

J-S70014-12
J-S70015-12

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P 65.37

IN RE: S.M.S. : IN THE SUPERIOR COURT OF
: PENNSYLVANIA
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APPEAL OF: N.S., FATHER : No. 1573 EDA 2012
APPEAL OF: C.S., MOTHER : No. 1608 EDA 2012

Appeal from the Decree May 7, 2012,
Court of Common Pleas, Bucks County,
Orphans' Court at No. 2011-9065

IN RE: W.J.S. : IN THE SUPERIOR COURT OF
: PENNSYLVANIA
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APPEAL OF: N.S., FATHER : No. 1574 EDA 2012
APPEAL OF: C.S., MOTHER : No. 1609 EDA 2012

Appeal from the Decree May 7, 2012,
Court of Common Pleas, Bucks County,
Orphans' Court at No. 2011-9066

IN RE: N.S. : IN THE SUPERIOR COURT OF
: PENNSYLVANIA
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APPEAL OF: N.S., FATHER : No. 1575 EDA 2012
APPEAL OF: C.S., MOTHER : No. 1610 EDA 2012

Appeal from the Decree May 7, 2012,
Court of Common Pleas, Bucks County,
Orphans' Court at No. 2011-9067

IN RE: S.S. : IN THE SUPERIOR COURT OF
: PENNSYLVANIA
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APPEAL OF: N.S., FATHER : No. 1576 EDA 2012
APPEAL OF: C.S., MOTHER : No. 1611 EDA 2012

Appeal from the Decree May 7, 2012,
Court of Common Pleas, Bucks County,
Orphans' Court at No. 2011-9068

BEFORE: DONOHUE, OLSON and FITZGERALD*, JJ.

MEMORANDUM BY DONOHUE, J.:

Filed: March 5, 2013

N.S. ("Father") and C.S. ("Mother") (collectively, "Parents") appeal from the decrees entered on May 7, 2012 by the Bucks County Court of Common Pleas granting the petitions filed by Bucks County Children and Youth Social Services Agency ("CYS" or "the Agency") requesting termination of their parental rights to N.S. (born July 2002), S.M.S. (born February 2005), W.J.S. (born December 2007), and S.S. (born August 2009) (collectively, "Children") pursuant to the Adoption Act, 23 Pa.C.S.A. § 2511(a)(2), (5), (8), and (b).¹ Upon review, we affirm.²

*Former Justice specially assigned to the Superior Court.

¹ Father and Mother filed separate notices of appeal for each child. On July 10, 2012, this Court *sua sponte* consolidated the siblings' cases into two appeals – one for Mother and one for Father. Because the appeals brought by Mother and Father address the same questions, we consolidate the cases for a single decision pursuant to Pa.R.A.P. 513.

² The decision in this appeal was unfortunately protracted because various exhibits were missing from the certified record on appeal, the absence of

CYS filed petitions to terminate Parents' rights to Children on April 7, 2011. The orphans' court held multiple hearings on the petitions on October 10, 2011, January 27, 2012, March 22, 2012, April 11, 2012, and May 1, 2012. From the testimony and exhibits presented at those hearings we provide the following summary. CYC became involved with the family in January of 2008 because of concerns about Parents' mental health, domestic violence in the home, and Mother's drug use. N.T., 10/20/11 (morning), at 21-23, 47. Children were removed from Parents' care and placed in the care of their maternal grandparents. *Id.* at 22. CYC filed a petition for dependency. Mother was permitted to reside with Children in her parents' home and Father had daily visitation. *Id.* at 23. Initially, Parents were to be supervised with Children at all times, but that order was lifted on March 24, 2008. *Id.* at 23-24. Children were returned to Parents' care with in-home services working with the family. Parties to the dependency action were ordered to locate marital counseling for Mother and Father. *Id.* Hearings on the dependency petition were continued throughout this period.

On April 5, 2008, Father was charged with assaulting Mother while Children were present in the home. *Id.* at 76. Mother told police Father dragged her down the hallway in their home, punching and kicking her, and

which hampered our ability to resolve the issues raised on appeal. Following the issuance of two Orders by this Court, Parents remedied this problem by supplementing the record pursuant to Pa.R.A.P. 1926.

the day before threw her across the room and punched and kicked her.³ N.T., 10/20/11 (afternoon), at 74, 86. Parents separated, and Children were placed in Mother's sole custody. N.T., 10/20/11 (morning), at 25. Mother and Children resided together in a domestic violence shelter. *Id.* at 26. Father was to have no unsupervised contact with Children. *Id.*

Mother and Children left the shelter without informing CYS on April 18, 2008 at approximately 10:00 p.m. Order of Adjudication, 7/2/08, at Findings of Fact ¶ ee. CYS became aware of their absence from the shelter on April 21, 2008, and endeavored to locate Children. *Id.* at ¶¶ ff-gg. CYS obtained an emergency custody order placing Children in the temporary custody of their maternal grandparents. *Id.* at ¶ hh. Believing that Mother, Father, and Children were residing together with Father's mother in Philadelphia, CYS and a Philadelphia police officer went to the paternal grandmother's home, who refused to allow them into her home. *Id.* at ¶¶ jj-kk. The officer persisted, discovering Children in the home with Parents. *Id.* While CYS removed Children, Mother spit in the face of the CYS supervisor, nearly causing the supervisor to drop W.S., who was an infant at that time. *Id.* at ¶ ll.

On July 2, 2008, the juvenile court entered an order adjudicating the three older children dependent and formally placing them in kinship foster

³ Father was not convicted of the assault charge. Mother stated that she refused to testify against Father because she "still believed [she] could fix [her] marriage." N.T., 10/20/11 (afternoon), at 83.

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care with their maternal grandparents. N.T., 10/20/11 (morning), at 34. Parents and the paternal grandmother began threatening the maternal grandparents over the phone and in person while Children were present at the maternal grandparents' home. On October 31, 2008, the juvenile court entered an order prohibiting Parents and the paternal grandmother from having any communication with the maternal grandparents. *Id.* at 78-79; Juvenile Court Order, 10/31/08. Because Parents were also "belligerent and verbally accosting" CYS workers, the juvenile court limited Parents' contact with CYS to writings and phone messages to confirm visits. N.T., 10/20/11 (morning), at 79; Juvenile Court Order, 10/31/08.

Prior to the October 31 order, Parents visited Children at the maternal grandparents' home. *Id.* at 72-73. Following the entry of the October 31, 2008 restraining order, visits were moved to the CYS office for several months, and Parents failed to attend visits during that timeframe. Subsequently, visits were moved to the community and supervised by Bethanna, an outside agency, and Parents again began to visit with Children. In July 2011, however, visits again had to be moved because Father threatened to hit the Bethanna worker supervising the visit with a chair. It was determined that greater security was necessary, and because the CYS office had a security guard, visits were relocated there. N.T., 4/11/12, at 219-20, 226. Although visits continued to be scheduled, Father did not

attend. At the time of the termination hearings, Father had not seen Children since July of 2011. *Id.* at 65, 219.

Meanwhile, in March 2009, while pregnant with S.S., Mother committed an armed robbery of a convenient store. N.T., 10/20/11 (morning), at 36. CYS was granted custody of S.S. following her birth in August 2009 and placed her in Christ's Home for Children to accommodate "[P]arents' request for daily visitation with the child." *Id.* at 34. CYS scheduled separate visits for Mother and Father with S.S. for several hours each day. *Id.* at 86. In the four months S.S. resided in Christ's Home for Children, Mother visited S.S. four or five times, and Father visited only once or twice. *Id.* at 86-87. S.S. was subsequently placed with her siblings in her maternal grandparents' home.

On October 7, 2009, Mother pled guilty pursuant to a negotiated plea to robbery, theft by unlawful taking, receiving stolen property, possessing an instrument of crime, and prohibited offensive weapons. She was sentenced to three to six years of imprisonment.⁴ CYS Exhibit CY-4.

Mother served the beginning of her term of imprisonment in a state correctional institution. N.T., 4/11/12, at 5. On July 5, 2011, she was placed in Gaudenzia DRC ("Gaudenzia"), a community corrections facility of the Department of Corrections. *Id.* at 5-6. Mother did not complete her

⁴ The order prohibiting Mother from contacting the maternal grandparents' home was lifted after Mother was incarcerated. N.T., 10/20/11 (afternoon), at 20-21.

stay at Gaudenzia, however, because she failed to comply with the rules there. *Id.* at 7-10. At the termination of parental rights hearing, Mother testified that she was discharged simply because she “tried synthetic marijuana,” and her work and school schedules caused her to miss several outpatient programs. *Id.* at 8. Upon further questioning by CY5, Mother admitted that she also did not comply with the rules and regulations concerning outside passes, she involved herself in a romantic relationship with a male resident and a female resident on separate occasions, she failed to follow staff directives, and she failed to attend community service, narcotics anonymous and alcoholics anonymous groups, school and outpatient treatment. *Id.* at 8-11, 25-26. Her progress while in Gaudenzia was “below average” and attributed to Mother’s “poor decision-making.” *Id.* at 26.

On or about November 16, 2011, Gaudenzia discharged Mother and transferred her to Gaudenzia House West Chester (“West Chester”), a more restrictive and more therapeutic placement. *Id.* at 129. Mother continued her streak of noncompliance there, and was written up for having another romantic relationship with a resident shortly after her arrival. *Id.* at 32.

Since being moved by the Department of Corrections to a less restrictive environment, Mother admitted to having seen Father on four occasions. N.T., 1/27/12, at 79. On at least one occasion, Mother signed out of Gaudenzia, stating that she was visiting her Children at an address on

Academy Road, where Father resides with his mother, when in fact she was not seeing Children at all, and lied so that she could see Father. *Id.* at 81.

Throughout the history of CYS's involvement with this family, Mother would not acknowledge that Father was abusive. N.T., 4/11/12, at 13. On the first day of the termination hearings, Mother continued to deny that Father abused her, denying that he ever hit or kicked her. N.T., 10/20/11 (afternoon), at 55. As the hearings progressed, however, Mother admitted that Father was physically and emotionally abusive throughout their 15-year relationship, including prior to their marriage. N.T., 4/11/12, at 13, 15-16. Mother also acknowledged that at least one of the children, N.S., witnessed the abuse in the past. *Id.* at 20.

Mother testified that she wants to reunite with Children when she finishes serving her sentence. It was established that her minimum release date was July 3, 2012. N.T., 1/27/12, at 77. She stated her intention at the various proceedings to divorce Father, but at the time of the final termination hearing, had not yet done so. She opposed Children reunifying with Father, as she does not think Father "is capable of raising the children in a healthy environment." *Id.* at 36. According to Mother, Father did not take any responsibility for parenting Children when they were living together other than providing for them financially. *Id.*

Father also testified at the termination proceedings, stating that he could not parent Children himself and that he thought Mother "should be

kept from them until she gets herself straightened out.” *Id.* at 103-04. He would not consent to Children being adopted, as he wanted to be able to visit with them. *Id.* at 103, 106. During his testimony, Father was very evasive in his responses to questions. For example, he admitted to physically and emotionally abusing Mother, and then followed up by stating that he “[did not] recall” or “[did not] remember.” *Id.* at 84-86. He admitted that he has not visited Children since visits were moved to the CYS office and reasoned that this was “[b]ecause [he] refuse[d] to see them in a conference room.” *Id.* at 66.

According to Melissa Dysinger (“Dysinger”), the CYS caseworker assigned to work with this family, she had never seen another family given so many opportunities to reunify when there was an adoptive resource available. *Id.* at 122-23. Parents were well aware of what they needed to do to have Children returned to their care, and they failed to fully comply. *Id.* at 123-25, 215-16. Mother lied to Dysinger, stating that she was “doing well [in Gaudenzia] and focusing on the program and doing what she needs to do,” but Dysinger learned from Mother’s case manager about Mother’s rule infractions. *Id.* at 127. Mother never worked prior to her incarceration, and although she wants to be reunited with Children, had no plan of how that could be accomplished. *Id.* at 132. To Dysinger’s knowledge, Mother has not saved any money since being released from prison. *Id.*

Dysinger acknowledged that Father took some steps towards completing his family service plan goals, including attending anger management and group counseling, but testified that Father exhibited behaviors that led Dysinger to believe that he did not acquire “the tools necessary to deal with his anger.” *Id.* at 218. Dysinger shared her concern with the anger management program that was working with Father, and when the program director confronted him about his behaviors, Father refused to continue treatment. *Id.* Dysinger stated that Father was threatening and confrontational throughout the history of CYS’s work with the family, was unwilling to work with anyone, and failed to accept responsibility for CYS’s involvement with his family. *Id.* at 228-29.

Dysinger testified that Children are doing extremely well in the care of their maternal grandparents. Children are bonded with their maternal grandparents, and all of their needs are being met. N.S. is the only one who has asked questions about how long he will be living with his maternal grandparents, but he has not expressed any desire to return to Parents. *Id.* at 144. Dysinger testified that Children would benefit from the permanency of adoption. *Id.* at 207.

On May 7, 2012, the orphans’ court entered decrees granting CYS’ petitions and terminating Parents’ rights to Children pursuant to 23 Pa.C.S.A. § 2511(a)(2), (5), (8), and (b). Parents’ filed timely notices of

appeal, challenging the sufficiency of the evidence to terminate their parental rights. **See** Mother's Brief at 7; Father's Brief at 4.

We review decrees terminating a parent's rights to his or her children according to the following standard:

When reviewing an appeal from a decree terminating parental rights, we are limited to determining whether the decision of the [orphans'] court is supported by competent evidence. Absent an abuse of discretion, an error of law, or insufficient evidentiary support for the [orphans'] court's decision, the decree must stand. Where a[n] [orphans'] court has granted a petition to involuntarily terminate parental rights, this Court must accord the hearing judge's decision the same deference that it would give to a jury verdict. We must employ a broad, comprehensive review of the record in order to determine whether the [orphans'] court's decision is supported by competent evidence.

In re B.L.W., 843 A.2d 380, 383 (Pa. Super. 2004) (*en banc*), *appeal denied*, 581 Pa. 668, 863 A.2d 1141 (2004) (internal citations omitted).

Furthermore, we note that the [orphans'] court, as the finder of fact, is the sole determiner of the credibility of witnesses and all conflicts in testimony are to be resolved by [the] finder of fact. The burden of proof is on the party seeking termination to establish by clear and convincing evidence the existence of grounds for doing so.

In re Adoption of A.C.H., 803 A.2d 224, 228 (Pa. Super. 2002) (internal citations omitted).

The standard of clear and convincing evidence means testimony that is so clear, direct, weighty, and convincing as to enable the trier of fact to

come to a clear conviction, without hesitation, of the truth of the precise facts in issue. *In re J.D.W.M.*, 810 A.2d 688, 690 (Pa. Super. 2002). We may uphold a termination decision if any proper basis exists for the result reached. *In re C.S.*, 761 A.2d 1197, 1201 (Pa. Super. 2000) (*en banc*). The orphans' court is free to believe all, part, or none of the evidence presented. *In re M.G.*, 855 A.2d 68, 73-74 (Pa. Super. 2004). If the orphans' court's findings are supported by competent evidence, we must affirm its decision, even though the record could support an opposite result. *In re R.L.T.M.*, 860 A.2d 190, 191 (Pa. Super. 2004).

The termination of parental rights is controlled by statute. *In re Adoption of R.J.S.*, 901 A.2d 502, 507 (Pa. Super. 2006). Under Section 2511 of the Adoption Act, the orphans' court must engage in a bifurcated process. First, the orphans' court must examine the parent's conduct under 2511(a). *Id.* at 508. If termination is found by the orphans' court to be warranted under section 2511(a), it must then turn to section 2511(b), and determine if termination of the parent's rights serves the children's needs and welfare. *In re K.M.*, 53 A.3d 781, 791 (Pa. Super. 2012).

This Court need only agree with the orphans' court's decision as to any one subsection of section 2511(a) in order to affirm the termination. *See In re B.L.W.*, 843 A.2d at 384. We will therefore examine the facts under section 2511(a)(8), which states:

(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:

* * *

(8) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency, 12 months or more have elapsed from the date of removal or placement, the conditions which led to the removal or placement of the child continue to exist and termination of parental rights would best serve the needs and welfare of the child.

23 Pa.C.S.A. § 2511(a)(8). We address each of the three elements *seriatim*.

Addressing the first element of subsection (a)(8), it is uncontested that Children have been in out of Mother's and Father's care for well over the requisite 12 months. **See** Mother's Brief at 12; Father's Brief at 12. The oldest three have been out of Parents' care continuously since April 21, 2008; S.S. was removed from Parents the day she was born in August of 2009. N.T., 10/20/11 (morning), at 27-28, 30. CYS filed the petitions to terminate Parents' rights on April 7, 2011. **Id.** at 5. Thus, the first prong of subsection (a)(8) is inarguably met.

Turning to the second element, we recognize that "termination under subsection (a)(8) 'does **not** require an evaluation of [a parent's] willingness or ability to remedy the conditions that led to placement of [the] children.'" ***In re I.J.***, 972 A.2d 5, 11 (Pa. Super. 2009) (quoting ***In re Adoption of R.J.S.***, 901 A.2d at 511)) (emphasis in the original). Furthermore, the court may not consider any efforts to remedy the conditions that led to the

removal of the children first initiated after the parent was notified that the petition to terminate his or her rights had been filed. 23 Pa.C.S.A. § 2511(b). The relevant questions under the second prong are whether the parent has remedied the conditions that led to the removal of the children, whether those efforts were first initiated prior to filing the petition to terminate the parent's rights, and whether the children's reunification with that parent is imminent at the time of the termination hearing. *See id.; In re I.J.*, 972 A.2d at 11; *see, e.g., In re Adoption of R.J.S.*, 901 A.2d at 512 (termination under (a)(8) was appropriate where Mother was not in a position to parent her children at the time of the termination hearing). As we have previously stated:

We recognize that the application of [subsection] (a)(8) may seem harsh when the parent has begun to make progress toward resolving the problems that had led to removal of her children. By allowing for termination when the conditions that led to removal continue to exist after a year, the statute implicitly recognizes that a child's life cannot be held in abeyance while the parent is unable to perform the actions necessary to assume parenting responsibilities. This Court cannot and will not subordinate indefinitely a child's need for permanence and stability to a parent's claims of progress and hope for the future. Indeed, we work under statutory and case law that contemplates only a short period of time, to wit eighteen months, in which to **complete** the process of either reunification or adoption for a child who has been placed in foster care.

In re I.J., 972 A.2d at 11 (citation omitted) (emphasis in the original).

With this in mind, we conclude that there was sufficient evidence to satisfy the second element of 2511(a)(8). We agree with the orphans' court that the conditions that led to Children's removal – specifically, Mother's poor judgment⁵ and Father's problems with anger management⁶ – continued to exist. **See** Orphans' Court Opinion (Mother), 8/8/12, at 22; Orphans' Court Opinion (Father), 8/8/12, at 17. Furthermore, it is clear that neither

⁵ Although, at the time of the termination hearing, Mother testified that she began to take seriously the programs offered to her in an effort to reunify with Children after being placed in West Chester, this occurred **after** CYS filed the petitions to terminate her rights to Children. **See** N.T., 4/11/12, at 29. As noted above, this late effort to remedy the conditions that led to Children's removal cannot be considered under subsection (a)(8). 23 Pa.C.S.A. § 2511(b); **In re I.J.**, 972 A.2d at 11. Prior to CYS filing petitions to terminate Mother's rights to Children, she had done little to demonstrate that she had remedied her poor decision-making. **See, e.g.**, N.T., 10/20/11 (morning), at 36 (Mother committed armed robbery while pregnant with S.S. and while her other children were in CYS care); N.T., 1/27/12, at 79, 81 (Mother continues her relationship with Father despite abuse); N.T., 4/11/12, at 8-11; 25-26 (Mother failed to comply with the rules of her placement after being released from prison). Mother's untimely promise to cooperate and make efforts to reunify with Children is also highly questionable based upon the history of the case. For example, Dysinger testified that prior to her release from prison, Mother told Dysinger that she was going to work on getting Children back and that she recognized she made bad decisions up to that point, but nonetheless continued to exercise poor judgment as soon as she went to a less-restrictive environment. **Id.** at 128-29; **see In re A.L.D.**, 797 A.2d 326, 340 (Pa. Super. 2004) ("[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.").

⁶ Indeed, Father could not even contain his anger during the termination proceedings. The record reflects that during Mother's testimony, he abruptly left the courtroom, interrupting Mother's testimony by saying, "I got to go outside. I am going to end up in handcuffs. The kid's mother is a jailbird lesbian slash G[-]d only knows what." N.T., 4/11/12, at 22.

parent was in a position to reunite with Children at the time of the termination hearings. Father, by his own admission, was not able to parent Children. N.T., 4/11/12, at 103, 106; *cf. In re Adoption of R.J.S.*, 901 A.2d at 513 (finding a mother's testimony that she could not parent her children at the time of the termination hearing satisfies the second element of subsection (a)(8)).

With respect to Mother, at the time of the final termination hearing, she had a minimum of two months remaining on her term of incarceration. N.T., 1/27/12, at 77. Moreover, as stated by Dysinger, Mother would also need to have some period of stability in the community after her release before the idea of returning Children to her care could be entertained. **See id.** at 130-31 (Dysinger testifying that CYS would need to see nine to 12 months of stability from Mother after her release before considering reunification). At the time of the hearings, Mother had no plan of where she would live upon release, had no money saved, and it was questionable whether she was still employed. **See** N.T., 4/11/12, at 132; N.T., 5/1/12, at 70-74, 88.

Turning to the third element of subsection (a)(8), we observe that the trial court considered whether termination serves Children's needs and welfare under (a)(8) simultaneously with its consideration of whether

termination serves Children's needs and welfare, as required by 2511(b).⁷

See Orphans' Court Opinion (Mother), 8/8/12, at 22-24; Orphans' Court Opinion (Father), 8/8/12, at 17-19. Parents contend that the orphans' court was precluded from addressing whether termination of their parental rights serves Children's needs and welfare under 2511(b) until it determined CYS satisfied its burden of proof under 2511(a). Father's Brief at 13; Mother's Brief at 14. They make no argument as to how the needs and welfare analysis under 2511(a)(8) differs from the consideration under 2511(b).⁸

⁷ 2511(b) states, in relevant part:

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

23 Pa.C.S.A. § 2511(b).

⁸ Precedent states that the orphans' court is required to give separate consideration to the needs and welfare of the child under subsection (a)(8) and under subsection (b). **See, e.g., In re C.L.G.**, 956 A.2d 999, 1008-09 (Pa. Super. 2008) (*en banc*). Despite the difference in the language of the two subsections, case law has assigned identical definitions to the two subsections. **See, e.g., In re Adoption of R.J.S.**, 901 A.2d at 514. Furthermore, even cases that attempt to differentiate the two subsections routinely rely upon the same evidence in deciding both subsections, largely repeating its analysis in two separate paragraphs, without any recognition of the Rules of Statutory Construction or the redundancy of this practice. **See, e.g., In re C.L.G.**, 956 A.2d at 1009-11 (relying on testimony from the forensic psychologist regarding the presence of bond between foster mother and child and the absence of bond between mother and child in satisfaction

This Court “will not act as counsel and will not develop arguments on behalf of an appellant.” *In re R.D.*, 44 A.3d 657, 674 (Pa. Super. 2012), *appeal denied*, ___ Pa. ___, 56 A.3d 398 (2012); *see* Pa.R.A.P. 2119.

Neither Mother nor Father in advancing their argument on this issue complains that the orphans’ court failed to adequately consider whether Children’s needs and welfare would be served by terminating their rights. *See* Father’s Brief at 13; Mother’s Brief at 14. For purposes of completeness, however, we analyze whether the record supports the finding that termination serves Children’s needs and welfare. *See, e.g., In re C.L.G.*, 956 A.2d at 1009-10 (evaluating the orphans’ court’s findings that terminating mother’s parental rights served the child’s needs and welfare despite mother’s failure to raise any argument in opposition).

A needs and welfare analysis involves the consideration of “the presence of any parent-child emotional bond, which encompasses intangibles such as love, comfort, security, and stability. When an emotional bond is present between parent and child, the court must consider the effect of its permanent severance on the child.” *In re Adoption of R.J.S.*, 901 A.2d at 514. This is based upon the understanding that continuity of

of both (a)(8) and (b)). In any event, in the case at bar, the orphans’ court properly recognized the need to consider the evidence concerning Children’s needs and welfare under both subsections. Based upon Parents’ failure to present any arguments that this is insufficient, we need not determine whether the orphans’ court’s failure to divide (or repeat) its discussion regarding Children’s needs and welfare was in error.

relationships is very important to a child, and severing close parental ties can be painful. **See *In re William L.***, 477 Pa. 322, 348, 383 A.2d 1228, 1241 (1978).⁹ Our Supreme Court has recognized that “[t]he ‘continuity of relationships’ consideration [] is equally applicable where, as here, the child has lived with one foster family for a considerable period of time. Removal of the children from their foster homes, or inflicting upon them the fear that they might be removed at any time, could create psychological and emotional distress similar to that caused by their removal from their natural parent.” ***Id.***; **see also *In re N.A.M.***, 33 A.3d 95, 103 (Pa. Super. 2011). Thus, we are also required to consider the child’s bond with his or her caregivers when determining whether the child’s needs and welfare are served by termination.

In reaching its decision, the orphans’ court “found there to be no bonded beneficial relationship between [Parents] and [] [C]hildren which would be destroyed by termination.” Orphans’ Court Opinion (Mother), 8/8/12, at 23; Orphans’ Court Opinion (Father), 8/8/12, at 18. With respect to Father, the orphans’ court found that in the years Children have been out

⁹ ***In re William L.*** was decided prior to the current version of the Adoption Act containing subsections (a)(5), (a)(8), and (b). **See** 1 P.S. 311 (repealed effective Jan. 1, 1981). Nonetheless, the ***William L.*** Court, and others before it, expressly considered the needs and welfare of the child when deciding whether to terminate a parent’s rights. **See *In re William L.***, 477 Pa at 339, 383 A.2d at 1237; **see also** 1 P.S. 311 (Joint State Government Commission, Official Comment, Adoption Act) (stating that the Adoption Act “centers judicial inquiry upon the welfare of the child rather than the fault of the parent”).

of Parent's home, "Father has made minimal efforts to improve surrounding circumstances and/or remain in his children's lives[,] consciously choosing not to attend the bi-weekly visits to which he was entitled." Orphans' Court Opinion (Father), 8/8/12, at 18. With respect to Mother, the orphans' court found that she "exhibited a pattern of irresponsible behaviors" since Children's removal from her care, which were not in furtherance of Children's needs and welfare. Orphans' Court Opinion (Mother), 8/8/12, at 23-24. It further found that she did not contact or visit Children to the extent she "was afforded the opportunity" during the years following Children's removal. *Id.* at 23. It concluded by stating:

The children have been placed with their current foster family, their maternal grandparents, for approximately four (4) years as of this time. The grandparents have been dedicated to the welfare of these children throughout, and have met the children's physical, emotional, and developmental needs. The grandparents would like to adopt all four (4) children. The children are very fortunate that they have this opportunity for permanency in a healthy and safe environment, wherein they will have the chance to fulfill their potential.

Id. at 24; Orphans' Court Opinion (Father), 8/8/12, at 18.

Our review of the record supports the orphans' court's determination. At the time of the termination hearing, Children had been out of Parents' care for four years and three years, respectively. N.T., 10/20/11 (morning), at 25, 34. While Mother and Father each complied, to some extent, with their family service plans over the years, their actions served their own self-

interests, not the needs of their children. Father's angry stance against visiting with Children at the CYS office caused him not to see or speak with Children since July 2011. N.T., 4/11/12, at 65, 219. Mother's terrible choices led her to a lengthy period of incarceration, during which she continued to exercise poor judgment in favor of herself (*e.g.*, not following the rules of her incarceration placements, continuing her relationship with her abusive husband and lying about it to prison officials, etc.). Although Mother testified that her incarceration, and more recently, her work schedule prevented her from visiting or contacting Children regularly, the record reflects that Mother did not regularly see or speak with Children at various times prior CYS filing its petition to terminate her parental rights despite the fact that she had the means and ability to do so. **See, e.g.**, N.T., 10/20/11 (afternoon), at 22 (Mother did not visit Children at the maternal grandparents' house prior to restraining order); N.T., 10/20/11 (morning), at 86-87 (Mother did not take advantage of daily visitation with S.S. prior to incarceration).

Furthermore, Dysinger testified that Children are doing very well with their maternal grandparents, they are bonded with their grandparents, and their grandparents meet all of their needs. N.T., 4/11/12, at 133-34. Dysinger testified that Children "need stability" and "need to know this is where they are staying." **Id.** at 135. N.S., the oldest child, is aware of what is going on, and is the only child who has asked Dysinger about whether he

will “go home to his mom or dad.” *Id.* at 135, 142. Dysinger has discussed adoption with N.S., and testified that he has not expressed any desire to reunify with his parents and “is very comfortable” remaining in his maternal grandparents’ home. *Id.* at 143-44. None of the other children have asked questions about Parents or returning home. *Id.* at 144. Dysinger further testified that all Children “have a really good close relationship with their grandparents,” and that S.S. especially is bonded with her maternal grandfather. *Id.* at 134.

The record reflects that the maternal grandparents want to adopt Children. *Id.* at 135; N.T., 10/20/11 (afternoon), at 13. Dysinger testified that adoption “makes a huge difference” in the lives of Children, as “it is offering them [] stability. [...] They will have permanency. They won’t be [] foster child[ren] anymore. They won’t have to deal with the foster care system and have workers come into their house.” N.T., 4/11/12, at 207. Indeed, even Father agreed that Children should remain with their maternal grandparents and be adopted by them, adding that Children “have been through hell.” *Id.* at 103-04.

Over the past three and four years respectively, Children have received love, comfort, security, and stability from their maternal grandparents, not Parents. Based on Parents’ choices and actions throughout the life of this case, Children’s relationships with their maternal grandparents, the length of time Children have been in their care, and the

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consideration of the bond Children share with their maternal grandparents and their bond with Parents, we find no error in the orphans' court's finding that termination of Parents' rights best serves Children's needs and welfare.

Decrees affirmed.