

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN THE INTEREST OF: E.S.C.L., A MINOR

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: S.C., MOTHER

No. 3016 EDA 2013

Appeal from the Decree entered September 26, 2013,
in the Court of Common Pleas of Philadelphia County, Family
Court, at No(s): CP-51-AP-0000024-2013

IN THE INTEREST OF: Y.F., A MINOR

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: S.C., MOTHER

No. 3017 EDA 2013

Appeal from the Decree entered September 26, 2013,
in the Court of Common Pleas of Philadelphia County, Family
Court, at No(s): CP-51-AP-0000025-2013

BEFORE: BENDER, P.J.E., SHOGAN, and FITZGERALD*, JJ.

MEMORANDUM BY BENDER, P.J.E:

FILED JUNE 24, 2014

Appellant, S.C. ("Mother"), appeals from the decrees involuntarily terminating her parental rights to E.S.C.L. (born in July of 2011) and Y.F. (born in March of 2007) (collectively "the Children") pursuant to 23 Pa.C.S. § 2511(a)(2), (5), (8), and (b), and changing the Children's goal to adoption.¹ We affirm.

* Former Justice specially assigned to the Superior Court.

¹ J.L. ("Father"), E.S.C.L.'s father, is not a party to the current appeal, but he filed a separate appeal at No. 3013 EDA 2013. R.F., Y.F.'s father, voluntarily relinquished his parental rights to Y.F. R.F. is not a party to this appeal, nor did he file his own appeal.

The trial court opinion sets forth the relevant facts and procedural history of this case as follows:

On June 19, 2007, the Department of Human Services (“DHS”) received information alleging there were five children under the age of five living in the home. Upon investigation, [DHS] visited the home and found clothing clutter and appliances were filthy. Y.F. had been left by [M]other in the care of her paternal grandmother, [D.J., (“Paternal Grandmother”)] and [Mother] did not return. [Paternal Grandmother] subsequently applied for custody of Y.F. and was denied. On June 26, 2007 [DHS] obtained an Order of Protective Custody for Y.F. and placed Y.F. in foster care through Delta Community Supports. Mother’s whereabouts were unknown.

At a permanency review hearing before Honorable Brenda Frazier-Clemons held on May 7, 2008, a Clinical Evaluation Unit issued report of non-compliance of [M]other was presented and incorporated by reference. On October 10, 2010, [DHS] received a General Protective Services (“GPS”) report alleging Y.F. resided with [M]other, who used and abused drugs regularly. The report alleged [M]other had an altercation in a home with an unidentified male with Y.F. present in the home. The report further alleged [M]other was observed in the city streets naked and appeared under the influence of drugs. Mother was taken to the hospital for mental health treatment. The report was substantiated.

Between November 10, 2010 and April 30, 2011, [DHS] made several attempts to communicate with [M]other about Y.F.’s whereabouts and safety. Mother advised [DHS] Y.F. resided out of state in North Carolina with a relative.

On April 30, 2011, [DHS] received a [GPS] report alleging [M]other failed to meet Y.F.’s basic daily needs. The report also alleged [M]other used drugs and failed to function as an adult as a result of the drug abuse.

Mother gave birth to another child, E.S.C.L., born [in June of] 2011. The [DHS] received a [GPS] report which alleged that [M]other gave birth to E.S.C.L., and both [M]other and [E.S.C.L.] tested positive for drugs. It was alleged [M]other had a history of drug abuse. The report was substantiated.

[In June of] 2011, [DHS] received a supplemental report that [M]other used drugs with E.S.C.L.'s father, J.L.

On June 8, 2011, [DHS] interviewed Mother who admitted consistent drug abuse for three years. Mother identified E.S.C.L.'s father as [J.L.][,] and provided contact information.

On June 9, 2011, [DHS] spoke with [M]other, who denied drug use and requested to care for [the Children]. A safety plan was implemented by [DHS] which placed [M]other in the Gaudenzia House drug treatment program with [the Children]. Mother was instructed not to leave the Gaudenzia House drug treatment program with [the Children].

On June 10, 2011, Mother tested positive for illegal drugs and left the Gaudenzia House drug treatment program with Y.F. Father removed E.S.C.L. from Gaudenzia House and took E.S.C.L. to his home.

Trial Court Opinion, 12/12/13, at 1-2 (unpaginated).

On June 23, 2011, the Children were adjudicated dependent. On July 13, 2011, a Family Service Plan ("FSP") meeting was held by [DHS]. The FSP objectives for Mother and Father were (1) to obtain appropriate housing; (2) to participate in parenting program; (3) to participate in drug and alcohol treatment; (4) to participate in mental health evaluations; (5) to obtain employment and remain employed; and (6) to obtain parenting capacity and bonding evaluations.

On November 11, 2013, DHS filed a petition to involuntarily terminate Mother's parental rights to Children and to change the Children's goal to adoption. On September 26, 2013, the trial court held a hearing on the petition. On that same day, the trial court entered its decrees terminating

Mother's parental rights to the Children pursuant to 23 Pa.C.S.A. § 2511(a)(1), (2), (5), (8), and (b), and changing the Children's permanency goals to adoption.

Mother timely filed notices of appeal, along with concise statements of errors complained of on appeal pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b). This Court consolidated these cases on November 25, 2013. Mother raises the following issue.

1. Did the trial court err in determining that it was in the best interest of the child to terminate [M]other's parental rights?

Mother's Brief at 5.

Our standard of review regarding orders terminating parental rights is as follows:

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

In re S.H., 879 A.2d 802, 805 (Pa. Super. 2005). In termination cases, the burden is upon the petitioner to prove by clear and convincing evidence that the asserted grounds for seeking the termination of parental rights are valid.

Id. at 806. We have previously stated:

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

In re J.L.C. & J.R.C., 837 A.2d 1247, 1251 (Pa. Super. 2003).

The trial court is free to believe all, part, or none of the evidence presented and is likewise free to make all credibility determinations and resolve conflicts in the evidence. ***In re M.G.***, 855 A.2d 68, 73-74 (Pa. Super. 2004). If competent evidence supports the trial court’s findings, we will affirm even if the record could also support the opposite result. ***In re Adoption of T.B.B.***, 835 A.2d 387, 394 (Pa. Super. 2003).

The termination of parental rights is controlled by 23 Pa.C.S.A. § 2511. Under this statute, the trial court must engage in a bifurcated process in which it initially focuses on the conduct of the parent under Section 2511(a). ***See In the Interest of B.C.***, 36 A.3d 601 (Pa. Super. 2012). If the trial court determines that the parent’s conduct warrants termination under Section 2511(a), it must then engage in an analysis of the best interests of the child under Section 2511(b). ***See id.***

In the instant case, Mother does not challenge the trial court’s analysis as it relates to her conduct under Section 2511(a); but, rather, she limits her argument to the trial court’s analysis of the best interests of the Children under Section 2511(b). Thus, Mother has waived any challenge to Section 2511(a). Mother argues that the trial court abused its discretion in concluding that DHS met its burden of proving by clear and convincing

evidence that termination of Mother's parental rights would best serve the needs and welfare of the Children pursuant to 23 Pa.C.S.A. § 2511(b).

Section 2511(b) provides, in pertinent 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).

Pursuant to Section 2511(b), the trial court must take into account whether a natural parental bond exists between child and parent, and whether termination would destroy an existing, necessary and beneficial relationship. *In re C.S.*, 761 A.2d 1197, 1202 (Pa. Super. 2000) (*en banc*).

In *In re C.M.S.*, 884 A.2d 1284, 1287 (Pa. Super. 2005), this Court stated, "Intangibles such as love, comfort, security, and stability are involved in the inquiry into needs and welfare of the child." In addition, we instructed that the orphans' court must also discern the nature and status of the parent-child bond, with utmost attention to the effect on the child of permanently severing that bond. *Id.* However, the extent of the bond-effect analysis necessarily depends on the circumstances of the particular case. *In re K.Z.S.*, 946 A.2d 753, 763 (Pa. Super. 2008).

While a parent's emotional bond with his or her child is a major aspect of the Subsection 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. The mere existence of an emotional bond does not preclude the termination of parental rights. Rather, the orphans' court must examine the status of the bond to determine whether its termination "would destroy an existing, necessary and beneficial

relationship.” As we explained in ***In re A.S.***, 11 A.3d 473, 483 (Pa. Super. 2010):

[I]n addition to a bond examination, the trial court can equally emphasize the safety needs of the child, and should also consider the intangibles, such as the love, comfort, security, and stability the child might have with the foster parent. Additionally, this Court stated that the trial court should consider the importance of continuity of relationships and whether any existing parent-child bond can be severed without detrimental effects on the child.

In re N.A.M., 33 A.3d 95, 103 (Pa. Super. 2011) (citation omitted).

Here, the trial court found that the Children’s best interests are served by termination of Mother’s parental rights, and that the Children would not suffer any irreparable emotional harm if Mother’s rights were terminated. Trial Court Opinion, 12/12/13, at 5 (unpaginated). Ms. Curry-Bey and Mr. John Mack, DHS social workers, testified that it is in the Children’s best interest that Mother’s parental rights are terminated. N.T., 9/26/13, at 40-41, 57.

Mr. Mack also testified that Mother and Children do not have a true parent-child bond because the Children do “not pay [Mother] any attention.” ***Id.*** at 56. Ms. Curry-Bey testified that there is a parent-child bond between foster parents and the Children, and that the foster parents provide a safe home for the Children. ***Id.*** at 39-40. Furthermore, the trial court found that the Children have bonded with their foster parents. Trial Court Opinion, 12/12/13, at 5 (unpaginated).

Mother argues the Children refer to her as “mom,” and that there was “strong family relationship” between her and the Children. Mother’s Brief at 14. The trial court did not find this evidence sufficient, Trial Court Opinion, 12/12/13, at 5 (unpaginated), and our review reveals that the evidence supports the trial court’s decision. This Court has held that a parent’s love of her child, alone, does not preclude a termination. **See *In re L.M.***, 923 A.2d 505, 512 (Pa. Super. 2007) (stating that a parent’s own feelings of love and affection for a child, alone, will not preclude termination of parental rights). Likewise, we have stated that the mere existence of a bond or attachment of a child to a parent will not necessarily result in the denial of a termination petition. **See *In re K.K.R.-S.***, 958 A.2d 529, 535 (Pa. Super. 2008). Based on our review of the record, we conclude that the trial court did not abuse its discretion in terminating Mother’s parental rights to Children pursuant to section 2511(b).

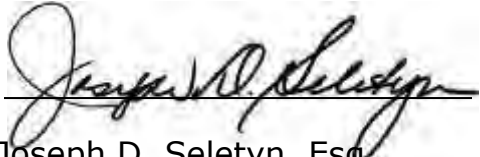
Accordingly, we affirm the trial court’s decrees terminating Mother’s parental rights.

Decrees affirmed.

Judge Shogan concurs in the result.

J-S26001-14

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: 6/24/2014