

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN THE INTEREST OF: A.A.S.W., A
MINOR,

Appellee

APPEAL OF: K.S., MOTHER,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 3294 EDA 2013

Appeal from the Decree Entered October 21, 2013
In the Court of Common Pleas of Philadelphia County
Family Court at No(s): CP-51-AP-0000489-2011, CP-51-DP-0012068-2010

IN THE INTEREST OF: J.L.G.W.S., A
MINOR,

Appellant

APPEAL OF: K.S., MOTHER,

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 3301 EDA 2013

Appeal from the Decree Entered October 21, 2013
In the Court of Common Pleas of Philadelphia County
Family Court at No(s): CP-51-AP-0000486-2011, CP-51-DP-0012069-2010

IN THE INTEREST OF: J.K.S.W., A
MINOR,

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: K.S., MOTHER,

Appellant

No. 3303 EDA 2013

Appeal from the Decree Entered October 21, 2013
In the Court of Common Pleas of Philadelphia County
Family Court at No(s): CP-51-AP-0000487-2011, CP-51-DP-0012070-2010

IN THE INTEREST OF: K.L.S., A MINOR,

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: K.S., MOTHER,

Appellant

No. 3304 EDA 2013

Appeal from the Decree Entered October 21, 2013
In the Court of Common Pleas of Philadelphia County
Family Court at No(s): CP-51-AP-0000488-2011, CP-51-DP-0012067-2010

BEFORE: BOWES, SHOGAN, and MUSMANNO, JJ.

MEMORANDUM BY BOWES, J.:

FILED JULY 09, 2014

K.S. ("Mother") appeals from the decrees entered in the Court of Common Pleas of Philadelphia County involuntarily terminating her parental rights to her daughter, A.A.S.W., born in April of 2005, and her three sons,

J.L.G.W.S., born in April of 2007, J.K.S.W., born in August of 2008, and K.L.S., born in July of 2009 (“the Children”).¹ We affirm.

In its opinion pursuant to Pa.R.A.P. 1925(a), the trial court aptly set forth the relevant facts and procedural history as follows:

On January 4, 2010, the [Philadelphia] Department of Human Services [“DHS”] received a Child Protective Services (CPS) [report] alleging the children’s mother[’s] drug abuse and father’s sexual abuse of one of the children, A.A.S.W., and parent[s’] failure to provide a safe living environment. The report was substantiated.

After an investigation, [DHS] implemented a safety plan where father agreed to have no contact with A.A.S.W. During a [DHS] home visit with the family, [the] DHS social worker observed the paternal grandmother evict the family from the home. Subsequently the family was relocated to the home of the maternal cousin.

On January 5, 2010, the child, A.A.S.W., stated to a [DHS] representative[] she had been sexually abused by her father, J.W.

On January 11, 2010, [m]aternal cousin contacted [DHS] to report mother and father were abusing drugs while residing in her home.

On January 12, 2010, [DHS] obtained an Order of Protective Custody [“OPC”] for the children, K.L.S., A.A.S.W., [J.L.G.W.S., and J.K.S.W.,] due to a report of continued drug abuse by mother and father in violation of the safety plan. . . .

. . . .

¹ On the same date, the court entered separate decrees involuntarily terminating the parental rights of J.W. (“Father”), the natural father of the Children. He appealed. The disposition of Father’s appeal is by separate memorandum.

On January 28, 2010, after a hearing . . ., the OPC was lifted and the children were temporarily committed to [DHS]. The Court specifically ordered the mother and father to the Clinical Evaluation Unit (CEU) to receive an appropriate evaluation. . . .

. . . .

A Family Service Plan meeting was held. The Family Service Plan objectives for mother and father were (1) to meet with counselor on a weekly basis to learn expected behavior for children (2) participate in evaluation for drug/alcohol abuse, (3) to attend parenting capacity evaluation and (4) comply and maintain contact and communication with children.

The objectives specifically identified for mother was (1) participate in mental health treatment, and (2) participate in drug and alcohol treatment.

. . . .

The matter was then listed on a regular basis before [the] Judges of the Philadelphia Court of Common Pleas – Family Court Division – Juvenile Branch pursuant to Section 6351 of the Juvenile Act, 42 Pa.C.S.[] §6351 and evaluated for the purpose of determining or reviewing the permanency plan of [A.A.S.W., J.L.G.W.S., J.K.S.W., and K.L.S.] with the goal of reunification of the family.

In subsequent hearings, the [Permanency Review Orders] reflect the Court’s review and disposition as a result of evidence presented addressing the lack of compliance with drug and alcohol treatment, sex offender treatment and suitable housing.

. . . .

Trial Court Opinion, 12/31/13, at 1-3.

On October 6, 2011, the court-appointed Child Advocate filed petitions for the involuntary termination of Mother’s and Father’s parental rights to the Children pursuant to 23 Pa.C.S. § 2511(a)(1), (2), (5), (8), and (b). On October 1, 2012, the Child Advocate filed amended petitions for the

involuntary termination of Mother's and Father's parental rights to the Children pursuant to the same statutory grounds.²

A hearing on the petitions was held on October 22, 2012, and June 18, 2013. The Child Advocate presented the following witnesses on October 22, 2012: Dr. Joseph Gbaba, the DHS social work services manager; Michelle Robbins, a psychologist who performed a parenting capacity evaluation of Mother and Father; and Patricia Jackson, a case manager at Friendship House. On June 18, 2013, the Child Advocate presented the testimony of Stephen Miksic, a psychologist who performed a forensic psychological bonding evaluation of Mother and Father. In addition, on June 18, 2013, Father and Mother testified on their own behalf.

Following oral argument, by decrees dated and entered on October 21, 2013, the trial court involuntarily terminated Mother's parental rights to the Children pursuant to 23 Pa.C.S. § 2511(a)(1), (2), (5), (8), and (b). Mother timely filed notices of appeal and concise statements of errors complained of on appeal pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b), which this Court consolidated *sua sponte*.

Mother presents one issue for our review:

² During the termination hearing, counsel for DHS joined the Child Advocate in seeking the involuntary termination of Mother's parental rights. Likewise, DHS filed an appellee brief in support of the decrees terminating Mother's parental rights.

1. Did the trial court err when it found that [DHS] by clear and convincing evidence had met its burden to terminate Mother's parental rights pursuant to 23 Pa.C.S. § 2511?

Mother's brief at 3.³

We review this appeal according to the following standard:

[A]ppellate courts must apply an abuse of discretion standard when considering a trial court's determination of a petition for termination of parental rights. As in dependency cases, our standard of review requires an appellate court to accept the findings of fact and credibility determinations of the trial court if they are supported by the record. *In re: R.J.T.*, 608 Pa. 9, 9 A.3d 1179, 1190 (Pa. 2010). If the factual findings are supported, appellate courts review to determine if the trial court made an error of law or abused its discretion. *Id.*; *R.I.S.*, 614 Pa. 275, 284, 36 A.3d 567, 572 (Pa. 2011) (plurality opinion)]. As has been often stated, an abuse of discretion does not result merely because the reviewing court might have reached a different conclusion. *Id.*; *see also Samuel Bassett v. Kia Motors America, Inc.*, 613 Pa. 371, 34 A.3d 1, 51 (Pa. 2011); *Christianson v. Ely*, [575 Pa. 647, 654-655], 838 A.2d 630, 634 (Pa. 2003). Instead, a decision may be reversed for an abuse of discretion only upon demonstration of manifest unreasonableness, partiality, prejudice, bias, or ill-will. *Id.*

As we discussed in *R.J.T.*, there are clear reasons for applying an abuse of discretion standard of review in these cases. We observed that, unlike trial courts, appellate courts are not equipped to make the fact-specific determinations on a cold record, where the trial judges are observing the parties during the relevant hearing and often presiding over numerous other hearings regarding the child and parents. *R.J.T.*, [608 Pa. at 28-30], 9 A.3d at 1190. Therefore, even where the facts could support an opposite result, as is often the case in dependency and termination cases, an appellate court must resist the urge to

³ While Mother filed notices of appeal from the orders changing the children's respective placement goals from reunification to adoption, she does not level any legal arguments in her brief to support that aspect of her appeal. Thus, we do not address the merits of those orders herein.

second guess the trial court and impose its own credibility determinations and judgment; instead we must defer to the trial judges so long as the factual findings are supported by the record and the court's legal conclusions are not the result of an error of law or an abuse of discretion. ***In re Adoption of Atencio***, [539 Pa. 161, 165,] 650 A.2d 1064, 1066 (Pa. 1994).

In re Adoption of S.P., 47 A.3d 817, 826-827 (Pa. 2012).

Termination of parental rights is governed by § 2511 of the Adoption Act, which requires a bifurcated analysis.

Our case law has made clear that under Section 2511, the court must engage in a bifurcated process prior to terminating parental rights. 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.

In re L.M., 923 A.2d 505, 511 (Pa.Super. 2007) (citing 23 Pa.C.S. § 2511).

The burden is upon the petitioner to prove by clear and convincing evidence that the asserted statutory grounds for seeking the termination of parental rights are valid. ***In re R.N.J.***, 985 A.2d 273, 276 (Pa.Super. 2009).

Instantly, although the decrees terminated Mother's parental rights pursuant to § 2511(a)(1), (2), (5), (8), and (b), the trial court, in its Rule 1925(a) opinion, analyzed the decrees with respect only to § 2511(a)(1), (2), and (b). This Court must agree with only one subsection of 23 Pa.C.S.

§ 2511(a), in addition to § 2511(b), in order to affirm the termination of parental rights. **See *In re B.L.W.***, 843 A.2d 380, 384 (Pa.Super. 2004) (*en banc*). Herein, we review the decrees pursuant to § 2511(a)(2) and (b), which provide as follows.

(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:

. . . .

(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.

. . . .

(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(a)(2), (b).

To satisfy the requirements of § 2511(a)(2), the moving party must produce clear and convincing evidence regarding the following elements: (1) repeated and continued incapacity, abuse, neglect, or refusal; (2) such incapacity, abuse, neglect, or refusal caused the child to be without essential

parental care, control, or subsistence necessary for his physical or mental well-being; and (3) the causes of the incapacity, abuse, neglect, or refusal cannot or will not be remedied. **See *In re Adoption of M.E.P.***, 825 A.2d 1266, 1272 (Pa.Super. 2003). The grounds for termination of parental rights under § 2511(a)(2), due to parental incapacity that cannot be remedied, are not limited to affirmative misconduct. To the contrary, those grounds may include acts of refusal as well as incapacity to perform parental duties. ***In re A.L.D.*** 797 A.2d 326, 337 (Pa.Super. 2002).

With respect to § 2511(b), this Court has explained the requisite analysis as follows:

Subsection 2511(b) focuses on whether termination of parental rights would best serve the developmental, physical, and emotional needs and welfare of the child. 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 the needs and welfare of the child.” In addition, we instructed that the trial 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, in cases where there is no evidence of a bond between a parent and child, it is reasonable to infer that no bond exists. ***In re K.Z.S.***, 946 A.2d 753, 762-63 (Pa.Super. 2008). Accordingly, the extent of the bond-effect analysis necessarily depends on the circumstances of the particular case. ***Id.*** at 63.

In re Adoption of J.M., 991 A.2d 321, 324 (Pa.Super. 2010).

In its Rule 1925(a) opinion, the trial court found that Mother failed to complete mental health and drug abuse treatment and that she failed to comply with court orders for random drug screens. In addition, “[t]he

testimony of Dr. Gbaba established Mother was non-responsive regarding the allegation of sexual abuse of A.A.S.W. by her father and older brother.⁴ Furthermore, testimony revealed Mother did not confirm or deny the allegation of sexual abuse.” Trial Court Opinion, 12/31/13, at 4 (citations to record omitted). Finally, the court stated,

. . . Mother had a history of depression and mental health issues. Testimony of Dr. Miksic established Mother’s parenting abilities were impacted by psychological factors including hallucinations. Moreover, the testimony established that mother’s mental health status impairs her parenting capacity abilities and her ability to provide a safe environment for the children.

Id (citations to record omitted). Upon review, the testimonial evidence supports the court’s findings.

Dr. Joseph Gbaba,⁵ the DHS social work services manager, testified on October 22, 2012, that, pursuant to a court order, Mother participated in a CEU evaluation on January 20, 2010, which resulted in her testing positive for Phencyclidine (“PCP”). N.T., 10/22/12, at 12-14. The CEU recommended that Mother obtain mental health treatment. **Id.** at 14. Dr. Gbaba testified on direct examination that Mother began mental health

⁴ At the time DHS first became involved with this family, A.A.S.W. alleged that, in addition to Father, her older brother had sexually molested her. Upon review, there is no record evidence of A.A.S.W. having an older brother. Moreover, during the subject proceedings, there was no testimonial evidence with respect to any brother of A.A.S.W. sexually molesting her.

⁵ The record does not reveal Dr. Gbaba’s credentials or educational accomplishment.

treatment at the WEDGE Recovery Center, but her insurance lapsed in 2011, and he is not aware that she ever re-engaged in mental health therapy. **Id.** On cross-examination by Mother's counsel, counsel presented Dr. Gbaba with a certificate dated April 21, 2011, indicating Mother successfully completed the WEDGE addiction outpatient program. **Id.** at 34-35.

In addition, Dr. Gbaba testified on direct examination that Mother was ordered by the trial court to participate in random drug screens, and she failed to do so in October of 2011. **Id.** at 14-17. On cross-examination, Mother's counsel presented Dr. Gbaba with an exhibit revealing the random drug tests Mother underwent from August 12, 2010 through April 8, 2011. The exhibit established that Mother tested positive for PCP and amphetamines on August 12, 2010, and she tested positive for PCP on September 15 and 23, 2010. Between October 12, 2010, and April 8, 2011, Mother participated in random drug tests approximately every ten days, the results of which were all negative. **Id.** at 42.

With respect to his discussion with Mother regarding A.A.S.W.'s allegations of sexual abuse by Father, Dr. Gbaba testified as follows:

Q. Have you ever discussed with [Mother] whether she believes [Father] abused [A.A.S.W.]?

A. We did.

Q. And what . . . did you ask [Mother]?

A. Well, I asked [Mother] what did she feel about the allegations that took place and what was her position and she . . . did not

give any kind of position regarding concern about what took place between [A.A.S.W.] and her Father.

Id. at 20.

Finally, Dr. Gbaba testified that Mother had supervised weekly visits with the Children that were suspended in March of 2012, due to “threatening remarks” made by Mother. **Id.** at 19-20. Dr. Gbaba testified that, as a result of Mother’s threatening remarks, DHS directed Mother to seek mental health treatment, and that he has received no documentation that she is currently engaged in treatment. **Id.** at 20.

Patricia Jackson, the case manager at Friendship House, where supervised visits occurred between Mother and the Children testified on October 22, 2012, that some of Mother’s visits were inappropriate. She testified that, “[o]n some occasions, Mother would come in angry. She would [b]e terribly upset that the children were still in care.” N.T., 10/22/12, at 92.

Ms. Jackson testified that she developed an Individual Service Plan (“ISP”) for Mother that included mental health treatment, drug and alcohol treatment, obtaining a General Educational Development (“GED”) certificate, and obtaining employment. **Id.** at 82-83. Ms. Jackson confirmed that Mother completed an intensive mental health treatment at the WEDGE Recovery Center, but that “they did a stepdown[,] but she didn’t follow through with the stepdown.” **Id.** at 83. Ms. Jackson clarified,

Q. So, your understanding is that [Mother] completed the intensive outpatient and she was to complete the outpatient after that?

A. Yes.

Q. In the past year, has [Mother] ever provided you with any documentation that she is compliant with her mental health treatment?

A. Not in the past year.

Id. at 83-84. Ms. Jackson subsequently explained that, after completing the intensive outpatient program, Mother was required to participate in regular weekly therapy, and she has no documentation establishing that Mother ever did. **Id.** at 85. In addition, Ms. Jackson testified Mother was ordered to participate in random drug screens. She testified,

[A] few times [] [Mother] needed to comply with the Court Order to do immediate drug screening. A lot of times she would walk away and Doctor Gbaba would tell me that she didn't do the drug test. I would tell her when she comes for a visit how important it was.

Id. at 84. Based, in large part, on Mother's failure to comply with all the requests regarding drug and alcohol treatment, Ms. Jackson testified that Mother was unable to be reunified with the Children at that time. **Id.** at 108.

With respect to Mother's mental health, Michelle Robbins, a psychologist who performed a parenting capacity evaluation of Mother on May 24, 2011, testified that Mother revealed she was in treatment at the WEDGE Recovery Center for depression. N.T., 10/22/12, at 51. Further,

Mother revealed that she was taking prescribed medications, Celexa and Risperdol, for mood problems. *Id.* at 51-52. Significantly, with respect to A.A.S.W.'s allegations of sexual abuse by Father, Ms. Robbins testified that Mother "thought that her daughter, [A.A.S.W.], may have been coached to say that she was abused," and that Mother did not provide a basis for her belief. *Id.* at 52-53. Ms. Robbins testified as follows on direct examination:

Q. And [Mother's] capacity to provide safety and well-being of her children is dependent on what services?

A. It would be helpful for her to receive [] In-Home family services, drug and alcohol treatment intervention as needed with drug screens, and some reassurance that [Mother] will adhere to a safety plan that is outlined by DHS.

Q. And the safety plan would be regarding the sexual abuse?

A. It would be regarding everything. A safety plan would be everything. It would encompass fire safety, burglary safety, everything, sharp object safety. A safety plan encompasses everything including physical and sexual abuse.

Id. at 55.

Moreover, on June 18, 2013, Dr. Stephen Miksic, a psychologist who performed a forensic psychological bonding evaluation of Mother on November 15, 2011, testified he was tasked by DHS to provide information "with respect to [Mother's] parenting abilities as impacted by psychological factors and to observe the quality of the relationship between [Mother] and the children." N.T., 6/18/13, at 5. On direct examination, Dr. Miksic testified that Mother revealed her mental health history as follows:

[Mother] said she had a history of substance abuse which was very difficult for her.

. . . .

Also, that she had psychiatric treatment in the hospital for depression and other problematic emotional reactions and there was an ongoing issue for her with depression and insecurity about her ability to maintain her emotional integrity.

. . . .

Id. at 6. Dr. Miksic further explained, “[W]hen [Mother] was with me, she had a clear insecurity about her ability to stay healthy and stable, stating that she felt she might have to return to Fairmount for additional treatment.” **Id.** at 7. In addition, Dr. Miksic testified on direct examination,

Q. Doctor Miksic, did [Mother] raise any additional concerns regarding her mental health history?

A. Yes. [Mother] said she had experiences of hallucinations which were treated with psychotropic medication. When I was with her, she said she was involved in treatment and had two different medications, one for depression, one for thought disturbance, and even with those medications she stated that she was having visions of a person who was killed that she was familiar with, and that she had remarked to [Father] about that. And at that time, he did not see the same type of person or have that perception that she did. This was an ongoing experience for her.

Id. at 8. Dr. Miksic diagnosed Mother with “major depressive disorder, adjustment disorder, possible dependent personality disorder, and a possible thought disorder which could also be associated with depression.” **Id.** at 12.

With respect to A.A.S.W.’s allegations of sexual abuse by Father, Dr. Miksic, who interviewed A.A.S.W. and discussed the allegations with her,

testified he did not believe she was coached or influenced. **Id.** at 11-12. In addition, he explained why he did not believe that Father's reunification was appropriate.

Q. Did you discuss with [Mother] regarding her belief whether [Father] abused [A.A.S.W.]?

A. Yes. [Mother] was never definitive in saying that she accepted or did not accept that that had actually occurred. And that her only statement was that she hoped that [Father] would be able to participate in treatment. And that she would like him to return to the family with some type of safety plan.

Q. Now, do you believe that this is a realistic expectation?

A. No.

Q. Why is that?

A. Given the extreme difficulty with her emotional stability, and [Mother] being insecure about her ability even to maintain her emotional status without returning to a psychiatric hospital, with her report of severe symptoms of depression and thought disturbance creating a condition of dependency, which she reported for her relationship with [Father]. I would not feel that she would be able to maintain a safety plan or conditions of safety in a consistent way for the children.

Id. at 8-9.

With respect to his conclusion regarding Mother's parenting abilities as impacted by her mental health, Dr. Miksic testified that Mother's "mental health status was extremely fragile, that she had many risk factors for depression and thought disturbance which would impair her parental capacities and ability to provide for the safety of" the Children. **Id.** at 12.

We conclude that the foregoing testimonial evidence supports termination of Mother's parental rights pursuant to § 2511(a)(2) in that Mother's repeated and continued incapacity, neglect, or refusal consisting of her mental health and substance abuse problems have caused the Children to be without essential parental care, control, or subsistence necessary for their physical or mental well-being. Further, the causes of Mother's incapacity, neglect, or refusal cannot or will not be remedied.

To the extent Mother argues the evidence does not support the court's finding that she has failed to comply with drug and alcohol treatment, we reject Mother's argument. At most, the testimonial and documentary evidence shows that Mother complied with random drug screens from August 12, 2010, through April 8, 2011, and that her drug screens were negative for six months, from October 12, 2010, through April 8, 2011. However, there is no record evidence of any additional drug screening by Mother after April 8, 2011. Because the testimonial evidence establishes that Mother failed to follow through with recommended weekly therapy following completion of her intensive outpatient drug treatment, we conclude the court did not abuse its discretion by finding that Mother failed to comply with her drug and alcohol treatment.

In light of the requisite bifurcated analysis in termination matters, we next review the decrees pursuant to § 2511(b) regarding the developmental,

physical, and emotional needs and welfare of the Children. We discern no abuse of discretion.

With respect to the bond analysis pursuant to § 2511(b), our Supreme Court confirmed 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.” ***In re T.S.M.***, 71 A.3d 251, 267 (Pa. 2013). The High Court further stated that, “[c]ommon sense dictates that courts considering termination must also consider whether the children are in a pre-adoptive home and whether they have a bond with their foster parents.” ***Id.*** at 268. Moreover, it directed that, in weighing the bond considerations pursuant to section 2511(b), “courts must keep the ticking clock of childhood ever in mind.” The ***T.S.M.*** Court observed, “[c]hildren are young for a scant number of years, and we have an obligation to see to their healthy development quickly. When courts fail . . . the result, all too often, is catastrophically maladjusted children.” ***Id.*** at 269.

Instantly, Dr. Miksic testified that, as part of his forensic psychological bonding evaluation performed on November 15, 2011, he observed healthy interactions between Mother and her sons, J.L.G.W.S., J.K.S.W., and K.L.S. N.T., 6/18/13, at 9. With respect to A.A.S.W., Dr. Miksic observed that she “was generally avoidant of being with her Mother or with [her brothers.] [A.A.S.W.] generally preferred to be by herself until the later portions of the

observation when she became somewhat more accepting of interactions with Mother and sat close to her.” **Id.** at 10. Dr. Miksic continued,

[A.A.S.W.’s] behavior in the observation indicat[ed] that she was somewhat insecure in her relationship with her Mother. Also, it was possibly some guilt as being identified as the individual who caused problems in the family by identifying [Father] as a perpetrator of inappropriate contact with her, and associating that contact with Mother in terms of the family system.

Id. at 10-11. As a result of his evaluation in November of 2011, Dr. Miksic concluded as follows:

My observation was that there was a bond between Mother and the children and that it may be possible for her to progress if she was able to benefit from treatment and rehabilitation to some level of parenting the children[,] which could lead to some unsupervised contact. My qualification for that was that she should first be able to substantiate a significant amount of stability for substance abuse recovery and for her emotional status prior to that occurring.

Id. at 13.

In January of 2013, Dr. Miksic completed an addendum to his forensic psychological bonding evaluation with respect to Mother. He presented these findings on direct examination:

A. The information I was given was that there had been a substantial period of time when the children had not visited with [Mother], and also that she had difficulties with her mental health stability and made a statement about possible impulses to harm the children.

. . . .

Q. Now, specifically, with regard to the bond between [Mother] and her children, how does her mental instability, lack of contact with the children for over a year, and the children’s lack of

requesting contact with their Mother, [a]ffect your recommendation regarding the bond?

A. There is a point of diminishing returns at which time, even if the children have a level of attachment to the parent . . . the damage to the children from the lack of permanency becomes more severe and overrides the possibility that they would suffer emotional harm from the separation from the parent or termination of the parents' rights.

Id. at 14-15.

Ms. Jackson testified as follows with respect to the adjustment of the Children since Mother's visits were suspended in March of 2012, which was seven months prior to the first day of the termination hearing:

Q. And how have they adjusted since not seeing their Mom for seven months?

A. They have adjusted quite well. They asked for her a few times in the beginning[,] and then they never asked about her again.

N.T., 10/22/12, at 93-94. Significantly, Ms. Jackson testified that there would be no detriment to the Children in terminating Mother's parental rights. She testified as follows:

Q. Starting with [A.A.S.W.], would you inform the Court why you don't believe there would be a detrimental impact[?]

A. Well, [A.A.S.W.] [has] been living with the foster [m]other for all these years, and she is well bonded with her. She did see her Mother on a weekly basis, but she hasn't seen her Mother since March[,] and she hasn't shown any detrimental effect from not seeing her Mother or even asking for her. . . .

Q. Now, with respect to [K.L.S.], would you inform the Court as to why you don't believe it would be detrimental to [K.L.S.]?

A. [K.L.S.] came into care when he was just five months[,] and during the visits, he was his Mother like for an hour, two hours, on a weekly basis. . . . [H]is memory of his Mother and their relationship[] is even less than that of the oldest child, [A.A.S.W.], who came into care when she was four years old.

Q. With regards to [J.L.G.W.S.], would you inform the Court why you say that for [J.L.G.W.S.]?

A. The same explanation I gave for [A.A.S.W.], that [J.L.G.W.S.] has been in care and he used to see his Mother[,] and then she has been out of his life for all these months[,] and he hasn't inquired about her.

Q. And with regard to [J.K.S.W.], would you say why you believe there would be no detrimental impact?

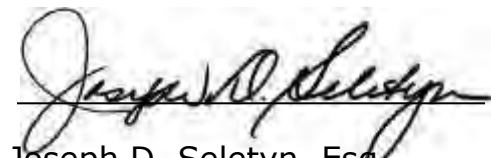
A. [J.K.S.W.], also, has been in care for almost two years. He is just a little older than [K.L.S.]. And so, he has accepted his foster [m]other like a [m]other. . . .

N.T., 10/22/12, at 105-106.

Based on the foregoing evidence, we discern no abuse of discretion by the court in concluding that terminating Mother's parental rights "would best serve the developmental, physical, and emotional needs and welfare" of the Children. Accordingly, we affirm the decrees terminating Mother's parental rights pursuant to 23 Pa.C.S. § 2511(a)(2) and (b).

Decrees affirmed.

Judgment Entered.



Joseph D. Seletyn, Esq.
Prothonotary

Date: 7/9/2014