

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

IN THE INTEREST OF: C.S.H, A MINOR

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

APPEAL OF: C.D.R., FATHER

No. 2315 EDA 2016

Appeal from the Order July 12, 2016  
in the Court of Common Pleas of Philadelphia County Family Court  
at No(s): CP-51-AP-0000907-2015  
FID: 51-FN-002936-2012

IN THE INTEREST OF: C.B.-A.R., A  
MINOR

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

APPEAL OF: C.D.R., FATHER

No. 2316 EDA 2016

Appeal from the Order July 12, 2016  
in the Court of Common Pleas of Philadelphia County Family Court  
at No(s): CP-51-AP-0000908-2015  
FID: 51-FN-002936-2012

IN THE INTEREST OF: C.D.R., JR., A  
MINOR

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

APPEAL OF: C.R., FATHER

No. 2317 EDA 2016

Appeal from the Order July 12, 2016  
in the Court of Common Pleas of Philadelphia County Family Court  
at No(s): CP-51-AP-0000909-2015  
FID: 51-FN-002936-2012

IN THE INTEREST OF: C.C.R., A MINOR  
APPEAL OF: C.R., FATHER

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 2318 EDA 2016

Appeal from the Order July 12, 2016  
in the Court of Common Pleas of Philadelphia County Family Court  
at No(s): CP-51-AP-0000910-2015  
FID:51-FN-002936-2012

BEFORE: MOULTON, RANSOM, and FITZGERALD,\* JJ.

MEMORANDUM BY FITZGERALD, J.:

**FILED APRIL 24, 2017**

C.D.R. ("Father") appeals<sup>1</sup> from the orders of the Philadelphia Court of Common Pleas that terminated his parental rights to his four children, C.S.H., C.B.-A.R., C.D.R., Jr., and C.C.R. (collectively, "Children"). Father asserts that the trial court erred in terminating his parental rights under 23 Pa.C.S. § 2502(a)(1) and (2), and (b) because he completed all of his family service plan ("FSP") goals, was able to care for his children, and maintained his bond with his Children. We affirm.

C.D.R., Jr. is a male born in July 2007. C.B.-A.R. is a female born in January 2009. C.S.H. (aka C.R.) is a male born in March 2011.<sup>2</sup> C.C.R. is a male born in May 2013. The trial court has thoroughly summarized the

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\* Former Justice specially assigned to the Superior Court.

<sup>1</sup> The appeals of Childrens' mother, W.H. ("Mother") are listed at J-S06032-17.

<sup>2</sup> The trial court referred to C.S.H. as C.R. We use C.S.H. for the sake of consistency.

history of the family's contacts with the Philadelphia County Department of Human Services ("DHS") as follows:

On September 10, 2012, [DHS] received a General Protective Services (GPS) Report alleging that . . . Mother. . . and Father . . . failed to provide their three [c]hildren: C.D.R., Jr., C.B[.] -A.R., and [C.S.H.], with adequate food and safe housing. The Report alleged that Mother and Father only fed the Children once a day; that there was a limited amount of food in the family's home; that there had been no running water in the home for the last eight months; and that the [three c]hildren are unable to bath[e] and appeared to be very dirty. The Report further alleged that the family's home was dirty; that the home was malodorous due to standing waste in the toilet; that Father was employed; that he used drugs and drank alcohol excessively; that Mother is unemployed and appeared to be depressed. The Report was substantiated.

DHS made numerous attempts to assess the [c]hildren's safety, without success, and subsequently filed dependent petitions for the [the three children].

Adjudicatory Hearings for three [c]hildren: C.D.R., Jr., C.B[.] -A.R., and [C.S.H.] were held on November 9, 2012 before Judge Thomas M. Nocella. The Court finds that temporary legal custody of the [three c]hildren to be given to DHS and placement in Foster Care. Supervised visitation for the parents at DHS as arranged by the parties. [The three c]hildren referred to Child Link for Early Intervention Services. DHS to obtain birth certificates. DHS to explore appropriate family members as possible placement resource. [The three c]hildren may be reunified with parents if appropriate, DHS to do home evaluation. ACS may submit administrative order discharging commitment and implementing once Children are reunified. FSP meeting within 30 days.

On December 21, 2012 a hearing was held and the Children were found not to be dependent and any temporary legal and physical custody by DHS to be discharged. Children reside with parents and are safe as of December 20, 2012.

On April 19, 2013, DHS received a GPS Report alleging that [C.S.H.] was diagnosed with neurofibromatosis; that Mother was first asked to take Child to St. Christopher's Hospital for Children for an evaluation in November 2012; that several appointments were made for Mother and Father to take the [c]hild for an evaluation; and that the [c]hild still has not been evaluated. The Report alleged that there was concern regarding the [c]hild's development and the psychological effect that the disease could cause; that neurofibromatosis attacks the central nervous tissue; and that the [c]hild was developmentally delayed.

On April 24, 2013, DHS and the DHS visiting nurse made a joint visit to the family's home to investigate the allegations of the GPS Report. Mother and Father stated that they were not aware of the appointments for [C.S.H.]. Father stated that he did not know that the [c]hild's doctor wanted him to take the [c]hild for an evaluation for neurofibromatosis and that the doctor did not discuss the [c]hild's condition with him.

DHS subsequently learned that C.B[.] -A.R. was also diagnosed as suffering from neurofibromatosis.

DHS also learned that C.B[.] -A,R. has severe behavioral issues and is prescribed medication. Mother stated that she does not provide the [c]hild with her medication because she believes that it makes her behavior worse.

On May 29, 2013, Mother gave birth to C.C.R. DHS referred the family for Rapid Service Response Initiative (RSRI) to assist with scheduling the Children's appointments.

On July 9, 2013, DHS implemented In-Home Protective Services (IHPS) through the Family Support Center.

On or about September 11, 2013, DHS learned that the family was scheduled to be evicted from their home on September 15, 2013. IHPS spoke with Father about the family's planned living arrangements and Father stated that the family would be residing with relatives; however,

Father became evasive and failed to provide IHPS with an address.

On September 17, 2013, IHPS went to the home. The family could be heard inside of the apartment; however, no one answered the door.

On September 18, 2013, DHS attempted to visit the family, without success.

On October 15, 2013, a hearing for all the Children was held before the Honorable Allan L. Tereshko. Adjudication was deferred, DHS to supervise. Mother referred to [Behavioral Health Services (BHS)] for consultation/evaluation. DHS to re-inspect the home within seven days. IHPS through family supports to continue. Parents to comply with all services and recommendations, cooperate with DHS, Agency and Child Advocate. Safety to be provided at next Court date.

DHS learned that C.C.R. was also diagnosed as suffering from neurofibromatosis.

An Adjudicatory Hearing was held on November 4, 2013 before Judge Allan L. Tereshko. The [c]ourt adjudicated the four Children Dependent and committed them to DHS. Physical custody of the Children to remain with the parents, subject to the conditions and limitations as the Court prescribes, including supervision. DHS to implement family finding, and referral to Family School. Mother and Father to be referred to and receive a Parenting Capacity Evaluation. Mother is referred to [the Clinical Evaluation Unit (CEU)] for an assessment, dual diagnosis and a forthwith drug screen (to include alcohol). FSP meeting is to occur within 30 days.

A Permanency Review Hearing was held on February 7, 2014 before Judge Allan L. Tereshko, who found that DHS shall maintain legal custody of the Children. The Children are placed in Foster Care through PCV, (Presbyterian Children's Village). Mother and Father to have weekly supervised visits with the Children at Agency. Father completed parenting capacity evaluation. Mother to attend Family School. Mother and Father re-referred to CEU for

forthwith drug screen (to include alcohol), dual diagnosis assessment and monitoring. Mother and Father to attend Children's medical appointments. Mother to attend parenting capacity evaluation scheduled for 2/12/2014. Father to complete part 2 of parenting capacity evaluation. Mother and Father to attend ARC [Achieving Reunification Center] program and comply with CEU recommendations. DHS to re-evaluate parent's home. As to C.D.R., Jr., he is receiving therapy at PCV and receives intense tutoring at school. As to C.B[.] -A.R., she is scheduled to be evaluated at Easter Seals. She had an eye evaluation and is in need of glasses, and continues to be monitored at St. Christopher's for medical disorder. As to [C.S.H.], he is receiving sign language, speech therapy and occupational therapy. He has been referred to Center for Autism. As to C.C.R., he is receiving WIC services, and will follow up at St. Christopher's regarding genetic disorder on 3/9/2014. He is attending daycare.

On May 2, 2014, CEU submitted a Progress Report as to Father, which stated that Father failed to comply with the Court ordered drug and alcohol assessment in that he was a no call/no show for his scheduled appointment on 3/6/2014. The Report also stated that Father's drug screen on 2/7/2014 was positive for cocaine and marijuana. A Permanency Review Hearing was held on May 9, 2014 before Judge Kevin M. Dougherty, who found that DHS shall maintain legal custody of the Children. The Children are placed in Foster Care through PCV. Mother and Father to have supervised visits with the Children at Agency. Regarding Mother, there has been moderate compliance with the permanency plan, in that Mother receives services through ARC, mental health services through Community Counsel, complied with first part of parenting capacity evaluation. Mother receives services through Family School. Regarding Father, there has been minimal compliance with the permanency plan, in that Father was noncompliant with FSP objectives, services and recommendations. Father was referred to ARC, and Father did not comply with second half of parenting capacity evaluation (rescheduled 3 times). Report submitted from CEU for Father. As to C.D.R., Jr., the Child is doing well. As to C.B[.] -A.R., the Child is doing well and receives 45 minutes of special instruction in daycare, and medical

treatment through St. Christopher's Hospital. As to [C.S.H.], he is doing well and receiving services through Elwyn. As to C.C.R., he is doing well and referred to Child Link Early Intervention Services, no services recommended.

A Permanency Review Hearing was held on June 20, 2014 before Judge Walter Olszewski, who found that DHS shall maintain legal custody of the Children. The Children shall remain in Foster Care through The Village. Regarding Mother, there has been full compliance with the permanency plan. Regarding Father, there has been minimal compliance with the permanency plan. Father is re-referred to CEU for an assessment and forthwith drug screen. Father is to complete second portion of parenting capacity evaluation scheduled for 7/15/2014. DHS to re-refer Father to ARC. Mother is referred to BHS for consultation/evaluation, and is to sign releases of information. Children are authorized to travel with foster parent to South Carolina from 8/16/2014 through 8/23/2014. All specific information regarding the vacation/trip is to be provided to counsel.

On June 24, 2014, Mother underwent a [parent capacity evaluation (PCE)] conducted at Assessment & Treatment Alternatives, Inc., (ATA) by William Russell, Ph.D., and Samantha Brenner, M.A. The PCE stated that there are several barriers to Mother providing safety and permanency to the Children; that those barriers include a minimization of the role she played in the situation which precipitated DHS involvement and the inability to acknowledge her Children's behavioral problems; that she also minimizes Father's drug use; that Mother neglected to take responsibility for her Children not receiving appropriate medical treatment; that she projected blame on the City for the removal of her Children; and that she denied all allegations that her home was unkempt, chaotic, and that the Children were not up to date on their immunizations. The PCE also stated that Mother was diagnosed with persistent depressive disorder and that she does not function well in complex situations. The PCE recommendations were for Mother to obtain appropriate housing with an adequate number of bedrooms for her Children; that the home be inspected frequently to assess

for safety hazards and/or the home being unkempt, that the home be affordable based on income; that she obtain employment; that she participate in available programming to help parents continue to develop skills as well as receive professional and peer support; that she receive psychoeducation on the seriousness of the Children's medical needs and the importance of taking them to their medical appointments; and that Mother should participate in individual therapy to assess her with understanding her depressed mood and increasing her ability to anticipate problems.

On July 2, 2014, Mother underwent a Psychological Evaluation which was conducted by Stacey A. Summers, Psy.D. The Evaluation stated that most of Mother's problems can be directly related to her cognitive deficits; that she can become easily overwhelmed and confused, which impedes her functioning in daily life; that Mother would benefit from case management services geared toward individuals with intellectual disabilities; that without these support services, Mother would likely have difficulty securing the resources necessary to have her Children return to her care; and that it was recommended that Mother participate in individual outpatient therapy in order to handle her current life stressors as well as to manage her anxious and depressive symptoms.

On[ ] July 15, 2014, Father underwent a PCE at ATA conducted by Dr. Russell and Dr. Brenner. The PCE stated that Father minimizes the role he played in the situation which precipitated DHS involvement; that he failed to acknowledge any DHS concerns; he indicated the reason his Children were removed was due to false allegations of safety hazards in the home; that he failed to recognize any behavior problems with the Children; that he glossed over any financial problems; and he projected blame on DHS for his inability to afford and purchase a suitable home. The PCE recommendations were for Father to participate in drug and alcohol treatment with random drug screens; that he and Mother should attend couples counseling to address any past and/or current issues in their relationship; that he should obtain suitable and stable housing; that the home should have enough bedrooms to accommodate the Children; that the home should be



inspected for safety hazards prior to the Children being allowed to reside there; and that the home should be affordable based on income.

On August 29, 2014, CEU submitted a Report as to Father, which referred him to outpatient drug and alcohol treatment.

A Permanency Review Hearing was held on September 2, 2014 before Judge Kevin M. Dougherty, who found that DHS shall maintain legal custody of the Children. The Children shall remain in Foster Care through The Village. Mother and Father have weekly supervised visits with the Children. A referral for therapeutic visits between the parents and Children is to be made forthwith. Mother and Father completed their Parenting Capacity Evaluations. Mother's Psychological Evaluation from BHS has been distributed to all parties. Mother to continue with mental health treatment and Father is to continue his through ARC program. Father is re-referred to CEU for a forthwith screen and assessment with four random drug screens prior to the next court date. DHS is to explore D&A treatment and mental health options for Father. Mother is to be referred for Intellectual Disability Services [(IDS)]. Dr. Russell to write up an Addendum after receiving and reviewing Mother's Psychological Evaluation from BHS. As to C.D.R., Jr., he is not receiving any special services at this time and is doing well. He completed his therapy through the Village. As to C.B[.]-A.R., she receives medical follow up for her condition through St. Christopher's. She completed an MRI with an ER scheduled ultrasound today. Child attends school with a current IEP. As to [C.S.H.], he receives occupational, speech and special instruction services through DE County Intermediate Unit. MRI scheduled for 9/10/2014. As to C.C.R., he receives appropriate services through DuPont.

On December 1, 2014, CEU submitted a Report as to Father, which stated that on 10/15/2014 Father reported that he was engaged in drug and alcohol treatment at Gaudenzia, and that per Guadenzia Outreach staff, Father is not now and has never been enrolled in treatment through their facility.

A Permanency Review Hearing was held on December 2, 2014 before the Honorable Allan L. Tereshko, who found that DHS shall maintain legal custody of the Children. The Children shall remain in Foster Care through The Village. Mother and Father have weekly supervised visits with the Children, supervised with Parents Therapeutic through ATA. Mother has been in substantial compliance with permanency plan, Mother complying with FSP objectives, services and recommendations, completed Parenting Capacity Evaluation, receives mental health services through Community Counsel and attends Family School. Father has been in substantial compliance with permanency plan, Father was referred to ARC for services, receives drug and alcohol counseling through Gaudenzia. Father did complete Parenting Capacity Evaluation, currently not participating in couples counseling. Father complying with all FSP objectives, services and recommendations. Mother referred to IDS Services, DHS did make referral to ATA for Addendum for PCE for Mother. Mother to provide social security card and birth certificate to DHS. Father referred back to CEU for monitoring, forthwith full drug and alcohol screen and three random screens prior to next court date. Parents to sign release of information, comply with FSP objectives, services and recommendations. As to [C.S.H.], foster parent gave notice due to Child's behaviors.

On February 4, 2015, DHS held a FSP meeting. The permanency goal for the Children was changed to "Adoption."<sup>[3]</sup> The parental objectives for Mother were to maintain all appointments for the Children and comply with all treatment recommendations; to make herself available to discuss any issues regarding the Children; to call to confirm prior visits; to participate in court ordered mental health evaluations and sign releases of information; to comply with all treatment recommendations including therapy and or medication management as prescribed; to ensure that the health or safety hazards at the residence are corrected, such as exposed wiring, securely covered heating system, and a functioning toilet; to ensure that all

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<sup>3</sup> The dockets reveal that a concurrent plan of adoption was set forth in the trial court's December 2, 2014 and May 18, 2015 permanency orders.

utilities remain operable at all times; to attend Family School; and to obtain employment. The parental objectives for Father were to attend all appointments for the Children and comply with all treatment recommendations; to make himself available to discuss any issues regarding the Children; to call to confirm prior to visits; to participate in family therapy with Mother; to participate in drug and alcohol treatment and comply with all recommendations; to participate in services through ARC; to ensure that the health or safety hazards at the residence are corrected, such as exposed wiring, securely covered heating system, and a functioning toilet; to ensure that all utilities remain operable at all times.

On February 26, 2015, Mother participated in a PCE Addendum at ATA conducted by Dr. Russell and Ms. Peterson. The PCE Addendum stated that Mother was unable to demonstrate any notable progress since her last evaluation in developing the capacity to provide for her Children; that there remains concerns regarding her capacity to provide safety and permanency to her Children; that she continues to minimize the role she and the Father played in the situation which precipitated DHS involvement; that she continues to not acknowledge the Children's behavioral problems/special needs; that she has yet to acquire appropriate housing; that she continues to be unemployed; that, despite recommendations from two separate evaluations, she has yet to enroll in mental health treatment; and that, in light of the lack of progress, her cognitive limitations, and her difficulty recognizing her Children's needs, an intensive case manager should be assigned to her case. The PCE Addendum also stated that Mother appeared to be functioning in the borderline range in intelligence and a diagnosis of Intellectual Disability, Mild should be explored.

On March 2, 2015, CEU submitted a report as to Father, which stated that Father failed to provide verification of his enrollment in drug and alcohol treatment.

A Permanency Review Hearing was held on March 3, 2015 before the Honorable Allan L. Tereshko, who found that DHS shall maintain legal custody of the Children. The Children shall remain in Foster Care through The Village.

Mother and Father to have weekly supervised visits with the Children at the Agency for one hour. CEU Report as to Father is incorporated into the record by reference. Father referred to the CEU unit for a forthwith drug screen, 3 randoms, assessment, and monitoring.

On May 14, 2015, CEU submitted a progress report as to Father, which stated that Father failed to comply with the Court ordered drug and alcohol assessment in that he was a no call/no show for his scheduled appointment on 4/6/2014. The Report also stated that Father did go to CEU on 5/11/2015, but failed to reschedule an appointment to be assessed.

A Permanency Review Hearing was held on May 18, 2015 before the Honorable Allan L. Tereshko, who found that DHS shall remain in legal custody of the Children. The placement of the Children shall remain in a Pre-Adoptive Home through The Village. Mother and Father are offered weekly supervised visits with the Children at the Agency. As to C.D.R., Jr., he receives Child Guidance therapy services, speech therapy and attends school. As to C.B[.] -A.R., she receives individual therapy through PCV, and is scheduled for an Autism evaluation of 6/16/[2015]. As to [C.S.H.], he attends Easter Seals and receives speech, occupation and special instruction services. He has been diagnosed with Autism and will receive appropriate wrap around services. As to C.C.R., he receives speech therapy. Mother has been referred to IDS Services, and referred to BHS for consultations and evaluations. Father is re-referred for an updated PCE, and is referred to CEU for assessment, forthwith screen and three random drug screens prior to next court date.

A Permanency Review Hearing was held on September 1, 2015 before the Honorable Allan L. Tereshko, who found that DHS shall remain in legal custody of the Children. The placement of the Children shall remain in Foster Care through The Village. Mother and Father are offered weekly supervised visits with the Children at the Agency for one hour. Father is to report for his PCE Addendum on 10/15/2015. DHS is to forward copy of PCE to all parties. Family School is discharged.

C.B[.]-A.R., [C.S.H.], and C.C.R. are diagnosed as suffering from neurofibromatosis, which is a genetically-inherited disorder in which the nerve tissue grows tumors (neurofibromas) that may be benign and may cause serious damage by compressing nerves and other tissues. The disorder affects all neural crest cells (Schwann cells, melanocytes, and endoneurial fibroblasts). Cellular elements from these cell types proliferate excessively through the body, forming tumors; melanocytes also function abnormally in this disease, resulting in disordered skin pigmentation and café au lait spots. The tumors may cause bumps under the skin, colored spots, skeletal problems, pressure on spinal nerve roots, and other neurological problems. Neurofibromatosis is an autosomal dominant disorder, which means only one copy of the affected gene is needed for the disorder to develop. Therefore, if only one parent has neurofibromatosis, his or her children have a 50 percent chance of developing the condition as well.

Father is diagnosed as suffering from neurofibromatosis.

Mother is diagnosed with persistent depressive disorder.

Trial Ct. Op., 10/11/16, at 2-17 (record citations omitted).

On December 22, 2015, DHS filed the petitions to terminate Father's and Mother's parental rights to Children under 23 Pa.C.S. § 2511(a)(1), (2), (5), (8), and (b). That same day, DHS filed petitions for goal changes to adoption.

The trial court held hearings on April 20, 2016, and July 12, 2016. On July 12, 2016, the court entered the orders terminating Father's parental

rights to Children under Section 2511(a)(1), (2), (8) and (b), and changed Children's goal to adoption. These timely appeals followed.<sup>4</sup>

Father presents the following questions for review:

1. Whether the trial court committed reversible error, when it involuntarily terminated [F]ather's parental rights where such determination was not supported by clear and convincing evidence under the [A]doption [A]ct, 23 Pa.C.S.A. § 2511(a)(1), and (2)?

2. Whether the trial court committed reversible error when it involuntarily terminated [F]ather's parental rights without giving primary consideration to the effect that the termination would have on the developmental, physical and emotional needs of [Children] as required by the [A]doption [A]ct, 23 Pa.C.S.A. § 2511(b)?

Father's Brief at 8.<sup>5</sup>

Father first argues that there was insufficient evidence to terminate his parental rights under Sections 2511(a)(1) and (2) of the Adoption Act. He

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<sup>4</sup> Father submitted a Pa.R.A.P. 1925(b) statement contemporaneously with his notice of appeal. **See** Pa.R.A.P. 1925(a)(2)(i). The trial court prepared a responsive opinion.

<sup>5</sup> Father posed the following third question presented on appeal:

3. Whether the trial court erred because the evidence was overwhelming and undisputed that [F]ather demonstrated a genuine interest and sincere, persistent, and unrelenting effort to maintain a parent-child relationship with [Children]?

Father's Brief at 8. However, he has not set forth a separate section of argument on this question. **See** Pa.R.A.P. 2119(a). Rather, he subsumes that issue into his arguments related to his first two questions. **See** Father's Brief at 19-20. We will address this issue in the same fashion.

cites evidence of his compliance with the family service plan, including his (1) completion of individual and family therapy, (2) attendance of Children's medical appointment, (3) completion of anger management and "Focus on Fathers" programs at ARC, (4) attendance at drug and alcohol counseling, (5) maintenance of employment, and (6) repairs to the home. He contends this evidence "indicated that [he] has not in any manner relinquished his parental rights to [Children] or failed to perform his parental duties" under Subsection (a)(1) and established that he "has the present capacity to care for [C]hildren." **Id.** at 19-20. No relief is due.

Our standards for reviewing an appeal from an order terminating parental rights are well settled.

[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. **In re R.J.T.**, [ ] 9 A.3d 1179, 1190 (Pa. 2010). If the factual findings are supported, appellate courts review to determine if the trial court made an error of law or abused its discretion. **Id.**; **R.I.S.**, 36 A.3d 567, 572 (Pa. 2011) (plurality opinion)]. As has been often stated, an abuse of discretion does not result merely because the reviewing court might have reached a different conclusion. **Id.**; **see also Samuel Bassett v. Kia Motors America, Inc.**, [ ] 34 A.3d 1, 51 (Pa. 2011); **Christianson v. Ely**, 838 A.2d 630, 634 (Pa. 2003). Instead, a decision may be reversed for an abuse of discretion only upon demonstration of manifest unreasonableness, partiality, prejudice, bias, or ill-will. **Id.**

. . . [E]ven 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 Atencio***, 650 A.2d 1064, 1066 (Pa. 1994).

***In re Adoption of S.P.***, 47 A.3d 817, 826-27 (Pa. 2012).

The burden is upon 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). "The standard of clear 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 hesitation, of the truth of the precise facts in issue.'" ***Id.*** (citation omitted).

Section 2511 of the Adoption Act governs the termination of parental rights and requires a bifurcated analysis. ***In re L.M.***, 923 A.2d 505, 511 (Pa. Super. 2007) (citations omitted).

Initially, the focus is on the conduct of the parent. The party seeking termination must prove by clear and convincing evidence that the parent's conduct satisfies the statutory grounds for termination delineated in Section 2511(a). Only if the court determines that the parent's conduct warrants termination of his or her parental rights does the 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.



**Id.** This Court may affirm the trial court's determination under Section 2511(a) with regard to any one subsection. **See In re B.L.W.**, 843 A.2d 380, 384 (Pa. Super. 2004) (*en banc*).

Instantly, Father asserts that DHS did not seek termination of his parental rights under Section 2511(a)(8) and focuses his arguments on Sections 2511(a)(1) and (2). **See** Father's Brief at 8. However, a review of the record belies that assertion. **See** Pet. for Involuntary Termination of Parental Rights, 12/22/15, at 4. Therefore, Father technically waived an argument that termination of his parental rights was not warranted under Subsection (a)(8). Nevertheless, we will consider the evidence in support of termination under that subsection. **Cf. In re B.L.W.**, 843 A.3d at 384.

Section 2511(a)(8) provides:

**(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.

23 Pa.C.S. § 2511(a)(8).

This Court has stated:

Section (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. Once the 12-month period has been established, the court must next determine whether the conditions that led to the child[ren]'s removal continue to exist, despite the reasonable good faith efforts of DHS supplied over a realistic time period. Termination under Section 2511(a)(8) does not require the court to evaluate a parent's current willingness or ability to remedy the conditions that initially caused placement or the availability or efficacy of DHS services.

***In re K.Z.S.***, 946 A.2d 753, 759 (Pa. Super. 2008) (citation omitted).

Additionally,

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.

***In re D.A.T.***, 91 A.3d 197, 205 (Pa. Super. 2014) (citation omitted).

Instantly, Children were adjudicated dependent on November 4, 2013, and DHS filed the termination petitions on December 22, 2015, more than two years later. Therefore, the record establishes that DHS satisfied the first requirement under Subsection (a)(8), namely, the twelve-month time frame for a parent to remedy the conditions that led to the children's removal by the court.

Next, Children were removed from parent's care due to the inadequate housing, dangerous conditions in their residence, Father's and Mother's inability to provide for the Children's medical and behavioral needs, and Father's drug and alcohol, anger management, and relationship issues.

Doctor Erica Williams, who conducted a PCE on April 14, 2016, opined that Father did not “present with the capacity to provide safety and permanency” for Children. N.T., 4/20/16, at 66. Doctor Williams noted Father “denied and minimized each of the concerns raised by DHS” regarding inadequate housing and food, “vehemently denied any inadequate medical care,” and denied any physical abuse of Mother. **Id.** at 64. According to Doctor Williams, Father “presented as completing each task asked of him, but provided and [sic] alternate perception as to what occurred in that task.” **Id.** at 64-65. Doctor Williams specifically indicated that (1) “[Father] said he completed mental health therapy, but upon review of the records he received an administrative discharge for nonadherence to the expected goals[,]” (2) “[Father] reported that he completed drug and alcohol treatment when in he’s in fact been unsuccessfully discharged[,]” and (3) “[Father] reported he completed his supervised therapeutic visits and he didn’t mention the concerns raised during those visits.” **Id.** at 65. Dr. Williams concluded that Father was not making progress and “was hostile and belligerent when given feedback . . . .” **Id.** at 65. The doctor suggested, “[I]t’s difficult to know if change would occur given all of this has been presented over the past few years and there has not been substantial progress.” **Id.** at 66.

The trial court also heard testimony from Janaya Davis, a foster care supervisor, and Brenda Hodges, a case manager. Ms. Davis and Ms. Hodges

supervised Father's and Mother's visits with Children at The Village. Ms. Davis suggested that Father was "[n]ot really" engaged with Children during visits and "would be on his phone." *Id.* at 54. Ms. Hodges described the visits as follows: "The family gets together for a meal in a controlled setting they do well, but as soon as the meal is over [Father] sits on the sofa and [Mother] basically attempts to engage with [Children], but they each come and go in their own direction. They're really not interacting." *Id.* at 56-57.

Accordingly, there was clear and convincing evidence that the conditions which led to the removal of Children continued to exist. Although Father focuses on his technical compliance with some of his goals, he avoids the primary issue in this case, namely, whether he is able to recognize and tend to the needs of Children.

Moreover, the above-recited testimony also provides support for a determination that termination would be in the best interests of Children. There is no evidence suggesting that Father was able to meet Children's behavioral or medical needs. Moreover, Ms. Hodges testified that during visitations, she observed "more of a social bonding, like friends getting together. The bond between Father and [C.D.R., Jr.] is more like buddies rather than a father and a son." N.T. at 57. Father minimized C.S.H.'s autism as the child being "bad." In light of Father's minimal engagement during visits, we conclude there was sufficient evidence to conclude that

termination would best serve the needs and welfare of Children under Section 2511(a)(8).

Thus, having reviewed the relevant law and the record, we discern no basis to disturb the trial court's conclusion that DHS established the elements for termination of Father's parental rights under Section 2511(a)(8). Therefore, no relief is due on Appellant's argument that the trial court erred in finding grounds for termination under Section 2511(a).

Father next argues that the trial court erred in its consideration of the needs and welfare of Children under Section 2511(b). Father asserts that the trial court recognized the bond between Father and Children. Appellant's Brief at 20. He contends that "the cutting off of the parent child bond between [F]ather and [Children] would not facilitate putting another bond in place." *Id.* (citing *In re P.A.B.*, 570 A.2d 522 (Pa. Super. 1990)). No relief is due.

Section 2511(b) states:

**(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.

23 Pa.C.S. § 2511 (b).

"Intangibles such as love, comfort, security, and stability are involved in the inquiry into the needs and welfare of the child." *In re C.M.S.*, 884

A.2d 1284, 1287 (Pa. Super. 2005) (citation omitted). The trial 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.** (citation omitted). However,

[w]hile a parent’s emotional bond with his or her child is a major aspect of the subsection 2511(b) best-interest analysis, it is nonetheless only one of many factors to be considered by the court when determining what is in the best interest of the child. The mere existence of an emotional bond does not preclude the termination of parental rights. Rather, the orphans’ court must examine the status of the bond to determine whether its termination “would destroy an existing, necessary and beneficial relationship.” As we explained in **In re A.S.**, 11 A.3d 473, 483 (Pa. Super. 2010),

[I]n addition to a bond examination, the trial court can equally emphasize the safety needs of the child, and should also consider the intangibles, such as the love, comfort, security, and stability the child might have with the foster parent. Additionally, this Court stated that the trial court should consider the importance of continuity of relationships and whether any existing parent-child bond can be severed without detrimental effects on the child.

**In re N.A.M.**, 33 A.3d 95, 103 (Pa. Super. 2011) (some citations omitted).

Our Supreme Court has stated that “[c]ommon sense dictates 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.” **In re T.S.M.**, 71 A.3d at 268 (citation omitted). The **T.S.M.** Court directed that, in weighing the bond considerations pursuant to Section 2511(b), “courts must keep the ticking clock of childhood ever in mind.” **Id.** at 269. The Court observed that “[c]hildren are young for a scant number of

years, and we have an obligation to see to their healthy development quickly. When courts fail . . . the result, all too often, is catastrophically maladjusted children.” ***Id.***

Instantly, C.B.-A.R. and C.S.H. have been in the pre-adoptive foster care of R.W. since approximately May 8, 2014. C.D.R. Jr., and C.C.R. are in the pre-adoptive foster care of A.W. since November 2013. The trial court heard evidence that Children have bonded to the respective foster parents. N.T., 4/20/16, at 19-20. As C.B.-A.R. and C.S.H., Ms. Davis further noted that their foster parent worked to correct some of the behavioral issues with Children, including C.B.-A.R.’s past tendency to grab items, such as candy, from the floor, as well as C.S.H.’s potty-training. ***Id.*** at 49-50. Ms. Davis asserted there was no bond between Father and Children, but acknowledged they called him “dad.” ***Id.*** at 53. Ashley John, a DHS social worker, testified that C.B.-A.R. called her foster mother “mom.” ***Id.*** at 23.

As to C.D.R., Jr. and C.C.R., Ms. Hodges testified that she observed bonding between Father and Children. ***Id.*** at 57. However, as noted above, Ms. Hodges described the bond as “friends getting together” and “more like buddies.” ***Id.***

Ms. Hodges noted that Father “makes promises to bring [Children] home, which leads to a readjustment when they’re back with the foster parents.” ***Id.*** She considered C.D.R., Jr.’s expectations to return with Father to be “not realistic,” but acknowledged that “he gets disappointed

because he can't go home with [Father]." **Id.** She discussed how C.D.R., Jr. would become "resistive" to foster mother and "act[ ] out." **Id.** at 58. However, she concluded that C.D.R., Jr.'s foster parent "works very closely with the therapist," and "between the therapist and the school psychologist and the other support services they're able to come together and help him get back on track." **Id.**

Ms. John further asserted:

[C.D.R., Jr. is] able to know who his biological parents are and foster parents. DHS has had several conversations with him. The child is willing and wants to remain in the care of his foster parent. He does have a close bond. They do may [sic] activities. His mental health, his needs overall is being met by the foster parent and the child enjoys the relationship he has with the foster parent and her other children in the home.

**Id.** at 20-21. As to C.C.R., Ms. John testified that C.C.R. has been in foster parent's care since "he was a couple months old[,] he considers [foster parent] his mom and he has a deep connection and a bond with [her] and considers her to be his mother." **Id.** at 21.

In light of the foregoing, we have no basis to disturb the trial court's finding that credible evidence established "Children would not suffer irreparable harm if Father's rights were terminated and that termination of Father's parental rights would be in the best interest of [ ] Children." **See** Trial Ct. Op. at 28; **In re Adoption of S.P.**, 47 A.3d at 826-27. Having reviewed the record, we discern no error in the trial court's conclusion that there was "clear and convincing evidence that termination of Father's

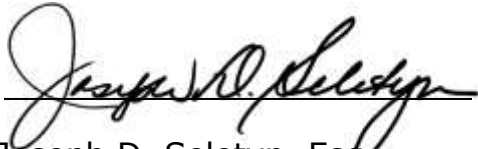


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parental rights would be in the best interests of the Children.” Trial Ct. Op. at 28; ***In re N.A.M.***, 33 A.3d at 103. Accordingly, we have no basis to disturb the trial court’s finding that termination was warranted under Section 2511(b).

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: 4/24/2017