J-S26031-15

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN THE INTEREST OF: A.E. AND R.P., MINORS	IN THE SUPERIOR COURT OF PENNSYLVANIA
APPEAL OF: K.E., MOTHER	No. 2073 MDA 2014

Appeal from the Order entered November 19, 2014, in the Court of Common Pleas of Columbia County, Civil Division, at No(s): 106 OC 2013, 107 OC 2013, CP-19-DP-0000038-2008, CP-19-DP-000012-2010

BEFORE: OTT, WECHT, and JENKINS, JJ.

MEMORANDUM BY JENKINS, J.: **FILED JULY 31, 2015**

K.E. ("Mother") appeals from the order dated November 18, 2014, and entered on November 19, 2014, in the Columbia County Court of Common Pleas, Orphan's Court Division, involuntarily terminating her parental rights to her two minor daughters, A.R.E. (born in March of 2003) and R.L.P. (born in January of 2009) (collectively, "Children"), pursuant to section 2511(a)(5), (8), and (b) of the Adoption Act, 23 Pa.C.S. § 2511(a)(5), (8), and (b).[1] We affirm.

The relevant facts and procedural history of this case are as follows.

> [A.R.E.] was born [in March of 2003]. [A.R.E.'s] [f]ather is [C.A.]. [R.L.P.] was born [in January of 2009]. [R.L.P.'s] [f]ather is [J.L.P.]. Mother has not had custody of the [C]hildren since December 10, 2011. . . .
>
> The original Family Service Plan [("FSP")] was prescribed on or about March 20, 2006 and set forth objectives which included Mother's abstention from drugs and alcohol, Mother

[1] Neither C.A., A.R.E.'s father, nor J.M.P., R.L.P.'s father, participated in the proceedings below, filed an appeal from the trial court's order, or is a party to this appeal.

seeking mental health treatment, Mother securing stable shelter, and Mother attending parenting classes. Mother agreed to the original [FSP] on April 13, 2006. [A.R.E.] was declared dependent on June 26, 2008 on account of Mother's drug use and lack of supervision, and [R.L.P.] was declared dependent shortly after birth. Custody of [A.R.E.] was transferred from Mother for the first time on June 26, 2008, and custody. . . was returned to Mother on December 17, 2008. On January 22, 2010, emergency custody was awarded to [Columbia County Children & Youth Services ("CYS")] when Mother entered inpatient rehabilitation. This marked the second time custody was taken from Mother due to drug use and parenting neglect. Mother remained in inpatient rehabilitation until July 3, 2010, when she left rehabilitation without completion of the program in the midst of Mother alleging that another resident at the inpatient facility had abused [R.L.P.].

While Mother was in inpatient rehabilitation, on April 22, 2010, custody of [R.L.P.] was placed with Mother. [R.L.P.] was 15 months old at that time. Mother entered the Drug Court program on October 5, 2010. Both [C]hildren were again returned to Mother on February 24, 2011, but were quickly removed for a third time when Mother was found to have been abusing suboxone on March 3, 2011. Mother was sanctioned with a stay in prison until March 7, 2011, after which the [C]hildren were again returned to Mother. After a further relapse, Mother was again admitted to inpatient rehabilitation in November of 2011. During this stay, both [C]hildren were permitted to be with Mother, but Mother was caught illegally using methadone while in said placement and the [C]hildren were removed from her custody for a fourth and last time on December 10, 2011, at which time Mother was transferred to another inpatient rehabilitation facility. Mother did not complete that program, was discharged on April 25, 2012 and was incarcerated on May 14, 2012 for further non-compliances with the terms and conditions of Drug Court. On May 29, 2012, Mother was discharged from Drug Court and was re-sentenced to a State Correctional Institute. Mother was paroled on January 14, 2013.

From December 10, 2011 to May 15, 2012, Mother had approximately one (1) unsupervised visit with the [C]hildren each week. On December 14, 2011, a permanency plan was developed by CYS which repeated the objectives of Mother

> seeking mental health treatment, that she remain drug and alcohol free and that she attend parenting classes. Mother's attendance at parenting classes [was not] of a consistency which could lead to a conclusion that she [] complied with that recommendation. Mother's attendance at parenting classes [became consistent only after] March 1, 2013, when the [trial court issued orders] changing the goal of placement from reunification with Mother to adoption.

Trial Ct. Op., 8/20/13, at 4-6.

On April 9, 2013, Mother filed a notice of appeal from the March 1, 2013 orders changing Children's permanency goal from reunification with Mother to adoption. On May 24, 2013, this Court quashed Mother's appeal for untimeliness. On June 4, 2013, CYS filed separate petitions to involuntarily terminate the parental rights of Mother and C.A. to A.R.E., and those of Mother and J.M.P. to R.L.P., respectively, alleging the elements of 23 Pa.C.S. § 2511(a)(1), (5), and (8). On August 8, 2013, the trial court held a hearing on the petitions.[2] Mother appeared at the hearing with counsel, but neither father appeared at the hearing or filed any responsive pleading. On August 20, 2013, the trial court issued an order involuntarily terminating Mother's parental rights to Children pursuant to 23 Pa.C.S. § 2511(a)(5) and (8). By the same order, the trial court also involuntarily terminated the parental rights of Children's respective fathers pursuant to 23 Pa.C.S. § 2511(a)(1), (5), and (8). On August 28, 2013, Mother filed a timely notice of appeal.

[2] At the August 8, 2013 termination hearing, the trial court, by stipulation of the parties, incorporated into the record the findings of fact and issued determinations made during the dependency hearings of February 4, 2013 and February 26, 2013. Trial Ct. Op., 8/20/13, at 2-4.

On March 11, 2013, this Court issued an opinion reversing the August 20, 2013 order, holding that:

> CYS did not plead grounds under 23 Pa.C.S.[] § 2511(b) in addition to grounds under § 2511(a), that [the trial court] did not discuss or adjudicate the issues under § 2511(b) relating to whether termination of parental rights would best serve the "developmental, physical and emotional needs and welfare of the child," that a discussion of whether the termination "would best serve the needs and welfare of the child" under [§ 2511(a)(5) and (8)] is not adequate to meet the § 2511(b) requirement that the trial court discuss the "developmental, physical and emotional needs and welfare of the child," and that such matters are reversible error.

Trial Ct. Op., 11/19/14, at 2.

Thereafter, on September 19, 2014, CYS filed second petitions to involuntarily terminate Mother's parental rights to Children, alleging the elements of 23 Pa.C.S. § 2511(a)(1), (5), (8), and (b). The trial court held hearings on the second petitions on October 7, 2014 and November 13, 2014. The following is the trial court's account of events that transpired in the interim between its August 20, 2013 order and the 2014 termination hearings:

> [A.R.E.] has been diagnosed with Reactive Attachment Disorder, which manifests itself in a difficulty with bonding. This disorder may arise from multiple changes in custody. [A.R.E.] has been in 14 different placements, most recently with the [C.] family. Through the record developed in 2013 leading to [the trial court's] [o]pinion of August 20, 2013, [A.R.E.] and [R.L.P.] had both been placed with the [Y.] family, who had expressed an intention to adopt both Children. [R.L.P.] continues to thrive with the [Y. family], and the [Y. family] still seek[s] to adopt [R.L.P.], but [A.R.E.] became a behavior problem, leading the [Y. family] to request to be relieved of their custody of [A.R.E.]. [A.R.E.] was then transferred to the custody of the [E.] family, who requested a transfer of [A.R.E.] due to her behaviors. The [C.] family then became [A.R.E.'s] foster family, but on October

28, 2014, the [C. family] requested that [A.R.E.] be transferred due to her behaviors. . . .

Mother was terminated from parole on May 8, 2014. Mother recently tested positive for heroin use on two occasions: July 24, 2014 and August 21, 2014. The finding was "6-Acetylmorphine." At the hearing of August 7, 2014, CYS called Dr. Eugene Schwilke, who holds a Ph.D. in toxicology and who was stipulated to be an expert in toxicology. Dr. Schwilke testified that "6-Acetylmorphine" is a metabolite of heroin, and unequivocally leads to the conclusion that the subject ingested heroin. He was questioned at length, and confirmed that there would be no confusion between [P]ercocet use, morphine use, fentanyl use or ingestion of poppy seeds with a finding of "6-Acetylmorphine" and a conclusion of ingestion of heroin. Through all of the 2014 hearings, Mother denied heroin use, and tried to attribute the finding to [P]ercocet and morphine administered to her as a result of a July 2014 hospitalization. On several occasions in 2014, Mother avoided CYS[']s] telephone calls, visits to her home and attempts to administer further drug tests. On August 15, 2014, [a CYS caseworker heard Mother] tell[] her mother, who answered the door of the home, to tell the caseworker that Mother was not there. The caseworker specifically recognized Mother's voice from reliable past contacts with Mother. . . .

At the hearing of November 13, 2014, on cross-examination, Mother admitted to having not continued her counseling since May of 2013. . . . Mother has not attended a significant number of permanency reviews with CYS. Mother was cited in August of 2013 and on January 20, 2014 for driving while her license was under suspension, and was convicted on those citations.

Bonnie Whipple testified on October 7, 2014. Dr. Whipple holds a Ph.D. in psychology and produced an evaluation of [R.L.P.] on May 30, 2014. Dr. Whipple observed [R.L.P.] with the [Y.] family. Dr. Whipple was of the opinion that a bond existed between foster mother, Amy [Y.], and [R.L.P.]. [R.L.P.] was asked by Dr. Whipple to draw a picture of her family, and it included the [Y.] parents and siblings, and excluded Mother and [A.R.E.]. Dr. Whipple recommended continued cessation of visits between [R.L.P.] and Mother, stating that such visits would be against [R.L.P.'s] best interests. Dr. Whipple testified that it

would be in [R.L.P.'s] best interest to have Mother's parental rights terminated and that [R.L.P.] be adopted into the [Y.] family. Dr. Whipple testified that visitation with Mother could interfere with the bond between [R.L.P.] and the [Y.'s].

On November 13, 2014, Amanda Zwalkuski testified. Ms. Zwalkuski is a caseworker for Kidspeace, an agency which assists CYS in foster placements. Ms. Zwalkuski worked with both Children from April [] to August 2012 and from November[] 2012 to January[] 2014. Ms. Zwalkuski ceased working with [A.R.E.] in January[] 2014, but continues to work with [R.L.P.]. Ms. Zwalkuski testified that [R.L.P.] is doing exceptionally well as a member of the [Y.] family. Ms. Zwalkuski testified that [R.L.P.] never asks about Mother. As an example of the lack of [a] bond between [R.L.P.] and Mother, Ms. Zwalkuski spoke of a [photograph] in [R.L.P.'s] room in the [Y.] home. Although Mother is in the [photograph] with [R.L.P.], [A.R.E.] and the Children's half[-]sister [], [R.L.P.] does not know who Mother is in the photograph. . . .

On October 7, 2014, Sara Caster testified. Ms. Caster is a caseworker with Family Group, an agency which contracts with CYS to provide foster care services. Ms. Caster sees [A.R.E.] on a regular basis through the provision of mobile therapy. Ms. Caster testified that [A.R.E.'s] behavior had been improving in the [C.] home. According to Ms. Caster, [A.R.E.] does not ask about Mother and [] is happy in the placement with the [C.] family. On November 13, 2014, Heather Brennan, a CYS caseworker testified that, while transporting [A.R.E.] back to the Chubb home after the October 7, 2014 hearing, [A.R.E.] asked Ms. Brennan what Mother looked like. Ms. Brennan testified that [A.R.E.] has never asked anything else about Mother. On cross[-]examination, Ms. Brennan testified that she has never stated that a "bond" existed between [A.R.E.] and Mother.

During an on the record, in-chambers examination of [A.R.E.] by the [trial court], with attorneys present, [A.R.E.] confirmed the lack of a bond with Mother by spontaneously stating to the [trial court]: "I don't care about my real Mom." When asked why, [A.R.E.] stated that Mother "does drugs," is a "bad person" and "won't be able to take care of me. . . ." This is consistent with [A.R.E.'s] 2013 testimony during which she stated a desire to be adopted.

> Further, during [A.R.E.'s] testimony on November 13, 2014, she expressed a comfort and happiness with the [C.] family, leading the [trial court] to believe that some bond has formed. The context of [A.R.E.'s] expression of happiness with the [C. family], without any mention [that A.R.E.] would be leaving them, leads [the trial court] to believe that [A.R.E.] was unaware that the [C. family] had recently given their "30 days notice" of withdrawal as [A.R.E.'s] foster parents.

Id. at 4-8 (internal citations omitted).

On November 18, 2014, the trial court issued the underlying order involuntarily terminating Mother's parental rights to Children pursuant to 23 Pa.C.S. § 2511(a)(5), (8), and (b).[3] On December 4, 2014, Mother filed a timely notice of appeal but failed to simultaneously file a concise statement of errors complained of on appeal, in contravention of Pa.R.A.P. 1925(a)(2)(i) and (b). On December 11, 2014, the trial court issued an order directing Mother to file a concise statement of errors complained of on appeal within thirty days of the order. On December 15, 2014, Mother filed a concise statement of errors complained of on appeal.[4]

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[3] On March 26, 2014, Mother filed a petition to reinstate visitation and, on July 17, 2014, filed a petition to change Children's permanency goal. As a result of the trial court's decision to involuntarily terminate Mother's parental rights to Children, both petitions were rendered moot and, accordingly, denied by the trial court in its November 18, 2014 order. Trial Ct. Op., 11/19/14, at 4.

[4] Although Mother failed to comply with Pa.R.A.P. 1925(a)(2)(i) and (b), relating to children's fast track appeals, we decline to dismiss or quash the appeal. ***See In re K.T.E.L***, 983 A.2d 745, 747 (Pa. Super. 2009) (holding that the failure to file a concise statement of errors complained of on appeal together with the notice of appeal will result in a defective notice of appeal, to be disposed of on a case-by-case basis). Here, Mother filed the Rule 1925(b) statement eleven days after filing the notice of appeal. However, since the misstep was not prejudicial to any of the parties and did not impede the trial court's ability to issue a thorough opinion, the procedural error was harmless. ***Cf. J.P. v. S.P.***, 991 A.2d 904 (Pa. Super. 2010)

On appeal, Mother raises two issues for our review:

1. [Whether] the [t]rial [c]ourt erred when it terminated the parental rights of [Mother][?]

2. [Whether] Columbia County [CYS met its] burden [of proof?]

Mother's Brief at 7 (unpaginated).

We review appeals from the involuntary termination of parental rights according to the following standard:

> [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.***, 608 Pa. 9, 9 A.3d 1179, 1190 (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.***; [***In re:***] ***R.I.S.***, [614 Pa. 275], 36 A.3d [567, 572 (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.***, [613 Pa. 371], 34 A.3d 1, 51 (2011); ***Christianson v. Ely***, 575 Pa. 647, 838 A.2d 630, 634 (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.***
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> As we discussed in ***R.J.T.***, there are clear reasons for applying an abuse of discretion standard of review in these cases. We observed that, unlike 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. ***R.J.T.***, [608 Pa. at 28-30], 9 A.3d at 1190. Therefore, even where the facts could

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(appellant waived all issues by failing to timely comply with the trial court's direct order to file a concise statement).

> 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***, [539 Pa. 161, 165,] 650 A.2d 1064, 1066 (1994).

In re Adoption of S.P., 616 Pa. 309, 325-26, 47 A.3d 817, 826-27 (2012).

Termination of parental rights is governed by section 2511 of the Adoption Act, 23 Pa.C.S. § 2511, which requires a bifurcated analysis:

> Our case law has made clear that under Section 2511, the court must engage in a bifurcated process prior to terminating parental rights. 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. One major aspect of the needs and welfare analysis concerns the nature and status of the emotional bond between parent and child, with close attention paid to the effect on the child of permanently severing any such bond.

In re L.M., 923 A.2d 505, 511 (Pa. Super. 2007) (*citing* 23 Pa.C.S. § 2511). The burden is upon the petitioner to prove by clear and convincing evidence that the asserted statutory grounds for seeking the termination of parental rights are valid. ***In re R.N.J.***, 985 A.2d 273, 276 (Pa. Super. 2009). Moreover, we have explained:

> [t]he 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 hesitance, of the truth of the precise facts in issue."

Id. (*quoting* ***In re J.L.C.***, 837 A.2d 1247, 1251 (Pa. Super. 2003)).

This Court may affirm the trial court's decision regarding the termination of parental rights with regard to any one subsection of section 2511(a). ***See In re B.L.W.***, 843 A.2d 380, 384 (Pa. Super. 2004) (*en banc*). Here, the trial court terminated Mother's parental rights pursuant to section 2511(a)(5), (8), and (b), which provide as follows:

> **§ 2511. Grounds for involuntary termination**
>
> **(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:
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> * * *
>
> (5) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency for a period of at least six months, the conditions which led to the removal or placement of the child continue to exist, the parent cannot or will not remedy those conditions within a reasonable period of time, the services or assistance reasonably available to the parent are not likely to remedy the conditions which led to the removal or placement of the child within a reasonable period of time and termination of the parental rights would best serve the needs and welfare of the child.
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> * * *
>
> (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.
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> * * *
>
> **(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.

23 Pa.C.S. § 2511(a)(5), (8), and (b).

To satisfy the requirements of section 2511(a)(5), the moving party must produce clear and convincing evidence regarding the following elements: (1) the child has been removed from parental care for at least six months; (2) the conditions which led to the child's removal or placement continue to exist; (3) the parents cannot or will not remedy the conditions which led to removal or placement within a reasonable period of time; (4) the services reasonably available to the parents are unlikely to remedy the conditions which led to removal or placement within a reasonable period of time; and (5) termination of parental rights would best serve the needs and welfare of the child. ***See In re Adoption of M.E.P.***, 825 A.2d 1266, 1273-74 (Pa. Super. 2003).

When addressing section 2511(a)(8), we apply the following standard:

> To terminate parental rights pursuant to 23 Pa.C.S.[] § 2511(a)(8), the following factors must be demonstrated: (1) the child has been removed from parental care for 12 months or more from the date of removal; (2) the conditions which led to the removal or placement of the child continue to exist; and (3) termination of parental rights would best serve the needs and welfare of the child. 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's removal continue to exist, despite the reasonably good faith efforts of [the agency] supplied over a realistic time period. Termination under

> [s]ection 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 [agency] services.

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

In her brief on appeal, Mother argues that CYS presented insufficient evidence to sustain its burden under section 2511(a)(5), (8), and (b), and, thus, that the trial court abused its discretion in involuntarily terminating her parental rights to Children. We disagree.

In its Rule 1925(a) opinion, the trial court explained its analysis under section 2511(a)(5) and (8) as follows:

> 1. **That the child has been removed from the parent's custody for at least six (6) months, by order or agreement:** [A.R.E.] was out of Mother[']s custody by order or agreement during the following periods: 6/26/08-12/17/08 (almost 6 months); 1/22/10-2/24/11 (more than 13 months); 3/3/11-3/7/11 (4 days); and 12/10/11-present (more than 35 months). [R.L.P.] was out of Mother's custody by order or agreement during the following periods: 1/22/10-4/22/10 (3 months); 3/3/11-3/7/11 (4 days); and 12/10/11-present (more than 35 months).
>
> This element has been proven by clear and convincing evidence as to both Children.
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> 2. **That the conditions which led to removal still exist:** The conditions which led to removal were Mother's drug addiction, and the neglect brought on by her drug use and repeated incarcerations, as well as her inability to provide a stable home for the Children. Mother has only intermittently followed the recommendations of her attendance at parenting classes, and she has discontinued her attendance at counseling as of May of 2013. In 2013, Mother argued that the condition of drug addiction, and the consequential neglect of the [C]hildren, no longer

exists. The drug tests in 2014 prove by clear and convincing evidence that Mother continues in active addiction to heroin, and she lies about her abuse of heroin. . . . [The Children] have been neglected and put in second place to Mother's criminal and drug habits. [A.R.E] is 11 years old, and [R.L.P.] is 5 years old. They have had to live in inpatient rehabilitation facilities, in one of which Mother alleges [R.L.P.] was abused. Mother has no permanent living arrangement, demonstrating that she continues to be unable to provide a stable shelter and home, and proper parental care and support for the Children. Simply put, as [A.R.E.] expressly confirmed, unprompted, in her testimony on November 13, 2014, Mother cannot take care of the Children. It has been proven by clear and convincing evidence that Mother's active addiction continues to exist, and that the conditions of neglect, and lack of proper parental support, including the inability to provide a stable home, continue to exist.

3. **The parent cannot or will not remedy the condition which led to removal within a reasonable time:** . . . CYS, has been involved with Mother since 2006. Mother has bounced in and out of prison and rehabilitation since at least 2008. The [C]hildren need a stable home, and stable parental figures, *now*, not sometime in the future. Despite repeated claims that "I have learned" and "I have changed," Mother's continuing[,] active drug addiction belie those claims. Although we have the best hopes for Mother's recovery, the Children are too important and time is wasting for them. All evidence points to the conclusion that there is no reasonable hope that Mother can remove the conditions which led to the Children being removed from her care, i.e., Mother's drug addiction. CYS has proven by clear and convincing evidence that Mother will not remedy the conditions which led to removal within a reasonable time.

4. **Services or assistance which is reasonably available are not likely to remedy the conditions which led to removal within a reasonable time:** CYS and the Drug Court have gone above and beyond the call of duty to hold Mother's hand and to try to help her through her addiction and issues, but to no avail. CYS has made parenting classes available for 6 years before Mother went to state

prison, but Mother inconsistently availed herself of that opportunity. The same can be said of mental health and addiction counseling. Mother spent from October[] 2010 to May[] 2012 in the Drug Court program. The Drug Court assessed multiple sanctions until it became evident that Mother would not accept that assistance and the final sanction of discharge occurred. The clear and convincing evidence is that a litany of services were accorded to Mother by CYS and other governmental agencies and that pouring more service[s] into Mother's case would not stand a reasonable chance of rectifying Mother's conduct in a reasonable amount of time.

5. **Termination of parental rights would best serve the needs and welfare of the children:** As stated in the [trial court's Rule 1925(a) opinion for the 2013 dependency actions], and repeated herein, the Children need a mother and father and a stable home *now*. [A.R.E.] testified to a desire for that in 2013 and her diagnosis of Reactive Attachment Disorder illustrates the damage which has been done by 14 different placements in her life. Now the damage and diagnosis compounds upon itself in an exponential way: [A.R.E.] acts out and pushes people away because of her disorder, which is caused by a lack of ability to bond, but her foster families withdraw because of the acting out, and she is sent to a new foster family, which is more instability, which then exacerbates the disorder and her difficulty in bonding. Mother's answer is: "Give her to me and she will have a stable home." The evidence, however, is clear and convincing that vesting custody of [A.R.E.] with Mother *will not* give her a stable home. Mother has proven her instability, as recently as August 21, 2014 when CYS was most recently able to administer a drug test, which was then followed by Mother's clear evasion of CYS and their effort to administer further drug tests. Granted, [A.R.E.] has problems, but Mother is not the answer.

[R.L.P.] is thriving and stable with the [Y. family], who continue to wish to adopt [her]. Comparing that scenario to placing [R.L.P.] with Mother, an active heroin addict who continues to live with her mother, another addict, it is clear that the needs and welfare of [R.L.P.] dictate termination of Mother's parental rights.

> The evidence also clearly and convincingly shows that bonding has occurred between [R.L.P.] and the [Y. family] and that none exists between [R.L.P.] and Mother. [R.L.P.] does not even know what her Mother looks like when presented a photograph that includes Mother.
>
> As to [A.R.E.], during her November 13, 2014 testimony, it appeared by what [A.R.E.] said and her demeanor that a bond existed, in her eyes, between she and the [C. family], which is good, in that it shows she has an ability to bond, but, of course, because of their withdrawal, it is heartbreaking for [A.R.E.]. With respect to the existence of any bond between [A.R.E.] and Mother, given [A.R.E.'s] testimony in 2013 and 2014, to the effect that she does not care about Mother and wants to be adopted, and considering the testimony of Ms. Caster and Ms. Brennan, to the effect that [A.R.E.] does not ask about Mother and does not know what she looks like, clear and convincing evidence exists to show that there is no bond between [A.R.E.] and Mother.
>
> As a result of these facts, clear and convincing evidence exists to show that termination of Mother's parental rights would best serve the needs and welfare of both [A.R.E.] and [R.L.P.].
>
> CYS also points to § 2511(a)(8) as a basis for termination of Mother's parental rights. The elements of § 2511(a)(8) are less exacting and contain the same elements as items 1., 2. and 5., above as to § 2511(a)(5), except that the first element requires that 12 months have elapsed since the [C]hildren were removed from Mother's custody. It is clear that it has been more than 35 months since the [C]hildren were last removed from Mother on December 10, 2011. The discussion as to elements 2. and 5. above are incorporated by reference.
>
> As a result of the foregoing, [CYS] has sustained its burden of proof of "clear and convincing evidence" as to both [section] 2511(a)(5) and (8).

Trial Ct. Op., 11/19/14, at 9-13 (emphasis in original).

After a careful review of the record, we conclude that the trial court's findings are supported by clear and convincing, competent evidence, and that it reasonably concluded that the elements of section 2511(a)(5) and (8) were met by the facts before it. We discern no abuse of discretion or error of law on this issue.

We now turn our attention to section 2511(b) and look to see if the trial court properly found that termination was in the best interest of Children. With respect to section 2511(b), this Court has explained the requisite analysis as follows:

> Subsection 2511(b) focuses on whether termination of parental rights would best serve the developmental, physical, and emotional needs and welfare of the child. In ***In re C.M.S.***, 884 A.2d 1284, 1287 (Pa. Super. 2005), this Court stated, "Intangibles such as love, comfort, security, and stability are involved in the inquiry into the needs and welfare of the child." In addition, we instructed that 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***. However, in cases where there is no evidence of a bond between a parent and child, it is reasonable to infer that no bond exists. ***In re K.Z.S.***, 946 A.2d [at 762-63]. Accordingly, the extent of the bond-effect analysis necessarily depends on the circumstances of the particular case. ***Id***. at 63.

In re Adoption of J.M., 991 A.2d 321, 324 (Pa. Super. 2010).

In its Rule 1925(a) opinion, the trial court explained its analysis under section 2511(b) as follows:

> [A.R.E.] is not thriving. She continued to be bounced from foster home to foster home on account of her behavior. She has been diagnosed with Reactive Attachment Disorder, which may be caused by her frequent moves. As stated above, including Mother in [A.R.E.'s] life is not the answer and would add further instability and heartache for her. She needs to be away from Mother and in a stable home for her developmental, physical and emotional needs and welfare. "Point B," the final objective, is

the meeting of [A.R.E.'s] developmental, physical and emotional needs and welfare. [The trial court] see[s] the route to "Point B" as having [A.R.E.] in an adoptive family. Mother is not along that route.

As to [R.L.P.], the picture is more clear, at least insofar as she is thriving with a family who loves her and who has bonded with her, and she in return. The [Y.s] are patiently waiting to adopt [R.L.P.]. . . .

As stated above, the evidence also clearly and convincingly shows that bonding has occurred between [R.L.P.] and the [Y. family] and that none exists between [R.L.P.] and Mother. [R.L.P.] does not know what her Mother looks like when presented a photograph that includes Mother. As to [A.R.E.], during her November 13, 2014 testimony, it appeared by what [A.R.E.] said and her demeanor that a bond existed in her eyes between she [sic] and the [C.'s], albeit regrettably being not enough to salvage that relationship. Given [A.R.E.'s] testimony in 2013 and 2014, to the effect that she does not care about Mother and that she wants to be adopted, and considering the testimony of Ms. Caster and Ms. Brennan, to the effect that [A.R.E.] does not ask about Mother and does not know what she looks like, clear and convincing evidence exists to show that there is no bond between [A.R.E.] and Mother.

Since there is no bond between Mother and the Children, terminating Mother's parental rights will have no detrimental effect on the Children. In truth, there is no relationship to salvage.

To the extent that Mother has attempted to maintain the relationship and has been "prevented" from that by CYS, first, the [o]rder of March 1, 2013 in the [d]ependency [a]ctions directed a termination of visitation, and that [o]rder is final. Second, Mother's efforts have been inconsistent: She disappears for months at a time during which she makes no effort. Third, Mother's efforts do not change life from the Children's perspective: They do not know Mother, and do not even recognize a photograph of her. Even given the limited efforts put forth by Mother to see the Children, it is not in the best interest of the Children to see her. They need to move toward stability, and Mother cannot provide that. Fourth, Mother's efforts have been less than full. . . .

> For the foregoing reasons, CYS has sustained its burden of proof to terminate Mother's parental rights.

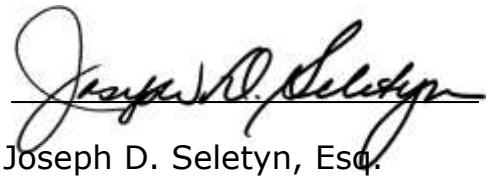
Trial Ct. Op., 11/19/14, at 13-15.

Here, our review of the record indicates that there is competent evidence to support the trial court's decision that termination of Mother's parental rights best serves Children's developmental, physical, and emotional needs and welfare. Although Mother has expressed a willingness to fulfill her parental duties regarding Children's needs and welfare, her overall lack of effort towards cultivating a parental bond with Children, while others provide the nurture, care, and affection that Children need, is illustrative of her inability to do so. As such, we find that it was appropriate for the trial court to determine that the termination of Mother's parental rights would not have a detrimental effect on Children and would be in Children's best interest. In consideration of these circumstances and our careful review of the record, we conclude that the trial court did not abuse its discretion or commit an error of law in finding competent evidence to support the termination of Mother's parental rights to Children under section 2511(b).

Accordingly, for the reasons stated above, we affirm the trial court's order involuntarily terminating Mother's parental rights to Children pursuant to 23 Pa.C.S. § 2511(a)(5), (8), and (b).

Order affirmed.

Judgment Entered.



Joseph D. Seletyn, Esq.
Prothonotary

Date: 7/31/2015