

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

IN THE INTEREST OF:	:	IN THE SUPERIOR COURT OF
C.M., A MINOR	:	PENNSYLVANIA
	:	
	:	
APPEAL OF:	:	
K.M., MOTHER	:	No. 1565 MDA 2012

Appeal from the Order Entered July 24, 2012,  
In the Court of Common Pleas of Juniata County,  
Juvenile Division, at No. CP-34-DP-0000014-2012.

BEFORE: BENDER, SHOGAN and FITZGERALD\*, JJ.

MEMORANDUM BY SHOGAN, J.: **FILED MAY 10, 2013**

K.M. ("Mother") appeals from the order entered July 24, 2012, adjudicating her son, C.M., a dependent child pursuant to section 6302(1) of the Juvenile Act, 42 Pa.C.S.A. § 6302(1), and maintaining him in kinship foster care with his paternal aunt, B.J.M.<sup>1</sup> We affirm.

C.M. was born September 11, 2003.<sup>2</sup> Mother had physical custody of C.M. for the first four years of his life. N.T., 7/24/12, at 61.<sup>3</sup> Due to

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\*Former Justice specially assigned to the Superior Court.

<sup>1</sup> Although Mother filed her notice of appeal from the order entered on July 24, 2012, which adjudicated C.M. dependent and maintained him in his foster care placement with B.J.M., she also included in her brief on appeal a copy of the dispositional order entered on August 13, 2012. Thus, we have reviewed Mother's claims on appeal as challenging the trial court's placement of C.M. in kinship foster care with B.J.M., as well as the adjudication of dependency.

<sup>2</sup> Mother also has two emancipated sons, ages twenty and twenty-three, who are not involved in this appeal. N.T., 7/24/12, at 40.

<sup>3</sup> The certified record includes two transcripts from the July 24, 2012 hearing; one contains all of the witnesses' testimony, and the other

Mother's repeated incarcerations, R.M. ("Father") assumed primary physical custody of C.M. for the next four years. *Id.* at 60–62.

On July 13, 2012, Juniata County Children and Youth Services ("CYS") filed a dependency petition alleging that C.M. was in the care of family friends, R.L. and M.L., pursuant to a safety plan established by CYS on April 12, 2012. CYS further alleged that Father, who was hospitalized as of July 10, 2012, was awaiting sentencing on an undisclosed conviction. CYS also stated that Mother was unable to care for C.M. due to unstable housing and her close association with an alleged Megan's Law<sup>4</sup> offender. CYS averred that C.M. was without proper care and control and remaining under the care of Mother and Father would be contrary to C.M.'s welfare, safety, and health.

The trial court held a hearing on July 18, 2012,<sup>5</sup> and ordered that legal and physical custody of C.M. be transferred to CYS. The trial court also ordered C.M. to be placed under the protective supervision of CYS and modified his placement to kinship foster care with his paternal aunt, B.J.M.,

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reproduces only Mother's testimony. The page numbers referenced in this Memorandum refer to the complete transcript.

<sup>4</sup> Megan's Law requires registration when a defendant is convicted of certain enumerated offenses involving children. 42 Pa.C.S.A. § 9799.14 and § 9799.15, formerly 42 Pa.C.S.A. § 9795.1 (effective December 20, 2012); **see also Commonwealth v. Gehris**, \_\_\_ Pa. \_\_\_, \_\_\_ n.4, 54 A.3d 862, 871 n.4 (2012) (explaining amendments to Megan's Law).

<sup>5</sup> The record certified to us on appeal does not include notes of testimony from the July 18, 2012 hearing.

through Families United Network, Inc. The trial court found that CYS made reasonable efforts to prevent or eliminate the need to remove C.M. from the parental home. Further, the trial court placed additional conditions on visitation, directing that Father would not have any visits with C.M. while Father was incarcerated, and that Mother and R.L. and M.L. would have “at least the minimum visitations” with the child. Order, 7/18/12, at 2.

On July 24, 2012, the trial court held an adjudicatory hearing on the dependency petition. CYS presented the testimony of caseworker Jeffery L. Moore, who testified that in January of 2002, CYS began a long history of referrals of the family for drug use and domestic violence. N.T., 7/24/12, at 7. Mr. Moore stated that CYS’s concerns regarding Mother’s resumption of primary physical custody were based upon her unstable housing, employment history, drug use, and association with certain individuals. **Id.** Mr. Moore revealed that he had spoken with Mother’s former and present landlords. **Id.** Based upon conflicting information about Mother’s employment history, her residences, and her criminal history, Mr. Moore advised that Mother could not provide C.M. with a stable home. **Id.** at 14–15.

Counsel for CYS presented Mother as a CYS witness regarding her employment, housing, and her criminal history, as well as her affiliation with K.C., whom Mother identified as a former boss. **Id.** at 29. K.C. initially was identified as a Megan’s Law offender, but testimony at the July 24, 2012

hearing revealed that was not the case, although K.C. had criminal convictions for crimes relating to children. **Id.** at 21, 103. Mother's testimony regarding her employment history was fraught with inconsistencies and unexplained discrepancies. She stated that if she previously represented that she received paychecks from Quality Nursing, she actually was paid by a volunteer organization through a woman named Abby Johnson, who resides in Texas. **Id.** at 30–31, 34, 76. Mother also admitted on cross-examination by C.M.'s guardian *ad litem* ("GAL") that she mistakenly had claimed to receive paychecks from a company known as Morningstar, when in actuality, she was merely a volunteer for that organization, again through her affiliation with Abby Johnson.<sup>6</sup> **Id.** at 31-32, 51-52, 54. Further, although she previously stated that she was employed at Hillcrest Medical Center, she told the trial court that she did not work there. **Id.** at 33.

At the dependency hearing, Mother represented that she was employed at Bargain Barn, where she claimed to earn between \$800.00 and \$1,300.00 per month. **Id.** at 13, 55. She explained that her failure to reveal this employment to the trial court previously was based upon her failure to report the income on her taxes. **Id.** at 84, 87. Her supervisor confirmed that Mother earns \$200.00 per week, but she may be paid with

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<sup>6</sup> While the transcript from July 18, 2012 is not in the record certified to us on appeal, Mother admitted testifying consistently to the characterization of the GAL.

goods or food in lieu of cash. **Id.** at 13, 35-36. Mother stated that the \$1,500.00 monthly income she previously attributed to employment from Quality Nursing actually was generated by volunteering for Abby Johnson. **Id.** at 52-53. Moreover, Mother previously claimed to have worked forty hours for Quality Nursing, but on July 24, 2012, she maintained that she had not worked for that organization since "last year." **Id.** at 53. She testified that she must have "that mixed up with some of the other programs I'm working through." **Id.** at 76.

Mother described her apartment as a "rent-to-own" arrangement, but she did not have that commitment in writing. **Id.** at 34-35. She produced a lease encompassing the period from July 1, 2012, until June 30, 2013, which is included in the exhibits in the certified record. She testified that she was not aware of the allegations of abuse that CY5 received about her in 2002. **Id.** at 37-38. On cross-examination by Father's counsel, Mother admitted that she lost her former home through foreclosure. **Id.** at 50.

Mother admitted to having been incarcerated three times, most recently in 2009, twice for nonpayment of child support, and once for possession of marijuana.<sup>7</sup> **Id.** at 42, 56-57. She was convicted of possession of marijuana, but she denied that the marijuana belonged to her.

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<sup>7</sup> Mother also referenced charges relating to providing alcohol to a minor, but she denied actually providing the alcohol. She maintained instead that an open beer was found in her automobile when one of her older sons was involved in an accident with her vehicle. **Id.** at 39. The record is unclear regarding the disposition of those charges.

**Id.** at 57–58. On cross-examination by the GAL, Mother admitted that a marijuana pipe and seeds were found in her purse. **Id.** at 72.

Mother testified she had physical custody of C.M. for the first four years of his life. **Id.** at 61. For the past four years, Father had physical custody, and she did not have any visitation because she was incarcerated for most of the time. **Id.** at 62–63. Mother stated that in the weeks preceding the hearing in this matter, she had one visit with C.M. **Id.** at 63. Mother provided no explanation regarding why she failed to seek visitation with C.M. after she was released from jail in 2009 other than claiming, “That was my own fault.” **Id.** at 62.

After the hearing on July 24, 2012, based upon the recommendation of CYS and the GAL, the trial court determined there was clear and convincing evidence in support of the petition for dependency. The trial court found that there had not been any plan for C.M.’s care, and it questioned Mother’s explanations regarding her employment, housing, and educational plans for C.M. **Id.** at 103. The trial court indicated that although Mother’s acquaintance, K.C., was not on the Megan’s Law offender list, the court had serious concerns about Mother’s truthfulness. **Id.**

The trial court found C.M. dependent pursuant to section 6302(1) of the Juvenile Act. **Id.** at 103. Counsel for Father and the GAL agreed with the finding of dependency. **Id.** at 101-102. The trial court awarded temporary legal custody of C.M. to CYS, to be maintained in kinship foster

care with B.J.M., stating that the home of R.L. and M.L. had been inappropriate. **Id.** at 104. The trial court indicated that it wished to have the results of drug and alcohol testing for both parents before it would make a dispositional order. **Id.** at 103-104. The court imposed the following conditions on visitation:

No visits with [Father] while he is incarcerated. [Mother] and [Father] are to receive at least minimum visitations with subject child. [C.M.'s relatives, T.A. and A.A.,] may visit [C.M.] with approval of the Agency.

Dependency Order, 7/24/12, at 2. The trial court imposed a further requirement that mother have weekly drug testing at the Juniata County Probation Office.

On August 13, 2013, the trial court entered a dispositional order, directing that C.M. remain in kinship foster care with B.J.M. and imposed the following additional condition of visitation by Mother:

[T]here will be weekly drug testing for [Mother] provided by the Juniata County Probation Department; in this time, [Mother] will be having supervised visitation with subject child. If [Mother] has four clean drug tests, she will have weekly unsupervised visits on Saturdays from 9 AM to 6 PM. If the drug testing continues to be clean in the course of the four weeks with unsupervised visits, the visit time will be increased from Saturdays at 9 AM to Sundays at 6 PM. Upon any failed drug testing for [M]other, there will be an immediate return to supervised visits. If the Agency finds out that [M]other has subject child around [K.C.] or any other individual who has a criminal history against children or violent crimes, the mother goes back to supervised visits with subject child. There are to be no visits with [Father] while he is incarcerated. [T.A. and A.A.] may visit subject child with the approval of the Agency.

Dispositional Order, 8/13/12, at 2.

On August 23, 2012, Mother filed a notice of appeal from the order entered on July 24, 2012, along with a concise statement of errors complained of on appeal, pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b).

On appeal, Mother raises three issues, as follows:

- I. Did the court err in determining that minor child was a “dependent child” where the natural mother (Appellant) was ready, willing and able to provide for the minor child’s physical, mental, educational, and emotional well-being?
- II. Did the court err in failing to give proper weight to the evidence where Appellant had a satisfactory residence approved by Children and Youth Social Services Agency, and no evidence was entered indicating that Appellant had physically, sexually or otherwise abused the minor child?
- III. Did the court err in failing to give proper weight to the evidence where Appellant had previously had custody of the minor child and had properly cared for the child for several years?

Mother’s Brief at 4.

We review Mother’s issues together, as they challenge the sufficiency of the evidence to support the trial court’s adjudication of C.M. as a dependent child and his placement in kinship foster care with B.J.M.

Our standard of review for dependency cases is well settled, and requires us

to accept the findings of fact and credibility determinations of the trial court if they are supported by the record, but does not require the appellate court to accept the lower court’s inferences or conclusions of law. Accordingly, we review for an abuse of discretion.

***In re R.J.T.***, 608 Pa. 9, 26-27, 9 A.3d 1179, 1190 (2010).



Section 6302(1) of the Juvenile Act defines a dependent child as a child who:

is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals. **A determination that there is a lack of proper parental care or control may be based upon evidence of conduct by the parent, guardian or other custodian that places the health, safety or welfare of the child at risk, including evidence of the parent's, guardian's or other custodian's use of alcohol or a controlled substance that places the health, safety or welfare of the child at risk[.]**

42 Pa.C.S.A. § 6302(1) (emphasis added).

"The question of whether a child is lacking proper parental care or control so as to be a dependent child encompasses two discrete questions: whether the child presently is without proper parental care and control, and if so, whether such care and control are immediately available." ***In re G., T.***, 845 A.2d 870, 872 (Pa. Super. 2004) (internal quotations and citations omitted). ***See also In re J.C.***, 5 A.3d 284, 289 (Pa. Super. 2010) (citations omitted). Moreover, the burden of proof "is on the petitioner to demonstrate by clear and convincing evidence that a child meets that statutory definition of dependency." ***In re G., T.***, 845 A.2d at 872.

Mother contends that CY5 failed to show that C.M. lacked proper parental care or control as set forth in section 6302(1) of the Juvenile Act. Mother also argues that CY5 failed to refute her contention that she is ready, willing, and able to provide for C.M.'s physical, mental, educational, and emotional well-being. Mother asserts that the evidence showed that she has

appropriate housing, is not associated with a "Megan's Law" offender, and has tested negative for illegal drugs. Moreover, Mother asserts that CY5 has acknowledged that Mother has not physically or sexually abused C.M. She maintains that she previously established that she could provide appropriate care, custody, and control of C.M. since she did so for the first four years of his life. Mother argues that she is now ready, willing, and able to resume being C.M.'s custodial parent. Accordingly, she contends that the trial court erred in adjudicating C.M. dependent.

The trial court found the following facts from the testimony at the hearing on the dependency petition.

As to the case at hand, the Court does not believe that [Mother] has the stability and ability to raise C.M. Although the Court does not doubt that [Mother] loves and wishes to care for her child, she cannot be trusted with his care. On April 3<sup>rd</sup>, 2007, [Mother] pled guilty to Selling or Furnishing Alcohol to Minors, in violation of 18 [Pa.C.S.A.] § 6310.1(a). On May 6<sup>th</sup>, 2008, she pled guilty to Use/Possession of Drug Paraphernalia in violation of 35 [Pa.C.S.A.] § 780-113(a)(32). Furthermore, she purports to have been incarcerated on three separate occasions. Hr'g Tr. 19:14 (July 24, 2012).<sup>1</sup> [N.T., 7/24/12, at 42.]

<sup>1</sup> Two transcripts were prepared. The page numbers listed in this memo refer to the transcript containing only [Mother's] testimony, and no other witnesses.

We note that her convictions are not recent convictions and would not, by themselves, be sufficient to keep her from raising C.M., but this Court did not base its decision solely on that record. [Mother] refuses to admit she furnished alcohol to minors. Instead, [Mother] claims she was charged only because her son had an open container of beer in his car when he was in an accident. ***Id.*** at 16:1-4. [N.T., 7/24/12, at 39.] Furthermore, according to [Mother], the later possession charge was only the product of her decision not to tell police that the

marijuana found in her home belonged to someone else – potentially her son. **Id.** at 34:4-8. [N.T., 7/24/12, at 57.] On that occasion, police found marijuana seeds and a pipe in her purse. **Id.** at 48:4-6. [N.T., 7/24/12, at 72.]

She claims to be able to manage her finances, yet her home was foreclosed upon. **Id.** at 27:5. [N.T., 7/24/12, at 72.] At a previous hearing she claimed to work for a company named “Morningstar,” yet she now admits she has never received a single paycheck from that company. **Id.** at 28:24. [N.T., 7/24/12, at 51.] [Mother] now asserts that her \$1,500 monthly income comes through her “volunteerism,” working for a woman in Texas named Abby Johnson. **Id.** at 29:23. [N.T., 7/24/12, at 52.]

At one point[, Mother] informed the Court she was working for “Quality Nursing,” where she worked 40 hours per week. Now, she admits that she cannot remember exactly when she last worked there, but it would have been some time in 2011. **Id.** at 30:15. [N.T., 7/24/12, at 53.] Later in the same hearing, she professe[d] that she receives the bulk of her income from “Bargain Barn,” where she makes between \$800 and \$1,300 per month. [Mother] admits to intentionally withholding all information concerning her employment at Bargain Barn at the previous hearing because she was afraid to report that income due to tax concerns. **Id.** at 60:15. [N.T., 7/24/12, at 84-85.]

She argues that she can provide the child with a safe, stable environment. To prove this, she provided the Court with a copy of her lease agreement—a lease agreement she entered into only three weeks prior to the hearing. Before moving to her current place of residence, she claims to have paid \$500 per month in rent to [her landlord,] but oftentimes she would pay no rent; instead she would earn her keep performing electrical, plumbing and drywall services. **Id.** at 48:11-25. [N.T., 7/24/12, at 72.]

[Mother] informed the Court that she has looked into enrolling the child in a local private school, Sacred Heart, and was informed by “Sister Mary” that it would only cost her around \$300 per term. **Id.** at 50:3-19. [N.T., 7/24/12, at 74.] [Mother] claimed to have documentation of this quote, but she did not bring it to the hearing. This Court has personal

knowledge of the school to which [Mother] refers, and knows the annual tuition to be roughly \$10,000 per year.

This Court could continue to address specific examples of her deceit, but chooses not to do so. [Mother] refuses to be honest and forthcoming, and because of this inability to be truthful, we believe she cannot be trusted with the child. All parties directly involved in this case, including CYS, the child's guardian *ad litem*, and the child's natural father, believe that it is in the child's best interest to declare him a dependent child. This Court agrees, and declared C.M. to be a dependent child on July 24<sup>th</sup>, 2012.

Trial Court Final Memorandum, 9/25/12, at 2-4 (footnote in original) (parallel transcript citations added).

With regard to the determination of dependency under section 6302(1), the issue before the trial court at the dependency hearing was whether C.M. lacked proper parental care or control. The inquiry encompassed two distinct questions: 1) whether the child presently was without proper parental care and control, and, if so, 2) whether such care and control were immediately available. ***In re G., T.***, 845 A.2d at 870. In determining whether C.M. was presently without proper parental care and control, the trial court could consider evidence of Mother's conduct that placed the health, safety, or welfare of C.M. at risk, including evidence of her use of alcohol or a controlled substance that placed the health, safety, or welfare of C.M. at risk. **See** 23 Pa.C.S.A. § 6302(1).

Section 6341(a) and (c) of the Juvenile Act, regarding the disposition of a dependent C.M., provides in pertinent part:

(a) **General rule.**—After hearing the evidence on the petition the court shall make and file its findings as to whether the child is a dependent child. . . .

. . . .

(c) **Finding of Dependency.**—If the court finds from clear and convincing evidence that the child is dependent, the court shall proceed immediately or at a postponed hearing, which shall occur not later than 20 days after adjudication if the child has been removed from his home, to make a proper disposition of the case.

42 Pa.C.S.A. § 6341(a) and (c).

Section 6351(a) of the Juvenile Act provides the following with regard to the disposition of a dependent child, and whether the child can be placed or reunified with his parent.

**§ 6351. Disposition of dependent child**

(a) **General rule.**—If the child is found to be a dependent child the court may make any of the following orders of disposition best suited to the safety, protection and physical, mental, and moral welfare of the child:

- (1) Permit the child to remain with his parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child.

42 Pa.C.S.A. § 6351(a).

In *In re M.L.*, 562 Pa. 646, 649, 757 A.2d 849, 850-851 (2000), our Supreme Court has instructed:

A court is empowered by 42 Pa.C.S. § 6341(a) and (c) to make a finding that a child is dependent if the child meets the statutory definition by clear and convincing evidence. If the court finds that the child is dependent, then the court may make an

appropriate disposition of the child to protect the child's physical, mental and moral welfare, including allowing the child to remain with the parents subject to supervision, transferring temporary legal custody to a relative or a private or public agency, or transferring custody to the juvenile court of another state. 42 Pa.C.S. § 6351(a).

This Court has directed that even after a child is adjudicated dependent, a court may not separate the child from his parent "unless it finds that the separation is clearly necessary." ***In re G., T.***, 845 A.2d at 873 (citations omitted). Furthermore, "such necessity is implicated where the welfare of the child demands that he or she be taken from his or her parents' custody."

***Id.***

With regard to whether proper parental care and control was immediately available, the trial court considered whether C.M. could be in Mother's custody. Such a determination, when making its disposition, involved the trial court's consideration pursuant to section 6351(f.1)(1) of the Juvenile Act, "[i]f and when the child will be returned to the child's parent, guardian or custodian in cases where the return of the child is best suited to the safety, protection and physical, mental and moral welfare of the child." 42 Pa.C.S.A. § 6351(f.1)(1). Also with regard to the court's disposition, and based on the mandatory language set forth in section 6351(f.2), CYS was obligated to present evidence of Mother's conduct that placed the health, safety, or welfare of C.M. at risk.

In ***In re B.S.***, 861 A.2d 974, 976-977 (Pa. Super. 2004), a panel of this Court summarized the placement procedure for a dependent child as follows:

Section 6351(f.1) of the Juvenile Act lists the alternatives available to the juvenile court for the permanent placement of a dependent child. Upon a child's adjudication of dependency, the juvenile court may order reunification with the child's parent, guardian, or custodian. 42 Pa.C.S.A. § 6351(f.1)(1). If reunification with the child's parent, guardian, or custodian is not best suited to the child's safety, protection and physical, mental and moral welfare, the court may terminate parental rights and place the child for adoption. 42 Pa.C.S.A. § 6351(f.1)(2). If the court decides that neither reunification nor adoption is best suited to the child's safety, protection and physical, mental and moral welfare, it may order the child to be placed with a legal custodian. 42 Pa.C.S.A. § 6351(f.1)(3). If the court decides that neither reunification, adoption, nor placement with a legal custodian are best suited to the child's safety, protection and physical, mental and moral welfare, the court can place the child with a fit and willing relative. 42 Pa.C.S.A. § 6351(f.1)(4). Finally, the court may place the dependent child in another permanent living arrangement if [the Agency] presents a compelling reason that any of the previous options are not suited best to the child's safety, protection and physical, mental and moral welfare. 42 Pa.C.S.A. § 6351(f.1)(5).

We conclude that the trial court appropriately considered the second portion of the test for dependency, *i.e.*, the question of whether proper parental care and control for C.M. was immediately available if the trial court were to place C.M. with Mother. In reaching this decision, the trial court necessarily considered the health, welfare, and safety of C.M., as well as whether placing C.M. with Mother would serve his best interests.

This Court has explained:

When a child is adjudicated dependent, the child's proper placement turns on what is in the child's best interest, not on what the parent wants or which goals the parent has achieved. **See *In re Sweeney***, 393 Pa. Super. 437, 574 A.2d 690, 691 (1990) (noting that "[o]nce a child is adjudicated dependent . . . the issues of custody and continuation of foster care are determined by the child's best interests"). Moreover, although preserving the unity of the family is a purpose of the Act, another purpose is to "provide for the care, protection, safety, and wholesome mental and physical development of children coming within the provisions of this chapter." 42 Pa.C.S. § 6301(b)(1.1). Indeed, "The relationship of parent and child is a status and not a property right, and one in which the state has an interest to protect the best interest of the child." ***In re E.F.V.***, 315 Pa. Super. 246, 461 A.2d 1263, 1267 (1983).

***In re K.C.***, 903 A.2d 12, 14-15 (Pa. Super. 2006).

After a careful review of the record in this matter, we conclude that the trial court's credibility and weight determinations are supported by the evidence in the record. ***In re R.J.T.***, 608 Pa. at 26-27, 9 A.3d at 1190. The trial court had sufficient evidence before it regarding the instability of Mother's income and residences, as well as her criminal history involving drugs and alcohol, from which it could find that C.M. lacked proper parental care and control at that time. As such, we conclude that CYS sustained its burden of demonstrating by clear and convincing evidence that C.M. met the statutory definition of dependency. Mother simply would have this Court assess the credibility of her testimony and assign different weight to the evidence. We may not do so. Our Supreme Court instructed as follows:

[A]ppellate courts must employ an abuse of discretion standard of review, as we are not in a position to make the close calls based on fact-specific determinations. Not only are our trial judges observing the parties during the hearing, but usually, as



in this case, they have presided over several other hearings with the same parties and have a longitudinal understanding of the case and the best interests of the individual child involved. Thus, we must defer to the trial judges who see and hear the parties and can determine the credibility to be placed on each witness and, premised thereon, gauge the likelihood of the success of the current permanency plan. Even if an appellate court would have made a different conclusion based on the cold record, we are not in a position to reweigh the evidence and the credibility determinations of the trial court.

***In re R.J.T.***, 608 Pa. at 27-28, 9 A.3d at 1190. Moreover, we determine that the statutory and case law support the trial court's inferences and conclusions of law, as set forth above.

We must keep in mind that this is not a case where Mother has been actively involved in her son's life, nor is it one where she is uninvolved but has had a physical presence. In fact, Mother has not been a once-per-week, once-per-month, or even a once-per-year visitor. Until the weeks before the dependency hearing when Mother had one visit, she had not seen C.M. for four years. Given that the child was merely eight years old, Mother was a virtual stranger to the child. Although Mother is willing to provide proper parental care, she has not shown that she is capable of doing so. ***See In re B.B.***, 745 A.2d 620 (Pa. Super. 2000) (Father, who was stranger to children, could not be designated as proper parental caregiver). That Mother successfully parented C.M. from 2003 through 2007<sup>8</sup> has no real bearing upon whether Mother presently is capable of parenting him.

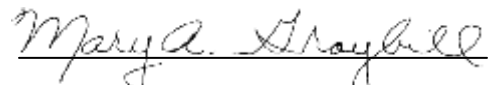
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<sup>8</sup> Moreover, we question whether Mother legitimately can argue she successfully parented C.M. during those four years in light of the fact that

We have carefully reviewed the record and conclude it fully supports the court's findings. C.M. was properly adjudicated dependent, and Mother, while ready and willing, was not immediately able to provide proper parental care for C.M. Thus, his placement in kinship foster care with Father's sister was not an abuse of discretion. Accordingly, we affirm the order of the trial court.

Order affirmed.

Judgment Entered.

  
Deputy Prothonotary

Date: 5/10/2013

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CYS testimony established it had a lengthy history of referrals of the family for drug use and domestic violence beginning in January 2002. N.T., 7/24/12, at 2.