Volume 13 Issue 37
Originally issued as A6



Global Journal of human social science
Arts & Humanities
Volume 13 Issue 6 Version 1.0 Year 2013
Type: Double Blind Peer Reviewed International Research Journal
Publisher: Global Journals Inc. (USA)
Online ISSN: 2249-460X & Print ISSN: 0975-587X

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GJHSS-A Classification : FOR Code: 220104



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I. Introduction

At common law, rights resulted in reciprocal duties; consequently, the loss of rights simultaneously resulted in the loss of the duties arising from those rights (Foss v. Hartwellat 412, 1897; cited in Cimini at 30, 2009;State v. Dyerat 720, 1953;cited inEx parte M.D.C. at 1134, 2009) (Murdock, J. dissenting), support of children ("Support of children in the absence of provision therefore in degree awarding custody to divorced wife," 1908).The New Hampshire Supreme court,emphasizing the reciprocal nature of rights and responsibilities, stated that the two "must go hand in hand" and separating the two would "destroy both" (Dye, at 720; cited inEx parte M.D.C. at 1134).

Similarly, the Massachusetts Supreme Court, refusing to order child support from a father abandoned by his child, reasoned that a parent's legal obligation for a child rested on the father's rights to that child—the entitlement to the "custody, society, and services of the child" (Fossat 412, 1897; cited in Cimini at 30, 2009).Relying upon thistraditional coupling of parental rights with reciprocal parental duties, the South Carolina court in Coffey v. Valquez(1996) refused to order financial support after the termination of parental rights. Confirming the nonexistence of a parental obligation for financial support absent parental rights "in and to the child," the court stated emphatically that parental obligations do "not exist where the parent's reciprocal rights in and to the child have been terminated."(Id.at 350).

While a majority of jurisdictions adhere to this traditional view, a minority of jurisdictions determines that parental rights and parental responsibilities are not reciprocal: The termination of parental rights does not terminate parental responsibilities (Aeda v. Aedaat 11, 2013).This note explores the jurisdictional interpretations of the responsibilities remaining after thetermination of parental rights and suggests that severing the traditional coupling of parental rights and responsibilities would lead to unacceptable consequences for not only the parent, but also for the child, thereby compromising the best interests of the child.

II. Termination of Parental Rights

A terminations of parental rights action, described as "the most draconian of measures taken by the civil law"by Kindregan and Crittenden, is a remedy of last resort(2008; cited in Ex parte M.D.C, at 1143, 2009, Maddox, J., dissenting). This statement is true irrespective of the nature of the termination, voluntary or involuntary. However, to be sure, the description is no more poignantly true than in the cases of the involuntary termination of parental rights. The Court in Santosky v. Kramer (1982) recognized and addressed the severity and finality of a termination of parental rights. The Court emphasized that the Due Process Clause of the Fourteenth Amendment, provides protection of "[t]he fundamental liberty interest of natural parents in the care, custody, and management of their child. . .and does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State." (Id.at 753, U.S. Const. amend. XIV, §1).Therefore, a termination of a parent's rights to his or her child is appropriate only when clear and convincing evidence, using a bifurcated analysis, establishes first that the parent is "unfit," followed by a second determination establishing that the child's best interest is served by a termination of parental rights (Santosky at 761).

III. Termination of Parental Responsibilities

a) State Statutory Differences

All states statutorily provide for the termination of parental rights based on unfitness of the parent due to abuse, neglect, abandonment, or disability (Grounds for involuntary termination, 2013). However, states' statutory provisions relating to the termination of

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parental responsibilities differ significantly from state to state. Specifically,statutory language ranges: (1) from explicitly stating the termination of parental rights terminates parental responsibilities, (O.C.G.A. § 15-11-93, 2002; Neb. Rev. Stat. § 43-293, 2013);(2) to enumerating only specific responsibilities remaining after the termination of parental rights (A.R.S. § 8-539, 2001); and, finally, (3) to no mention of the responsibilities remaining after termination (Va. Code Ann. § 16.1 – 228, 2006).

For example, the Georgia statute expressly provides that a termination of parental rights terminates both the rights and obligations to the child (O.C.G.A. § 15-11-93, 2002) (see Dept. Human Resources v. Ammons, 1992; Neb. Rev. Stat. § 43-293, 2013) (see also State, Welfare Div. Dep't of Human Resources, v. Vine, 1983). Likewise, the Florida Statute expressly provides that the term "parent" excludes individuals whose "parental relationship" havebeen terminated (§ 39.01, 2011) (see Col. Rev. Stat. § 19-1-103(82)(b): "'[P]arent'" does not include individuals whose parental rights have been terminated"). The court in Ponton v. Tabares, defined "parental relationship" to include both parental rights and parental responsibilities in determining that a sexually abusive parent's financial responsibility for child support ended when his parental rights were terminated (Ponton at 126, 1998). The court emphasized only "one conclusion" could be drawn from the "clear and unambiguous language of the statute": A sexually abusive father ceased being a "parent" when his "parental relationship" was terminated (1998, Fla. Stat. § 39.01(48), Supp. 1996;amended &renumbered by Fla. Stat. § 39.01(49), 2011; Ponton,at 126).

Whereas, the current Arizona statute provides that all "legal rights, privileges, duties and obligations" are terminated, except the child's right to parental support and inheritance (A.R.S. § 8-539, 2001). Only a "final order of adoption" severs these two parental responsibilities (Id.). The Tennessee statute terminates all obligations except the child's right to inherit from the parent until adoption is finalized (Tenn. Code Ann. § 36-1-113(l)(1), 2010); In re T.K.Y. 205 S.W.3d 343, 354, 2006). In the Connecticut statute, the "termination of parental rights" completely severs the "legal relationship with all its rights and responsibilities," except the child's right to inheritance and religious affiliation (Conn. Gen. Stat. § 45a-707(8), 2011; In re Bruce R., 662 A.2d 107, 111, 1995).

In addition to preserving the child's right to inheritance and the continuation of third party support to which the child is entitled from the parent, the Maine statute provides for a lump sum order of support due for the future support of the child when a parent, prior to the termination, commitsa crime against the child (Me. Rev. Stat. Ann. tit. 22, § 4056, 2011). The Texas statute requires payment of child support until the earlier of adoption, the later of age 18 or graduation from high school, emancipation, the child's death, or if the child is disabled, indefinitely (Tex. Fam.Code Ann. § 154.001,1995).

Contrastingly, the Virginia statute is silent on the parental responsibilities remaining after termination of parental rights (Va. Code Ann. § 16.1 – 228, 2006; Va. Code Ann. § 16.1 – 283, 2006; Commonwealth v. Fletcher, at 328, 2002). Therefore, in a case of first impression, the Virginia court determined,based on its construction of related statutory provisions and a review of Virginia case law, as well as similar holdings from other jurisdictions, that the termination of parental rights terminates reciprocal parental responsibilities (Commonwealthat 327-329). The court reasoned that viewing the termination of parental rights as a complete severance, sufficient to render the parent and child "legal strangers," that the complete severance would terminate parental responsibilities, as well as "correlative rights" (Id. at 329).

However, even statutes that appear facially clear and unambiguous may be determined unclear and ambiguous upon closer scrutiny and require judicial construction. For example, although the Oklahoma statute, mirroring the Texas statutory provisions expressly providesthat child support continues after the termination of parental rights, the Oklahoma Supreme Court determined that the termination of parental rights also terminated parental responsibilities (Tex. Fam.Code Ann. § 154.001, 1995;Okl. Stat.Ann.tit. 10A, § 1-4-906, 2011; Over street v. Over street,2003). The court reasoned that since prior statutory language in effect at the time of the commencement of the action remained in the revised statute, the retained language,"termination of parental rights terminates the parent-child relationship,"was a "determinative phrase" in holding that a termination of parental rights simultaneously terminated parental responsibility(Okl. Stat. Ann. tit. 10A, § 1-4-906;2011,Overstreetat 955-956, 2003). Finding persuasive traditional interpretations by a number of states reviewing similar statutes, the court determined that "parent-child relationship" encompassed "parental responsibility" (Overstreet at 955-956).

b) Predictability: Voluntary Terminations

Voluntary terminations of parental rights, absent statutory language to the contrary, provide state courts with the opportunity for agreement and predictability in relation to continued financial responsibility. Consequently, the termination of parental responsibilities issue is rendered moot. When determining that a parent was not "ipso facto" relieved of child support responsibility upon the voluntary termination of child support, the Rhode Island court reasoned that voluntary terminations to "avoid or evade child support obligations" should be denied, most particularly when "no adoption is contemplated" (State v. Fritzat 685, 2001).

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Ex parte Brooks. Similarly, the Alabama court refused a mother's non-contested request for termination of the father's parental rights(Ex parte Brookat 1114-1115, 1987). The father, gainfully employed, had provided neither emotional nor financial support for the child (Id.at 616). He did not visit with the child, and his sole contribution was $100 toward the hospital bill for the child's birth (Id.at 615). The father disagreed with the mother's raising the child in her Jewish faith, and the mother found dealing with the father burdensome (Id. at 616). The court reasoned that termination based upon parental "inconvenience," thereby depriving the child of not only his father's financial support, but also the loss of any possible "parental affiliation," as well as inheritance,was not in the child's best interest (Id. at 617).

In re Adoption of Mariano. In addition to meeting the child's best interest, a Massachusetts courtreasoned that refusing an involuntary termination satisfies an important state interest (In re Adoption of Mariano at719, 2010). Denying a mother's petition for the adoption of her child under a Massachusetts statute, which would have simultaneously terminated the father's parental rights and financial responsibilities, the court emphasized that "the child support scheme in Massachusetts furthers two important goals: '(1) providing for the best interests of the children, and (2) ensuring that the taxpayers are secondary to the parents in meeting the financial needs of dependent children'" (Id.at 683, 2010; quoted,In re Adoption ofMarlene at 501, 2005; quoting from Department of Rev. v. Mason M., 2003; Mass. Gen. Laws ch. 119-A § 1, 2012).

Extrajudicial Agreements, Unenforceable. Similarly, although termination of rights was not at issue, in an uncontested request by both parents that the father's child support responsibility be terminated, the Hawaii court in Napoleon v. Napoleon (1987) refused to terminate the obligation based upon their agreement which the court determined was unenforceable. The court reasoned that such an agreement to terminate parental support was against public policy (Id. at 1274). Citing Napoleon (1987), the Montana court, also not addressing a termination of parental rights, refused to enforce a parental agreement because terminating support was not in the child's best interest (In re Marriage of Ness at 1024, 1987). The court emphatically stated that "children are not to be denied support by extra-judicial agreements. Similarly, the court refused to enforce an agreement between two parents. These agreements may please the parents, but ignore the children's need for support" (Nessat 1024-1025, 1987).The Idaho court in InInterest of D.W.K. emphatically stated that even if statutorily warranted, a voluntary termination will not be allowed if it is not in the child's best interest (D.K.W. at 34-35, 1985). "[A] parent may not voluntarily avoid a duty to support his or her child (Id. at 35; Iowa Code, 2012; cited, Husband (K) v. Wife (K) at 599, Del. 1975; cited, Byers v. Byers at 933, Okla. 1980; cited, Commonwealth v. Woolf at 537, Pa. Supp. 1980; cited, Kiesel v. Kiesel at 1377, Utah 1980; cited, In re Marriage of Curran at 1351, Wash. App. 1980; cited also,Mitchell v. Mitchell at 497, D.C. 1969).

Evink v. Evink. Moreover, despite a prior termination of a parent's rights expressly to avoid child support responsibilities, a Michigan court refused to terminate a father's child support responsibilities,(Evink v. Evinkat 330-331, 1995). The court emphasized that per the controlling statute, a natural father's obligation to pay child support continued until a child was adopted (Evink at 330; Mich. Comp. Laws Ann. § 722.3(1), 1979). The court reasoned that absent "a clear legislative directive" voluntary relinquishment of parental rights did not terminate parental obligations (Evinkat 331, 1995). The court's reasoning has been cited extensively supporting the position that child support obligations should not terminate with termination of parental rights.

Conversely, the Mississippi court in Beasnet v. Arledgedetermined that a voluntary termination of a father's parental rights simultaneously terminated parental child support responsibility as long as the child's best interest was preserved when rights were terminated(Beasnetat 348-350, 350 n.1, 2006). Evidence of best interestwas evidence by both the father's and child's guardian ad litem agreeing that the termination served the child's best interest (Id.). Noting very little Mississippi statutory or caselaw as a guide, the court reasoned that as long as the child's best interest was preserved, "it is an inherent aspect of voluntary termination of parental rights that, just as the entire parent-child relationship terminates, so too does the responsibility to pay child support" (Id. at 350). However, the court reiterated that a termination of parental rights could "not be used as a mechanism" to avoid child support obligations (Id. at 350 n.1).

c) Uncertainty: Majority and Minority Views

Majority view. The majority of state courts adheres to the traditional view and simultaneously terminates parental responsibilities when parental rights are terminated (Aeda v. Aeda at 11, 2013). Recently, in a case of first impression, determining that a termination of parental rights simultaneously ended a father's responsibility for payment of child support, a New Mexico court concluded that the majority or jurisdictions continues to follow the traditional view (Id.). However, state statutory variations limit the helpfulness of out-of state holdings: "With those [statutory] limitations in mind, we do note that the great majority of out-of-state cases agree that almost as a matter of definition termination of parental rights-or more accurately the parent-child relationship—works to end the parental support obligation." (Id.; see State v. Vine 1983).

Roelfs v. Sam P. Wallingford, Inc. The Kansas court in Roelfs v. Sam P. Wallingford, Inc., construing

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"parental rights" to include all rights, parent and child, determined that a termination of parental rights included also the termination of parental obligations, including third party benefits (Roelfsat 1376, 1971). The court stressed that termination of parental rights was not intended as a temporary or intermediate action, but "rather a final and permanent settlement of all problems of a custody and supervision by a complete and final divestment of all legal rights, privileges, duties, and obligations of the parent and child with respect of each other" (Id.; cited, Legislative guides, pp. 2-4, 9-10, 10-20, 1961; see State v. Smith, 571 So. 2d 746, 748-749, La. Ct. App. 1990; see alsoIn re HS at 745-746, Iowa 2011).

State v. Vine. Likewise, relying upon the rationale in Roelfs (1971) the Nevada court determined that the statute terminating parental rights respectively terminated responsibilities (State v. Vine, 1983;Nev. Rev. Stat. § 128.110, 2011). The court reasoned that the legislature's failure to address "responsibilities" in the termination statute, combined with a statute expressly defining "'parent and child relationship'" as including obligations as well as rights (Id. at 297-298; Nev. Rev. Stat. §§ 128.110, 128.005, 2011).

Minority view. Conversely, in the absence of express statutory language to the contrary, a minority of jurisdictions determine that parental rights and parental responsibilities are distinct and non reciprocal: Parental financial responsibility remains after the termination of parental rights(Vine at 297-298).

In re Ryan.In West Virginia a father voluntarily terminated his parental rights after the initiation of an abuse and neglect petition (In re Ryan, 2009). Emphasizing the legislative intent to protect the child's best interest and fundamental rights when construing the controlling statute, the court determined that despite a change in language from "guardianship rights and/or responsibilities" to "guardianship rights and responsibilities," the statute was never intended by the legislature to relieve a parent of responsibilities when rights were terminated in an abuse and neglect proceeding. (Id. at 606; W. Va. Code, 2012).

State v. Fritz. The Rhode Island statute applicable to termination of parental rights was silent regarding parental responsibilities or to the child's rights (State v. Fritz, 2002; R.I. Gen. Laws § 15-7-7(a)). After a couple's divorce, the court awarded the mother sole custody of their two children, and ordered the father to pay child support (Fritzat 681). Subsequently, the father voluntarily agreed to the termination of his parental rights upon petition of the Rhode Island Department of Children, Youth, and Family Services (DCYF) with the Department named as guardian for the children "'for all purposes as to [defendant's] rights'" (Id.; brackets added by court). The mother obtained medical assistance for the children through Aid to Families with Dependent Children (AFDC) (Id.). The trial court determined that the termination of rights terminated the father's child support obligations (Id.).

On appeal, the state successfully argued that if the legislature had intended that parental rights and responsibilities would be terminated, it would have expressly stated that fact in the applicable statute as it had in the statute specifically related to adoption (State v. Fritz at 685; R.I. Gen. Laws §§ 15-7-7(a), 15-7.2-2). The court also found persuasive the language in an inheritance statute that specified the terminated parent's financial responsibilities to his child did not terminate, even with adoption (Fritz at 686). In determining that the termination of parental rights did not relieve the father of his duty to pay child support for his children, the court noted, absent adoption, that the full weight of financial support for the children fell on the other parent, and often with assistance from the state (Fritz at 684-685). When adoption was not contemplated, the court reasoned that a parent should not be able to voluntarily terminate his parental rights and simultaneously rid himself of his child support responsibility to his children (Id.). The court refused to expand "parental rights" to include the rights of the child to the parent (Fritz at 686). Moreover, as per the termination of parental rights statute, the court emphasized a termination of support should be ordered only after a specific determination that a termination of support would serve the child's best interest (Fritz at 686-687).

A passionate dissent explained that Rhode Island, unlike most states, did not statutorily allow a voluntary termination of parental rights; a voluntary termination was not possible absent a pending adoption petition (Frisk at 690; Goldberg, J., dissenting). Rather, all terminations were the result of a petition from the Department of Children, Youth, and Family Services alleging abuse by the parent (Id.) Therefore, a voluntary termination of parental rights upon petition of a parent wishing to evade child support responsibilities would not be possible under Rhode Island law (Id.).

Ex parte M.D.C.Similarly, in the absence of express statutory language, the Alabama court in Ex parte M.D.C, reached a conclusion echoing the majority opinion in Fritz(2002): A termination of parental rights did not terminate responsibility (Ex parte M.D.C.,2009; cited,M.D.C. v. K.D., 2008, Moore, J., dissenting; 1984 Alabama Child Protection Act). Prior to a divorce granting custody of the couple's two minor children to the children's mother and ordering child support payments from the father, the fatherplead guilty to three counts of second-degree rape involving the child's minor stepsister who also had resided in the family's home (M.D.C.at 1119). The father was sentenced to prison and at the time of the decision, had been released (Id.). On the mother's petition, the father's parental rights had been terminated to their two children.(Id.). Later the state, on behalf of the mother, sought child support for the two children, and the father

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argued that since his parental rights had been terminated, his responsibility for child support had terminated, as well. (Id.).

The Court of Civil Appeals ruled in favor of the father in the absence of statutory language addressing the termination of parental responsibility in the 1984 Child Protection Act. (Ex parte M.D.C. at 1119-1120; cited,M.D.C. v. K.D., 2008, Moore, J., dissenting). Adopting the dissent's rationale in M.D.C. v. K.D., the court, construing legislative intent, found persuasive the"'[r]eading [of] the definitions of parental rights and responsibilities found in § 12-15-1 into § 26-18-7 [now § 12-15-319, as amended]'" (Ex parte M.D.C. at 1125; cited, M.D.C. v. K.D., 2008,Moore, J., dissenting; 1984 Child Protection Act; Juvenile Act, 1997; Juvenile Act, 2009). Relying on the express termination of parental obligations as well as rights in an adoption statuethe, the court found dispositive the fact that the wording in the new act, excluded "'parental responsibility,'" when itexpressly enumerated those parental rights included when describing "'parents' rights,'" to read: "'. . . it may terminate the parents' rights, including the rights to custody, to visitation, to control the child's education, training, discipline, and religious affiliation, and to consent to adoption.'"(Ex parte M.D.C. at 1125; cited, M.D.C. v. K.D., 2008, Moore, J., dissenting; Ala. Code § 26-10A-29(b), 1979; Juvenile Act, 1997; Juvenile Act, 2009). The court reasoned that the legislature would have included "parental responsibility" in the enumerated list of terminated rights if the legislature had intended to terminate parental responsibility (Ex parte M.D.C. at 1125; cited, M.D.C. v. K.D., 2008, Moore, J., dissenting; 1984 Act; Juvenile Act, 1997; Juvenile Act, 2009). The court determined that the termination of parental rights did not terminate the father's parental responsibility to pay child support for his children(Ex parte M.D.C.at 1132). The court emphasized that "´parental rights' should not be construed to encompass the responsibility for child support" (Id.; 1984 Act; Alabama Juvenile Justice Act, 1997; referencing Alabama Juvenile Justice Act, 2009). The child would be protected from the parent's future harm by severing parental rights, but the "beneficial aspects," of the relationship would remain(M.D.C.at 1127-1129,1133).

Conversely, the dissent in M.D.C. argued that the termination of parental rights also terminated the father's parental responsibility for child support (M.D.C. at 1134-1145, Murdock, J., dissenting). The dissent emphasized the historic, reciprocal nature of rights and responsibilities, and that the termination of parental rights had always "terminated the parental relationship" in Alabama (Id.at 1133, 1134-1136). Further, the dissent stressed that this traditional understanding, repeatedly upheld in case law, was well known to the legislature. The fact that the legislature passed subsequent legislation, without amending the statutory language to expressly provide parental responsibility language, suggested that the legislature had no desire to change the long-held, traditional view (Id.at 1136-1139). Moreover, in addition to addressing the majority's statutory construction, the dissent found helpful language in the recent amendments and commentary of the Alabama Uniform Parentage Act: Section 201(1) was expressly provided to "'make clear"' that a mother "is not a parent once her parental rights are terminated" (Id.; citing Parentage Act, 2008, added emphasis). Similarly, the dissent found inappropriate the majority's analogizing state law requiring child support payments irrespective of visitation to requiring child support from parents whose parental rights had been terminated (M.D.C. at 1135; cited,M.D.C. v. K.D. at 1129, 2008).

Additionally, the dissent found unpersuasive the majority's belief that continuing to enforce child support responsibilities would result in more adoptions. (M.D.C. at 1131, 1144). Conversely, the dissent reasoned that the majority opinion "could increase contested termination proceedings, because, absent termination of child support responsibility, "'deadbeat'" parents be more inclined to fight termination proceedings and, thereby slow adoption proceedings" (Id.at 1143-1144). Additionally, more parents might use termination proceedings against each other (Id. at 1143). The Department of Human Resources might be more inclined to initiate termination proceedings without a foreseeable adoption placement, as well (Id.).

Further, the dissent suggested the fundamental unfairness of a determination which requiredthe payment of child support after the permanent termination of parental rights--when the parent could never affiliate with his or her child (Id. at 1135).Illustrating, the court found particularly troubling the situation in which a rehabilitated parent, "a model citizen and parent," whose rights had been terminated due to drug abuse, must continue to pay child support, despite permanently losing all rights to the child (Id.). Concluding a discussion of possible "unintended consequences" of the majority holding, the dissent questioned whether parental responsibilities would be expanded to require more than the payment of child support (Id. at 1143).

The dissent advocated exploring alternatives to the termination of parental rights (Id. at 1140, n.13). Specifically, the dissent suggested remedial measures that would protect a child from "'bad custody circumstances, [e]specially when a meaningful parent-child bond has formed'" (Id.). For example, the dissent reasoned that awarding permanent custody to a child's relative or other custodian, giving preference to individuals already a part of the child's life and who can provide a "'loving and nurturing environment,'"while allowing "'supervised or other visitation'" with the parent,would protect the child while allowing the child to continue a relationship with the parent (Id.).

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Alternative Proposals. Recognizing the hardships faced by a non-offending, custodial parent andchild when the termination of parental rights simultaneously results in the termination of parental duties, Merrill (2008) and Taylor (2010) offer two proposals which allow parental financial responsibility to continue post parental rights determinations. Each approach proposes an alternative to the traditional, majority view which severs parental financial support with parental rights.

To alleviate the financial hardship on the non-offending, custodial parent and child, ensuring the child's protection and well-being, while at the same time protecting the child's standard of living, Merrill (2008), advocated the judge's performing a separate "Totality of the Circumstances Test" after a determination of dependency and that termination of parental rights is in the child's best interest (pp.212-213). Specifically, the test would determine whether financial support should survive the termination of parental rights based upon a review of financial support resources available to the child and whether the loss of parental financial support would negatively impact his or her quality of life (pp.212-213).While noting that a discharge of the financial responsibility might be inappropriate when a parent is "mentally ill or otherwise disabled" or when a child enters foster care or an adoptive home, Merrill's test would consider, prior to the discharge of parental duty to support the child, other financial support available to the child from the custodial parent, state, stepparent, and, since the test would allow the responsibilities to survive adoption, the financial support provided by adoptive parents (pp. 212-213).

Also concerned with the child's well-being and financial hardship resulting from the termination of parental responsibilities simultaneously with the termination of parental rights, Taylor (2010) suggested that a "Temporary Termination of Parental Rights," which would continue parental financial support since parental rights would not be permanently severed, would address the issue of the termination of parental financial support resulting simultaneously with the termination of parental rights. He noted that a number of states, including Hawaii, California, Nevada, Washington, Louisiana, Oklahoma, and Illinois, had enacted statues which would allow permanently terminated parental rights orders to be revisited in some instances, and he discussed the various legal vehicles open to disenfranchised parents (pp. 332-348).However, this intermediate, temporary measure, requiring the same clear and convincing evidence required in irrevocable termination, would allow for the reinstatement of parental rights more efficiently without the legal battles currently required of parents who are often financially unable to fight for the reinstatement of their parental rights (Taylor, 2010).The temporary order would remain in effect absent the child's leaving the foster care system by adoption, emancipation, or some other circumstance, or the determination that a child's best interest would be served by lifting the temporary order (pp. 349-352). Emphasizing the growing numbers of "legal orphans" who leave foster care without adoptive parents, the process would ensure that children would have legal parents when leaving foster care while the temporary order is in effect (pp. 351-352). A petition by the child protection agency or the child, supported by clear and convincing evidence of a "substantial and material" change in circumstances sufficient to prove that the child's best interest would be served by modifying or dismissing the temporary order, would result in the modification or dismissal of the Temporary Termination of Parental Rights order (pp. 351-352), thereby "resurrecting" parental rights (p. 319).

IV. Findings

While reviewing the case law and statutes, many of which were not cited because they parroted information previously cited, so added little to the review, while others were not added because courts had not addressed specifically the issue of the responsibilities remaining after the termination of parental rights. In conducting the review of the minority position, most of those courts ordering a continuance of financial support relied on express statutory language. Moreover, as the court opined in Aeda, the minority courts have relied "unduly on statutory provisions other than their termination section for definitional guidance" (Aeda at par. 40, 2013). Specifically, courts consistently relied on adoption statutory provisions (State v. Friskat 685, 2002; M.D.C. at 1125, 2009). Additionally, many of those cases addressed involuntary terminations on which few courtsdisagreed (In re Adoption of Mariano at 662, 2010).

All rationales for holding parents financially responsible for their children held one idea in common, a resolve that, like the reciprocal nature of rights and responsibilities,also permeates our traditional system of law: Individuals should not profit from their wrongs. Absent adoption, courts do not want "dead beat" (M.D.C. at 1144; Murdock, J., dissenting) parents to easily dismiss financial responsibility for their children, thereby severing all possibility for current as well as future support. Particularly in the case of extremely abusive and neglectful parents, courts are loath to terminate the responsibility for parental support, hence the statutory interpretation by the Alabama court in Ex parte M.D.C. (2009) where in the court reasoned that "To hold otherwise would reward the most egregious cases of abuse and neglect by that parent's not having the burden of paying child support" (Id, at 1133, 2009). In the absence of clear, statutory language to the contrary, as suggested by the court in Aeda(2013),the minority state courts that hold "parents" accountable for

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parental responsibilities have not "address[ed] the function, purpose, and seriousness of a termination of parental rights" (Aedaat par. 40).

If clear and convincing evidence establishes that a termination of parent's rights to his or her child is the only way a child can be protected from a parent's physical or emotional harm, there is no foreseeable hope for improvement given the full benefit of available intervention services, and the child's best interest can only be met by termination of parental rights, then a parent's rights should be terminated. A third income availability analysis, the "Totality of the Circumstances Analysis," suggested by Merrill (2008)could address the issue of child's further victimization due to the loss of the parent's continuing financial responsibility. However, the alternative analysis must contemplate the outcome when, after the termination of parental responsibility based upon alternative support for the child, whether from the custodial parent, the state, a step parent, or an adoptive family, ends for some unanticipated reason. Would a parent be hauled back into court to face once again parental financial responsibility? If so, what difficulty might the child face by such a circumstance?

It is fundamentally unfair to children that their parents, individuals charged with their care,refuse support, hurt them either emotionally or physically, abandon them, or neglect them. However, one would suggest an action which holds a legally determined non parent, a "legal stranger" to the child (Commonwealth v. Fletcher at 112, 2002), responsible for the "parental" financial support of a child that he or she has no hope of ever parenting, does not right the wrong—assuming the "parent" is capable of financially supporting the child, which sadly was not the case in many of the decisions reviewed. Absent a state statute or legal maneuvering that many terminated parents could ill afford, as explored in Taylor's (2010) proposal of a "Temporary Termination of Parental Rights," the situation of rehabilitated parents who must financially support children with whom they can never be reconciled exemplifies also a fundamental unfairness, as suggested by Justice Murdock in his M.D.C. dissent (2009).

Taylor's (2010) "Temporary Termination" could benefit those parents who do rehabilitate themselves and are capable of successfully parenting their children. However, what harm to the child would result if the state welfare department and judge agree that the child's best interest would be served by reconciliation, but the child does not desire a reconciliation? Even if the child desired reconciliation, significant emotional distress would result from the fears the child would face in once again trusting his or her parent, while at the same time perhaps disrupting a stable, nurturingenvironment, school, and friends—possibly the only stability and sense of permanence the child has ever known.Granted, for the many children in less than desirable situations, it is likely that any hope of a different life would be welcomed. However, an unfortunate change in circumstances resulting in a parent's inability to the meet the child's needs and necessitating once again the child's separation from the parent could do irreparable harm to the child, a child who trusted the parent would remain in his or her life, to speak nothing of thedifficulty the child would face in transitioning to yet another a new home. The resulting re-victimization coulddevastate a child once again. Moreover, could the parent be given an additional chance for redemption? Both Merrill (2008) and Taylor (2010) offer innovative alternatives. No doubt, upon adoption of the proposals, the authors would readily address in detail and resolve all remaining questions.

V. Conclusion

Assuming a child's best interest is served, likely no one, save the individual parent(s) positioned to benefit from the termination of parental rights, would argue that continuing a parent's parental responsibilities after the termination of parental rights is the morally correct course of action. However, after the termination of parental rights, by legal order the individual no longer enjoys the status of legal parent, but rather is a "legal stranger" to the child (Commonwealth v. Fletcherat 112, 2002). One must question whether requiring residual responsibilities of a legal non-parent, "legal stranger" after the termination of parental rights is also the legally correct course of action. A reading of residual parental responsibility owed by a legally declared non parent appears at odds with the language in Santosky v. Kramer which stresses the finality and irrevocability of a termination of parental rights (Santosky at 759, 1982). Reason would suggest that an individual is either a legal parent, or no. The legal status of quasi-parent does not exist; however, holding an individual responsible for parental responsibilities after the termination of parental rights effectively creates a legal status of quasi-parent wherein the individual possess no parental rights, but must adhere to parental responsibilities.

In those circumstances in which a child cannot be protected from physical or emotional harm, at some point, for the child's benefit, as well as for the "parent," and other affected individuals, all parental connections to the child, including financial support, must cease, assuming the parent is capable of financially supporting the child. The termination of parental rights was never envisioned as a partial measure.

One would suggest that forcing a "parent" to continue financial support, in circumstances where the "parent" poses no threat of physical or emotional harm to the child, could result in unacceptable consequences for the child, as well as the parent. For example, forcing a financial support obligation could damage any familial interaction and bonding that could possibly have

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developed between the child and the "parent." The "parent" could resent the child, and the child, sensing resentment, would be inclined to assess self-blame and feel even further alienated from the "parent." Moreover, the child's paternal extended family also might resent and shun the child along with the individuals who enforced or received the payment of child support. The child would lose not only his or her "parent," but also any familial connection his or her paternal extended family. Further, for the child, the realization that he or she no longer has either a father or mother, could be particularly devastating for the child's self-identity and sense of self-worth.

Unfortunately, at an alarming frequency, as evidenced in news headlines, circumstances, including the depraved, inhumane treatment of innocent children,occur thatleave courts no alternative except the termination of parental rights. If circumstances are so dire that a parent and child must be severed each from the other, from the most fundamental of all human relationships, an "irrevocable" severance, then those same circumstances must be sufficient also to warrant a truly irrevocable severance of all rights and responsibilities. If not, if after the termination of parental rights state courts would determine that it is in the child's best interest to receive continuing financial support and, beyond that, the continued affiliation with the terminated "parent," one would suggest that a termination of parental rights would notbe the course of action meeting the child's best interest. As suggested by the New Mexico court in Avea(2013) courts should reconsider the function, purpose, and seriousness of a termination of parental rights (Id. at par. 40). Otherwise, the fundamental fairness required in termination procedures appears absent in the final analysis.

More importantly, the child, as well as the parent and the child's family, in those dire circumstances warranting the termination of parental rights,deservesthe peace of mind and repose only available from the complete finality of the severance. Justice Maddox said it best, "bad facts make for bad law." (M.D.C. at 1145, 2009; Maddox, J., dissenting).

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