

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN THE MATTER OF: M.M., a Minor : IN THE SUPERIOR COURT OF
: PENNSYLVANIA
:
Appeal of: S.H., NATURAL MOTHER :
:
:
Appellant : No. 1025 MDA 2012

Appeal from the Decree entered May 4, 2011
in the Court of Common Pleas of Dauphin County
Orphans' Court Division, at 9 ADOPT 2011/CP-22-DP-1342-2008

IN THE MATTER OF: R.H., a Minor : IN THE SUPERIOR COURT OF
: PENNSYLVANIA
:
Appeal of: S.H., NATURAL MOTHER :
:
:
Appellant : No. 1026 MDA 2012

Appeal from the Decree entered May 4, 2011
in the Court of Common Pleas of Dauphin County
Orphans' Court Division, at 61 ADOPT 2011

IN THE MATTER OF: M.I.R.M., a Minor : IN THE SUPERIOR COURT OF
: PENNSYLVANIA
:
Appeal of: S.H., NATURAL MOTHER :
:
:
Appellant : No. 1027 MDA 2012

Appeal from the Decree entered May 4, 2012
in the Court of Common Pleas of Dauphin County
Orphans' Court Division, at 8 ADOPT 2011

BEFORE: MUNDY, OTT, and STRASSBURGER*, JJ.

MEMORANDUM BY MUNDY, J.:

Filed: February 8, 2013

Appellant, S.H. (Mother), appeals from the May 4, 2012 decrees granting the petitions of the Dauphin County Social Services for Children and Youth (Agency) to involuntarily terminate her parental rights to her children, M.I.R.M.,¹ M.M.,² and R.H.³ (collectively, the Children), pursuant to 23 Pa.C.S.A. § 2511(a)(1), (2), (5), (8), and (b), and changing the permanency goal to adoption. After careful review, we affirm.

The trial court set forth the relevant facts and procedural history of this case as follows.

[The Agency] became involved with Mother in December of 2006 after receiving a referral that M.I.R.M. had injuries to his lip and eye.² (M.I.R. Petition ¶ 14(A); R.M.H. Petition ¶ 11(A)). Mother was accepted for voluntary protective services on January 19, 2007 due to concerns regarding

¹ M.I.R.M. is a male child that was born in June 2005. The trial court explained that J.M. is the alleged natural father of M.I.R.M., and has had no contact with the Agency. Trial Court Opinion, 8/8/12, at 2 n.1 (citing M.I.R.M. Petition ¶ 14(Z)(1)). J.M. is not a party to the instant appeals, nor has he filed a separate appeal from the termination of his parental rights with regard to M.I.R.M.

² M.M. is a male child that was born in September 2008. The trial court noted that M.T.W. is the natural father of M.M. The trial court terminated M.T.W.'s parental rights to M.M. by decree entered on November 3, 2011. M.T.W.'s appeal from the termination of his parental rights is pending before this Court at Docket No. 2154 MDA 2011. Trial Court Opinion, 8/8/12, at 2 n.1.

³ R.H. is a female child that was born in November 2010, and is also referred to as R.M.H. in this memorandum. The trial court explained that S.H. (Father) is the natural father of R.H. Trial Court Opinion, 8/8/12, at 2. Father has filed a separate appeal from the termination of his parental rights to R.H., which is assigned Docket No. 986 MDA 2012. We address that appeal in a separate memorandum.

housing, domestic violence, and drug use. (M.I.R. Petition ¶ 14(B); R.M.H. Petition ¶ 11(B)).

On March 19, 2007, the Agency developed a safety plan to ensure the safety of Mother's children while in her care. (R.M.H. Petition ¶ 11(D)). The safety plan required Mother to complete a psychological evaluation and a drug and alcohol evaluation. (N.T. 08/25/11, p. 13).

On March 26, 2007, Mother received a psychological evaluation by Dr. Howard Rosen at Hempfield Behavioral Health, at which she was diagnosed with mild mental retardation and severe depression. (N.T. 02/06/12, p. 11-14). Although Dr. Rosen provided Mother with several recommendations to address her mental health issues, she did not fully comply with the recommendations.

Mother attended a drug and alcohol evaluation on May 3, 2007, and was recommended for outpatient counseling. Mother was to attend sessions three days a week at Guadenzia, [sic] Inc., but she did not follow through with this treatment. (R.M.H. Petition ¶ 11(H)).

On May 16, 2007, M.I.R.M. was adjudicated dependent and placed under Court Ordered Protective Supervision ("COPS"). (M.I.R. Petition ¶ 14(J); R.M.H. Petition 11(J)). Subject to the COPS Order, Mother was required to obtain Agency approval for other caretakers of M.I.R.M. Mother violated the Order by allowing M.I.R.M. to live with his great aunt, [J.T.,] starting [on] December 3, 2007[,] without Agency approval. [J.T.] was herself involved with the Agency from 1995 to 1999 for inappropriate discipline of her children and truancy problems. (M.I.R. Petition ¶ 14(K); R.M.H. Petition ¶ 11(K)). Mother also violated the COPS Order by not attending her scheduled appointments and testing positive for drugs. As a result of Mother's noncompliance, the Agency filed a petition for

placement of M.I.R.M. on December 19, 2007. (N.T. 08/25/11, p. 21-22).

An adjudication and disposition hearing was held on January 22, 2008, wherein M.I.R.M. was placed in the care and custody of the Agency. At that hearing, a court-ordered reunification plan was developed, which required Mother to comply with specific Agency objectives.

On September 5, 2008, Mother gave birth to M.M. At an adjudication and disposition hearing on November 5, 2008, M.M. was placed under Court Ordered Protective Services[,] and a court-ordered reunification plan was developed. The plan required Mother to abide by the same service objectives she had regarding M.I.R.M. (N.T. 08/25/11, p. 45-46).

On October 17, 2008, Father submitted a negative drug screen to the Agency in order to be cleared as a member of Mother's household. (M.I.R. Petition ¶ 14(O); R.M.H. Petition 11(O)).

On December 28, 2008, Mother and Father married.

On May 13, 2009, M.M. was removed from Mother's custody and placed in foster care because Mother and Father tested positive for marijuana. At a hearing on May 14, 2009, Mother was again ordered to complete a drug and alcohol evaluation. (N.T. 08, 25/11, p. 49).

On June 11, 2009, service objectives were implemented for Father as a step-parent to Mother's children. (R.M.H. Petition ¶ 11(V)).

On June 8, 2010, M.I.R.M. and M.M. returned to Mother's care under Court Ordered Protective Services[,] and a new safety plan was implemented. The safety plan required Mother and Father to attend family therapy sessions at Edgewater. Mother and Father did not attend the sessions[,] and they were discharged on August 12, 2010. (M.I.R. Petition ¶

14(T); R.M.H. Petition ¶ 11(BB). The safety plan also required Mother to take M.I.R.M. to play therapy. Although Mother eventually attended the intake session, she failed to do so on three separate occasions. (R.M.H. Petition ¶ 11(CC); N.T. 03/30/12, p. 19-21).

In July of 2010, a second safety plan was implemented requiring Mother and Father to obtain a separate bed for M.I.R.M. because he was exhibiting inappropriate sexual behavior toward his younger brother and step-sister. Despite the Agency's assistance in obtaining a bed, Mother and Father failed to obtain a separate bed for M.I.R.M. (N.T. 08/25/11, p. 56-58).

On August 4, 2010, Mother reported to the Agency that M.I.R.M. had tried to strangle her step-daughter. Mother took M.I.R.M. for an evaluation[,] and he was admitted to the Meadows psychiatric facility for a period of two weeks. (N.T. 08/25/11, p. 58-61).

On August 10, 2010, M.I.R.M. and M.M. were returned to foster care because Mother and Father were not complying with their service objectives. Besides not attending their scheduled appointments, both boys lost weight in the two months they were home[,] and there were allegations that Father was physically abusing M.I.R.M. M.I.R.M. and M.M. returned to the foster home of [Mr. and Mrs. S.], where they have continuously remained since August 12, 2010. (N.T. 08/25/11, p. 63-66).

On November 4, 2010, Mother gave birth to R.M.H. On November 5, 2010, R.M.H. was removed from Mother's care and placed in the Agency foster home of [Mr. and Mrs. S.]. (R.M.H. Petition ¶ 11 (KK-LL); N.T. 02/06/12, p. 89). A reunification plan was implemented regarding R.M.H., requiring Mother and Father to abide by additional services objectives.

Both Mother and Father were provided with intensive reunification services from 2007 until 2011.

Reunification worker, Larry Stewart[,] testified that[,] although the normal reunification period is six to nine months, he worked with Mother and Father for twenty-one months, providing 450 hours of services. (N.T. 01/05/12. P. 9). The Agency provided the family with transportation on a regular basis[,] and it provided Mother with a bus pass on two occasions. The Agency helped Mother look for an apartment, took Mother to the grocery store, and even provided Mother with money for groceries, furniture and a security deposit for a new apartment. (N.T. 08/25/11, p. 67-68). The Agency also provided daycare services for M.I.R.M. so that Mother could work and complete her service objectives. (N.T. 08/25/11, p. 19).

On January 21, 2011, the Agency filed a Petition for Goal Change to Adoption and Involuntary Termination of Parental Rights regarding M.I.R.M. and M.M. The Agency based its Petition upon 23 Pa.C.S.A. § 2511(a)(1), [(a)(2), (a)(5), (a)(8), and § 2511(b). On May 4, 2011, [the trial court] entered an Order, terminating Mother's parental rights to M.I.R.M. and M.M.

On June 1, 2011, the Agency filed a Petition for Goal Change to Adoption and Involuntary Termination of Parental Rights regarding R.M.H. The Agency based its Petition upon 23 Pa.C.S.A. § 2511(a)(1), [(a)(2), (a)(5), (a)(8), and § 2511(b). On May 4, 2012, [the trial court] entered an Order, terminating Mother's and Father's parental rights to R.M.H. Mother and Father filed a timely appeal.

M.I.R.M., M.M., and R.M.H. reside in the foster home of [Mr. and Mrs. S.,] who are willing to provide permanency for all three children. M.M. has resided continuously with the [S.'s] since May 13, 2009, except for the two-month period in which he was returned to Mother's care. M.I.R.M. was first placed with a foster family that was not willing to provide permanency. He was then moved to the foster home of [Mr. and Mrs. S.] on December 29, 2009[,] where

he has remained continuously, except for the two-month period in which he returned to Mother's care. (N.T. 08/25/11, p. 50-52). R.M.H. was placed in the [S.'s] foster home one day after she was born, and has continuously resided there since November 5, 2010. (N.T. 02/06/12, p. 89).

² M.M. and R.M.H. were not yet born at this time.

Trial Court Opinion, 8/8/12, at 2-6 (citations and footnote in original).

On January 21, 2011, the Agency filed petitions to terminate Mother's parental rights to M.I.R.M. and M.M. Thereafter, on June 1, 2011, the Agency filed a petition for the termination of Mother's parental rights to R.M.H., and requested that the trial court incorporate the juvenile record from the proceedings relating to R.M.H. On May 6, 2011, the trial court held a hearing, at which the Agency presented the testimony of its permanency services caseworker, Sherri Courchaine, and a licensed psychologist, Howard Rosen, Ph.D. N.T., 5/6/11, at 18, 52. On July 21, 2011, the trial court held a second hearing, during which the Agency again presented the testimony of Sherri Courchaine and Dr. Rosen. The Agency also presented the testimony of Mother as a hostile witness, and Mr. S., the Children's foster father. M.T.W., the father of M.M., presented the testimony of Suella Colbert, the visitation monitor at the YWCA. N.T., 7/21/11, at 95. M.T.W. also testified, and presented the testimony of his mother, T.W., M.M.'s paternal grandmother. On August 25, 2011, the Agency presented the testimony of Sherri Courchaine. On September 28, 2011, the trial court convened an on-the-record conference to discuss continuing the hearings.

The trial court held additional hearings on the termination petitions on January 5, February 6, March 30, and April 10, 2012. At the January 5, 2012 hearing, the Agency presented the testimony of Larry Stewart, a family preservation practitioner with Keystone Children and Family Services, and Dr. Rosen. N.T., 1/5/12, at 5-6, 156-157. At the hearing on February 6, 2012, Dr. Rosen continued his testimony. During said hearing, the Agency also presented the testimony of Nikki Lynn Elicker, a parent educator at Pressley Ridge, and Mr. S., the foster father of the Children. N.T., 2/6/12, at 36, 88. At the hearing on March 30, 2012, Mr. S. continued his testimony, and the Agency presented the testimony of Christina Zimmerman, a mental health counselor with Pressley Ridge, and Sherri Courchaine. *Id.* at 18, 47. Mother presented the testimony of Carey DeJesus, who worked in the Case Management Unit as a resource coordinator. *Id.* at 116. Father presented the testimony of Suella Colbert, who is employed by the YWCA as a monitor for visitation. *Id.* at 135.

On April 3, 2012, Mother filed a motion for a directed verdict with regard to R.M.H. Mother presented her motion for a directed verdict during the April 10, 2012 hearing. Mother and Father also testified on their own behalf at said hearing. The trial court denied Mother's motion on April 25, 2012. On May 4, 2012, the trial court entered its decree terminating

Mother's parental rights to the Children, and changing the permanency goal to adoption. Mother's timely appeal followed.⁴

On appeal, Mother raises the following issues for our review.

- I. Whether the [t]rial [c]ourt committed an error of law and/or abused its discretion by terminating the parental rights of Mother under Section 2511(a) of the Adoption Act despite evidence showing Mother substantially completed key elements of the Family Service Plan for M.M., M.I.R.M., and R.H.[?]
- II. Whether the [t]rial [c]ourt erred in granting the Petition for Termination of Parental Rights because the Agency for [sic] failed to establish a Prima Facie Case [sic] against Mother in regards to R.H.[,] and denying Mother's Motion for Directed Verdict[?]

Mother's Brief at 4.

In reviewing an appeal from the termination of parental rights, we are guided by the following standard of review.

[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. If the factual findings are supported, appellate courts review to determine if the trial court made an error of law or abused its discretion. As has been often stated, an abuse of discretion does not result merely because the reviewing court might have reached a different conclusion. Instead, a decision may be reversed for an abuse of discretion only upon demonstration of manifest

⁴ Mother and the trial court have complied with Pa.R.A.P. 1925.

unreasonableness, partiality, prejudice, bias, or ill-will.

As we discussed in [*In re R.J.T.*, 9 A.3d 1179, 1190 (Pa. 2010)], there are clear reasons for applying an abuse of discretion standard of review in these cases. We observed that, unlike trial courts, appellate courts are not equipped to make the fact-specific determinations on a cold record, where the trial judges are observing the parties during the relevant hearing and often presiding over numerous other hearings regarding the child and parents. 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 S.P., 47 A.3d 817, 826-827 (Pa. 2012) (some citations omitted).

The burden is upon the petitioner to prove by clear and convincing evidence that the asserted grounds for seeking the termination of parental rights are valid. *In re R.N.J.*, 985 A.2d 273, 276 (Pa. Super. 2009).

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

Id. (citation and internal quotation marks omitted). Moreover, 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). *In re B.L.W.*,

843 A.2d 380, 384 (Pa. Super. 2004) (*en banc*), *appeal denied*, 863 A.2d 1141 (Pa. 2004).

In the instant matter, we focus on sections 2511(a)(2) and (b).⁵

Section 2511 provides, in relevant part, 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:

...

(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

⁵ Our review of the "Statement of Questions Involved" in Mother's appellate brief reveals that she has failed to challenge the sufficiency of the evidence supporting the trial court's determination under section 2511(b), and has also failed to include a challenge to the change in the Children's goal to adoption. *See* Mother's Brief at 4. We note, however, that Mother has challenged the sufficiency of the evidence under subsection (a), and as part of her argument, contends that if subsection (a) was not met, then there is no need to proceed to an analysis of subsection (b). *Id.* at 14, 16. As Mother has failed to challenge the grant of the change in the permanency goal to adoption, she waived any challenge to said goal change on appeal. *See Krebs v. United Refining Co.*, 893 A.2d 776, 797 (Pa. Super. 2006). However, this Court will review the sufficiency of the evidence under section 2511(b), pursuant to our case law. *See In re Adoption of C.L.G.*, 956 A.2d 999, 1009 (Pa. Super. 2008) (*en banc*).

emotional needs and welfare of the child. The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent. With respect to any petition filed pursuant to subsection (a)(1), (6) or (8), the court shall not consider any efforts by the parent to remedy the conditions described therein which are first initiated subsequent to the giving of notice of the filing of the petition.

23 Pa.C.S.A. § 2511.

Our Supreme Court has explained our inquiry under section 2511(a)(2) as follows.

As stated above, § 2511(a)(2) provides statutory grounds for termination of parental rights where it is demonstrated by clear and convincing evidence that “[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.” [].

This Court has addressed incapacity sufficient for termination under § 2511(a)(2):

A decision to terminate parental rights, never to be made lightly or without a sense of compassion for the parent, can seldom be more difficult than when termination is based upon parental incapacity. The legislature, however, in enacting the 1970 Adoption Act, concluded that a parent who is incapable of performing parental duties is just as parentally unfit as one who refuses to perform the duties.

In re Adoption of J.J., 515 A.2d 883, 891 (Pa. 1986) (quoting *In re: William L.*, 383 A.2d 1228, 1239 (Pa. 1978).

In re Adoption of S.P., *supra* at 827.

In the case *sub judice*, Mother argues that the evidence demonstrated that she substantially completed key elements of the Family Service Plan for the Children. Mother's Brief at 10-12. Mother further contends that the Agency failed to establish a *prima facie* case against her in regards to R.H., such that the trial court should have granted her motion for a directed verdict. *Id.* at 13-15.

The trial court made the following findings of fact with regard to Mother's completion of the Family Service Plan objectives for the Children.

We review the record as a whole as supporting termination of Mother's parental rights as to M.T.R.M. [sic], M.M., and R.S.H. [sic] Mother's failure to comply with the objectives of the family service plan in place regarding M.I.R.M. and M.M. are [sic] relevant to the court's consideration of the Petition relating to R.S.H.

Mother complied with the objective of attending all court hearings and Agency meetings with the exception of one court hearing. However, Mother did not comply with the objective of notifying the Agency within twenty-four hours of a new address or contact information. Specifically, Mother moved eight times from December 2006 to December 2007 without notifying the Agency in advance. (M.M. Petition ¶ 12(Z)(1); N.T. 08/25/11, p. 25).

Mother underwent a psychological evaluation by Dr. Howard Rosen on March 26, 2007. Dr. Rosen diagnosed Mother with mild mental retardation and

severe depression. (N.T. 02/06/12, p. 11-14). His recommendations were: 1) Mother receive a psychiatric evaluation; 2) Intensive Family Services be provided in the home; and 3) a support system be established for Mother and her live-in boyfriend. (R.M.H. Petition ¶ 11(E)). The Agency subsequently scheduled a psychiatric evaluation for Mother at Edgewater Psychiatric Center on April 5, 2007[,] and provided her with transportation to and from the appointment. However, Mother was not home when transportation arrived[,] and she failed to appear for her appointment. Mother rescheduled her evaluation for April 17, 2007, but failed to appear for that appointment as well. (R.M.H. Petition ¶ 11(F)-(G)). Mother finally attended a psychiatric evaluation at Catholic Charities on May 7, 2007[,] and was recommended for outpatient counseling.

Mother attended outpatient counseling at Catholic Charities until she was discharged for noncompliance on December 19, 2007. (N.T. 08/25/11, p. 29). Mother attempted outpatient counseling several times, but never successfully completed a program. (N.T. 08/25/11, p. 34). She was last discharged for noncompliance from Pennsylvania Counseling on March 2, 2011. (N.T. 08/25/11, p. 35).

Mother was first ordered to obtain a drug and alcohol evaluation March 19, 2007. Mother attended a drug and alcohol evaluation on May 3, 2007, and was recommended for outpatient counseling. She was required to attend sessions three days a week at Gaudenzia, Inc., but she did not follow through with this treatment. (R.M.H. Petition ¶ 11(H)). On October 3, 2007, Mother attended a drug and alcohol evaluation at White Deer Run Harrisburg, and was recommended for outpatient treatment. She was later discharged from the program for inconsistent attendance and a positive drug screen. (R.M.H. Petition ¶ 11(N)). At a hearing on May 14, 2009, Mother was again ordered to complete a drug and alcohol evaluation. (N.T. 08/25/11, p. 49). Mother completed a third drug and alcohol evaluation in May

of 2009, but she did not attend outpatient therapy on a consistent basis. (N.T. 08/25/11, p. 36-37).

Mother did not comply with the objective of remaining drug free. Mother tested positive for cocaine on one occasion. (N.T. 08/25/11, p. 37). She also tested [positive] for marijuana on October 16, 2008 and May 13, 2009. (N.T. 08/25/11, p. 84, 108). On August 6, 2010, Mother reported to The Meadows that she used illegal substances on a daily basis. (R.M.H. Petition ¶ 11(GG)).

Mother did not comply with the objective of maintaining appropriate and stable housing for her family. Mother moved eight times from December 2006 to December 2007. (M.M. Petition ¶12(Z)(4)). For part of the reunification period, Mother remained in a volatile relationship with M.M.'s father. During said relationship, Mother often stayed with her mother, her aunt, or at the violence shelter at the YWCA. (N.T. 08/25/11, p. 38). With Agency assistance, Mother eventually obtained and maintained appropriate housing.

Mother did not comply with the objective of obtaining Agency approval before allowing other caretakers to care for M.I.R.M. and M.M. On at least one occasion, Mother allowed M.M. to stay with his father without first obtaining Agency approval. (N.T. 08/25/11, p. 39). During said visit, M.M.'s father told Mother that he killed M.M. and buried him in the backyard. Mother contacted the police, who then removed M.M. from his father and placed him back in Mother's care. (N.T. 08/25/11, p. 46-47). On several other occasions, Mother also allowed neighbors to care for her children without first obtaining Agency approval. (N.T. 08/25/11, p. 90).

Mother did not adequately comply with the objective of cooperating with reunification services. Reunification caseworker, Larry Stewart[,] worked with Mother and Father from October of 2008 until July of 2010. (N.T. 01/05/12, p. 9). On multiple occasions, Mother and Father were late answering

the front door for Mr. Stewart because they were still in bed. On other occasions, Mother and Father would answer the door for Mr. Stewart and then get back into bed for the visits. (N.T. 01/05/12, p. 12-123 [sic]). Despite multiple requests from Mr. Stewart that Mother and Father stop having company during his visits, they continued to do so. (N.T. 01/05/12, p. 32, 40). During the visits, Mother often became angry with Mr. Stewart and refused to comply with his recommendations. (N.T. 01/05/12, p. 53, 63).

In early 2009, Mr. Stewart enrolled Mother in a parenting program called Parenting Together, in which a taxi was provided to take Mother to and from her appointments. Although a taxi was sent, Mother never attended the program. (N.T. 01/05/12, p. 32).

Mother did not comply with the objective of attending all scheduled visits with M.I.R.M. and M.M. Specifically, from October of 2008 until July of 2010, Mother missed seven visits with M.I.R.M. and M.M. (N.T. 08/25/11, p. 39). During the visits Mother did attend, she often left the children unattended and had little communication with them. (N.T. 01/05/12, p. 20, 42; N.T. 08/25/11, p. 42). The Agency terminated Mother's visitations with M.I.R.M. in November of 2010 because M.I.R.M. was exhibiting extreme behaviors with his foster home before and after visits with Mother. (N.T. 08/25/11, p. 41). Mother's visitations with M.I.R.M. have never been reinstated. (N.T. 03/30/12, p. 7, 10).

Mother did not comply with the objective of completing an in-home parenting program referred to and approved by the Agency. Although Mother participated in Parent Works in-home parenting program, she did not successfully complete the program. Parent educator, Nikki Elicker[,] testified that[,] after the typical three-month program, Mother did not complete the specific goals and objectives established by Parent Works. (N.T. 02/06/12, p. 46).

Mother failed to take M.I.R.M. to scheduled doctor appointments on at least three occasions. Specifically Mother did not take M.I.R.M. to an appointment scheduled for July 27, 2007. The appointment was rescheduled two more times[,] and Mother failed to take M.I.R.M. to both appointments. (N.T. 08/25/11, p. 17-18).

Mother has not consistently maintained employment throughout the reunification period. Although Occupational Vocational Rehabilitation was offered to Mother in 2007 to assist her with obtaining a job, Mother refused to utilize the program. (N.T. 08/25/11, p. 40).

Trial Court Opinion, 8/8/12, at 8-11 (citations in original).

The trial court found that Mother demonstrated a repeated and continued incapacity, abuse, neglect or refusal to parent which had caused the Children to be without essential parental care, control or subsistence necessary for their physical or mental well-being, and that the conditions that led to the removal of the Children continue to exist and cannot be remedied by Mother. *Id.* at 15. The trial court further noted that the Agency provided Mother with intensive reunification services for a period in excess of four years, but Mother did not utilize the services offered to her, nor did she comply with most of her reunification objectives. *Id.*

This Court has long recognized that a parent is 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). 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.

Mother's argument with regard to section 2511(a)(2) requests this Court to make credibility and weight determinations different from those of the trial court. Mother's Brief at 11-12. Following our careful review of the record, including the testimony and the exhibits admitted into evidence, we conclude that the trial court's credibility and weight determinations are supported by competent evidence in the record. *See In re Adoption of S.P., supra* at 826. The trial court properly considered the history of the case, including Mother's failure to parent the Children, in considering the petitions to terminate Mother's parental rights. Accordingly, we conclude that the trial court's determinations regarding section 2511(a)(2) are supported by sufficient evidence in the record.

We now turn to whether the trial court abused its discretion in concluding that the evidence was sufficient to support the termination of Mother's parental rights pursuant to section 2511(b). In *In re Adoption of S.P.*, our Supreme Court stated the following with regard to a section 2511(b) analysis.

If a court finds grounds for termination under subsection (a)[], a court must determine whether termination is in the best interests of the child, considering the developmental, physical, and emotional needs and welfare of the child pursuant to § 2511(b). In this regard, trial courts must carefully review the individual circumstances for every child to determine, *inter alia*, how a parent's incarceration

will factor into an assessment of the child's best interest.

Id. at 830-831.

In the instant case, the trial court concluded that there was clear and convincing evidence that terminating Mother's parental rights was in the best interests of each of the Children. Trial Court Opinion, 8/8/12, at 15. Specifically, the trial court reasoned as follows.

M.I.R.M.

The record reflects that M.I.R.M.'s best interests are served by termination of Mother's parental rights, and allowing him to remain in the pre-adoptive foster home, where he has resided since December 29, 2009. Agency caseworker, Sherri Courchaine[,] testified that M.I.R.M. adjusted very well when first placed in foster care. (N.T. 08/25/11, p. 43). She also testified that M.I.R.M. did not want to return to Mother's care in 2010 and that he did not adjust well to living with her again. (N.T. 08/25/11, p. 54).

The foster father[,] Mr. S.[,] testified that M.I.R.M. has stated repeatedly that he did not want to attend visits with Mother and did not want to be part of the reunification process. (N.T. 2/6/12, pp. 98-99)[.] When M.I.R.M. returned from visits with Mother, he was often angry and unhappy. ***Id.*** When M.I.R.M. returned from a period of reunification with Mother, he experienced anger, headaches, hallucinations[,] and sleep problems. (N.T. 2/06/12, p. 100)[.]

During the period of reunification with Mother, M.I.R.M. was admitted for in-patient psychiatric care. The foster family visited him at that facility. M.I.R.M. clung to them, cried, and sought comfort from them. (N.T. 2/16/12, pp. 102-103)[.] M.I.R.M.

told the foster parents that Mother stated she was going to kill him. (N.T. 2/16/12, pp. 103)[.]

When he returned to the foster home, M.I.R.M. required great amounts of comfort, love[,] and reassurance. (N.T. 2/16/12, pp. 107)[.] The foster family continues to maintain a high degree of supervision so that M.I.R.M. does not exhibit sexual behaviors. (N.T. 2/16/12, pp. 108-109)[.] M.I.R.M. is doing well in school[,] and his anger issues have subsided significantly. (N.T. 02/06/11, p. 109-110).[sic] M.I.R.M. is protective of R.M.H. and expresses concerns as to whether she will be able to remain with the [S.s'].

Ms. Courchaine testified that since M.I.R.M. returned to his foster home in August of 2010, his behavioral issues have decreased[,] and he is thriving in terms of happiness and health. (N.T. 08/25/11, p. 71-72).

M.M.

The record also reflects that M.M.'s best interests are served by termination of Mother's parental rights, and allowing him to remain in the pre-adoptive foster home, where he has resided since May 13, 2009. Ms. Courchaine testified that[,] when M.M. was first placed in the foster home, he was lethargic and was not yet crawling. However, within two to three weeks, M.M. started crawling and talking, and became much more active. (N.T. 08/25/11, p. 47, 75). The foster family fed, bathed[,] and played with M.M. regularly. (N.T. 2/6/12, pp. 90-91)[.] M.M. began to thrive and become part of the family's routine. (N.T. 2/6/12, p. 90)[.]

Parent educator, Nikki Elicker[,] testified that M.M. showed little emotion toward Mother during visits. (N.T. 02/06/12, p. 49). She testified that Mother paid little attention to M.M. during the visits, and exhibited more concern about R.M.H. (N.T. 02/06/[/]12, p. 45). M.M.'s foster father, [Mr. S.,]

testified that upon return from Mother's care in August of 2010, M.M. had lost weight, began acting out toward his older brother[,] [and] experienced sleep problems[,] waking up five to six times per night. (N.T. 02/06/12, p. 93-94).

R.M.H.

The record also reflects that R.M.H.'s best interests are served by termination of Mother's parental rights, allowing her to remain in the pre-adoptive foster home, where she has resided since November [] 2010. R.M.H. was placed with the [S.'s] the day after she was born, and has continuously resided with them ever since. [Mr. S.] testified that R.M.H. is growing and developing like a normal child her age[,] and that she has not exhibited any health concerns. He testified that she is very content and hardly ever cries. (N.T. 02/06/11, p. 111-12).[sic] In contrast, both Ms. Courchaine and Ms. Elicker testified that R.M.H. cried frequently throughout her visits with Mother. (N.T. 03/30/12, p. 70; N.T. 02/06/12, p. 51). Ms. Courchaine testified that termination of parental rights is in R.M.H.'s best interests[,] and it would not be detrimental to R.M.H. (N.T. 03/30/11, p. 72).

Trial Court Opinion, 8/8/12, at 16-19 (citations in original).

Furthermore, the trial court conducted a lengthy bonding analysis and concluded that there was insufficient evidence of "a healthy bond between Mother and the [C]hildren[,]" and "the record includes ample evidence that a healthy bond exists between the [C]hildren and their foster parents, which would cause detriment to the [C]hildren if broken." *Id.* at 19.

Upon careful review of the evidentiary record, we conclude that the trial court's determinations are supported by competent evidence in the record, and decline to disturb the trial court's credibility and weight

assessments on appeal. **See *In re Adoption of S.P., supra*** at 826-827. Moreover, as the facts supported the termination of Mother's parental rights, we find that the trial court did not abuse its discretion in denying Mother's motion for a directed verdict. **See *Fetherholf v. Torosian***, 759 A.2d 391, 393 (Pa. Super. 2000) (stating, "a directed verdict may be granted only where the facts are clear and there is no room for doubt[.]") (bracket and citation omitted), *appeal denied*, 796 A.2d 983 (Pa. 2001).

Accordingly, for all the foregoing reasons, we affirm the May 4, 2012 decrees of the trial court.

Decrees affirmed.