

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

IN THE INTEREST OF: G.T.L., A	:	IN THE SUPERIOR COURT OF
MINOR	:	PENNSYLVANIA
	:	
	:	
APPEAL OF: D.M.L., MOTHER	:	
	:	
	:	
	:	
	:	No. 628 MDA 2023

Appeal from the Order Entered March 27, 2023
In the Court of Common Pleas of Luzerne County Orphans' Court at
No(s): A-9376 CP-40-DP-0000064-2021

BEFORE: LAZARUS, J., NICHOLS, J., and STEVENS, P.J.E.*

MEMORANDUM BY LAZARUS, J.: **FILED: JANUARY 19, 2024**

D.M.L. (Mother) appeals from the order, entered in the Court of Common Pleas of Luzerne County, Orphans' Court Division, terminating her parental rights to her minor child, G.T.L. (Child) (born November 2020), pursuant to 23 Pa.C.S.A. § 2511(a)(2) and (b) of the Adoption Act.¹ After careful review, we affirm.

In connection with a February 2021 road rage incident, Luzerne County Children and Youth Services (CYS) received an emergency shelter care order placing Child in the protective custody of CYS.² Mother and Child were in a

* Former Justice specially assigned to the Superior Court.

¹ 23 Pa.C.S.A. §§ 2101-2938.

² On February 12, 2021, the trial court appointed Maria Turetsky, Esquire, as Child's Guardian *Ad Litem* (GAL). **See** Order, 2/12/21; **see also In Re: T.S.,** (Footnote Continued Next Page)

vehicle with an unnamed driver. Both Mother and the driver were intoxicated.³ While riding in the car, Mother made profane gestures and comments to a DoorDash driver, which resulted in the road rage incident. Both vehicles pulled over, and Mother began punching the DoorDash driver.⁴ As a result of this incident, Child was adjudicated dependent on February 24, 2021, and, in connection with the afore-mentioned emergency shelter care order, Child was placed with a foster family. Additionally, a family service plan was developed for Mother and adopted as a court order. The plan included completion of a parental education program, drug and alcohol evaluation, toxicology screens, mental health evaluation and for Mother to abide by all recommendations and to obtain and maintain safe and stable housing.

As relevant to the hearings described *infra*, since at least May of 2019, Mother has been filing Protection From Abuse (PFA) petitions against Father, alleging a continuous history of domestic violence against Mother and her children including, but not limited to, threats of violence, striking and

E.S., 192 A.3d 1080, 1092 (Pa. 2018) (“[D]uring contested termination-of-parental rights proceedings, when there is no conflict between a child’s legal and best interests, an attorney-guardian *ad litem* representing the child’s best interests can also represent the child’s legal interests.”).

³ Since Child’s birth, Mother has engaged in high-risk activities with Child including, but not limited to, driving cars at high speeds, driving with individuals who were smoking marijuana, and driving with individuals who were consuming alcohol.

⁴ Police arrived on the scene and quelled the incident. Mother was charged, but ultimately pled guilty to a single count of disorderly conduct.

strangling Mother, and threatening to kill Mother and her children.⁵ In May 2019, Mother filed her first PFA petition against Father, which was later withdrawn. In September 2020, Mother filed another PFA petition against Father and a PFA order was finalized on September 29, 2020, and expired on September 29, 2023. In January 2021, after Child was born and prior to the road-rage incident, Mother filed another PFA against Father for both herself and Child after Father threatened to murder them. In March 2021, this PFA was dismissed because Mother failed to appear at a PFA hearing without explanation. Shortly thereafter, in May 2021, Father threatened Mother again, after which he was charged with strangulation, simple assault, and harassment. However, these charges were dismissed because Mother refused to testify. In September 2022, Mother obtained another PFA against Father, alleging that Father has a history of domestic violence of hitting, choking, and biting Mother, and that Father threatened to punch her in the stomach while she was pregnant.⁶

⁵ Father did not attend any of the hearings throughout the life of this case, has continuously refused to participate in any programs with CYS, and the trial court ordered that Father could not have unsupervised contact with Child. Ultimately, Father's parental rights were terminated. Father did not file an appeal.

⁶ Father was diagnosed with intermittent explosive disorder, which "involves repeated, sudden episodes of impulsive, aggressive, violent behavior or angry verbal outburst in which [the person] react[s] grossly out of proportion to the situation." [Intermittent explosive disorder - Symptoms and causes - Mayo Clinic](#) (last visited 1/2/24).

On June 21, 2021, the trial court conducted a permanency review hearing, for which Mother was present but Father was not. At this time, Mother was participating in all of her court-ordered services. Mother was attending parenting classes; however, the provider expressed concerns that Mother continued to make poor decisions. Additionally, Mother completed the drug and alcohol evaluation, mental health evaluation, and was complying with those provider recommendations. Mother was also submitting to toxicology screens but was routinely testing positive for alcohol and marijuana. Nevertheless, the trial court found that Mother was fully compliant and making moderate progress, and increased Mother's supervised visits to eight hours per week.

On September 28, 2021, the trial court conducted a status hearing, at which Mother requested unsupervised visitation with Child. At this time, Mother's criminal charges from the February 2021 road rage incident were still pending. Additionally, Mother was still spending time with Father, despite Father's domestic abuse.⁷ The trial court ordered CYS to determine whether any of Mother's roommates could be appropriate supervisors for her visits. The trial court denied Mother's request for unsupervised visits and ordered Mother to participate in domestic violence counseling.

⁷ At this time, Father was entirely non-compliant with services, was refusing to appear in court, and was denying paternity of Child.

On November 9, 2021, the trial court conducted another permanency review hearing. By this time, CYS had approved one of Mother's roommates to supervise visitation, and Mother had been doing six hours of her supervised visitation at home, with two hours supervised by CYS. Mother was improving in her parenting classes, but still continued to have contact with Father. Ultimately, the trial court found that Mother was substantially complying and making substantial progress towards her goals. Additionally, the trial court appointed Court Appointed Special Advocate (CASA) Jane Levi to supervise some of Mother's visitation periods.

On April 4, 2022, the trial court conducted another permanency review hearing. Mother was actively participating in a domestic violence program. Additionally, Mother had completed her parenting program, but the program and CYS had noted concerns about Mother's ability to parent Child, and Mother had started a second parenting program. Mother's eight hours of supervised visits with Child were held entirely in her home at this time. CYS continued to express concerns about Mother's continued contact with Father. Specifically, CYS noted that Mother and Father were both involved in an altercation in February 2022, and were cited by police for disorderly conduct. Ultimately, the trial court again found Mother to be substantially compliant.

On August 11, 2022, the trial court conducted a status hearing on whether to permit Mother to have unsupervised visits with Child. CYS continued to express concerns about Mother's decision-making abilities regarding Father. In particular, CYS Caseworker Cindy Jones saw Mother and

Father together. Caseworker Jones approached them, but Mother ran away. Mother argued that Caseworker Jones had mistaken Mother for someone else and denied contact with Father. At this time, Mother had completed her drug and alcohol program, and had switched from mental health counseling to trauma counseling. Additionally, Mother testified that she was pregnant again, and denied that Father was the biological father of the unborn child. **See** N.T. Permanency Review Hearing, 8/18/22, at 32-34, 41-42.⁸ Ultimately, the trial court cautioned Mother about her continued contact with Father but found Mother to be substantially compliant. As a result, the trial court granted Mother four hours of unsupervised visits per week with Child, with the remaining four hours remaining as supervised visits. In particular, the trial court “sandwiched” these hours, so that each of Mother’s unsupervised visits would be preceded and followed by supervised visits.⁹ **See id.** at 39-43 (trial court describing unsupervised visitation should remain “sandwiched” due to concerns Mother was contacting Father).

⁸ There is no transcript of the August 11, 2022 hearing in the record before this Court. However, at the August 18, 2022 permanency review hearing, detailed *infra*, the trial court questioned Mother regarding the statements she made under oath at the August 11, 2022 hearing. Accordingly, our review is not hampered by the absence of the August 11, 2022 hearing transcript.

⁹ The trial court elaborated that “sandwiching” meant Mother would have four-hour blocks of visitation with Child, twice a week. Each block would begin with one hour of supervised visitation, followed by two hours of unsupervised visitation, followed by another hour of supervised visitation. **See** Trial Court Opinion, 5/24/23, at 11.

Shortly after the August 11, 2022 hearing, CYS received a photograph, dated August 9, 2022, showing Mother and Father together. Additionally, on August 12, 2022, the day after the status hearing, CYS caseworkers went to Father's residence to inform him of a court hearing, due to Father's frequent failures to appear. When CYS arrived, they observed Mother sitting on the porch with Father. Mother recognized the CYS caseworkers and fled to the back of the house in an attempt to hide from them.¹⁰ CYS spoke with Father and asked why Father and Mother continued to lie about their relationship. **See** N.T. Termination Hearing, 1/9/23, at 23. In response, Father stated that Mother had a better chance of getting their children back if he "wasn't involved."¹¹ **Id.**

As a result, on August 15, 2022, CYS filed a Petition for Emergency Status Hearing and Permanency Review Hearing. The trial court conducted a permanency review hearing on August 18, 2022, during which Caseworker Jones and Mother testified. At this hearing, Mother testified that she was not

¹⁰ This was not the first instance of Mother lying about her contact with Father. During this time, as noted **supra**, Mother was pregnant. Mother represented to the trial court that Father was not the biological father of the unborn child; however, Mother told her service providers that Father was the "sperm donor." **See** N.T. Status Hearing, 8/18/22, at 26. When questioned, Father did not deny being the biological Father of the unborn child. **Id.**

¹¹ We note that there was no court order prohibiting Mother from contacting Father. However, as noted **supra**, Mother had a PFA against Father. Furthermore, Father **was** prohibited from appearing at Mother's supervised visits with Child, and Father was still prohibited from having unsupervised contact with Child.

at Father's residence on August 12, 2022. **See** N.T. Status Hearing, 8/18/22, at 27-28. Rather, Mother stated that she was at a beach with some friends. **Id.** at 28-31. At the conclusion of the hearing, the trial court described the testimony of Caseworker Jones and Mother as "polar opposites" and "impossible to reconcile." **Id.** at 39. Additionally, the trial court expressed to Mother that it was not in Child's best interests to be near Father due to Father's history of domestic violence. **See id.** at 39-43. Ultimately, the trial court determined that Mother was in moderate compliance and continued the visitation schedule. **See id.**

On September 8, 2022, CYS filed a petition to involuntarily terminate Mother's parental rights to Child pursuant to subsections 2511(a)(2), (5), (8), and (b).

On January 9, 2023, the trial court conducted a termination hearing where Caseworker Jones, Catholic Social Services (CSS) Caseworker April Bezdziecki, CASA advocate Jane Levi, and Foster Mother testified. At the time of the termination hearing, Mother had completed a drug and alcohol evaluation, had safe and stable housing, and had complied with toxicology screenings. Mother was still engaged in mental health services, specifically for trauma therapy as a result of Father's abuse. Additionally, Mother was still working with Family Services' "Intensive Family Reunification Program." At the time of the hearing, Child was 26 months old and had been in placement for 23 months.

At the conclusion of the termination hearing, the trial court directed the parties to file proposed findings of fact and conclusions of law. The parties complied and, on March 27, 2023, the trial court entered an order granting CYS's petition and involuntarily terminating Mother's parental rights to Child pursuant to subsections 2511(a)(2) and (b).

Mother filed a timely notice of appeal and a contemporaneous Pa.R.A.P. 1925(a)(2) concise statement of errors complained of on appeal. Mother now raises the following claims for our review:¹²

1. Whether the [t]rial [c]ourt abused its discretion and/or committed an error of law in determining the parental rights of [Mother] to [Child], should be terminated pursuant to 23 Pa.C.S.A. § 2511(a)(2).
2. Whether the [t]rial [c]ourt abused its discretion and/or committed an error of law in determining the tenets of 23 Pa.C.S.A. § 2511(b) have been satisfied and the best interests of [Child], served by terminating the parental rights of [Mother].

Brief for Appellant, at 4.

In a proceeding to terminate parental rights involuntarily, the burden of proof is on the party seeking termination to establish by clear and convincing evidence the existence of grounds for doing so. The standard of clear and convincing evidence is defined

¹² During the termination hearing, Mother was represented by Paul Ware, Esquire. However, on appeal before this Court, Attorney Ware failed to file a docketing statement and an appellate brief. **See** Order, 7/17/23, at 1. Consequently, this Court determined that Attorney Ware had abandoned Mother, removed Attorney Ware as counsel, vacated the briefing schedule, and remanded the matter to the trial court to appoint new appellate counsel for Mother. **See** Order, 7/29/23, at 1-2. Subsequently, the trial court appointed Louis J. Mattioli, III, Esquire, to represent Mother on appeal. **See** Order, 8/1/23, at 1. Attorney Mattioli has complied with our appellate and briefing requirements, and this appeal is now ripe for review.

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.” It is well established that a court must examine the individual circumstances of each and every case and consider all explanations offered by the parent to determine if the evidence in light of the totality of the circumstances clearly warrants termination.

In re Adoption of S.M., 816 A.2d 1117, 1122 (Pa. Super. 2003) (citation and quotation marks omitted). The trial court, as the finder of fact, is the sole determiner of the credibility of witnesses and all conflicts in testimony are to be resolved by the finder of fact. ***See In re Adoption of A.C.H.***, 803 A.2d 224, 228 (Pa. Super. 2002). We review a trial court’s decision to involuntarily terminate parental rights for an abuse of discretion or error of law. ***In re A.R.***, 837 A.2d 560, 563 (Pa. Super. 2003). Our scope of review is limited to determining whether the trial court’s order is supported by competent evidence. ***Id.***

Termination of parental rights requires a two-step analysis. First, the party seeking termination must prove by clear and convincing evidence that the parent’s conduct meets at least one of the grounds for termination set forth in subsection 2511(a). ***See In re L.M.***, 923 A.2d 505, 511 (Pa. Super. 2007). Here, the trial court found sufficient grounds for termination pursuant to subsection 2511(a)(2), which provides that parental rights may be terminated, after the filing of a petition, when:

[t]he 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.

23 Pa.C.S.A. § 2511(a)(2).

Additionally, this Court has explained:

The grounds for termination of parental rights under [s]ection 2511(a)(2), due to parental incapacity that cannot be remedied, are not “limited to affirmative misconduct.”

Unlike subsection (a)(1), subsection (a)(2) does not emphasize a parent’s refusal or failure to perform parental duties, but instead emphasizes the child’s present and future need for essential parental care, control or subsistence necessary for his physical or mental well-being. Therefore, the language in subsection (a)(2) should not be read to compel courts to ignore a child’s need for a stable home and strong, continuous parental ties, which the policy of restraint in state intervention is intended to protect. This is particularly so where the disruption of the family has already occurred and there is no reasonable prospect for reuniting it.

Thus, while “sincere efforts to perform parental duties,” can preserve parental rights under subsection (a)(1), those same efforts may be insufficient to remedy parental incapacity under subsection (a)(2). “Parents are required to make diligent efforts toward the reasonably prompt assumption of full parental responsibilities.” 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.”

In re Z.P., 994 A.2d 1108, 1117-18 (Pa. Super. 2010) (citations and emphasis omitted).

Mother argues that the trial court erred in terminating her parental rights where the evidence showed that Mother had been in compliance with CYS’s service plan by attending parenting classes, taking toxicology screens, actively attending trauma therapy, and securing safe and stable housing. **See**

Brief for Appellant, at 7-15. Mother further contends that, at the termination hearing, CYS's own witnesses testified that Mother was "very cooperative in services, and it appears as though she's making progress." **Id.** at 9. Mother posits that she has remedied "all of the concerns leading to the involvement of CYS." **Id.** at 9-11. To support this contention, Mother asserts that the trial court's reliance on "the alleged relationship" with Father is misplaced because CYS failed to demonstrate any adverse effect, and, despite these concerns, the trial court permitted Mother to have large periods of unsupervised visits. **Id.** at 10-12. Mother further argues that the trial court "stacked the deck" against her and made it impossible for her to satisfy all requirements. **Id.** We disagree.

While Mother has attended her classes, submitted to toxicology screens, and obtained stable housing, it is also true that Mother has lied to the trial court several times about her contact with Father, who has a history of abuse against both Mother and Child. **See** Trial Court Opinion, 5/24/23, at 7-14. As we noted **supra**, there was no official court order prohibiting Mother from contacting Father. However, the record reflects that the trial court warned Mother that continued contact with Father was not in the best interest of Child and was unsafe and dangerous. Despite these warnings, Mother continued to see Father. **See id.** Moreover, the trial court specifically found that Mother knew she should not have continued a relationship with Father because Mother would hide from CYS workers, and lied to the trial court about whether she

was spending time with Father. **See id.** Consequently, the trial court found that:

Mother is not appreciating the consequence[s] of her actions by continuing to be with Father despite his violent tendencies and the [PFA] that she has against him on [her] behalf and on behalf of [her children]. Mother's choosing to lie about her actions with Father reflects Mother's lack of progress or lack of benefit from the services offered to her.

[Caseworker] Jones testified that throughout the case, she kept in touch with Mother through telephone calls, text messages[,] and meetings in person. According to [Caseworker] Jones, she did not believe that Mother demonstrated the ability to make progress to remedy the conditions which led to the removal of her child. [**See** N.T. Termination Hearing, 1/9/23,] at 24. [Caseworker] Jones explained that Mother continues to have a relationship with Father, placing herself at risk, in addition to the [C]hild in her custody. [Caseworker] Jones indicated that Mother does have one child, J.L., in her custody,^[13] and that Mother makes extremely poor decisions, putting herself and the children at risk. **Id.** at 24-25.

[In one such interaction with Father,] there was a police report filed, which indicated that Father tried to choke Mother while she was at his residence. Mother claimed that she went to Father's home in order to retrieve her Father's ashes. However, . . . Mother should have obtained her Father's ashes in a different manner, instead of placing herself in danger at Father's residence. **Id.** at 25. [Caseworker] Jones explained that she believes Mother place[s] her own needs above [Child]'s needs. [Caseworker] Jones [testified] that [Mother's] need to have a relationship with Father and her need for socialization with other people rises above [Child]'s needs and places Mother into problematic situations. **Id.** at 25-26.

* * *

¹³ Mother has a separate proceeding involving her parental rights to J.L. At the time of the termination hearing, Mother had custody of J.L. However, between the time of the hearing and the instant appeal, Mother's parental rights to J.L. were also terminated. **See** Trial Court Opinion, 5/24/23, at 8.

[O]n January 9, 2023, [CYS] received a report indicating that on December 27, 2022, Mother was seen [] with Father and her other [child], J.L.[,] walking outside in the town of Wilkes-Barre, Pennsylvania. . . . Mother has a PFA against Father on behalf of herself and on behalf of her children. [Caseworker] Jones testified that obtaining a [PFA] against Father would have remedied the situation; however, Mother was still [placing herself and her children in the presence of Father] despite the [PFA]. ***Id.*** at 29-30.

* * *

This [c]ourt further adds that[,] although Mother's relationship with Father did not trigger the initial dependency of [C]hild, Mother's poor decision making in continuing her relationship with Father demonstrates her continued lack of incapacity to protect [C]hild from Father.^[14]

* * *

Credible testimony at the termination hearing was presented to show, by clear and convincing evidence, that Mother is incapable of providing essential care necessary for [C]hild's physical and mental well-being. Mother places her own needs above [C]hild's needs by refusing to comply with the active [PFA]. Although Mother filed for [the PFA] against Father[, she has nevertheless] disregarded the significance of the [PFA] and placed [C]hild in jeopardy by continuing to see [] Father. Mother refused to be accountable for seeing Father with [J.L.] despite the court's [o]rder [prohibiting Father from having unsupervised contact.]

[] Mother has failed to correct her behavior in that her inability and/or unwillingness to take responsibility for not staying away from Father and subjecting [C]hild to potential harm obviously places [C]hild at risk. Instead, Mother chooses to lie and hide from [CYS] when she is seen by [CYS in the presence of Father]. Despite obtaining a [PFA] against Father, Mother still chooses to

¹⁴ While there is no court order prohibiting Mother from contacting Father, Mother was aware of the court order that prohibited Father from having any unsupervised contact with Child and J.L. outside CYS's office. ***See*** Trial Court Opinion, 5/24/23, at 12.

be in the presence of Father without any concern for the safety of [C]hild. Although Mother seems to be cooperating “on paper” with services and with court orders [issued] against Father, Mother’s actions are not consistent with protecting [C]hild. The overwhelming evidence shows that all of these issues have yet to be remedied by Mother.

Trial Court Opinion, 5/24/23, at 7-8, 10-11, 13-14 (some citations omitted).

As detailed ***supra***, and summarized by the trial court, there is no doubt that Mother was compliant with her goals of attending parenting classes, achieving stable housing, and submitting to toxicology screens. ***See id.*** at 11-13 (trial court summarizing Mother’s substantial compliance). Additionally, we observe that throughout the life of this case, the trial court has systematically **increased** Mother’s visitation and time with Child. As summarized above, the trial court increased Mother’s visitation at almost every status hearing, despite CY’s continuing concerns about Mother’s time spent with Father, and the incidents arising therefrom. The trial court warned and cautioned Mother that spending time with Father was not in the best interest of Child, but still **increased** Mother’s time with Child. Thus, it is unclear to this Court how the trial court’s orders “stacked the deck” against Mother.

Rather, our review of the record reveals that Mother, knowing that Father was dangerous and having obtained a PFA against him on behalf of herself and her children, continued to see him. ***See id.*** Furthermore, Mother routinely **lied about seeing Father** to the trial court and to CY. ***Id.*** Consequently, we discern no abuse of discretion or error of law on behalf of the trial court. ***See In re Z.P., supra; id.*** at 1118 (“when a parent has

demonstrated a continued inability to conduct [her] . . . life in a fashion that would provide a **safe environment for a child, whether that child is living with the parent or not, and the behavior of the parent is irremediable as supported by clear and competent evidence, the termination of the parental rights is justified**") (emphasis added).

In her second argument, Mother contends that the trial court erred in concluding that it was in Child's best interest to terminate Mother's parental rights under subsection (b). **See** Brief for Appellant, at 15-17. Mother argues that all the evidence adduced clearly indicates that she and Child have a strong bond. **Id.** at 15-16. Mother asserts that Child calls her "Mommy," but does not refer to his Foster Parents as "Mommy" or "Daddy." **Id.** at 16. Mother further argues that the trial court's failure to consider CASA advocate Levi's testimony constituted an abuse of discretion, where Levi testified that terminating Mother's rights would have a detrimental effect on Child. **Id.** at 16-17.

If grounds for termination are established under subsection 2511(a), the court must then determine whether termination would be in the best interest of the child, considering his or her developmental, physical, and emotional needs and welfare, pursuant to subsection 2511(b). **See In re Adoption of S.P.**, 47 A.3d 817, 827-30 (Pa. 2012). "Common sense dictates that courts considering termination must also consider whether the children are in a pre-adoptive home and whether they have a bond with their foster parents." **In re T.S.M.**, 71 A.3d 251, 268 (Pa. 2013). "The court must also

discern the nature and status of the parent-child bond, paying close attention to the effect on the child of permanently severing the bond.” ***In re K.S.Z.***, 948 A.2d 753, 760 (Pa. Super. 2008). The extent of any bond analysis depends on the circumstances of the particular case. ***Id.*** at 763. Moreover, “[a] parent’s own feelings of love and affection for a child, alone, do not prevent termination of parental rights.” ***In re Z.P.***, 994 A.2d 1108, 1121 (Pa. Super. 2010) (citations omitted).

At the termination hearing, Caseworker Jones, CASA advocate Levi, and Foster Mother testified regarding subsection 2511(b). **See** N.T. Termination Hearing, 1/9/23, at 59-68, 70-76, 79-84, 86-94. Child has lived with Foster Parents since February 2021, when the trial court granted the emergency shelter care order. Child’s foster family consists of Foster Parents and two of Child’s biological siblings.¹⁵ Caseworker Jones testified that she visits with Child and his Foster family at least once a month. **See id.** at 70. There are pictures of Child with his Foster Parents and siblings throughout the home, and Child attends all family events. **Id.** at 70-71. Caseworker Jones testified that Foster Parents provide Child with clothing, food, and an appropriate home environment. **Id.** at 70-72. Foster Parents also take Child to his medical appointments, both routine and sick visits. **Id.** at 71-72. Foster Parents have also placed Child in daycare and have provided him with age-appropriate toys.

¹⁵ Foster Parents adopted two of Child’s biological siblings during Child’s placement. **See** Trial Court Opinion, 5/24/23, at 16; **see also** N.T. Termination Hearing, 1/9/23, at 70-72, 79-82.

Id. Caseworker Jones testified that Foster Parents and Child have a very strong emotional bond. **Id.** at 72.

Regarding the bond between Mother and Child, Caseworker Jones testified that a bond exists between them, but it is not a parent/child bond. **Id.** at 73-74. Caseworker Jones stated that Child has only lived with Mother for three months of his life, after which he has lived with Foster Parents his 23 months.¹⁶ **Id.** at 70-74. Caseworker Jones testified that there would be no detrimental effect on Child if Mother's rights were terminated. **Id.** at 74. Rather, termination would have a positive effect, as it would permit Foster Parents to adopt Child and provide him with permanency. **Id.** at 73-74.

CASA advocate Levi testified that she supervises Mother's visits with Child twice a week. **Id.** at 60-61. Levi testified that she did not observe any concerns during her visits between Mother and Child. **Id.** Levi stated that Mother has completed almost all of her service plan objectives and that Mother has received positive reports. **Id.** Levi testified that, based upon her observations, it was not in Child's best interest for Mother's rights to be terminated. **Id.** at 63-64. However, on cross-examination, Levi testified that she was unaware of Mother's repeated contact with Father. **Id.** at 64-66. Moreover, Levi also observed visits between Child and Foster Mother. **Id.** at 66-68. Levi stated that Child and Foster Mother have a loving bond, and that Child has been in the Foster Parents' home for almost two years. **Id.** at 66.

¹⁶ We note that this testimony occurred on January 9, 2023. At the time of this memorandum, Child has lived with Foster Parents for over three years.

Levi testified that Child calls Mother “Mommy” and calls Foster Parents “Mommy and Daddy.” ***Id.*** at 68.

Foster Mother testified that Child has been placed with her, her husband, and her two children for the past 23 months. ***Id.*** at 79-80. Foster Mother stated that she “absolutely loves” Child, and that Child has developed a very strong bond with the entire family. ***Id.*** at 79, 82. Foster Mother testified that she and Foster Father have created a safe and stable environment for Child, that they take care of his emotional, physical, and medical needs, and endeavor to make Child feel safe. ***Id.*** at 79-81. In particular, Foster Mother testified that Child has developed a strong connection with his two biological siblings who have been adopted by Foster Parents. ***Id.*** at 80-81. Child is constantly looking for his siblings in the house and asking them to play with him. ***Id.*** at 80. Child constantly wants to hug his siblings. ***Id.*** Foster Mother testified that Child’s siblings always miss Child when he is not present at the house. ***Id.*** Foster Mother testified that it is Foster Parents’ intention to adopt Child as soon as possible. ***Id.*** at 82.

The trial court addressed subsection (b) as follows:

[Considering CASA advocate] Levi’s testimony pertaining to the bonding between Mother and [C]hild, the [c]ourt notes the following language of the Superior Court []:

A child’s feelings toward a parent are relevant to the section 2511(b) analysis. Nonetheless, concluding a child has a beneficial bond with a parent simply because the child harbors affection for the parent i[s] not only dangerous, it is logically unsound. If a child’s feelings were the dispositive factor in the bonding analysis, the analysis would be

reduced to an exercise in semantics[,] as it is the rare child who, after becoming subject to neglect and abuse, is able to sift through the emotional wreckage and completely disavow a parent. The continued attachment to the natural parents, despite serious parental rejection through abuse and neglect, and failure to correct parenting and behavior disorders [that] are harming the children cannot be misconstrued as bonding.

[***In re K.K.R.-S.***, 958 A.2d 529, 535 (Pa. Super. 2008).]

Therefore, although [C]hild may have a bond with Mother . . . it is not a parent/child bond. Furthermore, other than three [] months of his life, [C]hild, was being cared for by the Foster [P]arents from February 12, 2021 until [] present. [C]hild was born in November of 2020 and he was only two [and-one-half] years old a[t] the time of the [termination] hearing. Therefore, although this court recognizes that there may be a present bond between [] Mother and [C]hild, this bond is not . . . a parental bond.

* * *

Finally, the [c]ourt notes that the [GAL] expressed her belief in writing that CYS has sustained its burden of proof by clear and convincing evidence and that the parental rights of Mother should be terminated as it is in [C]hild's best interest to be free for adoption.

This [c]ourt agrees with the [GAL]'s position and finds that Mother cannot offer [C]hild the basic physical, developmental[,] and emotional needs that he requires and deserves. Therefore, the [c]ourt finds that Mother is not able to meet [C]hild's needs. In [] contrast, the Foster [P]arents have amply demonstrated that they continue to meet the physical, developmental[,] and emotional needs of [C]hild. [C]hild needs and deserves stability and a permanent home. The only way to provide this is to terminate the rights of [] Mother.

Trial Court Opinion, 5/24/23, at 19-21.

Under such circumstances, we find that the trial court correctly concluded there was clear and convincing evidence to terminate Mother's

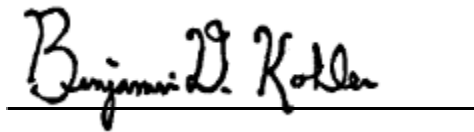
parental rights. Although CASA advocate Levi and Caseworker Jones testified that Mother did well during her visits with Child, Mother continuously engaged in behavior that could place Child in danger. Additionally, Child has been in placement for 23 months. ***See In re Z.P.***, 994 A.2d 1108, 1125 (Pa. Super. 2010) (Child's life "simply cannot be put on hold [any longer] in the hope that [Mother] will summon the ability to handle the responsibilities of parenting."). Furthermore, Foster Parents have provided a safe environment for Child and address his physical, emotional, and developmental needs, and Child has bonded with every member of the family. ***See In re D.C.D.***, 105 A.3d 662, 667 (Pa. 2014) (trial court properly considered child's "strong bond with [] foster family with whom [child] has lived nearly all [his] life and who has indicated a desire to adopt [him]").

The fact that Mother has been unable to fulfill her parental duties to Child cannot be factually disputed. As this Court acknowledged in ***In re B., N.M.***, 546 A.3d 847 (Pa. Super. 2003), "a parent's basic constitutional right to the custody and rearing of [her] child is converted, upon the failure to fulfill . . . her parental duties, to the child's right to have proper parenting and fulfillment of his or her potential in a **permanent, healthy, safe environment.**" ***Id.*** at 865 (emphasis added). As detailed above, despite Mother's "on paper" compliance with the trial court's orders, she has failed to grasp the severity of her continued contact with Father and the fact that it is against Child's best interests. Consequently, the trial court did not err or abuse its discretion in terminating her parental rights. Accordingly, we affirm.

Order affirmed.

P.J.E. Stevens did not participate in the consideration or decision of this case.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 1/19/2024