

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN RE: K.M.M.E., a Minor,

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: N.W., Natural Mother

No. 792 WDA 2013

Appeal from the Order entered April 11, 2013,
in the Court of Common Pleas of Blair County,
Civil Division, at No(s): 2012 AD 59

IN THE INTEREST OF: K.E., a Minor

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: N.W., Natural Mother

No. 816 WDA 2013

Appeal from the Order entered April 10, 2013,
in the Court of Common Pleas of Blair County,
Domestic Relations, at No(s): CP-07-DP-0000076-2011

BEFORE: PANELLA, OLSON and MUSMANN, JJ.

MEMORANDUM BY MUSMANN, J.: FILED: April 16, 2014

N.W. ("Mother") appeals from the April 11, 2013 Decree involuntarily terminating her parental rights to her dependent, female child, K.M.M.E., a/k/a K.E. ("Child"), pursuant to section 2511(a)(2), (5), (8), and (b) of the Adoption Act, 23 Pa.C.S.A. § 2511(a)(2), (5), (8), and (b), and the April 10, 2013 Permanency Review Order that refused to change Child's permanency

goal from adoption back to reunification with parent pursuant to section 6351 of the Juvenile Act, 42 Pa.C.S.A. § 6351.¹ We affirm.

Child was born in July of 2011. On September 28, 2011, the Blair County Children, Youth & Families (“CYF” or the “Agency”) filed a Petition in the Blair County Court of Common Pleas, Juvenile Division, seeking to have Child adjudicated dependent pursuant to section 6302(1) of the Juvenile Act, 42 Pa.C.S.A. § 6302(1). The bases for the dependency are a lack of proper parental care or control based upon Child’s young age, Mother’s extensive history with CYF with her other children, Mother’s extensive criminal history, Mother’s extensive history with drugs and current drug use, Mother’s lack of cooperation with service providers, Mother’s current hospitalization, and Father’s extensive criminal history and drug use. In Orders entered on September 28, 2011, the trial court appointed a guardian *ad litem* (“GAL”) for Child, and legal counsel for Mother and Father.

On October 20, 2011, the trial court entered an Order adjudicating Child dependent under section 6302(1) of the Juvenile Act and directing that legal and physical custody would remain with Mother and Father. In its Order, the trial court adopted the master’s findings of fact and recommendations, and ordered as follows, in relevant part:

¹ The trial court also involuntarily terminated the parental rights of Child’s father, A.E.E. (“Father”), in the Amended Decree entered on April 11, 2013. Father did not file an appeal from the Decree, nor is he a party to the present appeals.

3. The parents shall comply with all drug and alcohol evaluations, testing, and recommendations.
4. The parents shall comply with the preservation program and all recommendations.
5. The parents shall comply with any additional recommendations with Home Nursing Agency ["HNA"]; however[,] it is noted that they have successfully completed the Home Nursing services that [have] been recommended prior to the hearing.
6. The parents shall comply with Early Intervention services and recommendations.
7. The parents shall comply with all terms of probation and random drug testing administered by all agencies.

Dependency Adjudication Order, 10/20/11, at 4-5.

Based on the continued substance abuse and recent incarcerations of both parents, Child was placed in foster care by Northwestern Human Service ("NHS") in the home of J.Y. and L.Y. ("Foster Parents") under a voluntary placement agreement ("VPA") Mother signed on December 19, 2011.

On January 5, 2012, CYF filed a Motion for an interim permanency/dispositional review hearing. On January 19, 2012, CYF filed a Shelter Care Petition, alleging that the VPA expired on January 19, 2012. On January 19, 2012, CYF filed a Motion for emergency protective custody, along with the right of placement and medical and educational rights. The trial court granted the Motion.

Subsequently, a hearing master held a three month permanency review hearing and a shelter care hearing. The master found that Mother had been minimally compliant with the permanency plan, in that Mother did not address her issues until after Child was removed from her care and custody on December 19, 2011. The master found that CYF had made reasonable efforts to finalize the permanency plan as services were being provided to the family to assist in working toward reunification. Moreover, the master found that Mother had made moderate progress towards alleviating the circumstances that necessitated the original placement. The placement plan returned Child to her parent or guardian. The master directed that legal custody would remain shared between the parents and CYF, physical custody with CYF, and placement in foster care or as determined by CYF. The master also directed that visitation between Mother and Child would increase and be facilitated by Family Intervention Crisis Services ("FICS") or as otherwise directed or arranged by CYF. On January 30, 2012, the trial court adopted the master's recommendations and entered Permanency Review and Shelter Care Orders.

Subsequently, on February 2, 2012, the master signed an Amended Shelter Care Order. The trial court adopted the master's recommendations and entered an Order to this effect on February 7, 2012. The Amended Shelter Care Order directed that legal custody would remain shared between the parents and CYF, physical custody would remain with CYF, and

placement would remain in foster care or as determined by CYF. Visitation arrangements were to be provided through FICS or by other arrangements through CYF. The Amended Shelter Care Order also stated the following:

Based upon the testimony presented regarding the concerns expressed by the Agency that [M]other continued to use drugs, which resulted in urine testing that indicated continued drug use, as well as the failure to address other mental health and financial issues, the following additional actions by the parents are necessary:

1. Mother[] ... shall participate in all recommended drug and alcohol treatments, cooperate with random drug screens, and reach and maintain sobriety;
2. [Mother shall] ... be referred to the Blair County Family Drug Treatment Court. If [Mother] is accepted into the program, she will cooperate with all recommended services;
3. Mother shall follow all terms of probation through Blair County Adult Probation, and [M]other shall resolve all legal issues...

Amended Shelter Care Order, 2/7/12, at 2-3.

Thereafter, the trial court appointed Mother's current counsel to represent her. On August 20, 2012, the trial court held a six month permanency review hearing. After the hearing, the trial court found the placement of Child continued to be necessary and appropriate. The trial court found that Mother had made minimal compliance with the permanency plan, as she was in prison based upon a sanction imposed by the Blair County Adult Drug Court after testing positive for Methadone and Suboxone. The trial court stated that Mother admitted that she was a drug addict, and

that she had a long history of criminal involvement and substance abuse. The trial court found that Mother had not established any consistency or stability in her life.²

Further, the trial court directed that legal and physical custody would remain with CYF, and placement would remain with Foster Parents, under the protective supervision of CYF. The trial court also changed Child's goal from reunification to adoption, and ordered that CYF should move forward with the goal of adoption. The trial court directed that visits for the parents shall continue at the discretion and under the supervision of CYF. Further, the trial court directed that Mother would be responsible for any fees associated with such visits while she is incarcerated.

Additionally, during the hearing, CYF made an oral Motion for the trial court to find aggravated circumstances. In an Order entered on August 27, 2012, the trial court found aggravated circumstances existed on the basis that the parental rights of Mother had been involuntarily terminated to two of her other children by an Order dated November 28, 2007. The trial court directed that no efforts be made to preserve the family and reunify Child with Mother and Father.

² The trial court also found that Father had made minimal compliance with the permanency plan. The trial court found that Father was detained at the Blair County Prison on December 12, 2011, due to a positive drug screen, which was a violation of his probation. After making a number of findings, the trial court stated that Father testified that his drug of choice is "mainly [S]uboxone," and that he is an addict, and started "using real bad" at the age of 20. Permanency Review Order, 8/22/12, at 2.

On November 8, 2012, CYF filed a Petition for the termination of parental rights of Mother and Father. On December 5, 2012, Foster Parents filed a notice of intention to adopt.

On December 6, 2012, the trial court held the first day of hearings on the Petition for the termination of the parental rights of Mother and Father. At the hearing on December 6, 2012, CYF presented the testimony of Patrick Gates, who is employed by Blair County Adult Probation and Parole as a probation officer, and who was familiar with both Mother and Father; Damian Charlesworth, who is employed by CYF as a caseworker assigned to the family; and Janice Toguchi, who is employed by CYF as a supervisor of the ongoing unit, supervising the caseworkers for the family.

The trial court held an additional day of hearings on March 18, 2013.³ At this hearing, Mother presented the testimony of Abby Tate, who is employed as the treatment supervisor at the Blair County Prison; Jessica Riley, who is employed by HNA as a drug and alcohol counselor; Christine Butterbaugh, who is employed as a resource coordinator with HNA; and Mother. CYF presented the testimony of Foster Mother. Thereafter, the trial court directed the parties and the GAL to file position letters on behalf of their clients by April 5, 2012.

³ In scheduling the March 18, 2013 hearing, the trial court stated that the 18 month permanency review hearing would also take place on that date.

In a Permanency Review Order, the trial court found that Mother had made moderate compliance with the permanency plan. The trial court made the following findings of fact:

[M]other is currently in the Blair County Adult Drug Court Program and has advanced to Phase 2. Abby Tate assessed her prognosis as “good” and indicated if she continues to comply with the terms of the program, she should be able to advance to Phase 3 in approximately three (3) months. [M]other is subjected to random drug testing weekly and she has had clean screens since 8/23/12, when she had a relapse. She also completed in-patient treatment at Cove Forge, between 6/8/12[,] (when she was released from Blair County Prison) until 6/28/12[,] and then she also successfully completed her intensive out-patient treatment (IOP), and continues to attend individual counseling with Jessica Riley at [HNA]. She completed the “Reflections for Life” program, which addresses grief and loss in one’s life. [M]other has completed her required twenty-five (25) hours of community service for the Adult Drug Court Program. Since 8/24/12, [M]other is usually tested one-to-two times per week and has not had any further positive screens. [M]other is employed full-time at Shirley’s Cookies, and is now making consistent payments but only in the amount of \$30 per month to Blair County Costs & Fines Department. She does owe a considerable amount of money, in excess of \$27,000, and has a past due balance in excess of \$8,000.

Jessica Riley, [M]other’s drug and alcohol counselor at [HNA], reported that [M]other did well and completed her IOP and that her attendance has been perfect so far. She started with [HNA] with an in-take conference on 8/23/12, and her counseling commenced on 8/28/12. She was diagnosed as suffering from depression. She was drug tested on a regular basis until January, 2013 with negative results. Ms. Riley testified she no longer has any concerns regarding a relapse so she has not tested her these past two-plus months. [M]other continues to counsel with Ms. Riley on a voluntary basis. Ms. Riley assess [M]other’s prognosis as “good” and made a referral to a case manager, which [M]other followed up on. She also referred [M]other to couples counseling, and both parents indicated they are open to engage in this counseling.

Christine Butterbaugh is the Resource Coordinator for the [HNA]. She started with [M]other in November[] 2012. She noted [M]other had stable housing and employment when she opened services with HNA. [M]other's primary goals are to re-obtain custody of [Child] and remain sober. If reunification occurs, Ms. Butterbaugh would make a referral for day care assistance. She meets with [M]other at her home (which is a trailer), and stated it is always clean and orderly. She described [M]other as being open to suggestions and having a positive attitude. She also testified that on a few occasions the father was returning home from work when she was there, and that her limited observations of the parents' relationship was that they were affectionate and positive toward one another.

[M]other testified during [the] 3/18/13 hearing. She confirmed her progress relative to the counseling and the Adult Drug Court as set forth above. She desires to be re-unified with [Child], pointed out that [Child] lived with her the first six (6) months of her life[,] and believes there remains a bond between them. The visits that occur every other week at the Agency go well, and [M]other has not missed any visits. She lives in a mobile home, which has two (2) bedrooms, with [Father]. She has resided there since November 2012. She has maintained employment at Shirley's Cookies since 8/7/12. It is a full-time position and she is paid \$8.27 per hour. She is subject to a wage attachment for child support payments for [Child]. It is her desire to find better employment and she is to follow up on a referral to [Office of Vocational Rehabilitation]. She described [Father] as being a source of support for her and that he was dependable.

[M]other admitted that she has lived the life of an addict. Her addiction started around 1997/1998. She stated that she found the lifestyle "fun" at that time. However, she lost her children and continued using "to take away the pain". She acknowledged a relapse on [M]ethadone [on] August 23, 2012, and has had over sixty (60) negative drug screens since. She has not relapsed since and is not currently prescribed any "maintenance" medications. She is on medication for a mental health diagnosis of mood disorder and anxiety. She is attending church services on a regular basis. [M]other believes she can now provide [Child] a stable home, but acknowledged that the child has been with her foster parents since December 19, 2011 (a period of almost sixteen (16) consecutive months). [M]other

testified that she has made a lot of progress in her life and that her former life as an addict doesn't appeal to her anymore.

[M]other acknowledged that her own mother is still on [M]ethadone, and that it was her mother who provided her [with] the [M]ethadone in August[,] 2012[,] which resulted in her relapse. [M]other further admitted that she feels stress on a daily basis, which is one of the issues she addresses in counseling. One of her stressors is the pending TPR [termination of parental rights] proceeding.

Permanency Review Order, 4/10/13, at 1-2.⁴

On April 10, 2013, the trial court entered a Decree terminating the parental rights of Mother and Father, pursuant to section 2511(a)(2), (5), (8), and (b). On that same date, the trial court also entered an Order maintaining legal custody, with medical and educational rights, and physical custody, and the right of placement in CYF. The Order provided that reasonable efforts were not required for either parent, maintained the permanency goal at adoption, and directed that CYF was to move forward with the adoption. The Order also stated that there should be a closure visit for each parent, if the parents desired and requested such a visit. On April 11, 2013, the trial court entered an Amended Decree terminating the parental rights of Mother and Father.

On May 2, 2013, Mother filed a Notice of Appeal from the Amended Decree, along with a Concise Statement of Errors Complained of on Appeal

⁴ The trial court also found that Father had made minimal compliance with the permanency plan. Permanency Review Order, 4/10/13, at 3. The trial court also noted that Father was separated from his wife and maintained a relationship with Mother. *Id.*

pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b). On that same date, Mother filed a Notice of Appeal from the Permanency Review Order, along with a Concise Statement of Errors Complained of on Appeal pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b).⁵

On May 2, 2013, Mother filed a Motion for a stay or injunction pending appeal, asking the trial court to stay the visitation component of its Order pending the appeal. On June 7, 2013, the trial court held a hearing on Mother's Motion for a stay or injunction. Subsequently, the trial court granted the Motion, and directed that the bi-weekly, supervised visitation arranged by CYF for Mother shall continue in full force and effect pending a decision by this Court on Mother's appeal.

On appeal, Mother raises the following questions for our review:

- A. Whether or not the trial court erred in terminating Mother's parental rights to her daughter?
- B. Whether or not the trial court erred in finding that termination served the needs & welfare of the child?
- C. Whether or not the trial court erred in not changing the goal to reunification in light of Mother's progress?
- D. Whether or not the trial court erred in terminating Mother's visitation?

Mother's Brief at 16 (capitalization omitted).⁶

⁵ On May 30, 2013, this Court, acting *sua sponte*, consolidated the two appeals.

⁶ While Mother framed her issues somewhat differently in her Concise Statements, we conclude that the issues are preserved for our review.

Our standard of review is as follows:

[A]ppellate courts must apply an abuse of discretion standard when considering a trial court's determination of a petition for termination of parental rights. As in dependency cases, our standard of review requires an appellate court to accept the findings of fact and credibility determinations of the trial court if they are supported by the record. If the factual findings are supported, appellate courts review to determine if the trial court made an error of law or abused its discretion. As has been often stated, an abuse of discretion does not result merely because the reviewing court might have reached a different conclusion. Instead, a decision may be reversed for an abuse of discretion only upon demonstration of manifest unreasonableness, partiality, prejudice, bias, or ill-will.

... [U]nlike trial courts, appellate courts are not equipped to make the fact-specific determinations on a cold record, where the trial judges are observing the parties during the relevant hearing and often presiding over numerous other hearings regarding the child and parents. Therefore, even where the facts could support an opposite result, as is often the case in dependency and termination cases, an appellate court must resist the urge to second guess the trial court and impose its own credibility determinations and judgment; instead we must defer to the trial judges so long as the factual findings are supported by the record and the court's legal conclusions are not the result of an error of law or an abuse of discretion.

In re Adoption of S.P., 47 A.3d 817, 826–27 (Pa. 2012) (citations omitted).

Termination of parental rights is controlled by section 2511 of the Adoption Act. **See** 23 Pa.C.S.A. § 2511. The burden is on the petitioner to prove by clear and convincing evidence that the asserted grounds for seeking the termination of parental rights are valid. *In re R.N.J.*, 985 A.2d 273, 276 (Pa. Super. 2009). “[C]lear and convincing evidence is defined as testimony that is so clear, direct, weighty and convincing as to enable the

trier of fact to come to a clear conviction, without hesitance, of the truth of the precise facts in issue.” *Id.* (citation and quotation marks omitted).

Satisfaction of any one subsection of Section 2511(a), along with consideration of Section 2511(b), is sufficient for the involuntary termination of parental rights. *In re B.L.W.*, 843 A.2d 380, 384 (Pa. Super. 2004) (*en banc*). In this case, we will review the trial court’s decision to terminate Mother’s parental rights based upon Section 2511(a)(8) and (b), which state the following:

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

* * *

(8) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency, 12 months or more have elapsed from the date of removal or placement, the conditions which led to the removal or placement of the child continue to exist and termination of parental rights would best serve the needs and welfare of the child.

* * *

(b) Other considerations.—The court in terminating the rights of a parent shall give primary consideration to the developmental, physical and emotional needs and welfare of the child. The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent. With respect to any petition filed pursuant to subsection (a)(1), (6) or (8), the court shall not consider any efforts by the parent to remedy the conditions described therein which are first initiated subsequent to the giving of notice of the filing of the petition.

“Section 2511(a)(8) sets a 12-month time frame for a parent to remedy the conditions that led to the children’s removal by the court.” *In re A.R.*, 837 A.2d 560, 564 (Pa. Super. 2003). Once the 12-month period has been established, the court must next determine whether the conditions that led to the child’s removal continue to exist, despite the reasonable good faith efforts of CYF supplied over a realistic time period. *Id.* The “relevant inquiry in this regard is whether the conditions that led to removal have been remedied and thus whether reunification of parent and child is imminent at the time of the hearing.” *In re I.J.*, 972 A.2d 5, 11 (Pa. Super. 2009). Further,

the application of Section (a)(8) may seem harsh when the parent has begun to make progress toward resolving the problems that had led to removal of her children. By allowing for termination when the conditions that led to removal continue to exist after a year, the statute implicitly recognizes that a child’s life cannot be held in abeyance while the parent is unable to perform the actions necessary to assume parenting responsibilities. This Court cannot and will not subordinate indefinitely a child’s need for permanence and stability to a parent’s claims of progress and hope for the future. Indeed, we work under statutory and case law that contemplates only a short period of time, to wit eighteen months, in which to *complete* the process of either reunification or adoption for a child who has been placed in foster care.

Id. at 11-12 (citation omitted, emphasis in original).

With respect to the “needs and welfare” analysis pertinent to section 2511(a)(8) and (b), we have observed:

[I]nitially, the focus in terminating parental rights is on the parent, under Section 2511(a), whereas the focus in Section 2511(b) is on the child. However, Section 2511(a)(8) explicitly

requires an evaluation of the “needs and welfare of the child” prior to proceeding to Section 2511(b), which focuses on the “developmental, physical and emotional needs and welfare of the child.” Thus, the analysis under Section 2511(a)(8) accounts for the needs of the child in addition to the behavior of the parent. Moreover, only if a court determines that the parent’s conduct warrants termination of his or her parental rights, pursuant to Section 2511(a), does a court “engage in the second part of the analysis pursuant to Section 2511(b): determination of the needs and welfare of the child under the standard of best interests of the child.” Accordingly, while both Section 2511(a)(8) and Section 2511(b) direct us to evaluate the “needs and welfare of the child,” we are required to resolve the analysis relative to Section 2511(a)(8), prior to addressing the “needs and welfare” of [the child], as proscribed by Section 2511(b); as such, they are distinct in that we must address Section 2511(a) before reaching Section 2511(b).

In re Adoption of C.L.G., 956 A.2d 999, 1009 (Pa. Super. 2008) (*en banc*) (citations omitted).

In her first claim, Mother contends that the evidence was insufficient to support termination pursuant to Section 2511(a), because she had made substantial progress towards reunification and presented testimony to this effect. Mother’s Brief at 23-37. Mother argues that she had turned her life around; her housing was stable; she was employed; she paid child support; she was making progress with her drug problems; she was in counseling; and she never missed a visit with Child. ***Id.*** at 23-32. Mother further argues that because Child had resided with her for the first six months of her life, the Child was bonded with her. ***Id.*** at 22, 33. Mother also asserts that the Agency failed to meet its burden of proof that she had not improved the conditions that led to placement. ***Id.*** at 33-37.

With regard to section 2511(a)(8), the trial court found the following:

[Child] remains a dependent child.

During the 12/6/12 review hearing, and at the request of the Agency, [the trial court] incorporated the prior dependency hearings as it related to other children of [M]other, who had her parental rights terminated on an involuntary basis with respect to such children.

There was a stipulation entered by counsel of record at the 3/18/13 hearing that Agency witnesses would testify consistent with the averments of the 18th month review petition.

There is a history between the Agency and [M]other that dates back to 2001. There is a drug history with respect to both parents, as well as a past instability relative to housing for [M]other. [M]other has been in and out of prison. There has been a past instability relative to employment for [M]other as well.

[Child] is doing very well in the [] home of [Foster Parents], who are an adoptive resource. She is very much loved and well cared for. There is a strong bond not only between the child and [Foster Parents], but also between [Child] and the three children (ages 6, 8 and 9) of [Father and his wife, Stepmother, ("the children.")]. [Foster Mother and Stepmother] arrange these visits which generally occur every other week on their own and [the] three (3) children are half-siblings of [Child]. [Foster Mother] testified that she would continue to arrange these visits if their adoption is approved.

[Child] refers to [Foster Father and Mother] as "daddy" and "mommy". [Foster Mother] is home full-time to tend to the child.

[Foster Parents] are represented by legal counsel, Attorney Terressa George, and have already filed their Report of Intention to Adopt, having filed same on or about 12/5/12.

... In his position letter, [dated March 28, 2013,] Attorney [Gary] Caldwell supports the position of the Agency that we terminate parental rights and allow [Foster Parents] and the

Agency to move forward with the goal of adoption to establish safety and permanency in this child's life.

The Agency filed its [termination of parental rights P]etition on or about 11/8/12[,] seeking to terminate the parental rights of both biological parents. In its [P]etition, the Agency sought TPR under the statutory grounds set forth in 23 Pa.C.S.A. [§] 2511(a)(2) and (a)(5), but at the 12/6/12 hearing, the Agency made an oral motion to amend to include the additional ground under (a)(8), which amendment was granted. ...

[Child] has remained in care consistently since 12/19/11, a period of almost sixteen (16) months. She went into care when she was five (5) months of age. She was removed from her parents' care due to ongoing drug use, criminal history, multiple incarcerations for both parents, financial instability, mental health issues for [M]other, and ongoing crisis/instability in the home. [Child] and [M]other were both positive for drugs at the time of the child's birth.

Multiple services were implemented for the parents prior to the goal change to adoption, including Home Nursing Agency, Early Intervention, FICS, [M]ethadone treatment[,] and supervision by Adult Probation. The parents failed to fully invest themselves in such services and due to their lack of cooperation and compliance, the goal of adoption was established at the 8/2012 hearing. In [the trial court's] 8/22/12 [O]rder, we also made a finding of "aggravated circumstances" against [M]other due to the prior involuntary termination of her parental rights to two of her other children in 2007.

Permanency Review Order, 4/10/13, at 8-9 (paragraph numbering deleted).

With regard to the first prong of section 2511(a)(8), the trial court found that Child has remained in care consistently since December 19, 2011, a period of almost sixteen months, and had gone into care when she was five months of age.

Next, with regard to the second prong, the reasons for the removal of Child from her parents' care were ongoing drug use, criminal history,

multiple incarcerations for both parents, financial instability, mental health issues for Mother, and ongoing crisis/instability in the home. Moreover, both Child and Mother were both positive for drugs at the time of Child's birth. The trial court found that the conditions that led to the removal or placement of Child in foster care continued to exist because Mother had not remedied those conditions:

Even though [M]other has made significant progress for herself since August 2012, we do NOT find that she has remedied the circumstances that led to placement. She has remained sober for a period of eight (8) months. This is certainly commendable, but we do not have a situation where she has remained sober for a number of years. This is especially concerning considering that she has a significant drug history.

Even though we have no doubt she is motivated by her desire to be reunited with [Child], we are also very cognizant that her motivation would derive from the fact that she has pending drug-related charges against her and will face a more serious penalty if she violates the terms of the Adult Drug Court Program. Her motivation to change [was not] demonstrated until after her positive drug screen in August, 2012, again just a few months ago. Even though she claims that [Father] is a positive support for her, the fact remains that they were recommended to engage in couples counseling by Jessica Riley[,] and [M]other herself testified that she hopes counseling will help them communicate better and be more open with each other. Such counseling has not yet begun. Both parents owe a substantial amount of money to Blair County Costs & Fines Department. They relocated from their prior home to their present trailer in December[] 2012 because of financial instability.

Permanency Review Order, 4/10/13, at 9 (emphasis in original); **see also** *In re I.J.*, 972 A.2d at 11-12 (allowing termination of parental rights under section 2511(a)(8) where the conditions that led to removal continue to

exist after a year even though the parent has begun to make progress toward resolving the problems that had led to removal of the children).

In regard to the third prong of section 2511(a)(8), whether the termination of Mother's parental rights would serve the needs and welfare of Child, the trial court found as follows:

... during [M]other's testimony, she revealed that she was not looking out for her child's best interests, but her own.

Permanency Review Order, 4/10/13, at 9; **see also id.** at 1-2 (wherein the trial court found that Mother had not complied in full with permanency plan).

The trial court concluded that CYF had met its burden of proof by clear and convincing evidence that the termination of parental rights would be in [Child's] best interest that the termination was warranted under 23 Pa.C.S.A. § 2511(a)(8). We find competent evidence in the record that supports the trial court's credibility and weight assessment. Thus, we conclude that the trial court did not abuse its discretion in terminating Mother's parental rights under section 2511(a)(8). **See *In re Adoption of S.P.***, 47 A.3d at 826-27 (stating that this Court must defer to the trial court's termination decision as long as the factual findings are supported by the record and the court has not erred or abused its discretion in making its legal conclusions); **see also *In re I.J.***, 972 A.2d at 11-12.

Regarding section 2511(b), the court inquires whether the termination of Mother's parental rights would best serve the developmental, physical and emotional needs and welfare of the child. **See *In re C.M.S.***, 884 A.2d

1284, 1286-87 (Pa. Super. 2005). “Intangibles such as love, comfort, security, and stability are involved in the inquiry into the needs and welfare of the child.” *Id.* at 1287 (citation omitted). The court must also discern the nature and status of the parent-child bond, with utmost attention to the effect on the child of permanently severing that bond. *Id.*; **see also *In re Z.P.***, 994 A.2d 1108, 1121 (Pa. Super. 2010) (stating that “the court must take into account whether a bond exists between child and parent, and whether termination would destroy an existing, necessary and beneficial relationship.”); ***In re K.Z.S.***, 946 A.2d 753, 763 (Pa. Super. 2008) (explaining that, in cases where there is no evidence of any bond between the parent and child, it is reasonable to infer that no bond exists). Additionally, “the strength of emotional bond between a child and a potential adoptive parent is an important consideration in a ‘best interests’ analysis.” ***In re I.J.***, 972 A.2d at 13; **see also *In re T.S.M.***, 71 A.3d 251, 268 (Pa. 2013) (stating that “courts considering termination must also consider whether the children are in a pre-adoptive home and whether they have a bond with their foster parents.”). Moreover, courts are not required to use expert testimony when conducting a bonding analysis and may utilize evaluations by social workers and caseworkers to show the bond between parents and their children. ***In re Z.P.***, 994 A.2d at 1121. Finally, the focus in terminating parental rights under section 2511(a) is on the parent, but it

is on the child under section 2511(b). *In re Adoption of C.L.G.*, 956 A.2d at 1008.

Mother contends that she has maintained a bond with Child because she had custody of Child for the first six months of her life and has maintained contact with Child during placement. Mother's Brief at 38-40. Mother argues that the evidence demonstrates that she is capable of caring for Child and that they should be reunited. *Id.* at 40.

With regard to the section 2511(b) inquiry, the trial court found as follows:

[Child] is doing very well in the [] home of [Foster Parents], who are an adoptive resource. She is very much loved and well cared for. ...

[Child] refers to [Foster Father and Mother] as "daddy" and "mommy". [Foster Mother] is home full-time to tend to the child.

[Foster Parents] are represented by legal counsel, Attorney Terressa George, and have already filed their Report of Intention to Adopt, having filed same on or about 12/5/12.

... In his position letter, [dated March 28, 2013, the GAL] supports the position of the Agency that we terminate parental rights and allow [Foster Parents] and the Agency to move forward with the goal of adoption to establish safety and permanency in this child's life. [The GAL further stated that there was no indication that Mother's contacts with Child satisfied the needs and welfare of Child.]

Permanency Review Order, 4/10/13, at 8.

Here, the record includes clear and convincing evidence that Child developed a parental, bonded relationship with Foster Parents, who provide

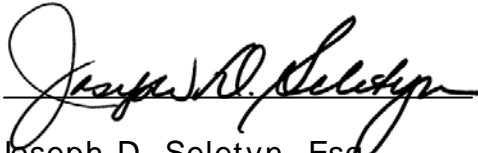
for all of Child's needs. The trial court considered Child's best interests and conducted a bonding analysis by examining Child's relationship with her caregivers, Foster Parents. **See *In re T.S.M.***, 71 A.3d at 268. Further, the trial court appropriately considered the GAL's position that there would be no harm to any bond between Mother and Child if termination were granted. **See *In re K.K.R.S.***, 958 A.2d 529, 535-36 (Pa. Super. 2008) (stating that where no clear bond between the parent and the subject child was apparent, the county children and youth agency was not required to prove the absence of a positive bond); ***In re K.Z.S.***, 946 A.2d at 764 (concluding that competent evidence supported trial court's termination of mother's parental rights despite the absence of a bonding evaluation where evidence demonstrated a strong relationship between child and his foster mother, the child's young age, and his very limited contact with his mother). While Mother may love Child, a parent's own feelings of love and affection for a child, alone, will not preclude termination of parental rights. Indeed, a child's life "simply cannot be put on hold in the hope that [a parent] will summon the ability to handle the responsibilities of parenting." ***In re Z.P.***, 994 A.2d at 1125; **see also *In re J.L.C.***, 837 A.2d 1247, 1249 (Pa. Super. 2003) (stating that parent must put themselves in a position to assume daily parenting responsibilities so that they can develop a bond with child). Based upon the foregoing, competent evidence supports the trial court's determination that the termination of Mother's parental rights would serve

Child's best interests by allowing her to be with Foster Parents, with whom she is bonded. **See** Permanency Review Order, 4/10/13, at 9; ***In re Adoption of S.P.***, 47 A.3d at 826-27.

As we are affirming the termination of Mother's parental rights, we need not review Mother's third or fourth issues.

Decree and Order affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 4/16/2014