

Mother raises two issues for our review:

WHETHER THE TRIAL COURT ERRED BY TERMINATING THE PARENTAL RIGHTS OF...MOTHER, UNDER 23 PA.C.S.A. § 2511 SUBSECTIONS (A)(1), (A)(2), (A)(5), AND § 2511(A)(8)?

WHETHER THE TRIAL COURT ERRED BY FINDING, UNDER 23 PA.C.S.A. § 2511(B), THAT TERMINATION OF [MOTHER'S] PARENTAL RIGHTS BEST SERVES CHILD'S DEVELOPMENTAL, PHYSICAL AND EMOTIONAL NEEDS AND WELFARE?

(Mother's Brief at 4).

After a thorough review of the record, the briefs of the parties, the applicable law, and the well-reasoned opinion of the Honorable Edward C. Wright, we conclude Mother's issues merit no relief. The trial court opinion comprehensively discusses and properly disposes of the questions presented. (**See** Trial Court Opinion, filed February 4, 2014, at 11-19) (finding: **(1)** DHS established grounds for involuntary termination of Mother's parental rights under Section 2511(a)(1), (a)(2), (a)(5), and (a)(8), but court will focus its analysis on subsection (a)(1); in six months preceding DHS' filing of petition for involuntary termination of Mother's parental rights, Mother repeatedly failed to comply with Family Service Plan ("FSP") objectives;³ Eileen Storm, DHS social worker, testified Mother was

determined Y.S. was an appropriate caregiver for Child, and released Child into the care of Y.S. No doubt the court's mistake was a typographical error.

³ Mother's FSP objectives included: (a) understanding why Child was injured; (b) providing Child with adequate supervision at all times; (c) learning and understanding age appropriate behavior and expectations for Child; (d)

not compliant with drug and alcohol program, various DHS recommendations, court-ordered appointments, and rehabilitative programs; Mother failed to complete any FSP goals during Child's two and one-half (2½) years in custody of DHS, or to put herself in position to provide appropriate parenting to Child; Mother did not utilize available resources during Child's placement; no evidence of record demonstrates that Mother can provide for Child; Mother's lack of action indicates her intent to relinquish parental rights and refusal or failure to perform parental duties; **(2)** testimony at hearing made clear Child would not suffer irreparable harm if court granted DHS' petition for involuntary termination of Mother's parental rights; Child has no beneficial relationship with Mother; Mother failed to attain unsupervised visitation with Child during Child's placement;⁴ Child refers to Y.S., Child's maternal great-aunt, as "mom" and Child's

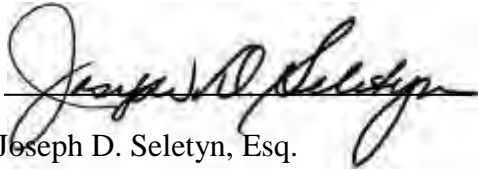
providing adequate and safe living conditions; (e) protecting Child from further abuse; (f) achieving and maintaining recovery from drug and alcohol problems; (g) stabilizing mental health issues; and (h) maintaining the relationship between parent and Child. The Clinical Evaluation Unit ("CEU") issued various reports of Mother's non-compliance with FSP goals while Child was in custody. CEU's reports indicated, *inter alia*, Mother failed drug tests; the Achieving Reunification Center discharged Mother twice for non-participation; Self, Inc., an outpatient treatment program, discharged Mother after sustained absence from treatment and inconsistency with submitting urine screens; and Wedge Medical Center discharged Mother from another outpatient treatment program after she missed more than thirty days of treatment. Further, during Child's placement, DHS received allegations Mother was selling drugs out of her home and obtained an order of protective custody for one of Mother's other children.

⁴ Additionally, of the eighty (80) scheduled supervised visits with Child, Mother missed forty-seven (47) of those visits.

relationship with Y.S. is one of mother and child;⁵ Mother does not provide love, comfort, security, or stability for Child; Mother did not even attend termination hearing despite having received notice; DHS established its burden under Section 2511(a) and (b), by clear and convincing evidence).⁶

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 6/25/2014

⁵ On pages 16-18 of its opinion, the trial court refers to Y.S. as Child's maternal aunt; Y.S. is Child's maternal great-aunt.

⁶ In its opinion, the court states Mother's last visit with Child was in December 2012. At the termination hearing, DHS produced a recorded log noting all of Mother's visits with Child, indicating Mother had three visits with Child since December 2012, the last of which took place on June 28, 2013.

IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY
FAMILY COURT DIVISION
JUVENILE BRANCH

2014 FEB -4 AM 01:34

In the Interest of: J.G., a Minor	:	CP-51-AP-0000396-2013
	:	CP-51-DP-0000377-2011
	:	
	:	
Appeal of: L.S., Mother	:	2424 EDA 2013

OPINION

Mother, L.S., appeals this Court's July 23, 2013 Order, which involuntarily terminated her parental rights to her child, J.G. (hereinafter "the child"), and changed the child's permanency goal to adoption. For the reasons discussed below, this Court's decision should be affirmed.

I. Procedural History

On February 16, 2011, the Department of Human Services ("DHS" or "the department") received a Child Protective Services ("CPS") report alleging: that the child's Mother took the child to the emergency room at St. Christopher's Hospital for Children ("St. Christopher's") because the child was lethargic; that the eleven (11) month-old child tested positive for cocaine and opiates; and, that the child was admitted to the Intensive Care Unit for observation.¹ The report alleged that Mother stated that the child had been in the care of his paternal uncle, M.K., and that M.K. gave the child illegal drugs. The report further alleged that Mother admitted that she used marijuana. This report was indicated.

¹ As discussed *infra*, pursuant to Pa. R.A.P. 1924, all counsel stipulated to the statement of facts contained in DHS' petition for termination of parental rights. The statement of facts is attached as Court Exhibit "A" and is incorporated by reference herein.

On February 15, 2011, DHS learned that the child had been in the care of M.K. and another family member, that the child was fed at 10:00 A.M. and put down for a nap, that by 2:00 P.M. the child had not awoken, and that at 3:00 P.M. the family took the child to the home of his maternal aunt, E.C., in New Jersey. The family stated that the child remained lethargic and never fully awoke, that the child slept at E.C.'s home, and that the family later returned home. Mother subsequently returned to the home and found that the child remained lethargic. However, Mother did not seek any medical attention for the child. Mother later called the child's maternal great-aunt, Y.S., regarding the child's condition. Y.S. went to the home and called Fire Rescue Services and the child was transported by ambulance to St. Christopher's. On February 16, 2011, DHS went to St. Christopher's to investigate the allegations of the CPS report. Mother provided DHS with conflicting explanations for the drugs found in the child's system and, eventually Mother stated that said drugs could have belonged to her. Mother named Y.S. as a resource for the child.

On February 18, 2011, the child was ready to be discharged from St. Christopher's. DHS conducted criminal and ChildLine clearances for Y.S., visited and evaluated Y.S.'s home, and found her to be an inappropriate caregiver for the child. DHS developed a Safety Plan that stated that Y.S. would provide the child with all of his basic daily needs and ensure his safety. DHS learned that maternal aunt, E.C., had taken Mother to the Crisis Response Center at the Thomas Jefferson University Hospital on or about February 16, 2011, that Mother had been evaluated and admitted to a detoxification program, that Mother would enter an inpatient treatment facility following detoxification, and that Mother's whereabouts at that time were unknown.

On February 18, 2011, the child was discharged from St. Christopher's to the care of Y.S. On February 28, 2011, Mother contacted DHS and stated: that she was residing with the child's maternal grandfather, P.S.; that Mother had been admitted to a detoxification program; and, that Mother would be entering an outpatient treatment program. Mother further stated that a program had not yet been identified and that she did not have a projected admission date. Mother did not ask about the child's well-being.

On February 28, 2011, DHS contacted Mother. P.S. stated that Mother had arrived at his home on February 25, 2011, that they subsequently had a disagreement whereupon Mother left the home, and that Mother had not returned. P.S. further stated that Mother did not reside in his home and that her whereabouts at that time were unknown.

On March 1, 2011, DHS obtained an Order of Protective Custody ("OPC") and the child remained with Y.S. At that time, the whereabouts of Mother and the child's father were unknown to DHS. Mother had a history of drug use and a history of leaving the child with inappropriate caregivers. Mother and E.C. failed to seek medical attention for the child for approximately ten (10) hours on February 15-16, 2011.

On March 10, 2011, the Honorable Donna Woelpper adjudicated the child dependent and fully committed him to DHS. The Court took notice that aggravated circumstances were alleged as to Mother. Judge Woelpper ordered that Mother have biweekly supervised visits at the agency in addition to supervised visits in Y.S.'s home. Mother was referred to the Clinical Evaluation Unit ("CEU") for a drug screen, monitoring, and a dual diagnosis assessment. Judge Woelpper ordered DHS to refer Mother to the Achieving Reunification Center ("ARC").

On March 28, 2011, a Family Service Plan ("FSP") meeting was held. The child's permanency goal was return to parent. The FSP parental objectives were: to understand how and why the child was injured; to provide the child with adequate supervision at all times; to learn and understand age appropriate behavior and expectations for the child; to provide adequate and safe living conditions; to protect the child from any further abuse; and, to achieve and maintain a relationship between parent and child through participation in placement activities and through regular visitation. Mother attended the meeting and signed the FSP.

On June 24, 2011, the CEU issued a report of non-compliance as to Mother. The report stated that Mother was non-compliant with the recommendation to engage in an intensive outpatient dual diagnosis treatment program at the Wedge Medical Center. The report further noted that on March 10, 2011, Mother tested positive for marijuana at the CEU.

On June 27, 2011, Judge Woelpper found that the clear and convincing evidence standard had not been met by DHS to establish that the alleged aggravated circumstances existed as to Mother. Judge Woelpper ordered that Mother have liberal supervised visits with the child in the home of his caretaker. The Court took notice of a report of non-compliance from the CEU as to Mother, and Judge Woelpper re-referred Mother to the CEU for a drug screen, evaluation, and dual diagnosis assessment. Mother was ordered to comply with all of her FSP objectives, services, and recommendations.

On November 11, 2011, the CEU issued a report of non-compliance as to Mother. The report stated that Mother was non-compliant with the recommendation to engage in an intensive outpatient dual diagnosis treatment program at the Wedge Medical Center.

The report further noted that on June 30, 2011, Mother tested positive for marijuana at the CEU.

On November 14, 2011, the Court took notice of a report of non-compliance from the CEU as to Mother and ordered that she have two (2) hours of supervised agency visits twice a week. ~~Mother's visitation could be modified upon verification of dual diagnosis treatment and negative drug screens.~~ Mother was re-referred to the CEU and ordered to have five (5) random drug screens.

On November 23, 2011, DHS learned that ARC closed services as to Mother due to her non-participation with services offered. On February 3, 2012, the CEU issued a report of non-compliance as to Mother. The report stated that Mother failed to complete a court ordered assessment at the CEU. On February 8, 2012, the Court took notice that Mother was discharged from ARC due to non-attendance and that she was enrolled in a drug and alcohol treatment program through Self, Inc. Mother was re-referred to the CEU and it was ordered that she be re-referred to ARC. The Court ordered that Mother's visits remain as arranged.

On May 7, 2012, the CEU issued a report of non-compliance as to Mother. The report stated that Mother completed a substance abuse assessment at the CEU on February 17, 2012, but that Mother failed to follow the recommendation to remain engaged in an intensive outpatient treatment program at Self, Inc. The report further noted that on March 25, 2012, Mother was unsuccessfully discharged from Self, Inc. following sustained absence from treatment. Self, Inc. reported that Mother was inconsistent with submitting urine screens.

On June 13, 2012, DHS learned that Mother's services at the ARC were again terminated on June 12, 2012, for non-participation. On June 14, 2012, the Court took notice that Mother had shown minimal compliance with the permanency plan. This Court re-referred Mother to the CEU and ordered her to follow all of the CEU's recommendations. This Court ordered DHS to re-refer Mother to ARC and refered her for a bonding evaluation.

On June 14, 2012, an updated report of non-compliance was issued as to Mother from the CEU. The report stated that Mother submitted only four (4) urine drug screens during the six (6) months that she was a member of Self, Inc., and that she missed twenty-three (23) sessions of her treatment program. Self, Inc. attempted to place Mother on a behavioral contract. However, Mother refused to sign it.

In June 2012, Mother attended a visit with the child with an apparent black eye which she attempted to hide with sunglasses. When an agency social worker approached Mother's paramour regarding Mother's eye, he became upset and stated that it was none of their business. Mother subsequently left with her paramour, whereupon Mother did not visit the child in July 2012.

On September 24, 2012, this Court referred Mother to Behavioral Health Services ("BHS") for a consultation and evaluation and referred her to the CEU. Mother was ordered to comply both with all recommendations and with DHS.

On October 11, 2012, a FSP meeting was held. The child's permanency goal was changed to adoption. The FSP parental objectives were: to assure the child's safety; to comply with the CEU and BHS treatment recommendations; to attend dual diagnosis outpatient treatment and comply with the recommendations; to comply with all

recommendations from ARC; to comply with referrals to Family Finding and Family Group Decision Making; to inform DHS and the agency of updated contact information; to attend visitation with the child consistently; to seek and maintain employment; and, that Mother comply with the referral for a parenting capacity evaluation. Although Mother failed to attend the meeting, she signed the FSP on December 7, 2012.

On December 10, 2012, the CEU issued a report of non-compliance as to Mother. The report stated that she failed to complete a court ordered assessment at the CEU. The report further stated that Mother submitted a negative drug screen on September 24, 2012, but that her creatine levels were at 14.1 mg which is below the 20 mg cut off otherwise denoting tampering with one's screens.

On December 13, 2012, the Court took notice that the child was two and one half (2½) years old and that he had been in placement for twenty-one (21) months. The Court took notice that Mother had a parenting capacity evaluation scheduled for December 20, 2012, and ordered Mother to attend and complete this evaluation. This Court re-referred Mother to the CEU and ordered that ARC provide her with anger management and domestic violence services.

In December 2012, DHS learned that Mother was unsuccessfully discharged from outpatient treatment at the Wedge Medical Center as she became non-compliant with the treatment program. Mother had missed more than thirty (30) days of treatment.

On February 12, 2013, DHS obtained an OPC for the child's sibling, A.G., and with police assistance attempted to place him in foster care. DHS received allegations that Mother and Father had been heard in the home approximately 20 minutes earlier, and a light in the home remained on. However, no one answered the door and DHS was

unable to place A.G. DHS received allegations that Mother was selling drugs, that her apartment was heavily trafficked, and that drug paraphernalia had been thrown from the apartment window.

On February 26, 2013, an FSP meeting was held. The child's permanency goal remained adoption. The FSP parental objectives remained substantially the same. Mother and Father failed to attend this meeting.

On March 7, 2013, the CEU issued a report of non-compliance as to Mother. The report stated that Mother failed to complete a Court ordered assessment at the CEU.

On March 11, 2013, the Court took notice that Mother had shown no compliance in the permanency plan as she has failed to comply with her FSP objectives. Mother failed to attend this hearing. This Court re-referred Mother to the CEU and ARC, and ordered that Mother be re-referred for a parenting capacity evaluation.

On July 23, 2013, this Court held a termination hearing wherein this Court granted the department's petition for involuntary termination of parental rights and terminated Mother's legal rights to the child and changed the child's permanency goal to adoption.

On August 21, 2013, Mother timely appealed this Court's July 23, 2013 Order, which appeal the Superior Court of Pennsylvania ("Superior Court") docketed at 2424 EDA 2013. Simultaneously therewith, on August 21, 2013, Mother filed her Statement of Matters Complained of on Appeal. Therein, Mother raises three (3) issues, to wit:

1. The evidence was insufficient for the Court to find, by clear and convincing evidence, to change the goal to adoption and terminate Mother's parental rights under 2511(a).

2. The evidence was insufficient for the Court to find, by clear and convincing evidence, that changing the goal to adoption and termination best serves the child's physical and emotional needs and welfare under 2511(b).
3. The Court failed to consider the bond between Mother and her Child and the effect of termination on the Child's needs and welfare.

Mother's Statement of Matters Complained of on Appeal 1925(b), 8/21/13.

On October 18, 2013, this Court was advised through a letter that due to a technical problem no digital recording occurred in Courtroom M on July 23, 2013, the day of Mother's termination hearing.² Therefore, the transcript of the notes of testimony from the hearing on July 23, 2013, were unavailable.

On November 1, 2013, in light of the fact that a transcript of the July 23rd hearing was not available, the Superior Court ordered the parties and the trial court to comply with the procedure outlined in Pa. R.A.P. 1923 (Statement in Absence of Transcript).

On December 12, 2013, Mother's counsel timely complied therewith and this Court ordered and decreed that the following documents provided by Mother's counsel are certified and transmitted to the Superior Court as the record on appeal.³

II. Statement of Facts

In support of the termination of parental rights petition, the department presented the testimony of several witnesses and numerous documentary exhibits. This Court found

² On October 18, 2013, Victor E. Pospischil, Court Administrative Office IV and Supervisor in the Digital Recording Division of the First Judicial District of Pennsylvania advised this Court through a letter that due to a technical problem no digital recording occurred in Courtroom M on July 23, 2013. It was determined that the audio mixer cable, which transfers the recordings from the mixer to the hard drive, was not working properly. A copy of the letter and log notes is attached as Exhibit "B" and is incorporated by reference herein.

³ Mother's counsel, with the agreement of all parties, provided the following as the record on appeal: agreed statement of the record, the statement of facts from the Petition to Involuntary Terminate Parental Rights, and DHS Exhibits 1-26. A copy of this Court's December 12, 2013 Order, and the parties' agreed statement of the record is attached as Exhibit "C" and is incorporated by reference herein.

the evidence offered in support of the petition to be credible and made the following findings consistent therewith. The child was born in March 2010, and was three (3) years old at the time of the termination hearing.

Pursuant to Pa. R.A.P. 1923, the parties further stipulated that the following testimony was part of the record on July 23, 2013:

- a. DHS requested a finding of notice to mother, L.S., See DHS Exhibit 4, Subpoena and Return of Service dated July 2 and July 3, 2013, respectively.
- b. The Court found that mother had proper notice for the July 23, 2013, termination hearing underlying the instant appeal.
- c. Y.S., kinship caregiver for the child, testified that she even offered to give mother a ride to the hearing but mother declined.
- d. DHS presented three (3) witnesses on July 23, 2013 – DHS Social Worker, Eileen Storm, and Concilio Social Workers Luisa Silva and Janiah Sanford.
- e. Ms. Storm testified that she was assigned to the case in November of 2012.
- f. Ms. Storm testified that mother's FSP objectives included obtaining appropriate housing, a parenting capacity evaluation, attending the Achieving Reunification Center for domestic violence counseling, anger management counseling and job training, drug, alcohol and mental health therapy.
- g. Ms. Storm testified that Mother missed four (4) appointments at Assessment & Treatment Alternatives, Inc. ("ATA") for the parenting capacity evaluation whereupon the evaluation could not be conducted. Ms. Storm testified that mother did not complete a drug and alcohol program.
- h. Ms. Storm testified that the Clinical Evaluation Unit at 1801 Vine Street referred Mother to the Wedge in 2011 but that Mother did not complete the program.
- i. Ms. Storm testified that in 2012, mother was attending Self, Inc. for drug treatment, but that she did not complete that program.
- j. Ms. Storm testified that mother did not participate in domestic violence counseling or job training at the Achieving Reunification Center or any other place.
- k. Ms. Storm testified that mother failed to complete anger management classes at ARC.
- l. Ms. Storm testified that mother neither received nor completed any mental health treatment.

- m. Ms. Silva testified that since December of 2012, mother had only participated in three (3) supervised visits at the agency.
- n. Ms. Silva testified that mother's last visit with the child was on June 28, 2013, and at that visit, mother did not interact with the child. Ms. Silva testified that mother stayed seated during the visit and was disengaged.
- o. Ms. Silva testified that the child calls his caregiver, Y.S., "mom" and that he goes to her for all of his needs.
- p. Ms. Storm and Ms. Silva testified that the child and his caregiver, Y.S., have a mother/child relationship and that the child is bonded to Y.S.
- q. Ms. Silva testified that the child would cry if Y.S., his caregiver, was not present at the visits with mother.
- r. Both the DHS Social Worker, Ms. Storm, and the Concilio Social Worker, Ms. Silva, testified that the child would not be irreparably harmed if Mother's rights were terminated because he has resided with Y.S. for the majority of his life, and Y.S. was the person he looked to as his Mother.
- s. Both Ms. Storm and Ms. Silva testified that they believed it was in the child's best interest to involuntarily terminate Mother's parental rights and change the goal to adoption both because his parents failed to comply with their Family Service Plan objectives, and because his parents were unable to care for the child or meet his needs.
- t. Both Ms. Storm and Ms. Silva further testified that the child was happy, comfortable and stable in Y.S.'s care.

III. Discussion of the Law

With respect to involuntary termination of parental rights cases, the Superior Court's review is limited to a "determination of whether the decree of the termination court is supported by competent evidence." In re: Adoption of L.J.B., 18 A.3d 1098, 1107 (Pa. 2011); Adoption of B.D.S., 431 A.2d 203, 207 (Pa. 1981). The Superior Court summarized the scope and standard of review for appeals from termination orders:

An appellate court, in reviewing a termination order, must employ a broad, comprehensive review of the record, but is limited in its standard of review to a determination of whether the trial court's termination of [Mother's] parental rights is supported by competent evidence. Stated differently, unless the lower court has abused its discretion or committed an error of law, the order must stand.

In re: Baby Boy P., 482 A.2d 660, 661 (Pa. Super. 1984).

The standard of review for termination appeals is one of clear and convincing evidence. The Superior Court has held that “in a proceeding to involuntarily terminate parental rights, the burden of proof is upon the party seeking termination to establish by clear and convincing evidence the existence of grounds for doing so.” In re: N.W., 859 A.2d 501, 506-07 (Pa. Super. 2004). Clear and convincing evidence is defined as “testimony that is 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.” Matters of Sylvester, 555 A.2d 1202, 1203 (Pa. 1989).

It is the duty of the trial court, not the appellate court, to evaluate the “credibility of the witnesses and [resolve] any conflicts in the testimony.” In re M.G., 855 A.2d 68, 73-74 (Pa. Super. 2004); In re Adoption of A.C.H., 803 A.2d 224, 228 (Pa. Super. 2002). In carrying out these responsibilities, the trial court is “free to believe all, part, or none of the evidence.” M.G. at 73-74. If the trial court’s findings are supported by competent evidence, then the appellate court must affirm “even if the record could also support an opposite result.” In the Interest of S.H., 879 A.2d 802, 806 (Pa. Super. 2005), *appeal denied sub nom.*, S.H. v. V.H., 892 A.2d 824 (Pa. 2005). “Absent an abuse of discretion, an error of law, or insufficient evidentiary support, the trial court’s termination order must stand.” In re: C.M.S.M., 884 A.2d 1284, 1286 (Pa. Super 2005), *appeal denied sub nom.*, C.M.S. v. D.E.H. 897 A.2d 1183 (Pa. 2006).

The evidence presented at the July 23, 2013, hearing underlying the instant termination of the parental rights was clear and convincing.

A. The Trial Court Properly Terminated Mother's Parental Rights Pursuant to §2511(a) of the Adoption Act by Clear and Convincing Evidence.

DHS petitioned for involuntary termination of Mother's parental rights pursuant to 23 Pa. C.S.A. §2511(a) of the Adoption Act which provides, in pertinent part, that the rights of a parent may be terminated upon any of the following grounds:

(1) The parent by conduct continuing for a period of at least six [6] months either has evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties.

(2) The repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent.

(5) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency for a period of at least six [6] months, the conditions which led to the removal or placement of the child continue to exist, the parent cannot or will not remedy the conditions which led to the removal or placement of the child within a reasonable period of time, and termination of the parental rights would best serve the needs and welfare of the child.

(8) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency, [twelve (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. §2511(a)(1), (2), (5), (8).

In her Statement of Matters Complained of on Appeal, Mother appeals this Court's finding that each of these aforementioned statutory subsections was satisfied. This Court is satisfied that grounds for termination under each of the above-quoted subsections of the Adoption Act have been established by clear and convincing evidence. However, since the satisfaction of any one (1) subsection of §2511(a) is required in order to shift the analysis to §2511(b), this Court focuses on the subsection 23 Pa. C.S.

§2511(a)(1). In re B.L.W., 843 A.2d 380, 384 (Pa. Super. 2004) (*en banc*), *appeal denied*, 863 A.2d 1141 (Pa. 2004).

The Superior Court has made it clear that §2511(a)(1) focuses on the behavior of the parent with respect to the minor child at issue for the six (6) months prior to the filing of the termination petition. The parent must exhibit a settled purpose of relinquishing parental claim of the minor child at issue, or must show an inability to perform parental duties. In re: Adoption of M.E.P., 825 A.2d 1266 (Pa. Super. 2003). In the instant case, in the six (6) months preceding the filing of the termination petition, Mother repeatedly failed to comply with her FSP objectives. Ms. Storm testified at the hearing that Mother was not compliant with her drug and alcohol program. Mother repeatedly failed to follow various DHS recommendations and court ordered appointments and rehabilitative programs.

The Superior Court has made it clear that a refusal to comply with FSP objectives may evidence a lack of commitment to repairing a parent's relationship with his or her child and may be sufficient to demonstrate an unwillingness and/or inability to care for those children under §2511(a) of the Adoption Act. See e.g., In the Matter of the Adoption of J.M.M., 782 A.2d 1024 (Pa. Super. 2001), *appeal denied*, 797 A.2d 914 (Pa. 2002). In the instant case, the testimony was clear that Mother's FSP objectives remained substantially the same for the two (2) year duration of the case, and that Mother did not complete any of the said objectives. Furthermore, Ms. Silva testified at the termination hearing that Mother's last visit with the child was in December of 2012, more than six (6) months prior to the termination hearing. Mother time and time again failed to utilize

resources available to her during the child's placement, which placement was over two (2) years ago.

In sum, this Court found Mother's lack of action as indicative of her intent to relinquish her parental responsibilities and a refusal or failure to perform parental duties. The child has been in DHS custody for two and one half (2½) years and Mother has not completed any of her FSP objectives or put herself in a position to provide appropriate parenting. The fact that Mother has not completed any drug and alcohol treatment in two and one half (2½) years is disturbing. Mother has a history of drug abuse and drugs were the initial reason the child became involved with DHS. It was, therefore, Mother's own choice both not to be involved in the day-to-day life of her child for the last two and one half (2½) years, and to not make any contribution to the child's physical, emotional or financial support. There is nothing in record to indicate that Mother could provide for the child.

This Court agrees with the testimony of the DHS worker and agency worker, and thus finds by clear and convincing evidence that DHS has met its burden as contemplated by 23 Pa. C.S. § 2511(a).

B. The Trial Court had Competent Evidence to Terminate Mother's Parental Rights Under §§ 2511(b) of the Adoption Act Because Termination Promoted the Emotional Needs and Welfare of the Children.

Once the court has reached a determination that grounds for involuntary termination have been met under 23 Pa. C.S. §2511(a), consideration of the parent-child bond under 23 Pa. C.S. §2511(b) is required. 23 Pa. C.S. §2511(b) states:

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.

“Intangibles such as love, comfort, security, and stability are involved when inquiring about the needs and welfare of the child.” In re C.P., 901 A.2d 516, 520 (Pa. Super. 2006). The court must determine “the nature and status of the parent-child bond, paying close attention to the effect on the child of permanently severing the bond.” Id.

Whether a bond exists, however, is not the full extent of the inquiry; rather, it is whether the bond indicates a beneficial relationship that should be preserved. See In re: C.L.G., 956 A.2d 999 (Pa. Super. 2008) (bond stronger with foster parents). The real question is whether the bond is worth saving and whether it can be severed without irreparable harm to the child. In the Interest of K.Z.S., 946 A.2d 753, 764 (Pa. Super. 2008).

In the instant matter, Ms. Storm and Ms. Silva testified that the child would not suffer any irreparable harm if Mother’s legal rights were terminated. The child does not have a beneficial relationship with Mother. Throughout the duration of the case, Mother never attained unsupervised visitation with the child due to her non-compliance with the FSP objectives. Ms. Silva further testified that the child refers to the maternal aunt as “Mom” and that the relationship between child and maternal aunt is one of mother and child.

This Court considered the testimony by these witness credible, and found that the Commonwealth had met its burden by clear and convincing evidence that termination was appropriate pursuant to 23 Pa. C.S. §2511(b).

Swift Permanency

Another part of the bonding analysis pertains to the balancing of swift permanency for the children versus any detrimental effect the permanent severing of the relationship between the children and the natural parent would have on the child. As the Superior Court explained, a swift and efficient determination is needed because “the state should not seek to preserve in law a relationship which no longer exists in fact, with the result that the child is consigned indefinitely to the limbo of foster care or the impersonal care of institutions.” In re Adoption of B.J.R., 579 A.2d 906, 915 (Pa. Super. 1990).

The Superior Court has also instructed the trial court to give consideration to the “importance of continuity of relationships to the child and whether the parent-child bond, if it exists, can be severed without detrimental effects on the child.” In re K.Z.S. at 763. See also, In re Adoption of T.B.B., 835 A.2d 387, 397 (Pa. Super. 2003) (trial court must determine whether termination of parental rights would “destroy an existing, necessary, and beneficial relationship.”); In re C.M.S., 884 A.2d 1284, 1287 (Pa. Super. 2005) (trial court must examine the nature and status of the bond, with attention provided to the effect on the child of permanently severing that bond.); In re A.S., 11 A.3d 473, 483 (Pa. Super. 2010) (trial court should “consider the continuity of relationships and whether any existing parent-child bond can be severed without detrimental effects on the child.”).

In the instant case, the child has been in DHS custody for over two (2) years. This court cannot deny the child permanency in hopes that Mother will change her actions. Ms. Silva testified that the maternal aunt and child have a beneficial mother and child relationship.

Needs and Welfare of the Child

In addition to an examination of the presence or absence of a bond between the biological parent and minor child at issue, the trial court must also follow the statutory language and engage in a broad analysis of the “developmental, physical and emotional needs and welfare of the child.” 23 Pa. C.S. §2511(b). As the Superior Court explained:

[w]hile a parent’s emotional bond with his or her child is a major aspect of the Subsection 23 Pa. C.S. §2511(b) best-interest analysis, it is nonetheless only one of many factors to be considered by the court when determining what is in the best interest of the child.

In re N.A.M., 33 A.3d 95, 103 (Pa. Super. 2011). See also In re K.K.R.S., 958 A.2d 529 (Pa. Super. 2008). The other factors to be considered include “intangibles such as love, comfort, security, and stability . . .” In re C.M.S., 884 A.2d 1284, 1287 (Pa. Super. 2005); In re A.S. at 483; In re Adoption of B.J.R., 579 A.2d 906, 914 (Pa. Super. 1990).

The record reveals that Mother did not provide intangibles and safety to the child in the same way as the maternal aunt. Mother did not appear for the termination hearing. Parents must demonstrate their commitment with actions, and Mother has failed to do so for a period of nearly two and one half (2½) years.

In light of the record, the Commonwealth has met its burden by clear and convincing evidence that the manner in which the foster parent provided these intangibles was appropriate pursuant to 23 Pa. C.S. §2511(b).

IV. Conclusion

Accordingly, for all of the reasons stated above, this Court’s decision should be affirmed.

BY THE COURT:

February 4, 2014


_____, J.
EDWARD C. WRIGHT

EXHIBIT

A

J.G.

- a. On February 16, 2011, DHS received a Child Protective Services (CPS) report alleging that J.A.L.G.'s mother, L.S. took CHILD to the Emergency Room (ER) at St. Christopher's Hospital for Children because he was lethargic; that eleven-month-old CHILD tested positive for cocaine and opiates; and that CHILD was admitted to the Intensive Care Unit (ICU) for observation. The report alleged that MOTHER stated CHILD had been in the care of his paternal uncle, M.A., and that UNCLE gave CHILD drugs. The report further alleged that MOTHER admitted that she used marijuana. This report was indicated.
- b. On February 16, 2011, DHS went to St. Christopher's Hospital for Children to investigate the allegations of the CPS report. DHS learned that on February 15, 2011, CHILD had been in the care of UNCLE and another family member; that CHILD was fed at 10:00 A.M. and put down for a nap; that by 2:00 P.M., CHILD had not awoken; and that at 3:00 P.M., the family took CHILD to the home of his maternal aunt, E.C., in New Jersey. The family stated that CHILD remained lethargic and never fully awoke; that he slept at AUNT'S home; and that the family later returned home. MOTHER subsequently returned to the home and found that CHILD remained lethargic; however, she did not seek any medical attention for CHILD. MOTHER later called CHILD'S maternal great-aunt, Y.S., regarding CHILD'S condition. Y.S. went to the home; called Fire Rescue Services; and CHILD was transported by ambulance to St. Christopher's Hospital for Children.
- c. MOTHER provided DHS with conflicting explanations for the drugs in CHILD'S system, and eventually stated that the drugs could have belonged to her. MOTHER named GREAT-AUNT as a resource for CHILD.
- d. On February 18, 2011, CHILD was ready to be discharged from St. Christopher's Hospital for Children. DHS conducted criminal and ChildLine clearances for GREAT-AUNT; visited and evaluated GREAT-AUNT'S home; and found her to be an appropriate caregiver for CHILD. DHS developed a Safety Plan that stated that GREAT-AUNT would provide CHILD with all of his basic daily needs and ensure his safety. DHS learned that AUNT had taken MOTHER to the Crisis Response Center (CRC) at Thomas Jefferson University Hospital on or about February 16, 2011; that MOTHER had been evaluated and admitted to a detoxification program; that MOTHER would enter an inpatient treatment facility following detoxification; and that her current whereabouts were unknown.
- e. On February 18, 2011, CHILD was discharged from St. Christopher's Hospital for Children to the care of GREAT-AUNT.
- f. On February 28, 2011, MOTHER contacted DHS and stated that she was residing with CHILD'S maternal grandfather, P.S., that she had been admitted to a

detoxification program; and that she would be entering an outpatient treatment program. MOTHER further stated that a program had not been identified and she did not have a projected admission date. MOTHER did not ask about CHILD'S well-being.

- g. On February 28, 2011, DHS contacted P.S. P.S. stated that MOTHER had arrived at his home on February 25, 2011; that they subsequently had a disagreement and MOTHER left the home; and that MOTHER had not returned. P.S. further stated that MOTHER did not reside in his home and that her whereabouts were unknown.
- h. On March 1, 2011, DHS obtained an Order of Protective Custody (OPC). CHILD remained with GREAT-AUNT
- i. At that time, the whereabouts of MOTHER and CHILD'S father were unknown to DHS. MOTHER has a history of drug use and a history of leaving CHILD with inappropriate caregivers. MOTHER, UNCLE, AND AUNT failed to seek medical attention for CHILD for approximately ten hours on February 15-16, 2011. The level of involvement that CHILD'S father, had in his care was unknown to DHS at the time of his placement.
- j. On March 10, 2011, the Honorable Donna Woelpper adjudicated CHILD dependent and fully committed him to DHS. The Court took notice that aggravated circumstances were alleged as to MOTHER. Judge Woelpper ordered that MOTHER have biweekly supervised visits at the agency in addition to supervised visits in GREAT AUNT'S home. FATHER was ordered to have biweekly supervised visits at the agency. MOTHER was referred to the Clinical Evaluation Unit (CEU) for a drug screen, monitoring, and a dual diagnosis assessment. Judge Woelpper ordered DHS to refer MOTHER to the Achieving Reunification Center (ARC).
- k. On March 28, 2011, a Family Service Plan (FSP) meeting was held. The child's permanency goal was return to parent. The FSP parental objectives were: to understand how and why the child was injured; to provide the child with adequate supervision at all times; to learn and understand age appropriate behavior and expectations for the child; to provide adequate and safe living conditions; to protect the child from any further abuse; to achieve and maintain recovery from drug and alcohol problems; to stabilize mental health problems; and to maintain a relationship between parent and child through participation in placement activities and through regular visitation. Both parents attended the meeting and signed the FSP.
- l. On June 24, 2011, the CEU issued a report of non-compliance as to MOTHER. The report stated that MOTHER was non-compliant with the recommendation to engage in an intensive outpatient dual diagnosis treatment program at the Wedge Medical Center. The report further noted that MOTHER tested positive for marijuana at the CEU on March 10, 2011.

- m. On June 27, 2011, Judge Woelpper found that clear and convincing evidence had not been presented to establish that the alleged aggravated circumstances existed as to *MOTHER*. Judge Woelpper ordered that *MOTHER* have liberal supervised visits with *CHILD* in the home of his caretaker. The Court took notice of a report of non-compliance from the CEU as to *MOTHER* and Judge Woelpper re-referred her to the CEU for a drug screen, evaluation, and dual diagnosis assessment. *MOTHER* was ordered to comply with all of her FSP objectives, services, and recommendations.
- n. On August 22, 2011, a FSP meeting was held. The FSP parental objectives were: to understand how and why the child was injured; to learn and understand age appropriate behavior and expectations for child; to achieve and maintain recovery from drug and alcohol problems; to stabilize mental health issues; to provide adequate and safe living conditions; and to obtain and complete job training and/or seek and maintain employment. *MOTHER* attended the meeting. *FATHER* failed to attend the meeting.
- o. On November 11, 2011, the CEU issued a report of non-compliance as to *MOTHER*. The report stated that *MOTHER* was non-compliant with the recommendation to engage in an intensive outpatient dual diagnosis treatment program at the Wedge Medical Center. The report further noted that *MOTHER* tested positive for marijuana at the CEU on June 30, 2011.
- p. On November 14, 2011, the Court took notice that *FATHER* had shown no compliance with the permanency plan and *MOTHER* was moderately compliant with the permanency plan. The Court took notice of a report of non-compliance from the CEU as to *MOTHER* and ordered that she have two hours supervised agency visits twice a week. *MOTHER'S* visitation could be modified upon verification of dual diagnosis treatment and negative drug screens. *MOTHER* was re-referred to the CEU and ordered to have five random drug screens.
- q. On November 23, 2011, DHS learned that ARC closed services to *MOTHER* due to her non-participation in services offered.
- r. On February 3, 2012, the CEU issued a report of non-compliance as to *MOTHER*. The report stated that *MOTHER* failed to complete a court ordered assessment at the CEU.
- s. On February 8, 2012, the Court took notice that *MOTHER* was discharged from ARC due to non-attendance and that she was enrolled in a drug and alcohol treatment program through Self, Inc. *MOTHER* was re-referred to the CEU and it was ordered that she be re-referred to ARC. The Court ordered that *MOTHER'S* visits remain as arranged. The Court took notice that *FATHER* was offered weekly supervised visits with *CHILD*; however, he has only visited him on two occasions.
- t. On May 7, 2012, the CEU issued a report of non-compliance as to *MOTHER*. The report stated that *MOTHER* completed a substance abuse assessment at the CEU on February 17, 2012; however, she failed to follow the recommendation to remain engaged

in an intensive outpatient treatment program at Self, Inc. The report further noted that **MOTHER** was discharged from Self, Inc. unsuccessfully on March 25, 2012, following sustained absence from treatment. Self, Inc. reported that **MOTHER** was inconsistent with submitting urine drug screens.

- u. On June 13, 2012, DHS learned that **MOTHER** was referred to ARC on April 10, 2012 and services were again closed to her on June 12, 2012 for non-participation.
- v. On June 14, 2012, the Court took notice that **MOTHER** had shown minimal compliance with the permanency plan and that **FATHER** had shown no compliance with the plan. The Honorable Edward Wright re-referred **MOTHER** to the CEU and ordered her to follow all of the CEU's recommendations. Judge Wright ordered DHS to re-refer **MOTHER** to ARC and refer her for a bonding evaluation.
- w. On June 14, 2012, an updated report of non-compliance was issued as to **MOTHER** from the CEU. The report stated that **MOTHER** submitted only four urine drug screens during the six month that she was a member of Self, Inc. and that she missed 23 sessions of her treatment program. Self, Inc. attempted to place **MOTHER** on a behavioral contract; however, she refused to sign it.
- x. In June 2012, **MOTHER** attended a visit with **CHILD** with an apparent black eye which she attempted to hide with sunglasses. When an agency social worker approached **MOTHER'S** paramour, he became upset and stated that it was none of their business. **MOTHER** subsequently left with her paramour.
- y. **MOTHER** did not visit **CHILD** in July 2012.
- z. On September 24, 2012, Judge Wright referred **MOTHER** to Behavioral Health Services (BHS) for a consultation or evaluation and referred her to the CEU. **MOTHER** was ordered to comply with all recommendations and with DHS.
- aa. On October 11, 2012, a FSP meeting was held. The child's permanency goal was changed to adoption. The FSP parental objectives were: to assure the child's safety; to comply with the CEU and BHS treatment recommendations; to attend dual diagnosis outpatient treatment and comply with the recommendations; to comply with all recommendation from ARC; to comply with referrals to Family Finding and Family Group Decision Making (FGDM); to inform DHS and the agency of update contact information; to attend visitation with the child consistently; to seek and maintain employment; and that **MOTHER** comply with her referral or a parenting capacity evaluation. The parents failed to attend the meeting; however, **MOTHER** signed the FSP on December 7, 2012.
- bb. On December 10, 2012, the CEU issued a report of non-compliance as to **MOTHER**. The report stated that she failed to complete a Court ordered assessment at the CEU. The report further stated that **MOTHER** submitted a negative drug screen on September 24, 2012; however, creatine levels were at 14.1 mg which is below the 20mg cut off.

- cc. On December 13, 2012, the Court took notice that CHILD was 2.5 years old and that he had been in placement for 21 months. The Court took notice that MOTHER had a parenting capacity evaluation scheduled for December 20, 2012 and Judge Wright ordered her to attend and complete this evaluation. Judge Wright re-referred MOTHER to the CEU and ordered that ARC provide her with anger management and domestic violence services.
- dd. In December 2012, DHS learned that MOTHER was unsuccessfully discharged from outpatient treatment from the Wedge Medical Center as she became non-compliant with the treatment program. MOTHER missed more than 30 days of treatment.
- ee. On February 12, 2013, DHS obtained an OPC for CHILD'S sibling, A.S., and with police assistance attempted to place him in foster care. DHS received allegations that MOTHER and FATHER had been heard in the home approximately 20 minutes earlier, and a light in the home remained on. However, no one answered the door and DHS was unable to place A.S. DHS received allegations that MOTHER was selling drugs, that her apartment was heavily trafficked, and that drug paraphernalia had been thrown from the window of the apartment.
- ff. On February 26, 2013 a FSP meeting was held. The child's permanency goal remained adoption. The FSP parental objectives remained substantially the same. MOTHER and FATHER failed to attend this meeting.
- gg. On March 7, 2013, the CEU issued a report of non-compliance as to MOTHER. The report stated that she failed to complete a Court ordered assessment at the CEU.
- hh. On March 11, 2013, the Court took notice that MOTHER had shown no compliance in the permanency plan as she has failed to comply with her FSP objectives. MOTHER and FATHER failed to attend this hearing. Judge Wright referred both parents to the CEU and ordered that they both be referred to ARC. Judge Wright ordered that MOTHER be referred for a parenting capacity evaluation.
- ii. Reunification with MOTHER is not an appropriate permanency option as she has failed to comply with her FSP parental objectives. MOTHER failed to comply wither FSP parental objectives and failed to attend 47 of 80 scheduled visits with CHILD. MOTHER last visited in March 2013.
- jj. Reunification with FATHER is not an appropriate permanency option as he has failed to comply with his FSP objectives. FATHER has failed to maintain any consistent visitation with CHILD or any contact with the agency.
- kk. The termination of the parental rights of MOTHER and FATHER and the goal change to adoption is in the best interest of CHILD. GREAT-AUNT has expressed an interest in adopting CHILD.

EXHIBIT

B



First Judicial District of Pennsylvania
Court Reporter, Digital Recording and Interpreter Administration
100 South Broad Street, Second Floor
Philadelphia, PA 19110-1004
(215) 683-8000
Fax (215) 683-8005

Joseph Evers
District Court Administrator

Janet C. Fasy, CMRS, RPR, CRI
Deputy Court Administrator

October 18, 2013

TO: The Honorable Edward C. Wright, J.;
Shereen N. Arthur, Esquire;
James Winston Martin, Esquire

IN RE: In the Interest of CHILD/

Dear Judge Wright, and Respective Counsel:

Subsequent to our office's receipt of the transcript order form in the above-captioned matter, I was advised by Paul Meronyck, Clerical Supervisor, and Digital Transcript Coordinator, that upon processing of the form, he discovered that there was no audio recorded in Courtroom E on July 23, 2013. I spoke to Judge Wright's law clerk and informed him of same, and indicated I would forward a letter outlining the issue.

On July 23, 2013, no audio was recorded. The issue was corrected in time for court the next day, July 24, 2013. It was determined that the audio mixer cable, which transfers the recordings from the mixer to the hard drive, was not functioning properly. Said cable was replaced.

Fortunately, we do have the log notes which were created by the Digital Recording Technician and, upon receipt of an email request, it would be our pleasure to provide the judge and any and all parties with a copy of the log notes, which will aid in the reconstruction of the testimony taken during the hearing.

Please forgive my delay in providing a letter regarding this matter. My administrative staff remain at your disposal to assist in securing log notes pertaining to this hearing.

Sincerely,

Victor E. Pospischil
Victor E. Pospischil
Court Administrative Officer IV
Supervisor – Digital Recording Division
215-683-8000
victor.pospischil@courts.phila.gov

EXHIBIT

C

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FAMILY COURT DIVISION

In re: J.G.
AKA - J.A.L.G.

: DOCKET NO: CP-51-DP-0000377-2011
: FID: 51-FN-001131-2011

Appeal of L.S., Mother

: Superior Court No.: 2424 E.D.A. 2013

ORDER APPROVING THE PARTIES' AGREED STATEMENT OF RECORD
AND ORDER TO CERTIFY AND TRANSMIT THE RECORD
PURSUANT TO PA. R.A.P. 1924

AND NOW, this 12th day of December, 2013, it is hereby ORDERED

AND DECREED that the Parties' Agreed Statement of Record pursuant to Pa. R.A.P.
1924 is APPROVED.

IT IS FURTHER ORDERED AND DECREED that the following DOCUMENTS
ARE CERTIFIED and shall be TRANSMITTED to the appellate court as the record on
appeal: Agreed Statement of Record, Statement of Facts from the Petition to
Involuntarily Terminate Parental Rights, and DHS Exhibits 1-26.

BY THE COURT:

COPY


EDWARD C. WRIGHT, J.

DEFENDER ASSOCIATION OF PHILADELPHIA
BY: SHEREEN N. ARTHUR, Assistant Defender,
Child Advocacy Unit
Identification No. 308118
1441 Sansom Street
Philadelphia, PA 19102
(267) 765-6365 Telephone
(267) 765-6987 Facsimile

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FAMILY COURT DIVISION

In re: J.G. : DOCKET NO: CP-51-DP-0000377-2011
AKA-J.A.L.G. : FID: 51-FN-001131-2011
Appeal of L.S., Mother : Superior Court No.: 2424 E.D.A. 2013

AGREED STATEMENT OF RECORD IN ABSENCE OF TRANSCRIPT FOR
INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

In accordance with Rule of Appellate Procedure 1924, the parties, Appellant,
L.S. ("Mother"), by and through her counsel, James W. Martin, Esquire,
Shereen N. Arthur, Esquire, Counsel for the Child, J.A.L.G., and Appellee, the
Department of Human Services ("DHS"), by and through its counsel, Jeri Behrman,
Esquire, hereby agree to the following Statement of Record in Absence of Transcript for
the Involuntary Termination of Parental Rights and Goal Change to Adoption Hearing
heard on July 23, 2013 in Courtroom "M" before The Honorable Edward C. Wright.

1. The parties agree that the Statement of Facts set forth in the Petition to
Involuntarily Terminate Parental Rights is included in the record and was testified to
generally at the July 23, 2013 termination of parental rights hearing. A true and correct
copy of the Statement of Facts is attached hereto as Exhibit "A."

2. The parties further agree that DHS introduced and the Court accepted into evidence DHS Exhibits 1-26. A true and correct copy of the List of DHS Exhibits 1-26 is attached hereto as Exhibit "B."

3. The parties further stipulate that the following testimony was a part of the record on July 23, 2013:

-
- a. DHS requested a finding of notice to mother, See
DHS Exhibit 4, Subpoena and Return of Service dated July 2 and
July 3, 2013, respectively.
- b. The Court found that mother, had proper notice for
the July 23, 2013 hearing.
- c. Y.S., kinship caregiver for CHILD testified that she
even offered to give mother a ride to the hearing but mother
declined.
- d. DHS presented three witnesses on July 23, 2013—DHS Social
Worker, Eileen Storm, and Concilio Social Workers Luisa Silva
and Jannah Sanford.
- e. Ms. Storm testified that she was assigned to the case in November
2012.
- f. Ms. Storm testified that mother's FSP objectives included
obtaining appropriate housing, a parenting capacity evaluation,
attending the Achieving Reunification Center for domestic
violence counseling, anger management counseling and job
training, drug and alcohol and mental health therapy.

- g. Ms. Storm testified that mother missed four (4) appointments at Assessment & Treatment Alternatives, Inc. ("ATA") for the parenting capacity evaluation and therefore, the evaluation could not be conducted. Ms. Storm testified that mother did not complete a drug and alcohol program.
-
- h. Ms. Storm testified that the Clinical Evaluation Unit at 1801 Vine Street referred mother to the Wedge in 2011 but she did not complete that program.
- i. Ms. Storm testified that in 2012, mother was attending Self, Inc. for drug treatment but she did not complete that program.
- j. Ms. Storm testified that mother did not participate in domestic violence counseling or job training at the Achieving Reunification Center or any other place.
- k. Ms. Storm testified that mother failed to complete anger management classes at ARC.
- l. Ms. Storm testified that mother was not receiving and did not complete any mental health treatment.
- m. Ms. Silva testified that since December 2012, mother had only participated in three supervised visits at the agency. See DHS Exhibit 26 for the visitation log.
- n. Ms. Silva testified that mother's last visit with CHILD was on June 28, 2013 and at that visit, mother did not interact with CHILD. Ms.


Silva testified that mother stayed seated during the visit and was disengaged.

- o. Ms. Silva testified that CHILD calls his caregiver, Y.S. mom and that he goes to her for all of his needs.
- p. Ms. Storm and Ms. Silva testified that CHILD and his caregiver, GREAT-AUNT have a mother/child relationship and are bonded to one another.
- q. Ms. Silva testified that CHILD would cry if GREAT-AUNT, his caregiver, was not present at the visits with mother.
- r. Both the DHS Social Worker, Ms. Storm, and the Concilio Social Worker, Ms. Silva, testified that CHILD would not be irreparably harmed if mother's rights were terminated because he resided with GREAT-AUNT during the majority of his life and GREAT-AUNT was the person he looked to as his mother.
- s. Both Ms. Storm and Ms. Silva testified that they believed it was in CHILD'S best interest to involuntarily terminate mother's parental rights and change the goal to adoption because his parents failed to comply with their Family Service Plan Objectives and were unable to care for CHILD or meet his needs. Both Ms. Storm and Ms. Silva further testified that CHILD was happy, comfortable and stable in GREAT-AUNT'S care.

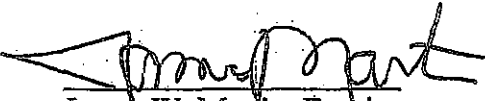
WHEREFORE, in accordance with Rule of Appellate Procedure 1924, the parties, by and through their counsel, hereby agree to the within Statement of the Record in Absence of Transcript for the July 23, 2013 Termination of Parental Rights Hearing before The Honorable Edward C. Wright and pray that this Honorable Court enter an ORDER that the within Statement of the Record be certified and transmitted by the clerk of this court to the appropriate Appellate Court as the record on appeal.

Respectfully submitted:

12/10/13
Date


Jeri Behrman, Esquire
Assistant City Solicitor
Counsel for the Philadelphia Department of Human Services

12/11/2013
Date


James W. Martin, Esquire
Counsel for Mother

12/10/13
Date

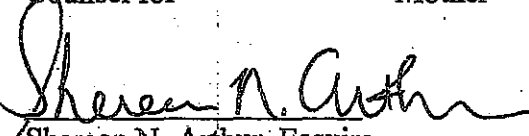

Shereen N. Arthur, Esquire
Defender Association of Philadelphia
Child Advocacy Unit
Counsel for Child

EXHIBIT A

J.G.

- a. On February 16, 2011, DHS received a Child Protective Services (CPS) report alleging that J.A.L.G.'s mother, L.S. took CHILD to the Emergency Room (ER) at St. Christopher's Hospital for Children because he was lethargic; that eleven-month-old CHILD tested positive for cocaine and opiates; and that CHILD was admitted to the Intensive Care Unit (ICU) for observation. The report alleged that MOTHER stated CHILD had been in the care of his paternal uncle, M.A., and that UNCLE gave CHILD drugs. The report further alleged that MOTHER admitted that she used marijuana. This report was indicated.
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- i. At that time, the whereabouts of **MOTHER** and **CHILD'S** father were unknown to DHS. **MOTHER** has a history of drug use and a history of leaving **CHILD** with inappropriate caregivers. **MOTHER, UNCLE, AND AUNT** failed to seek medical attention for **CHILD** for approximately ten hours on February 15-16, 2011. The level of involvement that **CHILD'S** father, had in his care was unknown to DHS at the time of his placement.
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- k. On March 28, 2011, a Family Service Plan (FSP) meeting was held. The child's permanency goal was return to parent. The FSP parental objectives were: to understand how and why the child was injured; to provide the child with adequate supervision at all times; to learn and understand age appropriate behavior and expectations for the child; to provide adequate and safe living conditions; to protect the child from any further abuse; to achieve and maintain recovery from drug and alcohol problems; to stabilize mental health problems; and to maintain a relationship between parent and child through participation in placement activities and through regular visitation. Both parents attended the meeting and signed the FSP.
- l. On June 24, 2011, the CEU issued a report of non-compliance as to **MOTHER**. The report stated that **MOTHER** was non-compliant with the recommendation to engage in an intensive outpatient dual diagnosis treatment program at the Wedge Medical Center. The report further noted that **MOTHER** tested positive for marijuana at the CEU on March 10, 2011.

- m. On June 27, 2011, Judge Woelpper found that clear and convincing evidence had not been presented to establish that the alleged aggravated circumstances existed as to *MOTHER*. Judge Woelpper ordered that *MOTHER* have liberal supervised visits with *CHILD* in the home of his caretaker. The Court took notice of a report of non-compliance from the CEU as to *MOTHER* and Judge Woelpper re-referred her to the CEU for a drug screen, evaluation, and dual diagnosis assessment. *MOTHER* was ordered to comply with all of her FSP objectives, services, and recommendations.
- n. On August 22, 2011, a FSP meeting was held. The FSP parental objectives were: to understand how and why the child was injured; to learn and understand age appropriate behavior and expectations for child; to achieve and maintain recovery from drug and alcohol problems; to stabilize mental health issues; to provide adequate and safe living conditions; and to obtain and complete job training and/or seek and maintain employment. *MOTHER* attended the meeting. *FATHER* failed to attend the meeting.
- o. On November 11, 2011, the CEU issued a report of non-compliance as to *MOTHER*. The report stated that *MOTHER* was non-compliant with the recommendation to engage in an intensive outpatient dual diagnosis treatment program at the Wedge Medical Center. The report further noted that *MOTHER* tested positive for marijuana at the CEU on June 30, 2011.
- p. On November 14, 2011, the Court took notice that *FATHER* had shown no compliance with the permanency plan and *MOTHER* was moderately compliant with the permanency plan. The Court took notice of a report of non-compliance from the CEU as to *MOTHER* and ordered that she have two hours supervised agency visits twice a week. *MOTHER'S* visitation could be modified upon verification of dual diagnosis treatment and negative drug screens. *MOTHER* was re-referred to the CEU and ordered to have five random drug screens.
- q. On November 23, 2011, DHS learned that ARC closed services to *MOTHER* due to her non-participation in services offered.
- r. On February 3, 2012, the CEU issued a report of non-compliance as to *MOTHER*. The report stated that *MOTHER* failed to complete a court ordered assessment at the CEU.
- s. On February 8, 2012, the Court took notice that *MOTHER* was discharged from ARC due to non-attendance and that she was enrolled in a drug and alcohol treatment program through Self, Inc. *MOTHER* was re-referred to the CEU and it was ordered that she be re-referred to ARC. The Court ordered that *MOTHER'S* visits remain as arranged. The Court took notice that *FATHER* was offered weekly supervised visits with *CHILD*; however, he has only visited him on two occasions.
- t. On May 7, 2012, the CEU issued a report of non-compliance as to *MOTHER*. The report stated that *MOTHER* completed a substance abuse assessment at the CEU on February 17, 2012; however, she failed to follow the recommendation to remain engaged

in an intensive outpatient treatment program at Self, Inc. The report further noted that MOTHER was discharged from Self, Inc. unsuccessfully on March 25, 2012, following sustained absence from treatment. Self, Inc. reported that MOTHER was inconsistent with submitting urine drug screens.

- u. On June 13, 2012, DHS learned that MOTHER was referred to ARC on April 10, 2012, and services were again closed to her on June 12, 2012 for non-participation.
- v. On June 14, 2012, the Court took notice that MOTHER had shown minimal compliance with the permanency plan and that FATHER had shown no compliance with the plan. The Honorable Edward Wright re-referred MOTHER to the CEU and ordered her to follow all of the CEU's recommendations. Judge Wright ordered DHS to re-refer MOTHER to ARC and refer her for a bonding evaluation.
- w. On June 14, 2012, an updated report of non-compliance was issued as to MOTHER from the CEU. The report stated that MOTHER submitted only four urine drug screens during the six month that she was a member of Self, Inc. and that she missed 23 sessions of her treatment program. Self, Inc. attempted to place MOTHER on a behavioral contract; however, she refused to sign it.
- x. In June 2012, MOTHER attended a visit with CHILD with an apparent black eye which she attempted to hide with sunglasses. When an agency social worker approached MOTHER's paramour, he became upset and stated that it was none of their business. MOTHER subsequently left with her paramour.
- y. MOTHER did not visit CHILD in July 2012.
- z. On September 24, 2012, Judge Wright referred MOTHER to Behavioral Health Services (BHS) for a consultation or evaluation and referred her to the CEU. MOTHER was ordered to comply with all recommendations and with DHS.
- aa. On October 11, 2012, a FSP meeting was held. The child's permanency goal was changed to adoption. The FSP parental objectives were: to assure the child's safety; to comply with the CEU and BHS treatment recommendations; to attend dual diagnosis outpatient treatment and comply with the recommendations; to comply with all recommendation from ARC; to comply with referrals to Family Finding and Family Group Decision Making (FGDM); to inform DHS and the agency of update contact information; to attend visitation with the child consistently; to seek and maintain employment; and that MOTHER comply with her referral or a parenting capacity evaluation. The parents failed to attend the meeting; however, MOTHER signed the FSP on December 7, 2012.
- bb. On December 10, 2012, the CEU issued a report of non-compliance as to MOTHER. The report stated that she failed to complete a Court ordered assessment at the CEU. The report further stated that MOTHER submitted a negative drug screen on September 24, 2012; however, creatine levels were at 14.1 mg which is below the 20mg cut off.

- cc. On December 13, 2012, the Court took notice that CHILD was 2.5 years old and that he had been in placement for 21 months. The Court took notice that MOTHER had a parenting capacity evaluation scheduled for December 20, 2012 and Judge Wright ordered her to attend and complete this evaluation. Judge Wright re-referred MOTHER to the CEU and ordered that ARC provide her with anger management and domestic violence services.
- dd. In December 2012, DHS learned that MOTHER was unsuccessfully discharged from outpatient treatment from the Wedge Medical Center as she became non-compliant with the treatment program. MOTHER missed more than 30 days of treatment.
- ee. On February 12, 2013, DHS obtained an OPC for CHILD'S sibling, A.S., and with police assistance attempted to place him in foster care. DHS received allegations that MOTHER and FATHER had been heard in the home approximately 20 minutes earlier, and a light in the home remained on. However, no one answered the door and DHS was unable to place A.S. DHS received allegations that MOTHER was selling drugs, that her apartment was heavily trafficked, and that drug paraphernalia had been thrown from the window of the apartment.
- ff. On February 26, 2013 a FSP meeting was held. The child's permanency goal remained adoption. The FPS parental objectives remained substantially the same. MOTHER and FATHER failed to attend this meeting.
- gg. On March 7, 2013, the CEU issued a report of non-compliance as to MOTHER. The report stated that she failed to complete a Court ordered assessment at the CEU.
- hh. On March 11, 2013, the Court took notice that MOTHER had shown no compliance in the permanency plan as she has failed to comply with her FSP objectives. MOTHER and FATHER failed to attend this hearing. Judge Wright referred both parents to the CEU and ordered that they both be referred to ARC. Judge Wright ordered that MOTHER be referred for a parenting capacity evaluation.
- ii. Reunification with MOTHER is not an appropriate permanency option as she has failed to comply with her FSP parental objectives. MOTHER failed to comply wither FSP parental objectives and failed to attend 47 of 80 scheduled visits with CHILD. MOTHER last visited in March 2013.
- jj. Reunification with FATHER is not an appropriate permanency option as he has failed to comply with his FSP objectives. FATHER has failed to maintain any consistent visitation with CHILD or any contact with the agency.
- kk. The termination of the parental rights of MOTHER and FATHER and the goal change to adoption is in the best interest of CHILD. GREAT-AUNT has expressed an interest in adopting CHILD.

EXHIBIT B

- DHS EXHIBIT # 1 June 24, 2013 Parent Locator Search
- DHS EXHIBIT #2 —February 22, 2013 Parent Locator Search
- DHS EXHIBIT #3— Affidavit of Service for FATHER
- DHS EXHIBIT # 4- Affidavit of Service for MOTHER
- DHS EXHIBIT # 5 Order of Protective Custody for CHILD
- DHS EXHIBIT #6 March 11, 2011 Child Protective Services Investigation Report
- DHS EXHIBIT #7 June 27, 2011 Permanency Review Order
- DHS EXHIBIT #8 November 14, 2011 Permanency Review Order
- DHS EXHIBIT #9 June 14, 2012 Permanency Review Order
- DHS EXHIBIT #10 September 24, 2012 Permanency Review Order
- DHS EXHIBIT # 11 December 13, 2012 Permanency Review Order
- DHS EXHIBIT #12 March 11, 2013 Permanency Review Order
- DHS EXHIBIT #13 March 10, 2011 Clinical Evaluation Unit Narrative Summary for MOTHER
- DHS EXHIBIT #14 June 24, 2011 Clinical Evaluation Unit Report of Non-Compliance for MOTHER
- DHS EXHIBIT #15 November 11, 2011 Clinical Evaluation Unit Report of Non-Compliance for MOTHER
- DHS EXHIBIT #16 February 3, 2012 Clinical Evaluation Unit Report of Non-Compliance for MOTHER
- DHS EXHIBIT #17 May 7, 2012 Clinical Evaluation Unit Report of Non-Compliance for MOTHER
- DHS EXHIBIT #18 December 10, 2012 Clinical Evaluation Unit Report of Non-Compliance for MOTHER
- DHS EXHIBIT # 19 November 23, 2011 Achieving Reunification Center Letter for MOTHER
- DHS EXHIBIT # 20 Achieving Reunification Center Parent/Caregiver Closing Summary Report for MOTHER
- DHS EXHIBIT #21 March 20, 2011 Order of Adjudication
- DHS EXHIBIT #22 March 28, 2011 Family Service Plan
- DHS EXHIBIT #23 August 22, 2011 Family Service Plan
- DHS EXHIBIT # 24 October 11, 2012 Family Service Plan
- DHS EXHIBIT #25 February 26, 2013 Family Service Plan
- DHS EXHIBIT #26 Concilio Record of Visitation for MOTHER

IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY
FAMILY COURT DIVISION
JUVENILE DIVISION

In the Interest of: J.G., a Minor	:	CP-51-AP-0000396-2013
	:	CP-51-DP-0000377-2011
	:	
	:	
Appeal of: L.S., Mother	:	2424 EDA 2013
	:	

PROOF OF SERVICE

I hereby certify that I am this day serving the foregoing Opinion upon this person(s) and in the manner indicated below, which service satisfies the requirements of Pa.R.Crim.P.114:

Attorney for Appellant-Mother, L.S.: James Martin, Esquire
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Attorney for Father: Shanese I. Johnson, Esquire
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() Other, please specify: _____

Assistant City Solicitor: Jeri Hope Behrman, Esquire
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Office of the City Solicitor
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Child Advocacy Unit
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 Other, please specify: _____

Date: February 4, 2014



EDWARD C. WRIGHT, J.