Mother failed to engage in the orientation. Additionally, Mother has failed to consistently attend the children's mental health meetings, IEP meetings, and medical appointments.

Father is also not in compliance with his parental rights and responsibilities under this factor. He has not served as a primary caregiver since February 22, 2024, when the children were eight years old, five years old, three years old, and two years old respectively. Like Mother, his last in-person visit with the children was on July 11, 2025. He asked DSCYF for bus passes to assist with transportation, but he never picked the passes up from the DSCYF office. Father was offered the benefit of a family interventionist, and a referral was made to Grandma's House on July 24, 2025, but Father did not complete any type of program with the family interventionist. Like Mother,

he did not attend the orientation with Grandma's House. Finally, Father has not provided any financial support for the children since they came into DSCYF custody in February 2024 and has not secured adequate housing to care for the children..

7. Evidence of domestic violence as provided for in Chapter 7A of this title;

In August 2024, Father had pending charges for offensive touching against Mother, and a no unlawful contact order was put in place. According to his criminal history, the charges were ultimately dismissed. In addition, Ms. H---- 's testified that, Father did not engage in any type of counseling for domestic violence. The Court did not receive any evidence of domestic violence regarding Mother.

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 has been convicted of twelve misdemeanors, including Criminal Impersonation in 2015, Endangering the Welfare of a Child in 2005, and Failure to Reinstate a License in 2010. To the Court's knowledge, Mother has no pending charges at this time.

According to his Delaware certified criminal history, Father has been convicted of six felonies, including Drug Dealing in 2017 and Possession With Intent to Deliver a Narcotic Schedule II Controlled Substance in 2009. The Court also notes that he has twenty misdemeanors, including Criminal Impersonation in 2015 and Resisting/Hindering a Police Officer in 2008. Father's most recent charge for Offensive Touching was dismissed.

§ 722 Conclusion

The Court finds clear and convincing evidence under § 722 to establish that it is in the best interests of C-----, A------, J---, and J------ to terminate Mother's parental rights. Factors (3), (4), (5), and (6), support a finding that termination of parental rights is in the children's best interests. Although Mother's expressed desire to reunify under factor (1), this factor is outweighed by the evidence under factors (3), (4), (5), and (6). Factors (2) and (7), are neutral in the analysis. While Mother has no recent criminal history she was convicted of Endangering the Welfare of a Child in 2005 and therefore Factor (8) weighs against Mother. Mother has had a significant history with DFS. Moreover, Mother has had over a year and a half to demonstrate her ability to care for the children and has failed to do so in this Court's eyes.

Further, the Court finds clear and convincing evidence under § 722 to establish that it is in the best interests of the children to terminate Father's parental rights. Although Father's expressed desire to reunify under factor (1) and the children's desires to reunify with him under factor (2), factors (3), (4), (5), (6), and (7) support a finding that termination of parental rights is in the children's best interests. Factor (8) is relevant due to the serious nature of his convictions but the Court does not afford it the same weight as the other factors due to the passage of time since his last conviction.

Factor (1) supports Mother's position considering her expressed desire to reunify with the children. However, despite that contention, the Court notes that she did not take adequate steps to achieve reunification in the one year and eight months that the children have been in DSCYF's custody, as of the date of the hearing. Further, while Mother desires to reunify with the children, she has not complied with her case plan

elements which would have enabled her to do so and failed to engage in visits with the children over the three month period prior to trial.

Similarly, factor (1) supports Father's position considering his desire to reunify with the children. However, despite this contention, the Court notes that he did not take adequate steps to achieve reunification in the one year and eight months the children have been in DSCYF's custody, as of the date of this hearing.

The Court did not conduct an interview with either child to determine their wishes regarding custodial and residential arrangements due to their young ages, and no such request was made. However, Mr. Holloway represented what the children have said to Ms. F-------- as part of the children's wishes, which is that they want to be reunified with Father. Thus, factor (2) is neutral in this analysis as to Mother. Factor (2) supports Father's position to reunify with the children because the children have expressed to the CASA that they want to be returned to him, if possible. However, due to the children's ages the Court affords this factor little weight.

Under factor (3), the evidence suggests that the children want their parents to visit them. However, Mother's visitation with the children throughout this case has been inconsistent, and Mother has missed several scheduled visitations this year. Additionally, the children have not had any in-person contact with Mother since July 11, 2025, when phone contact was stopped. The evidence suggests there was a negative impact on C----- from his parents not visiting him in person. Throughout this case, Mother and Father have promised the children new toys and gifts if they return home. It was court-ordered that Mother and Father must not entice the children to come home with gifts. The children had some contact with Maternal Grandmother, who was

sometimes on FaceTime during the parents' visits. The evidence further suggests that no additional biological relatives, including Paternal Grandmother, Maternal Grandmother, and Maternal Aunt have exercised consistent visitation with the children that would have led to a meaningful bond with them.

Like Mother, Father's visitation with the children throughout this case has been inconsistent. He has not had any in-person contact with the children since July 11, 2025. For these reasons, the Court finds that factor (3) supports a finding that it is in the children's best interests to terminate Mother's and Father's parental rights as to C-----, A------, J---, and J------.

The evidence under factor (4) suggests that the children have adjusted very well to their foster homes, school, and community. DSCYF testified that J------ is very happy in his foster home and is getting help for his expressive language disorder and developmental delays at ------ School District. He refers to the foster parents as mommy and daddy. J--- is adapting well to the school setting and takes direction well from Ms. M-----. A------ is comfortable in the M----- household and likes attending community events. C----- is also doing well in the M----- household, there are no major behavioral concerns for him, and he likes attending community events. For those reasons, the Court finds that the evidence under factor (4) supports a finding that termination of parental rights is in the children's best interests as to Mother and Father.

The Court notes that Mother does not have any physical health issues that would affect her ability to parent the children under factor (5). However, Mother was diagnosed with bipolar disorder, depression, and anxiety. Mother was previously prescribed medications and was recommended to undergo a mental health evaluation with Dr. B----

------, subsequent to receiving substance use treatment and remaining substance free for at least six weeks, which has not occurred. Moreover, Mother indicated that visiting her children could have a negative impact on her mental health and therefore did not visit. The Court notes that Father does not have any physical or mental health issues that would affect his ability to parent the children under factor (5).

As discussed, DSCYF has concerns about the children's physical and mental health. The Court made a finding of medical neglect on the part of the parents at the Adjudicatory hearing due to the lack of dental care, A------'s chest burn, and the failure of the parents to provide appropriate medical care for him. While in the care of Mother and Father, the children had significant mental health issues that surfaced when they came into care. Admittedly, the children's physical, mental, and dental health is improving, largely due to the care provided by their foster parents. The Court finds that Mother and Father cannot manage the appointments needed for their ongoing health needs if custody is rescinded to them. Therefore, factor (5) weighs in favor of DSCYF's request for TPR in the best interest analysis as to both Mother and Father.

Neither Mother nor Father is in compliance with their parental rights and responsibilities under factor (6). C-----, A------, J---, and J------ are in the custody of DSCYF due to Mother's failure and inability to provide for the children's welfare with adequate care and nurturing. Further, as discussed above, Mother has failed to complete her entire case plan for reunification that has been pending for a year and eight months. As previously mentioned, Mother has never provided any financial support for the children since they have been in DSCYF custody. She has not obtained a job. She has also been inconsistent in her visitations with the children throughout the

case and has not seen the children since July 11, 2025. Even though the children are in DSCYF custody, Mother has failed to attend their medical appointments on a consistent basis.

Father has also failed to display appropriate efforts in completing his case plan. Aside from the completion of a parenting class and maintaining employment, Father has failed to obtain and maintain appropriate housing of his own, failed to work with the family interventionist, declined substance use services recommended to him, and has not consistently attended the children's medical, dental, and educational appointments. Ms. M----- testified that Father has never provided any financial support for the children since they have been in DSCYF custody. For those reasons, factor (6) supports a finding that it is in the children's best interests for Mother's and Father's parental rights to be terminated.

The Court considers the evidence of domestic violence regarding Father against Mother under factor (7). Father had pending charges for offensive touching regarding Mother although they were dismissed. Father did not engage in any type of counseling for domestic violence issues. Therefore, factor (7) weighs in favor of DSCYF's request for TPR in the best interest analysis as to Father. There is no evidence of domestic violence with respect to Mother against Father under factor (7). Accordingly, the Court finds factor (7) to be a neutral factor in the best interest analysis regarding Mother.

The evidence under factor (8) suggests that both Mother and Father have criminal histories. Mother's criminal convictions include criminal impersonation, endangering the welfare of a child, and failure to reinstate a license. Although Father has a criminal history, his most recent conviction was in 2017 for Drug Dealing and his

charge for Offensive Touching was dismissed. Accordingly, the Court finds that factor (8) is relevant but not a controlling factor as to both Mother and Father.

Based upon this Court's analysis and the findings of fact and conclusions of law set forth herein, the Court finds that it is in the best interests of C-----, A------, J--- and J---- to terminate both Mother's and Father's parental rights.

CONCLUSION

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)(5) (failure to plan), and that DSCYF has made reasonable efforts to reunify Mother with C-----, A------, J---, and J------.

DSCYF has also established by clear and convincing evidence that Father's parental rights should be terminated on the grounds stated in 13 Del. C. § 1103(a)(5) (failure to plan), and that DSCYF has made reasonable efforts to reunify Father with C-----, A------, J---, and J------.

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

Therefore, the Court **GRANTS** DSCYF's Petition for the Termination and Transfer of Parental Rights. The parental rights of A----- R----- and J------- M----- are **TERMINATED** and/or **TRANSFERRED** to DSCYF until the children are adopted.

IT IS SO ORDERED.

/ Michael K. Newell /

MICHAEL K. NEWELL, Chief Judge

MKN/md

cc: Victoria Witherell, Esquire
S------ H----, DSCYF
Vernon Vassallo, Esquire
David Holloway, Esquire
J------- F--------, CASA Coordinator
Emily Maguire, Esquire

Date emailed: 12/5/2025