

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN RE: S.M.B., A MINOR

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: N.C., BIRTH MOTHER

No. 98 WDA 2014

Appeal from the Order December 5, 2013
In the Court of Common Pleas of Allegheny County
Orphans' Court at No(s): TPR 097 of 2013

BEFORE: GANTMAN, P.J., BENDER, P.J.E., and OTT, J.

MEMORANDUM BY BENDER, P.J.E.:

FILED JULY 29, 2014

Appellant, N.C. ("Mother"), appeals from the order involuntarily terminating her parental rights to S.M.B. (born in February of 2008) ("Child"), pursuant to 23 Pa.C.S. § 2511(a)(2), (8), and (b).¹ We affirm.

The parties first became known to the Allegheny County Office of Children, Youth, and Families ("CYF") in 2009, as a result of reports received regarding Mother's housing and Mother's mental health issues. N.T., 12/5/13, at 7. In May of 2011, Child came into the care of CYF after Child was observed with multiple bruises on her face and ears, and bite marks on her hands and feet. Child reported that Mother's paramour punched Child, and that Child's younger sister bit her. Child also feared returning to

¹ J.M. ("Father") and the Unknown Father were named in CYF's petition to terminate their parental rights. Father did not acknowledge his paternity and was not present in Child's life. Father is not a party in the current appeal; nor did he file a separate appeal.

Mother's care. Child was placed in foster care with her maternal grandparents, C.C. and M.C. ("Maternal Grandparents").

The trial court required Mother to complete a Family Service Plan ("FSP"). Mother's objectives for the FSP were: (1) to ensure supervision of Child at all times; (2) to refrain from criminal activity; (3) to eliminate verbal and physical family abuse; (4) to prevent anymore abuse or neglect of Child; (5) to improve the relationship between Mother and Child; (6) to contact and cooperate with CYF; (7) to maintain visitation with Child; (8) to work on parenting abilities; (8) to stabilize mental health issues; and (9) to attend a non-offenders treatment program. N.T., 12/5/13, at 11-13.

Mother made progress with her parenting goals, and Child was returned to her care. On September 5, 2011, CYF observed that Child had injuries, and Child would not disclose where the injuries came from. On October 4, 2011, the CYF caseworker observed additional injuries to Child, including bruising, a swollen lip, and scratches. *Id.* at 8-9. On October 13, 2011, the trial court adjudicated Child dependent, and permitted Child to stay in Mother's care on the condition that Mother and Child reside with Maternal Grandparents, and that Child have no contact with Mother's paramour.

On October 14, 2011, Mother took Child and refused to return her to Maternal Grandparents. CYF obtained an Emergency Custody Authorization,

and Child was placed into foster care with Maternal Grandparents. Child has since then remained in Maternal Grandparents' care.

On May 29, 2013, CYF filed a petition to involuntarily terminate Mother's parental rights to the Child. On December 5, 2013, the trial court held a hearing on the petition. At the hearing, the court heard testimony from Dr. Neil Rosenblum, a court-appointed expert in psychology who evaluated the family members; Justine Walz, a CYF caseworker, and Mother. That same day, the trial court entered its order terminating Mother's parental rights pursuant to 23 Pa.C.S. § 2511(a)(2), (5), (8) and (b), and changing the goal to adoption.

Mother timely filed a notice of appeal, along with a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b). Mother raises the following issue:

1. Did the trial court abuse its discretion and/or err as a matter of law in concluding that CYF met its burden of proving by clear and convincing evidence that termination of Mother's parental rights would best serve the needs and welfare of the child pursuant to 23 Pa.C.S. § 2511(b)?

Mother's Brief at 5.

Our standard of review regarding orders terminating parental rights is as follows:

When reviewing an appeal from a decree terminating parental rights, we are limited to determining whether the decision of the trial court is supported by competent evidence. Absent an abuse of discretion, an error of law, or insufficient evidentiary support for the trial court's decision, the decree must stand. Where a trial court has granted a petition to involuntarily terminate

parental rights, this Court must accord the hearing judge's decision the same deference that we would give to a jury verdict. We must employ a broad, comprehensive review of the record in order to determine whether the trial court's decision is supported by competent evidence.

In re S.H., 879 A.2d 802, 805 (Pa. Super. 2005). In termination cases, the burden is upon the petitioner to prove by clear and convincing evidence that the asserted grounds for seeking the termination of parental rights are valid.

Id. at 806. We have previously stated:

The standard of clear and convincing evidence is defined as testimony that is so "clear, direct, weighty and convincing as to enable the trier of fact to come to a clear conviction, without hesitation, of the truth of the precise facts in issue."

In re J.L.C. & J.R.C., 837 A.2d 1247, 1251 (Pa. Super. 2003).

The trial court is free to believe all, part, or none of the evidence presented and is likewise free to make all credibility determinations and resolve conflicts in the evidence. ***In re M.G.***, 855 A.2d 68, 73-74 (Pa. Super. 2004). If competent evidence supports the trial court's findings, we will affirm even if the record could also support the opposite result. ***In re Adoption of T.B.B.***, 835 A.2d 387, 394 (Pa. Super. 2003). Additionally, this Court "need only agree with [the trial court's] decision as to any one subsection in order to affirm the termination of parental rights." ***In re B.L.W.***, 843 A.2d 380, 384 (Pa. Super. 2004) (*en banc*), *appeal denied*, 863 A.2d 1141 (Pa. 2004).

The termination of parental rights is controlled by 23 Pa.C.S. § 2511. Under this statute, the trial court must engage in a bifurcated process in

which it initially focuses on the conduct of the parent under Section 2511(a). **See *In the Interest of B.C.***, 36 A.3d 601 (Pa. Super. 2012). If the trial court determines that the parent's conduct warrants termination under Section 2511(a), it must then engage in an analysis of the best interests of the child under Section 2511(b). **See *id.***

In the instant case, Mother does not challenge the trial court's analysis under Section 2511(a), but rather, she limits her argument to the trial court's analysis of the best interests of Child under Section 2511(b).

Section 2511(b) provides, in pertinent part:

(b) Other considerations.—The court in terminating the rights of a parent shall give primary consideration to the developmental, physical and emotional needs and welfare of the child. The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent.

23 Pa.C.S. § 2511(b).

Pursuant to Section 2511(b), the trial court must take into account whether a natural parental bond exists between child and parent, and whether termination would destroy an existing, necessary and beneficial relationship. ***In re C.S.***, 761 A.2d 1197, 1202 (Pa. Super. 2000) (*en banc*).

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 needs and welfare of the child." In addition, we instructed that the orphans' 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, the extent of the bond-effect

analysis necessarily depends on the circumstances of the particular case. ***In re K.Z.S.***, 946 A.2d 753, 763 (Pa.Super. 2008).

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

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

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

Here, the trial court found that Mother failed to provide Child with a safe environment, and that termination of Mother's parental rights is in the best interest of Child. Trial Court Opinion (T.C.O.), 2/25/14, at 7-8. The trial court concluded that "Mother has chosen her paramour over Child," and that "Mother has failed to recognize or appreciate Child's fear, substituting her own perceptions for those of Child." ***Id.*** The trial court found that "Child loves her Mother and wishes to see her, but recognizes she is not safe with [Mother]." ***Id.*** at 9. The trial court found that "Child has been thriving with [Maternal G]randparents and has directly expressed her reasonable fear

of returning to Mother.” **Id.** Furthermore, Ms. Walz, the CYF caseworker, testified that termination of Mother’s parental rights meets the needs and welfare of Child, and that Child needs to be in a safe environment. N.T., 12/5/13, at 40.

Mother argues there is a strong bond between her and Child. Mother’s Brief, at 12. While Dr. Rosenblum testified that Child was strongly attached to Mother, Dr. Rosenblum stated that Maternal Grandparents are Child’s “primary attachment and caregiver figure[s].” N.T., 12/5/13, at 61. Moreover, Dr. Rosenblum testified that Child does not view Mother as “providing her with safety and support that [Child] needs.” **Id.** at 61. Dr. Rosenblum testified:

Reunification could have been a viable goal, but the conflict over [Child] has been going on for most of her life. It has been very traumatic and detrimental to [Child]’s well-being. She has been in a safe and secure place for two years now. Given the fact that I don’t see any progress on Mother’s part in her ability to work through her anger ... I do believe that [Child] needs a final resolution determined by the [trial c]ourt that will allow her to feel safe, secure, and have stability in her life into the future [A] goal of adoption is consistent with her needs and welfare.

Id. at 64. The trial court found the testimony of Dr. Rosenblum to be credible. We defer to a trial court’s determination of credibility, absent an abuse of discretion, and discern no such abuse in its finding credible the testimony of Dr. Rosenblum. **See In re Adoption of S.P.**, 47 A.3d at 826-27.

Furthermore, the trial court found

[t]erminating Mother's parental rights will not ... sever [Mother's] bond, because a relationship can still be maintained through visitation since the [M]aternal [G]randparents plan to adopt and will permit continued contact. The record indicates that Child will be positively affected if adoption by [M]aternal [G]randparents is permitted because she is comfortable, thriving, and feels safe with them.

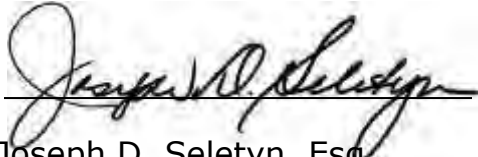
T.C.O. at 8 (citations to record omitted). **See *In re T.S.M.***, 71 A.3d 251 (Pa. 2013) (stating that the strong parent-child bond was an unhealthy one that could not by itself serve as grounds to prolong foster care drift). This Court has held that a parent's love of her child, alone, does not preclude a termination. **See *In re L.M.***, 923 A.2d 505, 512 (Pa. Super. 2007). Likewise, we have stated that the mere existence of a bond or attachment of a child to a parent will not necessarily result in the denial of a termination petition. **See *In re K.K.R.-S.***, 958 A.2d 529, 535 (Pa. Super. 2008).

Based on our review of the record, we conclude that the trial court did not abuse its discretion in terminating Mother's parental rights to Child pursuant to section 2511(b). We therefore affirm the termination of Mother's parental rights pursuant to §§ 2511(a) and (b) and a goal change to adoption.

Order affirmed.

J-S34029-14

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: 7/29/2014