

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

IN THE INTEREST OF: R.H.R.J., A  
MINOR,

Appellee

v.

APPEAL OF: S.J., MOTHER,

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 302 EDA 2014

Appeal from the Order Entered December 3, 2013  
In the Court of Common Pleas of Philadelphia County  
Family Court at No(s): CP-51-AP-0000607-2012, CP-51-DP-0025145-2010

BEFORE: FORD ELLIOTT, P.J.E., BOWES, and SHOGAN, JJ.

MEMORANDUM BY BOWES, J.:

**FILED JULY 14, 2014**

S.J. ("Mother") appeals from the order entered on December 3, 2013, wherein the trial court involuntarily terminated her parental rights to her then-four-year-old son, R.H.R.J. ("R.J."). We affirm.

R.J. was born during 2009, when Mother was fourteen years old. The child's father is unknown.<sup>1</sup> For the first four months of his life, R.J. resided with Mother at his maternal grandmother's ("Grandmother") home in Philadelphia, Pennsylvania. The Philadelphia Department of Human Services ("DHS") became involved with the family on January 26, 2010, in response to a child protective services ("CPS") report regarding suspected child abuse

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<sup>1</sup> On December 3, 2013, the trial court terminated the parental rights of the unknown father.

against R.J. The report indicated that Mother held R.J. by his feet and tossed the infant on a bed during a physical altercation with Grandmother that stemmed from Mother's eviction from the home the previous week for behavioral issues. Mother had returned to the residence seeking to reclaim R.J. The report also faulted Mother for failing to provide appropriate supervision, creating a risk of physical harm, and imposing inappropriate discipline. Although R.J. was not injured during Mother's quarrel with Grandmother, DHS determined Mother to be an indicated perpetrator of child abuse.<sup>2</sup>

On March 8, 2010, the juvenile court adjudicated R.J. dependent by agreement of the parties. In addition to the indicated CPS report, the dependency petition highlighted Mother's behavioral issues, history of drug use, and prior hospitalization for mental illness. Indeed, immediately after

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<sup>2</sup> Indicated reports, which are based upon DHS's investigation and findings, satisfy the lowest evidentiary standard of the two classes of substantiated child abuse reports under the Child Protective Services Law. That statute defines an indicated report as follows:

"Indicated report." A child abuse report made pursuant to this chapter if an investigation by the county agency or the Department of Public Welfare determines that substantial evidence of the alleged abuse exists based on any of the following: (1) Available medical evidence; (2) the child protective service investigation; (3) an admission of the acts of abuse by the perpetrator.

23 Pa.C.S. § 6303. In contrast, a "founded report" is predicated upon a judicial finding of abuse, *i.e.*, a conviction or entry of a plea of guilty or *nolo contendere* to a criminal charge stemming from the allegation of abuse. ***Id.***

the January 2010 incident that was the genesis of DHS involvement, Mother was admitted into a behavioral health facility. When DHS spoke with a representative from that facility, the agency was advised that Mother suffered from post-partum depression and bi-polar disorder and that she was too unstable emotionally to care for R.J.

DHS initially placed R.J. in kinship foster care with his maternal great aunt. However, over the next two years, he was transferred to a second kinship care home, and two additional foster homes, until he was finally placed in his current pre-adoptive foster home, where he has lived since June of 2012.

As the initial permanency goal was reunification, DHS fashioned a Family Service Plan ("FSP") to assist Mother in attaining that goal. Mother's FSP objectives were to understand the effect of her behavior on R.J., learn and employ non-physical discipline methods, recognize appropriate behavior expectations, stabilize mental health issues, attend regular visitation, and participate in a structured academic or educational program. As it relates to the mental health component, Mother was required to participate in a structured treatment program and comply with treatment recommendations. She was provided supervised visitation with R.J. twice per week.

In order to address her mental health issues, during June 2010, Mother was admitted into Wordsworth Academy, an in-patient residential facility for minors with serious mental health and behavioral issues. Over the next two years, Mother thrived in the structured environment provided

by the semi-restrictive facility. She completed nearly all of her FSP objectives, and the supervised visitations progressed to unsupervised visitations in the community.

In preparation for what appeared to be Mother's inevitable reunification with R.J., DHS and Mother agreed that Mother would leave Wordsworth in order to participate in a therapeutic mother-baby foster home where she could adjust to her new-found independence before caring for her son. The plan required Mother to commit herself to DHS care as a dependent minor so that she would be eligible for foster placement. The parties contemplated that Mother would be allotted several weeks to assimilate to her new routine in the foster home, including attending school and outpatient mental health treatment, before R.J. joined her.

Mother moved into the mother-baby foster home during March 2012. However, before sufficient ground work was laid for R.J.'s arrival at the foster home, Mother derailed her significant reunification efforts. She attended only one day of school, she failed to attend consistent visitation with R.J., and after a disagreement with her foster mother, Mother was transferred to another foster home, briefly, before she left the home and was designated by DHS as absent without leave ("AWOL") from three other shelters between March and September 2012. She also tested positive for marijuana during this period. Due to DHS's heightening concerns regarding Mother's decision-making and slack drug and mental health treatments during this time, the juvenile court suspended Mother's visitation with R.J.

until she returned to placement. As Mother failed to return to DHS placement, she has had no visitation since May 15, 2012. In addition, Mother failed to send any gifts or correspondence to her son for approximately two years following the unsuccessful reunification plan.

On November 29, 2012, DHS filed a petition to terminate Mother's parental rights and to change R.J.'s permanency goal to adoption. The trial court appointed counsel and convened termination proceedings on December 12, 2012. However, after hearing a single witness, the matter was continued several times in order to appoint substitute counsel and to reassign the case to another trial judge. Upon receiving the case, the newly assigned trial court decided to hear the matter anew. Following two days of hearings on November 4, and December 3, 2013, the trial court granted DHS's petition, changed R.J.'s permanency goal to adoption, and terminated Mother's parental rights pursuant to 23 Pa.C.S. § 2511(a), (1), (2), (5), (8) and (b). This timely appeal followed.

Mother presents the following issues for our review:

1. Did the lower court err by relying on facts that were not introduced into evidence[?]
2. Was appellant denied a fair hearing and due process of law by the Court permitting the social worker to testify from her memory of contents of mother's DHS file?
3. Did DHS make reasonable efforts to assisting [sic] mother[?]
4. Did the department sustain their [sic] burden [of proving] that mother's rights should be terminated?

[5]. Did the trial court err in determining that it was in the best interest of the child to terminate mother's parental rights by finding there was no bond between child and mother?

Mother's brief at 5.

Herein, Mother challenges the trial court's decision to change R.J.'s permanency goal to adoption and its decision to terminate Mother's parental rights pursuant to the Adoption Act, 23 Pa.C.S. § 2511(a) and (b). While the court's determinations are related factually, the two decisions are unique and implicate different considerations. **See *In re A.L.D.***, 797 A.2d 326, 339-340 (Pa.Super. 2002) ("the issues and purposes of the proceedings before the Juvenile Court and the Orphans' Court are wholly distinct"). Indeed, unlike involuntary termination proceedings, which concentrates principally upon a parent's action and inaction,<sup>3</sup> the focus of dependency proceedings is "on the children's safety, permanency, and well-being" and not on the parent's conduct. ***In re N.C.***, 909 A.2d 818, 822-823 (Pa.Super. 2006); ***In re K.J.***, 27 A.3d 236, 241 (Pa.Super. 2011) (citations omitted) (Juvenile Act's mandate clearly places trial court's focus on best interests of child).

We review a trial court's permanency determination for an abuse of discretion. As our Supreme Court reiterated in ***In re J.J.T.***, 9 A.3d 1179,

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<sup>3</sup> Only after clear and convincing evidence is presented to establish that a parent's action or inaction satisfies the statutory grounds for termination pursuant to § 2511(a), will the trial court consider the child's developmental, physical, and emotional needs and welfare under § 2511(b).

1190 (Pa. 2010), we must accept the trial court's factual findings and credibility determinations that are supported by the record. **Id.** However, we are not constrained to adopt the inferences drawn on those facts or the trial court's conclusions of law. **Id.**

As it relates to the involuntary termination of parental rights, this Court is "limited to determining whether the decision of the trial court is supported by competent evidence." **In re R.L.T.M.**, 860 A.2d 190, 191 (Pa.Super. 2004) (quoting **In re C.S.**, 761 A.2d 1197, 1199 (Pa.Super. 2000)). However, "[w]e 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 C.W.U., Jr.**, 33 A.3d 1, 4 (Pa.Super. 2011). If the trial court's findings are supported by competent evidence of record, we must affirm even if the record could support the opposite result. **In re R.L.T.M., supra** at 191-192.

Mother's first argument has three components. Initially, she assails the trial court's alleged reliance upon DHS's statement of facts in fashioning its factual findings. Mother accurately highlights that the portion of the trial court opinion entitled, "Findings of Fact" is replete with citations to the statement of facts that DHS attached to its petition to terminate Mother's parental rights. Reasoning that the unsworn assertions that DHS leveled in its petition were not tantamount to evidence, Mother argues that the trial court erred in relying upon them. In a related argument, Mother also

challenges the trial court's consideration of testimony proffered during prior juvenile court proceedings that occurred during February and July 2012. Finally, Mother assails the trial court's specific finding that she has been intermittently in placements for four years. While certain aspects of Mother's various complaints are accurate, for the reasons we discuss *infra*, no relief is due.

At the outset, we agree with Mother's observation that the trial court's repeated citation to DHS's Statement of Facts as a basis for those findings is improper. Since the certified record must support the trial court's factual determination, the trial court should rely upon the certified record when outlining its findings. Thus, it was improper for the court to cite the DHS petition instead of evidence adduced during the hearings as support for the court's factual findings.

Nevertheless, we disagree with the implication of Mother's argument that the trial court relied upon DHS's recitation of the facts because the certified record did not support the court's finding. That simply is not the case. In reality, the analysis section of the trial court opinion set forth a comprehensive review with specific citation to the certified record. **See** Trial Court Opinion, 1/29/14, at 9-14. Hence, contrary to Mother's protestations, the trial court did not rely upon any extrajudicial facts to reach its decision. The court considered the evidence adduced during the dependency and termination proceedings and concluded that clear and convincing evidence



existed to support its decisions to terminate Mother's parental rights and to change R.J.'s permanency goal from reunification to adoption. As we discuss *infra*, the certified record supports the trial court's conclusions. Accordingly, we do not disturb them.

We also reject Mother's related contention challenging the trial court's consideration of testimony from earlier permanency review hearings in support of the instant determinations. Specifically, Mother challenges the testimony that Emma Brant, a DHS social worker, proffered during permanency review hearings that occurred during February 2012 and July 2012, respectively.

The sum of the court's references to Ms. Brant's testimony follows. In outlining its rationale in the trial court opinion, the trial court noted Ms. Brant's testimony that Mother was placed in mother/baby foster care in anticipation of her reunification with R.J., but before Mother could adjust to her new living situation and initiate the reunification process, she went AWOL several times in less than two months. Trial Court Opinion, 1/29/14, at 9. The trial court also relied upon Ms. Brant's testimony that she believed the gradual reunification of Mother and R.J. was preferable to an abrupt reunification. ***Id.*** That testimony also revealed that (1) Mother had not visited R.J. since May of 2012; (2) Mother was advised that visitation with R.J. would be suspended until Mother entered safe and appropriate placement; and (3) Mother continued her AWOL status after being so

advised. **Id.** at 10. The court's final reference to Ms. Brant's testimony concerned Mother's failure to attend or to reschedule parenting capacity assessments during June 2012. **Id.** at 12.

The crux of Mother's contention is that, since Ms. Brant did not testify during the termination/goal change proceedings, it was improper for the court to rely on that testimony in granting DHS's respective petitions to change R.J.'s permanency goal and to terminate Mother's parental rights. For the following reasons, we do not disturb the court's determination.

As it relates to the trial court's decision to grant DHS's petition to change R.J.'s permanency goal from reunification to adoption, Mother's claim is baseless. Indeed, it is axiomatic that dependency hearings, including the recurrent permanency review hearings, are components of a single ongoing action and that the notes of testimony from a prior hearing may be considered at later proceedings. **E.g., In re A.K.**, 906 A.2d 596, 601 (Pa.Super. 2006) (considering testimony proffered at previous dependency hearings in reversing juvenile court's order regarding goal change). Thus, Mother's contention that the trial court should have ignored Ms. Brant's testimony in addressing the goal change petition is meritless. The case worker's testimony was a relevant part of the certified record in the dependency proceedings.

As the termination of parental rights under the Adoption Act is not a component of the dependency proceedings, the foregoing rationale that

applies to the goal change does not apply to the aspect of the trial court's rationale regarding the termination of parental rights. Nevertheless, any error that flowed from the trial court's consideration of Ms. Brant's testimony as a basis to terminate Mother's parental rights is harmless. Stated simply, as we will discuss *infra*, the facts relating to Mother's abrupt noncompliance, AWOL status, rejection of mother/baby foster care, and her failure to attend visitation since May of 2012, all were established independently during the two-day termination hearings. Thus, to the extent that the court erred in invoking Ms. Brant's earlier testimony, that evidence was duplicative of the evidence properly admitted and considered during the termination proceedings. Accordingly, no relief is due.<sup>4</sup>

Next, Mother argues that she was denied a fair hearing because the trial court permitted Charlene Monroe, a DHS Supervisor, to testify about R.J.'s case from memory. Mother contends that by permitting Ms. Monroe to testify about the case without producing the agency's file, the trial court

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<sup>4</sup> Similarly, while the certified record will not sustain the trial court's finding that Mother was intermittently in placement for four years, that error also is harmless. The record establishes that Mother was compliant with DHS requirements and made substantial progress toward her FSP goals during the two-year period that she resided in a residential inpatient treatment facility. The ensuing two-year period of noncompliance followed Mother's discharge from the residential facility and her unsuccessful placement in a series of mother/baby foster homes and other foster facilities. Thus, while the trial court misstated the length of Mother's noncompliance as four years rather than two, the court's sentiment is well placed: for the final two years of R.J.'s placement, Mother abandoned her reunification efforts, failed to secure visitation with R.J., and remained absent without permission.

limited her ability to test the witness's knowledge of the record. While she did not assert these specific challenges below, the crux of Mother's argument on appeal is that Ms. Monroe's testimony violates both the best evidence rule and the rule against hearsay. Essentially, she complains that the trial court should have ordered DHS to produce the CYS file before it accepted the witness's testimony. Again, we disagree.

The following facts are relevant to our determination. At the outset of Ms. Monroe's testimony on November 4, 2013, Mother interjected, "as an offer of proof, I am going to ask what Ms. [Monroe] can testify to as to personal knowledge and if she needs to refer to business records, I am asking that the records be produced." N.T., 11/4/13, at 52. In response, Ms. Monroe explained that she was the case supervisor for approximately eighteen months between March 2011 and September 2012, and that she was personally involved in the case in that capacity. *Id.* at 53. She further elucidated that, as the supervisor, she directed everything that pertained to the DHS's management of the case, including visitations and administering the FSP. *Id.* at 53-54.

Upon receiving Ms. Monroe's response, Mother failed to level any further inquiries, raise a hearsay objection, or invoke the best evidence rule. Likewise, after the hearing reconvened on December 3, 2013, Mother failed to invoke the best evidence rule. Instead, her counsel launched into a soliloquy regarding her inability to review the DHS case file at the time the

agency allotted for its review, and she requested a continuance so that the file could be produced. N.T., 12/3/13, at 4-5. DHS countered that Mother had more than one year to request discovery of the DHS file, yet she waited until November 2013 to request the records. *Id.* at 7. The trial court denied Mother's motion for a continuance, and Ms. Monroe testified from memory of matters of which she had personal knowledge. Significantly, at no time during the ensuing testimony did Mother invoke the best evidence rule or level any objections based on the fact that Ms. Monroe was testifying from her memory. To the extent that Mother objected to Ms. Monroe's testimony, those individual protests concerned whether the witness had personal knowledge of the specific topic she was discussing. The trial court sustained some of those objections and overruled others.

Initially, we observe that Mother's arguments are waived because she failed to object to Ms. Monroe's testimony on the basis that she invokes herein, *i.e.*, that the absence of the DHS file violated either the best evidence rule or the rule against hearsay. It is beyond cavil that issues that are not raised in the trial court are waived and cannot be raised for the first time on appeal. **See** Pa.R.A.P. 302(a). Simply stated, rather than raise the absence of the case file, Mother sought to verify that Ms. Monroe could testify from personal knowledge and requested that DHS produce the file for Mother's review **if the witness needed to refer to it**. Later, although Mother received assurances that Ms. Monroe would testify from memory,

Mother nevertheless complained that she was not able to review DHS's case file, and she requested a continuance to examine the file. Again, however, she did not object to Ms. Monroe's testimony due to the absence of the file. Similarly, while Mother did level hearsay objections, some of which were sustained, raising Ms. Monroe's lack of personal knowledge, Mother does not assail the witness's lack of personal knowledge on appeal. Instead, she invokes the best evidence rule to complain that DHS did not produce the case file. Accordingly, these issues are waived.<sup>5</sup>

As Mother's remaining issues specifically challenge the merits of the trial court's decision to terminate her parental rights, we address those issues collectively. First, Mother complains that DHS failed to proffer clear and convincing evidence that it used reasonable efforts to reunify her with R.J. Specifically, she argues that DHS failed to appreciate the circumstances

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<sup>5</sup> Moreover, we observe that since DHS never sought to introduce testimony regarding the contents of a document, Mother's invocation of the best evidence rule in this case is dubious. Our Supreme Court codified the best evidence rule in Pa.R.E. 1002 as follows: "An original writing, recording, or photograph is required in order to prove its content unless these rules, other rules prescribed by the Supreme Court, or a statute provides otherwise." Accordingly, where a case or the central issue of a case is based upon the contents of a writing, the proponent of that evidence must produce the original document. **See** 8 Standard Pennsylvania Practice 2d § 53:8. Instantly, DHS did not introduce any evidence about the contents of a writing, recording, or photograph, and Ms. Monroe's testimony is not dependent on a dispositive writing contained in the file. Even though Ms. Monroe testified capably without the assistance of the case file, Mother desired that DHS produce the file for her review. Mother's resort to the best evidence rule in what essentially is a discovery dispute is unavailing.

surrounding Mother's failed attempts to participate in mother/baby foster care and that the agency abruptly altered its course in favor of adoption rather than allow Mother more time to comply. DHS counters that the record demonstrates that it consistently made a good faith effort to reunify Mother and R.J. throughout the child's four-year placement. It highlights that it worked closely with Mother during the two years that she was in a residential facility and that it fashioned a plan to facilitate Mother's reunification with her son. However, once DHS put the plan into action, Mother undercut DHS's efforts by failing to attend school, fleeing from the foster home, and refusing to satisfy the prerequisite requirement of returning to placement before she could resume visitations with R.J.

The following principles are relevant to Mother's initial argument.

Before filing a petition for termination of parental rights, the Commonwealth is required to make reasonable efforts to promote reunification of parent and child. However, the Commonwealth does not have an obligation to make such efforts indefinitely. The Commonwealth has an interest not only in family reunification but also in each child's right to a stable, safe, and healthy environment, and the two interests must both be considered. . . . When reasonable efforts to reunite a foster child with his or her biological parents have failed, then the child welfare agency must work toward terminating parental rights and placing the child with adoptive parents.

***In re Adoption of R.J.S.***, 901 A.2d 502, 507 (Pa.Super. 2006) (emphasis, citations, and internal quotation marks omitted) (footnote omitted).

The record supports DHS's perspective. During the evidentiary hearing, Ms. Monroe testified that since Mother was thriving at Wordsworth

Academy, the agency initiated a transition plan that would culminate in Mother and R.J. residing together in a mother/baby foster home. N.T., 11/4/13, at 54-55. Eventually, Mother would become R.J.'s full-time caretaker. **Id.** at 55. In addition to the CYS caseworkers, Mother, Grandmother, and the child advocate all collaborated on the plan. **Id.**

Ms. Monroe explained that the plan was for Mother to integrate into the foster home and adjust to her school and outpatient mental health treatment before R.J. joined her. N.T., 12/3/13, at 8. In contrast to Mother's revisionist position that she believed that she would reunite with R.J. immediately and only became disenchanted with the situation after learning that the process of reunification would be gradual, Ms. Monroe testified that Mother was personally involved in formulating the plan, understood the plan, and agreed to it. **Id.** at 8-9, 13-14. Although DHS had difficulty locating an appropriate foster home, it eventually found a therapeutic foster home for Mother to begin the transition. **Id.** at 9. Ms. Monroe continued that, shortly after Mother moved into the foster home, she stopped attending school and therapy. **Id.** Thereafter, Mother's relationship with her foster parent disintegrated, and Mother left placement.

As it relates to Mother's specific complaint that DHS was unresponsive to her school situation and incompatibility with the foster mother, Ms. Monroe testified that Mother had missed approximately two months of school before she advised the agency that two young men implicated in her



brother's murder were also enrolled at the school. **Id.** at 16. Thereafter, DHS sought Mother's cooperation in getting the school district to transfer her to a different campus. **Id.** at 17, 19. Mother never returned to school at any location. DHS also addressed Mother's quarrels with her mother/baby foster parent. **Id.** at 19-21, 24-25, 28. Mother left that foster home abruptly, however, and over the next several months, DHS placed her in five different placements from which she ultimately fled. **Id.** at 10-11. During this period that Mother was noncompliant and AWOL, Ms. Monroe feared that Mother had resumed abusing drugs. **Id.** at 12-13. As a result of Mother's behavior, during July 2012, the trial court ordered that visitation with R.J. be suspended until Mother returned to DHS placement. **Id.** at 11. As she never returned to the agency's placement, Mother has not visited her son since May 2012, approximately two years. **Id.**

The foregoing evidence belies Mother's complaint that DHS did not make reasonable efforts toward reunification. When Mother was compliant and progressing toward her FSP goals, DHS fashioned a plan that would culminate in Mother's reunification with R.J. After Mother moved from the semi-restrictive facility into the therapeutic mother/baby foster home, the agency continued to work with her to overcome the hurdles associated with her transition to independence. However, after Mother disengaged from the process completely by refusing to return to school and repeatedly leaving her different foster placements, the agency moved away from reunification.

Thus, the certified record demonstrates that since R.J.'s placement during 2010, DHS made reasonable efforts to reunite Mother with her son, and it only altered its course after Mother became dissatisfied with the process and abandoned her efforts. Thus, Mother's criticism of DHS fails.

Next, we confront Mother's boilerplate assertion that DHS did not prove by clear and convincing evidence the statutory grounds to terminate her parental rights, and we find that the record sustains the court's decision. Requests to involuntarily terminate a biological parent's parental rights are governed by 23 Pa.C.S. § 2511, which provides in pertinent part:

**(a) General rule.**--The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds:

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

(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 months, the conditions which led to the removal or placement of the child continue to exist, the parent cannot or will not remedy those conditions within a reasonable period of time, the services or assistance reasonably available to the

parent are not likely to 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, 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.

. . . .

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

23 Pa.C.S. § 2511.

The test for terminating parental rights consists of two parts. In ***In re L.M.***, 923 A.2d 505, 511 (Pa.Super. 2007), we explained:

Initially, the focus is on the conduct of the parent. The party seeking termination must prove by clear and convincing evidence that the parent's conduct satisfies the statutory grounds for termination delineated in Section 2511(a). Only if the court determines that the parent's conduct warrants termination of his or her parental rights does the court engage in the second part of the analysis pursuant to Section 2511(b): determination of the needs and welfare of the child under the standard of best interests of the child. One major aspect of the

needs and welfare analysis concerns the nature and status of the emotional bond between parent and child, with close attention paid to the effect on the child of permanently severing any such bond.

Herein, Mother relies upon her initial progress while a resident at Wordsworth Academy and her self-serving testimony that she was currently attending to her mental health and educational needs to support her boilerplate assertion that the record was insufficient to terminate her parental rights. Mother's argument simply ignores the two-year period that she was completely noncompliant with every aspect of her FSP plan, including maintaining visitation with her now-four-year-old son.

As we need only agree with the trial court's decision as to one subsection of 23 Pa.C.S. § 2511(a) and the subsection (b) analysis in order to affirm the termination of parental rights, and our review of the certified record supports the trial court's determination to terminate Mother's parental rights pursuant to 23 Pa.C.S. § 2511(a)(8) and (b), we do not address the remaining statutory grounds.

We have explained our review of the evidence pursuant to § 2511(a)(8), as follows:

In order to terminate parental rights pursuant to 23 Pa.C.S.A. § 2511(a)(8), the following factors must be demonstrated: (1) The child has been removed from parental care for 12 months or more from the date of removal; (2) the conditions which led to the removal or placement of the child continue to exist; and (3) termination of parental rights would best serve the needs and welfare of the child.

***In Re Adoption of M.E.P.***, 825 A.2d 1266, 1275-1276 (Pa.Super. 2003).

Thus, in order to satisfy the requirements of § 2511(a)(8) in the case at bar, DHS was required to produce clear and convincing evidence that: (1) R.J. has been removed from Mother for at least twelve months; (2) the conditions which led to the child's removal continue to exist; and (3) involuntary termination of parental rights would best serve R.J.'s needs and welfare. ***See In re Adoption of R.J.S.***, 901 A.2d 502 (Pa.Super. 2006). "Notably, termination under Section 2511(a)(8), does **not** require an evaluation of Mother's willingness or ability to remedy the conditions that led to placement of her children." ***Id.*** at 511 (emphasis in original).

First, we observe that R.J. has been in DHS's care since January 2010, approximately thirty-four months before DHS filed its petition to terminate Mother's parental rights on November 29, 2012. Thus, CY5 satisfied the threshold requirement of § 2511(a)(8) that R.J. has been removed from Mother for at least twelve months. Next, the certified record reveals that the conditions that led to R.J.'s removal from Mother's care in January 2010, Mother's behavioral issues, drug use, and mental illness, continued to exist and that terminating Mother's parental rights would best serve R.J.'s needs and welfare.

In addition to Ms. Monroe's testimony regarding Mother's abrupt abandonment of her reunification efforts and relapse into her prior negative behaviors, DHS presented additional testimony during the evidentiary hearing from Regina Wright, the DHS social worker and services manager

assigned to the family since May 2013. Ms. Wright testified that she only met with Mother on one occasion, an unexpected encounter that occurred during September 2013, at the height of Mother's noncompliance. N.T., 12/3/13, at 36-37. Ms. Wright explained that Mother came to DHS's office looking for bus fare to Archibald, Pennsylvania. **Id.** at 37. Ms. Wright stated that Mother informed her that she was attending mental health treatment at the Wright Center in Archibald. **Id.** However, when Ms. Wright contacted that facility, she was advised that, while Mother attended monthly psychiatric appointments and obtained medication, she was not participating in therapy consistently. **Id.** at 38, 59. Ms. Wright added that she contacted the facility prior to the November 2012 hearing and was advised that Mother had not been to therapy for several weeks. **Id.** at 38.

As it relates to Mother's potential drug abuse, Ms. Wright explained that Mother appeared under the influence of a substance during their conversation. **Id.** at 38. She observed that Mother was antsy and nervous and could not keep still. **Id.** While Ms. Wright admitted that Mother could have simply been nervous during their first-time exchange, Ms. Wright believed that the behavior was abnormal. **Id.** Moreover, when Ms. Wright confronted Mother about her drug use, Mother admitted that she smoked marijuana and consumed alcohol on her eighteenth birthday. **Id.** at 39. Mother also advised her that she knew she had to comply with DHS placement requirements before resuming visitation with her son, but that

she nevertheless refused to comply. *Id.* at 39-40. Mother did not want to return to DHS placement and her suggested alternative placement was inappropriate. *Id.* at 40. Significantly, Ms. Wright testified that Mother did not inquire about R.J. during their encounter. *Id.* at 41.

The foregoing evidence supports the conclusion that DHS established the statutory grounds to terminate Mother's parental rights pursuant to § 2511(a)(8). Almost four years into R.J.'s placement, Mother still has not rectified the conditions that led to R.J.'s removal from her care. While Mother thrived under the structured environment of the Wordsworth Academy, she faltered with her newfound independence, and when she was confronted with obstacles, she simply abandoned her efforts and went into AWOL status. Mother failed to submit to DHS's supervision, she refused to remain in a stable residential foster care, attend school, or maintain her mental health. Moreover, she failed to attend visitation with R.J. since May 2012, and refused to remove the one barrier that prevented her from reviving that contact, returning to DHS's care or obtaining safe, appropriate housing. Indeed, although Mother had engaged in a degree of mental health treatment by the date of the termination hearing, she failed to participate in therapy consistently and still had not attended school since January of 2012. Thus, we find the certified record sustains the trial court's finding that DHS established by clear and convincing evidence the statutory grounds to terminate Mother's parental rights pursuant to § 2511(a).

Finally, we address Mother's complaint that the trial court's needs-and-welfare analysis pursuant to § 2511(b) was deficient. Mother contends that there was inadequate consideration of R.J.'s emotional needs in light of the bond that he shared with Mother as late as May 2012. We disagree.

We have emphasized that 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 trial court when determining what is in the best interest of the child. ***In re K.K.R.-S.***, 958 A.2d 529, 535-536 (Pa.Super. 2008). The mere existence of an emotional bond does not preclude the termination of parental rights. ***See In re T.D.***, 949 A.2d 910 (Pa.Super. 2008) (trial court's decision to terminate parents' parental rights was affirmed where court balanced strong emotional bond against parents' inability to serve needs of child). Rather, the trial court must examine the status of the bond to determine whether its termination "would destroy an existing, necessary and beneficial relationship." ***In re Adoption of T.B.B.***, 835 A.2d 387, 397 (Pa.Super. 2003). Moreover, as we explained in ***In re K.Z.S.***, 946 A.2d 753, 763 (Pa.Super. 2008) (emphasis omitted),

In addition to a bond examination, the court may equally emphasize the safety needs of the child under subsection (b), particularly in cases involving physical or sexual abuse, severe child neglect or abandonment, or children with special needs. The trial court should also examine the intangibles such as the love, comfort, security and stability the child might have with the foster parent. Another consideration is 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. All of these factors can contribute to the inquiry about the needs and welfare of the child.

**See also *In re A.S.***, 11 A.3d 473, 483 (Pa.Super. 2010) (orphans' court can emphasize safety needs, consider intangibles, such as love, comfort, security, and stability child might have with the foster parent, and importance of continuity of existing relationships).

In addressing the needs-and-welfare component of the § 2511(b) analysis, the trial court noted that R.J. is closely bonded with his pre-adoptive foster family and that he has not had any contact with Mother since May 2012. Accordingly, the court concluded that severing the remnants of the parent-child bond in favor of adoption was in R.J.'s best interest. The certified record supports that trial court's determination.

R.J.'s foster care social worker, Zakiah Snead, testified that she administered the child's foster placement since June of 2010. N.T., 11/4/13, at 4. She explained that R.J. has been in the current pre-adoptive foster home since June of 2012. ***Id.*** at 5, 27. Ms. Snead summarized Mother's consistent visitation with R.J. prior to May 2012, and she testified that at the height of Mother's compliance during 2011, she enjoyed unsupervised visitation with her son. ***Id.*** at 6. However, following Mother's failed attempt to achieve independence, visitation was suspended due to her noncompliance. ***Id.*** at 12. Mother has not had any contact with R.J. since May 15, 2012, nor has she sent him any letters, card, or gifts. She has not

even inquired about her son's wellbeing. **Id.** at 12, 16. Likewise, she is not concerned with and does not attend R.J.'s doctor appointments or school functions. **Id.** at 16.

As it relates to R.J.'s current placement, Ms. Snead testified that he has been in the current foster home since June 2012. She observed him in that environment more than one hundred times during scheduled and random visits to the foster home. **Id.** at 14-15. She also observed R.J.'s interactions during doctor's appointments and at school. **Id.** at 15. Ms. Snead reported that R.J. is closely bonded with his foster parents, whom he refers to as "Mommy and Daddy." **Id.** The bonds extend beyond the immediate foster family to both sets of grandparents. **Id.** Ms. Snead opined that based on her two-and-one-half years working with R.J., that the child would not be harmed at all if the trial court terminated Mother's parental rights. **Id.** at 16. When asked to expound further, Ms. Snead testified, "[R.J.] does not know who his Mother is. He has no bond to her." **Id.** at 16-17.

Comparable to Ms. Snead's testimony regarding R.J.'s best interest, Ms. Wright testified that she observed R.J. in foster placement approximately five times since she was assigned to the case during May 2013. N.T., 12/3/13, at 40. Ms. Wright described R.J.'s familial relationship in the pre-adoptive foster placement as follows:

He is bonded to the family, he has adapted to the home. There are three other children that are in the home who he calls his

sisters and his brother. He refers to the foster [m]other as Mom and the foster [f]ather as Dad. He is really comfortable in the home.

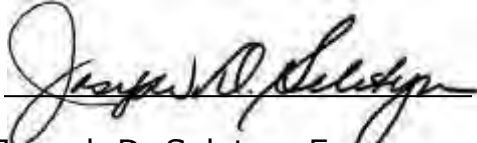
**Id.** at 40. Ms. Wright further described the foster family as very affectionate toward R.J., and she explained, "I think it is a good relationship. They are bonded to him as well as he is bonded to them." **Id.** at 42.

Thus, mindful that the needs and welfare analysis is reviewed on a case-by-case basis, and with consideration of both the nature and extent of R.J.'s relationship with Mother, the intangible factors that we outlined in **In re K.Z.S., supra** and **In re A.S., supra**, such as the love, comfort, security, and stability that R.J. enjoys with his foster family, and the importance of continuing those beneficial relationships upon his emotional and developmental well-being, we find sufficient evidence in the certified record to sustain the trial court's determination. R.J. has been in foster care his entire life, and although he had a bond with Mother initially, he has not had any contact with her since May 2012. In contrast to his remote connection to Mother, R.J. considers the members of his pre-adoptive foster family as his actual family. He refers to the pre-adoptive foster parents as mom and dad, considers their children to be his brother and sisters, and even identifies both sets of grandparents as his own. Stated simply, the certified record demonstrates that terminating Mother's parental rights in favor of adoption would best serve R.J.'s developmental, physical, and emotional needs and welfare.

Accordingly, for all of the foregoing reasons, we affirm the order terminating Mother's parental rights to R.J. pursuant to 23 Pa.C.S. § 2511(a)(8) and (b).

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: 7/14/2014