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NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN RE: ADOPTION OF: C.S.B.

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: C.L.B., MOTHER

No. 135 MDA 2015

Appeal from the Decree entered December 24, 2014,
in the Court of Common Pleas of York County,
Orphans' Court, at No(s): 2014-118

IN RE: ADOPTION OF: X.G.B.

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: C.L.B., MOTHER

No. 136 MDA 2015

Appeal from the Decree entered December 24, 2014,
in the Court of Common Pleas of York County,
Orphans' Court, at No(s): 2014-119

IN RE: ADOPTION OF: N.E.B.

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: C.L.B., MOTHER

No. 137 MDA 2015

Appeal from the Decree entered December 24, 2014,
in the Court of Common Pleas of York County,
Orphans' Court, at No(s): 2014-120

IN RE: ADOPTION OF: C.S.B.

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: S.B., III, FATHER

No. 141 MDA 2015

Appeal from the Decree entered December 24, 2014,
in the Court of Common Pleas of York County,
Orphans' Court, at No(s): 2014-0118

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IN RE: ADOPTION OF: X.G.B.

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: S.B., III, FATHER

No. 142 MDA 2015

Appeal from the Decree entered December 24, 2014,
in the Court of Common Pleas of York County,
Orphans' Court, at No(s): 2014-0119a

IN RE: ADOPTION OF: N.E.B.

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: S.B., III, FATHER

No. 143 MDA 2015

Appeal from the Decree entered December 24, 2014,
in the Court of Common Pleas of York County,
Orphans' Court, at No(s): 2014-0120

BEFORE: OTT, WECHT, and JENKINS, JJ.

MEMORANDUM BY JENKINS, J.:

FILED JULY 31, 2015

C.L.B. ("Mother") and S.B. ("Father") (together, "Parents") appeal from the Decrees dated December 17, 2014, and entered on December 24, 2014, in the York County Court of Common Pleas, Orphans' Court Division, involuntarily terminating their parental rights to their three minor children, N.E.B. (born in October of 2005), X.G.B. (born in March of 2008), and C.S.B. (born in July of 2011) (collectively, "Children"), pursuant to section 2511(a)(1), (2), (5), (8), and (b) of the Adoption Act, 23 Pa.C.S. § 2511(a)(1), (2), (5), (8), and (b). We affirm.¹

¹ On October 27, 2014, the trial court held a permanency review/termination hearing, at the conclusion of which it issued a Permanency Review Order changing Children's permanency placement goal from return to parent to adoption. Subsequently, on December 17, 2014, the trial court issued the three underlying Decrees, involuntarily terminating the parental rights of

York County Office of Children, Youth, & Families (“CYF”) became involved with this family in June 2013 after receiving a referral alleging environmental neglect and parental drug use. Upon investigation, CYF discovered that Children were being cared for by J.B. (“Maternal Grandmother”), who did not know the whereabouts of either parent or whether or when Mother or Father planned to return. On June 19, 2013, CYF filed an Application for Emergency Protective Custody (“EPC Application”). Children have remained outside of the care and custody of Parents since the filing of the EPC Application.

Mother and Father to Children pursuant to 23 Pa.C.S. § 2511(a)(1), (2), (5), (8), and (b). Thereafter, on January 15, 2015, Mother and Father each filed timely Notices of Appeal and concise statements of errors complained of on appeal, pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b). In its Rule 1925(a) Opinion, the trial court addresses Mother’s concise statement of errors complained of on appeal as follows:

While [Mother’s concise statement of errors complained of on appeal] appears to address only the termination of parental rights, to the extent that it also applies to the change of goal, [the trial court] finds that [Mother’s] appeal is untimely. The change of goal occurred at the [permanency review/termination] hearing held on October 27, 2014. . . . At the [permanency review/termination] hearing, [the trial court] entered an Order changing the goal from return to parent or guardian to adoption. Pursuant to Pa.R.A.P. 903(a), [Mother] was required to file a notice of appeal within 30 days of the entry of the [P]ermanency [R]eview [O]rder that changed the goal to adoption. [Mother’s Notice of Appeal] was filed on January 15, 2015, well after the thirty days allowed for appeal. Thus, such an appeal is untimely.

Trial Court’s Rule 1925(a) Op., 2/2/15, at 2-3 (internal footnote omitted). We agree with the trial court’s assessment. Accordingly, insofar as Mother’s appeal contests the October 27, 2014 Permanency Review Order changing Children’s permanency placement goal from return to parent to adoption, we deem such challenge to be waived due to untimeliness.

On June 24, 2013, the trial court held a hearing on the EPC Application. Parents appeared for the hearing, and each waived his/her right to counsel. At the conclusion of the hearing, the trial court issued a Shelter Care Order, awarding legal custody of Children to CYF and physical custody to Maternal Grandmother. On July 3, 2013, CYF filed a Dependency Petition. The trial court held a dependency hearing on July 10, 2013, at which Parents were present. Immediately following the hearing, the trial court issued an Order adjudicating Children dependent and placing them in kinship foster care. The trial court also established a permanency placement goal of return to parent, with the concurrent goal of placement with a fit and willing relative.

On July 16, 2013, a Family Service Plan ("FSP") was created, which set forth the following objectives for Parents: (1) cooperation and compliance with CYF; (2) abstention from illegal drugs and the misuse of alcohol; (3) procurement of adequate and suitable housing for Children; and (4) maintenance of contact and visitation with Children. Trial Ct. Op., 12/24/14, at 4. On December 17, 2013, the trial court held a permanency review hearing, at which neither parent appeared. At the hearing, CYF reported that Mother had not made herself available for drug testing since July 12, 2013, and that, on November 19, 2013, she was arrested on an outstanding warrant for giving false information to law enforcement as well as three theft charges. *Id.* at 5. She was released on bail on November 22, 2013. *Id.* CYF also reported that it had no contact with Father, but that, on August 7, 2013, he tested positive for heroin. *Id.* After the hearing, the trial court issued a Permanency Review Order, in which it made the following findings

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and conclusions: (1) neither Mother nor Father was in compliance with the FSP; (2) CYF had made reasonable efforts to finalize permanency; (3) neither Mother nor Father had made sufficient efforts towards alleviating the circumstances which necessitated the original placement; and (4) there continued to be a need for placement of Children outside of the care and custody of Parents. By the Permanency Review Order, the trial court also modified Children's concurrent placement goal from placement with a fit and willing relative to adoption.

On January 14, 2014, Mother was incarcerated at York County Prison for a parole violation. She was also sentenced on her theft charges and expected to be released on February 25, 2014. *Id.* at 6. On February 18, 2014, legal counsel was appointed for Mother. On May 14, 2014, Mother was released on parole. On May 28, 2014, the trial court held another permanency review hearing, at which Mother was present but Father was not. Mother reported that, since her release, she had been residing with a friend but had filed an application for housing assistance through the Crispus Attucks Association in York, Pennsylvania. *Id.* at 7. Mother also reported that Father had entered a rehabilitation facility in Maryland on March 6, 2014 but had since been discharged. *Id.* Further, CYF indicated that Father still had not contacted the agency, and that his current whereabouts were unknown. *Id.* At the conclusion of the hearing, the trial court issued a Permanency Review Order, in which it made the following findings and conclusions: (1) there had been no compliance with the FSP by Father and only minimal compliance with the FSP by Mother; (2) CYF had made reasonable efforts to finalize permanency; (3) Father had made no efforts

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towards alleviating the circumstances which necessitated the original placement, and Mother had made no progress towards alleviating the circumstances which necessitated the original placement; and (4) there continued to be a need for placement of Children outside of the care and custody of Parents.

On August 1, 2014, CYF filed separate Petitions to involuntarily terminate the parental rights of Mother and Father to Children, alleging the elements of 23 Pa.C.S. § 2511(a)(1), (2), (5), (8), and (b). That same day, CYF also filed Change of Goal Petitions. On August 29, 2014, a 90-day status review hearing took place, at which Parents were present. At the hearing, CYF reported that a caseworker attempted to visit Mother at the address she gave during the May 28, 2014 permanency review hearing only to find an empty apartment at the stated location. ***Id.*** at 8. Mother explained that she had moved to Maryland without informing CYF. ***Id.*** Mother also indicated that she had successfully completed treatment at a rehabilitation facility in Maryland and supplied documentation confirming as much. ***Id.***

On August 6, 2014, the trial court issued an Order scheduling a permanency review/termination hearing for October 27, 2014. On October 24, 2014, a Friday, Father telephoned the York County Court Administration to request the appointment of legal counsel for the hearing. Because the permanency review/termination hearing was to commence the following Monday, the trial court determined that the appointment of legal counsel to represent Father would cause an undue delay of the proceedings and denied Father's request as untimely. Consequently, the permanency

review/termination hearing proceeded as scheduled on October 27, 2014, with Mother being represented by counsel while Father did not have counsel.

At the hearing, Mother acknowledged active drug use from May to July 2014 and testified that she visited Children on only five occasions throughout 2014 despite being offered visitation three times per week. **Id.** at 8-9. Father testified that he was suffering from depression and had recently moved in with his "other children's mother," whom he indicated was his wife. **Id.** at 9. Further, Father testified that he visited Children only once in 2014. **Id.** At the conclusion of the hearing, the trial court issued a Permanency Review Order, in which it changed Children's placement goal from return to parent to adoption. On October 28, 2014, legal counsel was appointed for Father. On December 17, 2014, the trial court issued the three underlying Decrees involuntarily terminating the parental rights of Mother and Father to Children pursuant to 23 Pa.C.S. § 2511(a)(1), (2), (5), (8), and (b). On January 15, 2015, Mother and Father each filed timely Notices of Appeal and concise statements of errors complained of on appeal, pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b). This Court consolidated the appeals *sua sponte* on February 12, 2015.

On appeal, Mother raises a single issue for our review:

1. Whether the trial court erred as a matter of law and abused its discretion by granting the request of [CYF] to terminate [Mother's] parental rights when CYF failed to present clear and convincing evidence under [23 Pa.C.S. § 2511(a) and (b)][?]

Mother's Brief at 5.

On appeal, Father raises two issues for our review:

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1. Whether the trial court erred in refusing to continue the termination of parental rights hearing to a later date upon learning that father had applied and qualified for legal counsel[,] and whether the trial court erred in terminating parental rights in that Father did not have the benefit of legal counsel during the hearing[?]
2. Whether the trial court erred in terminating parental rights in that services were not effectively offered to Father and in finding that termination of parental rights would best serve the needs and welfare of the Children without allowing Father to be aware of the possibility of and benefits of a bonding assessment[?]

Father's Brief at 4.

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.***

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

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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 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 hesitation, 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 Parents' parental rights pursuant to section 2511(a)(1), (2), (5), (8), and (b). We will focus on section 2511(a)(1), (2), 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:

(1) The parent by conduct continuing for a period of at least six months immediately preceding the filing of the petition either has evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties.

(2) The repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent.

* * *

(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

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described therein which are first initiated subsequent to the giving of notice of the filing of the petition.

23 Pa.C.S. § 2511(a)(1), (2), and (b).

With respect to section 2511(a)(1), “the moving party must produce clear and convincing evidence of conduct, sustained for at least the six months prior to the filing of the termination petition, which reveals a settled intent to relinquish parental claim to a child or a refusal or failure to perform parental duties.” ***In re Z.S.W.***, 946 A.2d 726, 730 (Pa. Super. 2008) (*citing In re Adoption of R.J.S.*, 901 A.2d 502, 510 (Pa. Super. 2006)). Further,

Once the evidence establishes a failure to perform parental duties or a settled purpose of relinquishing parental rights, the court must engage in three lines of inquiry: (1) the parent’s explanation for his or her conduct; (2) the post-abandonment contact between parent and child; and (3) consideration of the effect of termination of parental rights on the child pursuant to [s]ection 2511(b).

Id. (*quoting In re Adoption of Charles E.D.M.*, 550 Pa. 595, 602, 708 A.2d 88, 92 (1998)).

This Court has emphasized that a parent does not perform his or her parental duties by displaying a “merely passive interest in the development of the child.” ***In re B.,N.M.***, 856 A.2d 847, 855 (Pa. Super. 2004), *appeal denied*, 872 A.2d 1200 (Pa. 2005) (*quoting In re C.M.S.*, 832 A.2d 457, 462 (Pa. Super. 2003), *appeal denied*, 859 A.2d 767 (Pa. 2004)). Rather, “[p]arental duty requires that the parent act affirmatively with good faith interest and effort, and not yield to every problem, in order to maintain the parent-child relationship to the best of his or her ability, even in difficult circumstances.” ***Id.*** (*citing In re Adoption of Dale A., II*, 683 A.2d 297, 302 (Pa. Super. 1996)).

With respect to section 2511(a)(2), we have instructed that the relevant inquiry is as follows:

In order to terminate parental rights pursuant to 23 Pa.C.S.[] § 2511(a)(2), the following three elements must be met: (1) repeated and continued incapacity, abuse, neglect or refusal; (2) such incapacity, abuse, neglect or refusal has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being; and (3) the causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied.

In re Adoption of M.E.P., 825 A.2d 1266, 1272 (Pa. Super. 2003) (internal citations omitted). Further, this Court has long recognized that “[p]arents are required to make diligent efforts towards the reasonably prompt assumption of full parental responsibilities.” ***In re A.L.D.***, 797 A.2d 326, 337 (Pa. Super. 2002) (internal citation omitted). “[A] parent’s vow to cooperate, after a long period of uncooperativeness regarding the necessity or availability of services, may properly be rejected as untimely or disingenuous.” ***Id.*** at 340 (internal citation omitted).

In her brief on appeal, Mother argues that CYF presented insufficient evidence to sustain its burden under section 2511(a) and (b), and, thus, that the trial court abused its discretion in involuntarily terminating her parental rights to Children. Specifically, Mother contends that the trial court accorded undue weight to the testimony of CYF family support and permanency manager Vickie Weaver, who testified to the weakened state of whatever bond that may, at present, exist between Mother and Children. Mother’s Brief at 17-18. In support, Mother notes that Ms. Weaver testified that she does not have formal training in therapy or counseling, and that her opinion is based on her experience at CYF. ***Id.*** at 18. As such, Mother asserts that

“[w]ith such limited evidence regarding the bond the [C]hildren have with Mother or the effect on the [C]hildren of permanently severing any bond, [CYF] failed to provide sufficient evidence that termination best served the needs of the [Children].” *Id.* at 18. We disagree.

After a careful review of the record, the trial court’s Opinion, the briefs on appeal, and the relevant law, 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)(1) and (2) were met by the facts before it. We discern no abuse of discretion or error of law on this issue. Accordingly, we adopt the trial court’s Opinion, entered on December 24, 2014, insofar as it relates to section 2511(a)(1) and (2), as our own, and affirm the disposition of Mother’s relevant issues on the basis of that Opinion. *See* Trial Ct. Op. at 10-21.

Having determined that the requirements of section 2511(a) are satisfied, we proceed to review whether the trial court properly found that termination of Mother’s parental rights was in the best interest of Children under section 2511(b). 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 [at] 1287 [], 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

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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).

The trial court provided the following reasoning in support of its decision that termination of Mother's parental rights was in the best interest of Children:

[T]he [trial court] believes that a bond did exist between the two older children [(N.E.B. and X.G.B.)] and Mother. However, based upon the evidence presented, the [trial court] finds that the bond previously existed has been significantly diminished by Mother's failure to maintain a place of importance in the lives of [Children]. Safety and security emanated from [M]aternal [G]randmother to [] [C]hildren. . . . After nearly eighteen months, and Mother's minimal level of contact with [] [C]hildren, it is not possible that her bond could have strengthened or increased. Given the opportunity for greater contact with [] [C]hildren, Mother chose not to take advantage of the opportunity. The [trial court] finds that there would be no significant effect upon [] [C]hildren from the termination of Mother's. . . parental rights. Termination of parental rights will best meet the needs of [] [C]hildren and permit them to achieve the permanency that they deserve.

Trial Ct. Op. at 21-22.

Here, our review of the record indicates that there is clear and convincing, 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 maintaining a relationship 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).

We now turn our attention to the issues raised by Father on appeal. Father's challenge is threefold: first, he argues that the trial court erred in refusing to continue the permanency review/termination hearing to a later date so as to enable him the benefit of court-appointed legal counsel for the hearing; second, he asserts that CYF failed to provide him with reasonable services aimed at reunifying him with Children; and, third, he contends that the trial court erred in failing to advise him of the possibility of and benefits of a bonding assessment. We disagree.

In its Rule 1925(a) Opinion, the trial court addressed Father's first issue on appeal as follows:

As to the issues raised by [Father] regarding legal counsel, [the trial court] finds that due to the untimeliness of [his] request for court[-]appointed legal counsel and the delay that granting [his] request would have caused, [Father] was not entitled to court[-]appointed legal counsel at the time of the [permanency review/termination hearing].

[Father] telephoned York County Court Administration to request appointment of legal counsel for the first time on Friday, October 24, 2014. The [permanency review/termination hearing] was scheduled to take place on the following Monday, October 27, 2014. Although [he] was given proper notice of the hearing, [Father's] request for court[-]appointed legal counsel was received by [the trial court] less than one full business day prior to the start of the hearing. All other parties in the case were prepared to proceed with the hearing on October 27, 2014.

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If [Father's] request for court[-]appointed legal counsel was granted, the [trial court] would have had to continue the hearing to find available legal counsel and to allow counsel sufficient time to prepare causing an unnecessary delay in achieving permanency for the [C]hildren.

At the time of the October 27, 2014 hearing, [] [C]hildren . . . had been in care for approximately 18 months. [Father's] October 24, 2014 request was the first time [he] made an attempt to obtain legal counsel, despite being given the opportunity to do so on multiple prior occasions. [Father] had ample opportunity to file for legal counsel through the course of the family's lengthy involvement with the dependency court.

Trial Court's Rule 1925(a) Op., 1/28/15, at 2-3. We discern no abuse of discretion in the trial court's decision to not delay the October 27, 2014 permanency review/termination hearing and conclude that Father's claim in this regard is without merit.

In his second issue raised on appeal, Father asserts that CYF failed to provide him with reasonable services to assist him in achieving his FSP objectives. In *In re D.C.D.*, ___ Pa. ___, 105 A.3d 662 (2014), our Supreme Court held that a trial court is not required to consider an agency's provision of reasonable services to a parent before deciding to terminate parental rights. Further, our review of the record reveals that responsibility for Father's lack of progress in his FSP objectives lies with him alone. The record reflects that, after appearing at the dependency hearing on July 3, 2013, Father, who lives in Maryland, fell completely out of contact with CYF. At the permanency review hearings on December 17, 2013 and May 28, 2014, CYF reported having no contact with Father, whose whereabouts were unknown to the agency, despite, as noted by the trial court, CYF's reasonable efforts towards finalizing permanency. When Father eventually resurfaced at the 90-day status review hearing on August 29, 2014, he had

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nothing to report in the way of progress towards achieving his FSP objectives. Accordingly, we conclude that Father's second issue on appeal is without merit.

In his third issue raised on appeal, Father contends that the trial court erred in failing to advise him of the possibility of and benefits of a bonding assessment. Because the trial court was under no obligation to advise him of the possibility of and benefits of a bonding assessment, we conclude that Father's third issue on appeal is meritless. Further, even if performed, we question whether a bonding assessment would have reflected favorably on Father. At the permanency review/termination hearing, Father admitted that he had visited Children only once in 2014, and the trial court, in its Opinion, noted that "Father had absolutely no contact with [] [C]hildren for nearly fourteen months." Trial Ct. Op. at 9, 21-22. Moreover, whereas the trial court found that a bond did exist between the two older children and Mother, it also found that "any bond that may have existed [between Father and Children] has been extinguished by Father's inaction." *Id.* at 22. 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 clear and convincing, competent evidence to support the termination of Father's parental rights to Children under section 2511(b).

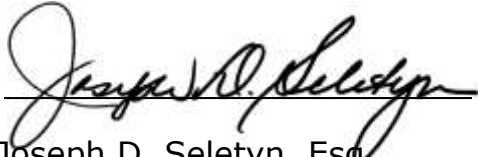
Accordingly, for the reasons stated above, we affirm the trial court's Decrees involuntarily terminating the parental rights of Mother and Father to Children pursuant to 23 Pa.C.S. § 2511(a)(1), (2), and (b).

Decrees affirmed.

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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: 7/31/2015

IN THE COURT OF COMMON PLEAS
OF YORK COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

RECEIVED
ORPHANS COURT
DIVISION
2014 DEC 24 AM 11:26
JUDICIAL CENTER
YORK, PA

In Re: Adoption of

No. 2014-0120

~~_____~~
NEB

A Minor

Termination of Parental Rights

FINAL DECREE

AND NOW, this 17th day of Dec, 2014, after a Hearing on the Petition for Involuntary

Termination of Parental Rights of ~~_____~~ **CLB** and ~~_____~~ **SLB**, III., with respect to

~~_____~~ **NEB**, the Court hereby finds that such parent or parents have forfeited all parental rights; therefore, the prayer of such petition is hereby GRANTED, and all the rights of such parent or parents are hereby terminated forever, with all the effects of such decree as provided in Section 2521 of the Adoption Act, including extinguishment of the power or right to object to or receive notice of adoption proceedings.

Legal and physical custody of the child is hereby awarded to York County Children, Youth and Families, 100 West Market Street, York, Pennsylvania.

The Clerk of the Orphans' Court shall provide notice of the entry of this Final Decree to Martin Miller, Esquire; Gillian Woodward, Esquire; Karen E. Comery, Esquire; ~~_____~~ **CLB**; ~~_____~~

~~_____~~ **CLB**, III.; Vickie Weaver, Supervisor, York County Office of Children, Youth & Families.

BY THE COURT:

Maria Musti Cook

Maria Musti Cook, Judge

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA

In the Interest of:

[Redacted Name]
[Redacted Name]
[Redacted Name]
Minor Children

CLB
XGB
NEB

:
: No. CP-67-DP-145-2013
: No. CP-67-DP-146-2013
: No. CP-67-DP-147-2013
: Change of Goal

In Re: Adoption of

[Redacted Name]
[Redacted Name]
[Redacted Name]

CSB
XGB
NEB

:
: No. 2014-0118
: No. 2014-0119
: No. 2014-0120
: Termination of Parental Rights

APPEARANCES:

Martin Miller, Esquire
For York County Children and Youth Services

Gillian Woodward, Esquire
GAL for the Minor Children

Karen E. Comery, Esquire
Counsel for Crystal Lorraine Brille, Mother

Daniel D. Worley, Esquire
Counsel for Samuel Louie Booker, III, Father

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ADJUDICATION

Before this Court is a Petition for Change of Goal and a Petition for the Involuntary Termination of Parental Rights filed by York County Office of Children, Youth and Families

CSB

(CYF) on August 1, 2014, regarding [REDACTED] whose date of birth is July 4, 2011, XGB [REDACTED] whose date of birth is March 21, 2008, and NEB [REDACTED] whose date of birth is October 18, 2005.

An evidentiary hearing was held on October 27, 2014, addressing testimony and evidence relating to Mother and Father. Based upon the testimony and evidence presented at the hearings as well as the history of this case, the Petitions for Change of Goal are GRANTED, and the Petitions for Involuntary Termination of Parental Rights are GRANTED as [REDACTED] and [REDACTED] III.

CLB

SLB

FINDINGS OF FACT

CSB

1. [REDACTED] (hereinafter CSB) was born on July 4, 2011, to Crystal LB [REDACTED] (hereinafter "Mother"), and SLB [REDACTED] III (hereinafter "Father"). Father and Mother signed and acknowledgement of paternity on July 7, 2011. No other man has ever claimed to be CSB's father.

2. XGB [REDACTED] (hereinafter XGB) was born on March 21, 2008, to CLB [REDACTED] (hereinafter "Mother"), and SLB [REDACTED] I (hereinafter "Father"). No claim or acknowledgement has ever been filed for XGB.

NEB

CLB

3. [REDACTED] was born on October 18, 2005, to [REDACTED] (hereinafter "Mother"), and [REDACTED] S L B [REDACTED] III (hereinafter "Father"). No claim or acknowledgement has ever been filed for NEB.
4. Proper notice of the Change of Goal/Termination Hearing and permanency review scheduled for October 27, 2014, was effectuated upon Mother and Father by personal service. Both parents appeared for and participated in the hearing.
5. On October 24, 2014, Father placed a telephone call to York County Court Administration and requested appointment of legal counsel for the 1st time. Given the length of time the children had been in care, Father's lack of contact with the children and the number of notices Father had received regarding the ability to request counsel, the Court did not choose to delay the COG/TPR proceedings on the eve of trial. Counsel was appointed to Father to handle any appeals that may follow the Court's decision.
6. CYF initially had a history with the family and became re-involved in June of 2013, upon a referral regarding the children being left with maternal grandmother and parents not returning, concern regarding ongoing drug use by parents, and parents' whereabouts being unknown.
7. On June 20, 2013, an application for protective custody was filed by CYF and a hearing was held on June 24, 2013, at which time Mother and Father were present and

waived their right to counsel. Legal custody was confirmed in CYF and physical custody was confirmed in maternal grandmother. Medical and educational rights were awarded to maternal grandmother. Mother was residing at her place of employment and Father was residing with paternal grandmother.

8. A dependency petition was filed by CYF on July 3, 2013, and a hearing was held on July 10, 2013, at which time the three children were found to be dependent, legal custody was confirmed in CYF and physical custody was placed in CYF for placement in kinship foster care with maternal grandmother. Mother and Father were present, although they arrived one-half hour late for the proceeding, and agreed that the children should remain with maternal grandmother. The current placement goal was established as return to parent, and the concurrent goal was established as placement with a fit and willing relative.
9. The children have remained dependent since July 10, 2013.
10. On July 16, 2013, a family service plan was established for the family. The objectives for Mother and Father included: cooperation with CYF; parents will lead a life free of illegal drugs and misuse of alcohol; parents will obtain and maintain stable housing for themselves and their children; and parents will strengthen and maintain their relationship with the children. (See CYF Ex. #1)

11. A 90-day status review hearing was held on October 1, 2013, before the Hearing Officer Kahan. At that time, Mother continued her employment at Angels Quality Assisted Living in Maryland and continued to reside on the premises. Mother had not seen the children for a period of four weeks because her car had been impounded. Father was not present at the hearing. A Family Group Decision Making Conference was held in August 2013, however neither parent had followed through with the plan that was developed. The children were reported to be doing well but missing their Mother. The hearing officer noted that maternal grandmother was the custodian of two other siblings of the three children. (See Order of 10/1/13.)
12. A permanency review hearing was held on December 17, 2013, before the Court. Mother had not contacted CYF since the status review hearing on October 1, 2013. There had been only two visits between Mother and the children since October 1, 2013. Mother had not made herself available for drug testing since July 12, 2013. On November 19, 2013, Mother was arrested on an outstanding warrant for false information to law enforcement and also had three theft charges. She was released on bail from Howard County Correctional facility on November 22, 2013. She was not present for the hearing. Father had not had any contact with CYF. Father tested positive for heroin on August 7, 2013. Father was not present for the hearing. All

three children were doing well in maternal grandmother's kinship care. Concurrent goal was modified to adoption. (see Court Orders filed 12/17/13.0

13. The family service plan was updated on December 17, 2013, but remained essentially the same as the original family service plan. (See CYF Ex. #2.)
14. An expedited 45-day review hearing was held before the court on February 12, 2014. Mother had not had any contact with CYF from October 1, 2013 until she appeared at the hearing on February 12, 2014. Mother had been incarcerated at York County Prison on January 14, 2014 for failure to appear (parole violation). She was sentenced on her theft charges and probation violation and expected to be released on February 25, 2014. Mother could not identify an address upon her release. Mother was on work release and employed at McDonalds. Father did not appear at the hearing. Paternal aunt was present at the hearing and indicated that Father was faced with a choice of in-patient drug rehab or incarceration in Maryland. CYF expressed an intention to seek termination of parental rights and Mother was put on notice. Mother was again advised of her right to apply for legal counsel. (See Order of 2/12/14.)
15. Legal Counsel was appointed for Mother on February 18, 2014.
16. A 90-day status review hearing was held on March 13, 2014 before hearing Officer Bitzer. Mother remained incarcerated with an anticipated release date of May 19,

2014. Mother continued on work release, employed at McDonalds. Mother had filed an application for housing assistance through Crispus Attucks. Father had no contact with CYF or the children. It was reported that Father was in a rehab facility in Maryland since March 6, 2014 (later identified as Shoemaker Center). All three children continued to do well in maternal grandmother's kinship care. CYF had not yet filed termination of parental rights petitions, but continued to indicate that paperwork would be filed with petition for change of goal to adoption. (See Order of 3/13/14.)

17. A permanency review hearing was held on May 28, 2014, before Hearing Officer Kahan. Mother was released on parole from prison on May 14, 2014, and was residing with a friend. She discontinued her employment at McDonalds after her release. A referral was made for a Justice Works in-home team to work with Mother and assist with visitation. Father was not present at the hearing. Mother reported that Father had been discharged from the drug rehab facility in Maryland. Father had not contacted CYF and a diligent search had not resulted in locating Father. Mother provided an address at the hearing.
18. The family service plan was updated on May 28, 2014; the objectives for Mother and Father remained essentially the same. (See CYF Ex. #3.)

19. CYF filed Petitions for Termination of Parental Rights and Petitions for Change of Goal on August 1, 2014.
20. A 90-day status review was held before the Court on August 29, 2014. The address supplied by Mother at the previous hearing was found to be false. The CYF caseworker attempted to visit Mother and found an empty apartment. Mother had moved to Maryland and had missed her Pennsylvania monthly parole check-in. Mother reported that she was participating in Drug Court in Maryland since July 8, 2014, and further reported that she was wearing an ankle bracelet and patch to detect any drug or alcohol use. Mother provided a letter from Mountain Manor indicating she had attended a drug rehab facility from July 23, 2014, and completed the program on August 20, 2014. Mother reported that she was attending intensive outpatient therapy. Mother had not advised CYF of her move. Mother had not visited the children since she saw them at the hearing held on May 28, 2014. Father was present at the hearing for the first time since July 2013, and reported that he is living with paternal grandmother in Columbia, Maryland. Father could not remember the last time he had visited the children.
21. A permanency review hearing was held on October 27, 2014, in conjunction with the termination of parental rights and change of goal hearing. Mother reported that she was in Phase 2 (of 4) of the Drug Court Program in Maryland. Mother acknowledged

active drug use from May 2014 until July 2014. Mother further acknowledged that she was faced with the choice of re-incarceration or participation in Drug Treatment Court. Mother reported employment as a nursing assistant since September 2014. Father was present and indicated that he had been residing with paternal grandmother since April 1, 2014, and was suffering from depression. He had recently moved in with his "other children's mother," whom he reported to be his wife. Father has four other children, who also reside in the home. Father has a theft conviction from six to seven months ago for which he is on probation in Maryland. This Court changed the placement goal to adoption.

22. Father had one visit with the children in 2014 on October 9, 2014.
23. Mother had five visits with the children in 2014: two in September and three in October. Visits were made available to Mother three times per week.
24. The bond between Mother and the children has weakened because of the lack of consistent contact.
25. A pre-adoptive resource has been identified for all three children.
26. On October 27, 2014, Mother acknowledged that she was not ready to be custodian of the children.
27. The Guardian Ad Litem supports the Petitions filed by CYF.

DISCUSSION

I. Petition for Change of Goal

Before the Court can change the goal for a child in a juvenile dependency action, CYF must prove by clear and convincing evidence that the change of goal would be in the child's best interest. In re Interest of M.B., 449 Pa. Super. 507, 674 A.2d 702 (1996). When determining whether a change of goal is appropriate, the Court must refer to the guidelines set out in the Juvenile Act. In addition to these elements, the Court must take into consideration any and all other factors that bear upon the welfare of the child. Matter of T.R., 445 Pa. Super. 553, 665 A.2d 1260 (1995).

The purpose of the Juvenile Act is to preserve family unity and to provide for the care, protection, safety and wholesome mental and physical development of the child. 42 Pa.C.S.A. §6301(a)(1)-(1.1). The Juvenile Act was not intended to place children in a more perfect home; instead, the Act gives a court the authority to "intervene to ensure that parents meet certain legislatively determined *irreducible minimum standards* in executing their parental rights." In re JW, 396 Pa. Super. 379, 389, 578 A.2d 952, 958 (1990)(emphasis added).

When a child is placed in foster care, the parents have an affirmative duty to make the changes in their lives that would allow them to become appropriate parents. In Re Diaz, 447

Pa. Super. 327, 338, 669 A.2d 372, 377 (1995). A family service plan is created to help give the parents some guidelines as to the various areas that need to be improved. In the Interest of M.B., 388 Pa. Super. 381, 385, 565 A.2d 804, 806 (1989), *app. denied*, 527 Pa. 602, 589 A.2d 692 (1990). By assessing the parents' compliance and success with this family service plan, the Court can determine if the parents have fulfilled their affirmative duty. In re J.S.W., 438 Pa. Super. 46, 53, 651 A.2d 167, 170 (1994).

CYF has proven by clear and convincing evidence that the children's current placement with maternal grandmother continues to be necessary and is the least restrictive. Neither Mother nor Father is in a position to be an immediate resource for the children. Neither parent's living situation has ever stabilized to the degree necessary for Mother or Father to take custody of the children. Mother and Father acknowledge that neither has met objectives of the family service plan. Maternal grandmother is an appropriate resource for the children and has continued to meet all of the children's needs.

During the past eighteen months, neither parent has achieved sufficient progress to make reunification a reality. Mother has acknowledged active addiction from May to July 2014. Father has chosen to reunite with his wife and four other children and has done nothing to maintain an active role or place of importance in the lives of the three children who are the subject of this proceeding.

The Court has always considered consistent visitation to be the barest minimum expectation for a parent who is serious about reunification. In this case, neither parent has maintained anything close to consistent visitation with the children. Mother was offered visits three times per week, and yet in 2014, as of the date of the hearing, had only attended five visits. Father was also given the opportunity for visits three times per week but had attended only one visit as of the date of the hearing.

Regarding the parents' significant substance abuse, this Court finds that neither parent addressed their issues in a timely fashion. Even after the children were adjudicated dependent, more than a year passed before Mother seriously entered any treatment. Given the severity of her substance abuse, this Court cannot determine if she has adequately addressed the issue sufficient to maintain her sobriety. Father went through detoxification earlier in 2014 but has not followed the recommendations that were made and made no effort to communicate his status to the Court or CYF in a timely fashion.

CYF has proven by clear and convincing evidence that the children's current goal of reunification is no longer feasible. CYF has proven by clear and convincing evidence that it is in the children's best interests to change each child's goal to placement for adoption. The minor children have been in kinship foster care for 18 months awaiting either parent to achieve reunification. No significant progress has ever been made by either parent. The minor children need a permanent and stable environment. Therefore, the minor children's

best interests demanded that each child's goal be changed from reunification with a parent to placement for adoption and this Court made that determination on October 27, 2014.

II Petition for Involuntary Termination of Parental Rights

CYF argues that the parental rights of Mother and Father to the minor children should be terminated pursuant to 23 Pa.C.S. §2511(a)(1), (2), (5), and (8) of the Adoption Act. CYF has the burden of establishing by clear and convincing evidence that statutory grounds exist to justify the involuntary termination of parental rights. In re Child M., 452 Pa. Super. 230 238, 681 A.2d 793, 797 (1996). The clear and convincing standard means that the evidence presented by CYF is so "clear, direct, weighty, and convincing" that one can "come to a clear conviction, without hesitancy, of the truth of the precise facts in issue." Matter of Sylvester, 521 Pa. 300, 304, 555 A.2d 1202, 1202-1204 (1989). CYF must also present evidence proving that the termination of parental rights will serve the child's best interests. In the Matter of Adoption of Charles E.D.M. II, 550 Pa. 595, 708 A.2d 88, 92-93 (1998). To determine whether termination is within the best interest of the child, the court must examine the possible effect termination would have on the child's needs and general welfare. In re Adoption of Godzak, 719 A.2d 365, 368 (1998).

CYF Has Proven by Clear and Convincing Evidence that Parental Rights to the Minor Children Must Be Terminated Pursuant to 23 Pa.C.S. § 2511(a)(1)

To terminate parental rights under 23 Pa.C.S. §2511(a)(1) of the Adoption Act, CYF must establish, by clear and convincing evidence, that the parent has either demonstrated a settled purpose of relinquishing parental claim to a child or has failed to perform parental duties. In the Matter of Adoption of Charles E.D.M. II, 550 Pa. 595, 708 A.2d 88 (1998).

Once one of these two factors has been proven, the Court must examine the following three factors:

1. Parent's explanation for the conduct;
2. Post-abandonment contact between parent and child; and
3. Effect of termination on child.

Id.

CYF has proven by clear and convincing evidence that Mother and Father have failed to perform their parental duties. In the past eighteen months, neither parent has been able to independently parent the children. Both parents have acknowledged that maternal grandmother has met all of the children's needs for at least the past eighteen months. Neither Mother, nor Father has performed any parental duty from the time the children were adjudicated dependent until the time of the termination hearing.

Neither parent has maintained consistent contact with the children. Both parents had the opportunity to visit the children three times per week. Neither parent took advantage of this opportunity.

Once a failure to perform parental duties is established, the second step of the analysis under 23 Pa.C.S. §2511(a)(1) requires the Court to look at the explanation for the conduct, the post-abandonment contact, and the effect of the termination on the child.

Mother's explanations included periods of incarceration and active drug addiction. Mother needs to be accountable for her criminal behavior and the decisions she has made. Mother's substance abuse could have been addressed much sooner than it was. This Court acknowledges that drug addiction is very difficult to overcome, but permanency and stability for the children must be this Court's focus. Mother did not make it her focus in an expeditious fashion.

Father's explanation was his substance abuse and depression. Father's family members testified about the support they have offered to him and the physical and emotional changes that drug use have caused to Father as a person. Again, this Court recognizes the difficulties that Father faced, however, Father had resources and family support ready, willing and able to assist him and he failed to make the three children a priority in his life. By his failure to maintain contact with CYF, Father failed to access resources that CYF could have provided.

The evidence was clear that Mother and Father were content to let others provide for the children and perform parental duties. Father testified that he has reunited with his wife and four other children (ages 16, 13, 10 and 6), but offered no explanation why he could not maintain any type of contact with the three children at issue here.

The evidence presented indicates that neither parent is currently a resource for the children or has the present ability to provide a loving, stable and secure living environment for the children. Further there was no indication when either parent would or could be able to parent the children. Both Mother and Father have failed to perform parental duties for a period far in excess of the six months preceding the filing of the petitions to terminate parental rights.

Father has acknowledged that his substance abuse and his inability to overcome it have interfered with his ability to parent. Mother has indicated that she has done what was necessary to meet her goals and yet she has also acknowledged that she has continued to struggle with issues of substance abuse. Mother and Father have also been unable to meet even the barest minimum requirement of consistently visiting the children or maintaining contact with them and no adequate explanation has been offered for this parental failure.

The Court believes that the children love and have missed Mother. The Court does not doubt that each of the parents loves the children. However, the bond that once existed has been significantly diminished as Mother and Father have failed to maintain a place of

importance in the life of each child and have allowed other individuals to assume a parental role. The children look for love, safety and security from maternal grandmother and maternal uncle, with whom they have resided for eighteen months. Testimony from the observing caseworker indicated that the youngest child CSB, who has spent nearly half her life as a dependent child does not have the same relationship with Mother as the other two older children. However, even with NEB and XGB, testimony indicated that the bond that may once have existed has weakened because of a lack of consistency from Mother.

As to Father, it is difficult to assess whether any bond exists as contact was non-existent for more than one year. Certainly, if any parent-child bond existed it has been significantly decreased by lack of total contact.

Finally, the Court must examine the effect that termination would have on the children. The children are very bonded to the maternal grandmother and maternal uncle. For CSB, this Court finds that no significant effect will result from termination of parental rights. CSB is forty-one months old and has spent eighteen of those months, if not longer in the care of maternal grandmother. Any memory or bond of a loving parent-child relationship has been extinguished by the passage of time, his young age and the inconsistency of his parents' role in his life.

For XGB and NEB, the Court acknowledges that at ages six and nine respectively, they are old enough to remember who their parents are and to genuinely miss spending time

together as a family. However, for the past eighteen months they have developed a strong bond with maternal grandmother and maternal uncle. XGB and NEB now rely on maternal grandmother to meet their basic needs as well as to supply the love, affection, nurturance, safety and security that a child needs. The ability of Mother and certainly Father to fulfill this role has been severely challenged in their young minds by the lack of consistent contact and communication from Mother and Father. The Court does not doubt that XGB and NEB are happy to see Mother and Father when visits occur, but the trust factor has been severely compromised.

As this case moves forward to permanency, this Court believes that the children will maintain contact to some extent with Mother and Father, however to achieve the security, safety and permanency that the children deserve, this Court finds that the bond with maternal grandmother is stronger and she will continue to meet their every need. The impact of termination has more than likely already been felt by the children during the past eighteen months, when Mother nor Father have been available to comfort or console the children when such caregiving has been needed.

The pattern that has existed for the past eighteen months will likely continue into the future. Safety and stability will generate from maternal grandmother and playtime will be enhanced by visits from Mother and Father. This is what the children have experienced for a significant period of time. The Court finds that there would be a serious detrimental effect

upon the children to uproot them from maternal grandmother's care and kinship to achieve reunification, even if that was a realistic option at this time, which the Court finds that it is not.

Therefore, for all the reasons stated above, CYF has proven by clear and convincing evidence that termination of parental rights to the minor children is justified pursuant to Section 2511(a)(1). Furthermore, termination of parental rights would serve the best needs and welfare of the minor children.

CYF has Proven that Parental Rights to the Minor Children Must be Terminated Pursuant to 23 Pa.C.S. § 2511(a)(2), (5) and (8).

CYF has also proven by clear and convincing evidence that the parental rights to the minor children should be terminated pursuant to 23 Pa.C.S. §2511(a)(2), (5) and (8). The mandates of those sections are as follows:

- (2) The repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent;
- (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 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.

- (8) The child has been removed from the care of a 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.

This Court finds that CYF has clearly and convincingly established the grounds for termination of parental rights based upon 23 Pa.C.S. §2511(a)(2), (5) and 8. Eighteen months have passed and services have been offered to the parents to achieve reunification. Although attempts have been made by Mother to some degree to utilize the services offered, Mother has not achieved a level of stability to achieve reunification. Father has failed to access any service available through CYF, and has not followed through with recommendations from service providers made available through his extended family. More than a reasonable time period has passed for this to occur. Father is really in no better position than when the case first came to the attention of CYF and the Court. Mother has made more progress than Father, but continues to struggle with maintaining stability. In-home teams, referrals for drug and alcohol counseling, drug testing, Family Group decision Making, and frequent visitation to maintain a consistent relationship with the children have been offered to both parents.

Neither parent identified any resource that could assist them that was not offered to them during the past eighteen months. The Court finds that it is not likely that either parent could remedy the condition which led to placement in the reasonably foreseeable future.

In consideration of §2511(b), termination of parental rights would best serve the needs and welfare of the minor children.

Having established the statutory grounds for the involuntary termination of the parental rights of Mother and Father, the Court's final consideration is whether termination of parental rights will best serve the developmental, physical and emotional needs and welfare of the children. 23 Pa.C.S. §2511(b).

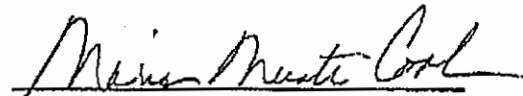
[T]he court must carefully consider the tangible dimension, as well as the intangible dimension – the love, comfort, security and closeness - entailed in a parent-child relationship. The court must consider whether a bond exists between Child and Father, and whether termination would destroy an existing beneficial relationship.

In Re: B.N.M., 2004 Pa. Super. 311, 856 A.2d 847 (2004) (citations omitted).

As previously discussed herein, the Court believes that a bond did exist between the two older children and Mother. However, based upon the evidence presented, the Court finds that the bond previously existed has been significantly diminished by Mother's failure to maintain a place of importance in the lives of her children. Safety and security emanates from maternal grandmother to the children. Father had absolutely no contact with any of the

children for nearly fourteen months. This Court believes that any bond that may have existed has been extinguished by Father's inaction. After nearly eighteen months, and Mother's minimal level of contact with the children, it is not possible that her bond could have strengthened or increased. Given the opportunity for greater contact with the children, Mother chose not to take advantage of the opportunity. The Court finds that there would be no significant effect upon the children from the termination of Mother's and Father's parental rights. Termination of parental rights will best meet the needs of the children and permit them to achieve the permanency that they deserve.

BY THE COURT,


Maria Musti Cook, Judge

Dated: December 17, 2014