

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN RE: A.S.C.

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: S.K., FATHER

No. 1543 WDA 2012

Appeal from the Order Dated August 31, 2012
In the Court of Common Pleas of Clearfield County
Orphans' Court at No(s): 3176-2011-O.C.

BEFORE: ALLEN, J., WECHT, J., and STRASSBURGER, J.*

MEMORANDUM BY WECHT, J.:

Filed: March 15, 2013

S.K. ("Father"), the father of A.S.C. ("Child"), appeals the trial court's August 31, 2012 order. That order granted the petition filed by J.B. ("Husband") and J.B. ("Wife") (collectively "Petitioners"), who are guardians of Child, to terminate Father's parental rights pursuant to section 2511(a)(1) and (b) of the Adoption Act, 23 Pa.C.S.A. § 2501, *et seq.*¹ We affirm.

Child was born in July 2007. Notes of Testimony ("N.T."), 2/8/12, at 45. On July 12, 2011, Petitioners filed petitions in the Court of Common

* Retired Senior Judge assigned to the Superior Court.

¹ The trial court involuntarily terminated the parental rights of Child's mother, A.C.D. ("Mother"), on August 31, 2012. She has not filed an appeal from the order terminating her parental rights, nor is she a party to this appeal.

Pleas of Clearfield County, Pennsylvania, seeking involuntary termination of Mother's and Father's parental rights. The trial court held a consolidated evidentiary hearing on February 8, 2012, at which Petitioners, Mother, and Father each presented evidence and testimony. Father participated via videoconference from a United States penitentiary in Florida, where he was incarcerated. *Id.* at 3, 4, 8, 45.

The testimony presented at the hearing revealed the following. In November 2007, G.F., Child's paternal grandmother ("Paternal Grandmother"), took custody of Child from Mother. On June 19, 2008, an Ohio court entered a custody order.² N.T., 2/8/12, at 20, 45. Father was incarcerated in Pennsylvania for approximately five years prior to the termination hearing in February of 2012, and he was incarcerated in Florida at the time of the hearing. *Id.* at 8, 24, 44. Child does not know that Father is her biological father. *Id.* at 14. In the summer of 2009, Paternal Grandmother asked Wife if Petitioners would raise Child "if anything would happen to her."³ *Id.* at 21. Wife agreed. *Id.* In September 2010, Paternal

² The custody proceedings originated in Ohio. As discussed *infra*, the Ohio court granted custody to Petitioners, but permitted Father to send cards and gifts. However, Petitioners' termination petitions were filed in Clearfield County, Pennsylvania, and ultimately led to the instant appeal. The Ohio court transferred jurisdiction over the custody proceedings to Pennsylvania.

³ At the time, Paternal Grandmother's brother was in a romantic relationship with Wife's mother in Ramey, Pennsylvania. The parties met while visiting their respective relatives. It was on one of these mutual visits (*Footnote Continued Next Page*)

Grandmother gave Petitioners custody of Child, because Paternal Grandmother was terminally ill. *Id.* at 9.

Paternal Grandmother left Child in the care of Petitioners on September 10, 2010. *Id.* On December 22, 2010, the Cuyahoga County, Ohio, trial court entered a custody order that awarded Petitioners custody of Child, and also permitted Father to send letters and cards to Child. *Id.* at 10. Paternal Grandmother passed away in January 2011. N.T., 2/8/12, at 39.

Wife testified that she and Husband have two male children, ages ten and seven, who reside in their home with Child. *Id.* at 7. Wife stated that Father had not sent Child any cards, had sent Child very few letters before Petitioners filed the termination petition, and had sent one letter every six to eight weeks after Petitioners filed the petition. *Id.* at 11-12. Wife also testified that Father sent Child a gift in December 2010 through the Angel Tree program in prison, and that he sent another gift on January 23, 2012. *Id.* at 12. Wife testified that Father had never called Child by telephone, but had contacted Petitioners by phone in October 2010 and spoken with Husband. *Id.* at 12-13, 16. Moreover, Wife testified that Petitioners were the primary caretakers for Child, and that Father had not paid any child support. *Id.* at 13.

(Footnote Continued) _____

that Paternal Grandmother asked Wife if she would take custody of Child if something happened to her. N.T. 2/8/12, at 9, 20.

Wife also testified that Child was in pre-school, and that Child was doing very well and thriving in Petitioners' care. *Id.* Wife stated that she and Husband were willing to retain custody of Child permanently. *Id.* Wife testified that she believed that the termination of Father's parental rights was in Child's best interests because Child needs physical and emotional support, which Petitioners provide for her, but which Child cannot receive from Father. *Id.* at 13-14.

Wife denied that Father had attempted to call Child, despite Father's claims to the contrary. Wife further denied Father's claims that anyone in Petitioners' household had hung up on Father or declined any calls from him. *Id.* at 16-17. Wife reads Father's letters to Child, but has not explained that Father is Child's natural father, because Child believes that Husband is her father. *Id.* at 17-18. Upon further questioning by the trial court, Wife noted that her phone number had not changed since Father called Petitioners in October 2010. *Id.* at 30. Moreover, Wife testified that Father had the Petitioners' address, which had not changed. Wife pointed out that Father had not seen Child since Child was an infant. *Id.* at 31.

Husband's testimony corroborated Wife's testimony regarding the level of contact between Father and Child. Husband stated that Father had not performed any parental duties with regard to Child. *Id.* at 39. Husband also stated that he was willing to retain custody of Child permanently. *Id.* Husband testified that Child gets along well with Petitioners' two male children. *Id.* at 40.

Father testified that Paternal Grandmother had left \$25,000 in insurance proceeds for Wife to use in caring for Child. *Id.* at 48-50. Father testified that he had called Petitioners in October 2010 to ask how Child was doing, and to ask if he would still have contact with Child after Paternal Grandmother passed away. *Id.* at 51. Father stated that Petitioners had sent him two photographs of Child prior to the death of Paternal Grandmother. *Id.* at 51. Father also testified that, since Paternal Grandmother's death, Petitioners have not sent Father any photos or letters, nor have they accepted any other phone calls from Father. *Id.* Father stated that, after October 2010, he called Petitioners' home at least once a month. *Id.* at 51-53. He claimed that the call would go to a recording, and that the connection would then end. *Id.* at 53-54. Father stated that he used the same phone number that he previously used to speak with Husband in October 2010. *Id.* at 54. Father stated that he attempted to call Petitioners at least six or seven times between October 2010 and the time that Petitioners filed the termination petition in July 2011. *Id.* Father testified that, through his counsel, he had filed a motion to dismiss the termination petition. *Id.* The record reflects that he filed the motion on September 21, 2011.

Father also claimed that he wrote letters to Child at least once a month after she began living with Petitioners in September 2010. Father further claimed that he sent two cards to Child, one for Christmas and one for her birthday, but that he had received nothing in return. *Id.* at 55.

Additionally, Father testified that he sent Child a gift and a letter a few weeks before the hearing. *Id.* at 57. Father stated that his maximum sentence expires in April 2021, but that he expects to be released from prison in September 2019. *Id.* at 57, 59. Father also testified that Child could visit him in his current prison. *Id.* at 58. Upon his anticipated release in 2019, Father will be restricted to a halfway house. *Id.* at 60.

Father testified that he has never been out of prison since Child's birth, and that he has had physical contact with her only once, on July 20, 2008, when Paternal Grandmother brought her to the prison. *Id.* at 60-61, 65. Father has seen Child through the glass at the prison on a few occasions. *Id.* at 61. Father believes that it is in Child's best interests to remain with Petitioners until she can live with him upon his release from prison. *Id.* at 61-62. He does not want Child to be adopted. *Id.* at 62.

On August 31, 2012, the trial court entered its decree terminating Father's parental rights to Child under subsections 2511(a)(1) and (b) of the Adoption Act. On September 26, 2012, Father timely filed his notice of appeal, along with a concise statements of errors complained of on appeal pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b).

Father raises the following issues:

1. Whether the lower court erred in terminating Father's rights when [Petitioners] in this matter have hindered Father's efforts in maintaining a relationship with his child[?]
2. Whether the lower court erred in finding that Father has either manifested a purpose to relinquish parental claim to

the child or failed to perform parental duties for at least six months immediately preceding the termination petition[?]

3. Whether the lower court applied incorrect facts in its opinion and order dated August 31, 2012, which substantially affected the outcome of this case[?]

Brief for Father at i.

We begin with Father's third issue. There, he argues that the trial court erred in its Rule 1925(a) opinion by stating that Petitioners obtained custody of Child on September 10, 2007. Father asserts that it was undisputed at the hearing that Petitioners obtained custody of Child in September 2010, three years after September 2007. Brief for Father at 25 (citing N.T., 8/8/12, at 9). Moreover, Father suggests that the trial court erred by stating in its Rule 1925(a) opinion that Petitioners obtained legal custody of Child by "Order of this Court dated December 22, 2010," meaning the Court of Common Pleas of Clearfield County, Pennsylvania, because the order actually was entered by the Court of Common Pleas in Cuyahoga County, Ohio. Father contends that these errors could suggest that the trial court misunderstood the facts, which might have affected its decision. *Id.* at 25-26.

Upon review, we agree that the trial court made the errors that Father identifies. We do not agree that the errors are significant. On page 1 of its Opinion, the trial court set forth the factual background and procedural history of this appeal as follows.

Petitioners were given physical custody of the minor child on September 10, 2007 from [G.F.], (hereinafter "Paternal

Grandmother") due to her terminal illness. Paternal Grandmother had maintained custody of the child since birth or shortly thereafter. Petitioners obtained legal custody of the child by Order of this Court dated December 22, 2010.

Trial Court Opinion ("T.C.O."), 8/13/12, at 1.

At the hearing, Wife testified that she and Husband took custody of Child on September 10, 2010. N.T., 8/8/12, at 9. Further, the trial court heard testimony from Wife that the custody order affecting Child, the natural parents, and Petitioners dated December 22, 2010, was entered in Cuyahoga County, Ohio, and was attached to the termination petition. *Id.* at 10.

At the hearing, the trial court engaged in the following exchange with Wife.

BY THE COURT:

Q. All right. Let me make sure I understand. You get physical custody of the child September 20, 2010?

A. Yes.

Q. December 22, 2010, you get an order from a judge in the state of Ohio –

A. Yes.

Q. – which grants you and your husband legal custody of the child and primary [physical] custody of the child?

A. Yes.

Q. Or full primary custody. Or, full custody.

A. Yes.

N.T., 2/8/12, at 26.

Additionally, on page 7 of its opinion, the trial court stated that Petitioners had custody of Child “since December 2010, and before that, Paternal Grandmother had custody. Neither Mother nor Father has had custody of the child since she was a few weeks old, nor have they even seen the child in over four years.” T.C.O. at 7. Moreover, the trial court’s questioning of Wife demonstrates that the court understood that the December 22, 2010 custody order was entered in Ohio. Thus, it is clear that the misstatements in the trial court’s opinion were clerical in nature. Father has failed to demonstrate that these errors materially affected the trial court’s decision. We conclude that the errors were harmless. *In re M.T.*, 607 A.2d 271, 281 (Pa. Super. 1992) (citations omitted) (not all trial court errors constitute reversible error, and a complaining party must demonstrate that the error affected the outcome of the case and prejudiced the appellant).

Next, we consider Father’s first and second issues, which we analyze together. First, Father argues that the trial court abused its discretion in finding that he manifested a purpose to relinquish his parental claim to Child and in finding that he failed to perform his parental duties for at least six months immediately preceding the filing of the termination petition.

Second, Father alleges that Petitioners had custody of Child based upon the order entered in Cuyahoga County, Ohio, on December 22, 2010, which permitted him to send cards and letters to Child, but that Petitioners have knowingly hindered his efforts to maintain a relationship with Child.

See Brief for Father at 9. Father asserts that he used all of the resources available to him in an effort to contact Child. Father claims that he made phone calls that Petitioners did not accept, sent Child cards and letters that Petitioners did not explain were from him, and sent Child a bracelet that Petitioners also did not explain was from him. *Id.* at 9, 12-13. Moreover, Father asserts that he filed *pro se* pleadings in both Ohio and Pennsylvania courts. *Id.* at 10. Additionally, he claims that, because he is incarcerated, it is difficult for him to make phone calls to Child. *Id.* at 10, 14-15. Father alleges also that he indirectly provided for Child financially with a portion of the proceeds from Paternal Grandmother's life insurance policy. *Id.* at 9, 15. Father states that Child was a beneficiary in Paternal Grandmother's life insurance policy in the amount of \$25,000, of which he otherwise would have been the beneficiary, so that he is "essentially indirectly financially taking care of the child." *Id.* at 15.

In reviewing an appeal from the termination of parental rights, we employ 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.*, 9 A.3d 1179, 1190 (Pa. 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.*, 36 A.3d 567, 572 (Pa. 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., 34 A.3d 1, 51 (Pa. 2011); ***Christianson v. Ely***, 838 A.2d 630, 634 (Pa. 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 hearings regarding the child and parents. ***R.J.T.***, 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***, 650 A.2d 1064, 1066 (Pa. 1994).

In re Adoption of S.P., 47 A.3d 817, 826-27 (Pa. 2012) (citations modified).

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).

Moreover, we have explained:

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. (quoting ***In re J.L.C.***, 837 A.2d 1247, 1251 (Pa. Super. 2003)). We may affirm the trial court's decision regarding the termination of parental

rights with regard to any one subsection of 23 Pa.C.S. § 2511(a). ***See In re B.L.W.***, 843 A.2d 380, 384 (Pa. Super. 2004) (*en banc*).

We focus our analysis on subsections 2511(a)(1) and (b), which provide, 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:

(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.

* * *

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

23 Pa.C.S.A. § 2511.

This Court has stated:

To satisfy the requirements of 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 Adoption of R.J.S.*, 901 A.2d 502, 510 (Pa. Super. 2006). In addition,

Section 2511 does not require that the parent demonstrate both a settled purpose of relinquishing parental claim to a child and refusal or failure to perform parental duties. Accordingly, parental rights may be terminated pursuant to [subs]ection 2511(a)(1) if the parent either demonstrates a settled purpose of relinquishing parental claim to a child or fails to perform parental duties.

In re Adoption of Charles E.D.M., 550 Pa. 595, 708 A.2d 88, 91 (1998).

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. at 92 (citation omitted).

In re Z.S.W., 946 A.2d 726, 730 (Pa. Super. 2008).

Here, the trial court found that, for at least the six months prior to the filing of the termination petition, Father evinced a settled intent to relinquish his parental claim to Child and refused or failed to perform his parental duties. The trial court considered Father's incarceration, his explanations for his failure to exercise his parental duties, and his post-abandonment contact with Child. The trial court rejected Father's arguments as insufficient to demonstrate that Father had performed his parental duties.

Regarding the definition of "parental duties," this Court has stated:

There is no simple or easy definition of parental duties. Parental duty is best understood in relation to the needs of a child. A child needs love, protection, guidance, and support. These

needs, physical and emotional, cannot be met by a merely passive interest in the development of the child. Thus, this [C]ourt has held that the parental obligation is a positive duty which requires affirmative performance.

This affirmative duty encompasses more than a financial obligation; it requires continuing interest in the child and a genuine effort to maintain communication and association with the child.

Because a child needs more than a benefactor, parental duty requires that a parent exert himself to take and maintain a place of importance in the child's life.

Parental 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. A parent must utilize all available resources to preserve the parental relationship, and must exercise reasonable firmness in resisting obstacles placed in the path of maintaining the parent-child relationship. Parental rights are not preserved by waiting for a more suitable or convenient time to perform one's parental responsibilities while others provide the child with his or her physical and emotional needs.

In re B., N.M., 856 A.2d 847, 855 (Pa. Super. 2004) (internal citations omitted).

Moreover, in ***In re S.P.***, our Supreme Court stated:

[A] parent's absence and/or failure to support due to incarceration is not conclusive on the issue of abandonment. Nevertheless, we are not willing to completely toll a parent's responsibilities during his or her incarceration. Rather, we must inquire whether the parent has utilized those resources at his or her command while in prison in continuing a close relationship with the child. Where the parent does not exercise reasonable firmness in declining to yield to obstacles, his other rights may be forfeited.

Notably, we did not decree that incarceration could never be a factor in a court's determination that grounds for termination had been met in a particular case. Instead, the emphasis on this

passage was to impose on the incarcerated parent, pursuant to an abandonment analysis, a duty to utilize available resources to continue a relationship with his or her child. Indeed, in [*In re: Adoption of McCray*, 460 Pa. 210, 216-17, 331 A.2d 652, 655 (1975)],] this Court agreed with the trial court and concluded that termination was appropriate where the father failed to perform parental duties for a six[-]month period of time.

In re S.P., 47 A.3d at 828 (some quotations and citations omitted). The Supreme Court noted that *McCray* involved a termination of parental rights based upon abandonment, which is now codified at subsection 2511(a)(1).

Id.

Father complains that the trial court should not have placed the burden to show the number of his phone calls, letters, and cards on him, but rather should have placed that burden on Petitioners, especially because of his incarceration. However, to the contrary, the trial court clearly placed the ultimate burden on Petitioners; the trial court simply found that Father's testimony lacked credibility:

Father testified that he has attempted to call the child, sent the child various letters and cards, sent the child gifts, and gave the child a portion of the life insurance proceeds from his mother. Father, however failed to provide [the trial court] with any documentation or records of the calls he placed or gifts [he] sent. The [trial court] finds that Father has failed to utilize all of the resources available to him to overcome the obstacles of his incarceration and maintain a place of importance in the child's life.

Sporadic, occasional letters and phone calls are not evidence of a parent's best efforts at maintaining contact with his child. Father has not taken on an active duty to parent his child, and has not made efforts to overcome the obstacle of his incarceration.

* * *

Therefore, the [trial court] finds that Petitioners have met their burden by clear and convincing evidence that parental rights be terminated under [subs]ection 2511(a).

T.C.O. at 4-7.

Based upon this analysis, it is clear that the trial court did not place any burden on Father. Rather, the court merely found Father's testimony lacking in credibility, and concluded that Petitioners met their burden by clear and convincing evidence. As the trial court's credibility assessments and the weight that the trial court assigned to the testimony are supported by the evidence, we will not disturb that court's decision. *In re S.P.*, 47 A.3d at 826-27. The trial court properly placed the burden on Petitioners, and found that Father's alleged efforts to perform his parental duties were not sufficient to prove that he utilized all of the resources available to him to overcome the obstacles of his incarceration and maintain a place of importance in Child's life.

Next, we review the third requirement from *In re Z.S.W.*: 23 Pa.C.S. § 2511(b). In reviewing the evidence in support of termination under subsection 2511(b), we consider whether the termination of parental rights would best serve the developmental, physical, and emotional needs and welfare of the child. *See In re C.M.S.*, 884 A.2d 1284, 1286-87 (Pa. Super. 2005). "Intangibles such as love, comfort, security, and stability are involved in the inquiry into the needs and welfare of the child." *Id.* at 1287 (citation omitted). The court also must discern the nature and status of the

parent-child bond, with utmost attention to the effect that permanent severance of that bond will have on the child. *Id.*

With regard to subsection 2511(b), the trial court found as follows:

In the instant case, the [trial court] agrees with [the guardian *ad litem*'s] recommendation that termination of parental rights for both Mother and Father is in the best interests of the child. A purpose of terminating parental rights is "to prevent children from growing up in an indefinite state of limbo, without parents capable of caring for them, and at the same time unavailable for adoption by loving and willing foster families." *In re N.C.*, 763 A.2d 913, 918 (Pa. Super. 2000). The child has been in the custody of Petitioners since December 2010, and before that, Paternal Grandmother had custody. Neither Mother nor Father has had custody of the child since she was weeks old, nor have they even seen the child [in person] in over four years.

Evidence presented at the termination hearing shows that the child has no emotional connection to Mother or Father. She has never developed a parent-child bond with her natural parents. Testimony shows that, instead, the child has formed a parent-child bond with Petitioners, calling Petitioner [J.B./Husband] "daddy," and the child also considers Petitioners' children her siblings. Petitioners, not Mother or Father, have provided the child with [the] love, security, [and] stability needed for her welfare. The child has developed no bond with either Mother or Father such that a severance of their parental rights would be detrimental to the child. Therefore, the [trial court] finds it is in the best interests of the child's needs and welfare that Mother's and Father's parental rights be terminated.

T.C.O. at 6-7.

The evidence in the record supports the trial court's determination that Child lacks any bond with Father that would be harmed by the termination, but rather enjoys a strong bond with Petitioners. T.C.O. at 6-7. Child has been placed with her guardians since September 2010; prior to that, she

was in the care of Paternal Grandmother since she was very young. *Id.* at 7. Father has seen Child on only a few occasions prior to the death of Paternal Grandmother. Father has had physical contact with Child only one time: in 2008, when Child was very young. This Court has observed that only an attenuated bond is formed between a child and a natural parent when the child has been in foster care for most of the child's life. *In re K.Z.S.*, 946 A.2d 753, 764 (Pa. Super. 2008). Preserving this bond here would not serve the developmental, physical, and emotional needs and welfare of Child.

There was sufficient and competent evidence to support the trial court's findings with regard to the three-pronged test set forth in *In re Z.S.W.*, 946 A.2d at 730. The trial court did not abuse its discretion in terminating Father's parental rights to Child on the basis of subsections 2511(a)(1) and (b). *See In re S.P.*, 47 A.3d at 826-27. To the extent that Father contends that he should have been afforded more time until he is released from incarceration, we cannot and will not toll the well-being and permanency of Child indefinitely in the hope that Father will summon the ability to handle the responsibilities of parenting her at some later time. *In re Adoption of C.L.G.*, 956 A.2d at 1007-08. The trial court appropriately considered Father's inability to parent Child while he is in prison until at least 2019. *See In re S.P.*, 47 A.3d at 826-27. We affirm the decree terminating Father's parental rights to Child.

Decree affirmed. Jurisdiction relinquished.

