

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

IN RE: W.H., A MINOR

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

APPEAL OF: T.D., NATURAL MOTHER

No. 779 WDA 2016

Appeal from the Order May 6, 2016  
In the Court of Common Pleas of Allegheny County  
Orphans' Court at No(s): CP-02-AP-0000202-2015

BEFORE: BENDER, P.J.E., OTT, J., and FITZGERALD, J.\*

MEMORANDUM BY BENDER, P.J.E.:

**FILED NOVEMBER 15, 2016**

T.D. (Mother) appeals from the order entered on May 6, 2016, that granted the petition filed by the Allegheny County Office of Children, Youth and Families (CYF) to involuntarily terminate Mother's parental rights to her son, W.H. (Child), born in October of 2010.<sup>1</sup> We affirm.

The trial court began its discussion of the history of this case, stating:

The family came to the attention of CYF in April of 2014 after the agency received reports that the parents were actively using illegal drugs. Additionally, Mother acknowledged a number of mental health diagnoses, including Bipolar Disorder, Obsessive Compulsive Disorder and an Anxiety Disorder. Mother was not in mental health treatment at the time of the initial referral. Mother admitted to suffering from heroin addiction in May of 2014 and [C]hild was removed from her care. CYF also

---

\* Former Justice specially assigned to the Superior Court.

<sup>1</sup> The parental rights of W.R.H. (Father) were also terminated in the same order. **See** Involuntary Termination Order, 5/6/16. In that order, the trial court notes that during the termination proceeding Father withdrew his opposition to the "Contest of the Termination of Parental Rights." **Id.** Father is not a party to this appeal.

had concerns for Father's mental health and addiction issues as he had been residing in the family home. Originally, [C]hild had been placed in the care of [m]aternal [g]randmother. The [c]ourt allowed for visits to be arranged between family members and to occur liberally. Mother did not take advantage of this arrangement. A Family Service Plan was developed for Mother at that time. Her goals were identified as addressing mental health through treatment, obtaining/maintaining housings, attending a drug and alcohol evaluation, and following all recommendations.

Trial Court Opinion (TCO), 7/5/16, at 1-2 (footnote omitted). The court's opinion then discussed the treatment Mother underwent related to her drug and mental health issues, her lack of success, and her failure to appear for some of her scheduled drug screens. The opinion further explained about Child's removal from his grandmother's custody, his placement with one foster family, and his removal and placement with a second foster family where he has remained since February of 2015.

On December 21, 2016, CYF filed the petition to involuntarily terminate Mother's parental rights. A hearing took place on April 1, 2016, and, on May 6, 2016, the court granted CYF's petition. Mother filed a timely notice of appeal and a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b). On appeal, Mother presents the following issue:

Did the trial court abuse its discretion and/or err as a matter of law in concluding that termination of [Mother's] parental rights would serve the needs and welfare of the Child pursuant to 23 Pa.C.S. § 2511(b)?

Mother's brief at 5.

We review an order terminating parental rights in accordance with the following standard:

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 R.N.J.***, 985 A.2d 273, 276 (Pa. Super. 2009) (quoting ***In re S.H.***, 879 A.2d 802, 805 (Pa. Super. 2005)). Moreover, we have explained that:

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.”

***Id.*** at 276 (quoting ***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).

Termination of parental rights is governed by Section 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, other citations omitted). 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. ***R.N.J.***, 985 A.2d at 276.

Because Mother sets forth arguments relating only to Section 2511(b), we direct our analysis to the facts relating to that section. This Court has explained that:

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).

The trial court provided the following extensive discussion concerning Section 2511(b), stating:

Vince Argento, the Family Focus therapist, reported that Mother struggled while interacting with [C]hild initially. She had to be given instruction as to how to play with [C]hild. It was reported that Mother would not get on the floor with [C]hild but would just sit while he played. Over time, Mother improved somewhat. Mr. Argento acknowledged that she did try to engage [C]hild somewhat during the visits. However, Mr. Argento believed that [C]hild had become accustomed to receiving gifts and candy during visits with Mother. This was concerning to the therapist because [C]hild appeared to be more eager about receiving snacks than seeing Mother. Mr. Argento also testified that [C]hild was doing fantastic in his current foster home. When addressing missed or canceled visits with [C]hild, the therapist noted that [C]hild was more disappointed that he was not going to get candy than he was about not visiting with Mother. It was the opinion of Mr. Argento, that [C]hild's behavior had vastly improved and the foster parents have done a great job in addressing [C]hild's stressors. Mr. Argento stressed that [C]hild was at a crucial point in his development and that he desperately needed stability, structure, and discipline. While he acknowledged that Mother had made some progress, he was still of the opinion that the current foster parents could meet all of [C]hild's needs and provide him with permanency.

During the numerous evaluations that Dr. Bliss conducted, she continued to express concerns that Mother had not addressed her mental health or addiction issues as consistently as she should have been. Mother had reported a significant history of mental health concerns as well as drug abuse. After each evaluation, Dr. Bliss's recommendation remained the same; Mother needed to attend a dual diagnosis program. Mother's routine was quite predictable throughout the history of the case as she would engage in treatment for a short period of time, be discharged for lack of attendance, and then re-engage

immediately prior to her evaluations with Dr. Bliss. During the interactional evaluations, Dr. Bliss noted Mother's struggles relating to [C]hild. Mother struggled to relate to the activities that [C]hild was interested in doing. It was her opinion that [C]hild appeared to be distancing himself from Mother, while becoming closer with the foster parents. Dr. Bliss testified that the foster parents were engaged with [C]hild and played well with him. She opined that [C]hild had an emotional attachment with Foster Mother and emulated Foster Father. Dr. Bliss believed that the foster parents provided [C]hild with the stability and continuity that he needed. She concluded that [C]hild had a primary attachment to the foster parents and that termination of Mother's parental rights would not be detrimental to [C]hild. While it would cause the child some sadness, she believed that the relationship with Mother was no longer beneficial to him. It was her ultimate opinion that termination best suited [C]hild's needs and welfare and that this [C]hild specifically needed stability and consistency to ensure adequate growth and development.

Mother has failed to maintain a bond with [C]hild, largely due to her own inability to properly parent. Both [C]hild's therapist as well as Dr. Bliss believe the bond between the two to be weak. At this point in the case, [C]hild associates the visits with Mother to be a time in which he receives gifts and candy. He has not reacted negatively to her absence and has grown increasingly close with his foster parents. Much of his troublesome behavior has ceased, namely the frequent enuresis episodes. The foster parents have done an incredible job in recognizing [C]hild's stressors and specific needs. Mother, however, has been unable to provide for [C]hild's most basic needs. The case had been active for approximately sixteen months before Mother reported any significant clean time. Despite having [been] unemployed, Mother has not been able to regularly attend drug treatment nor mental health treatment until the filing of the Petition. Mother failed to provide CYF with her address on numerous occasions including the six months preceding the [termination of parental rights] hearing. Mother has not maintained housing since [C]hild was removed. She has moved frequently and not followed through with housing referrals. Failing to terminate Mother's parental rights would only exacerbate [C]hild's confusion. Prolonged exposure to Mother would create more uncertainty for [C]hild at such a pivotal developmental phase. [C]hild looks to his foster parents

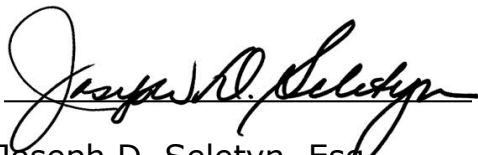
for stability and security. Termination of Mother's parental rights best suits the needs and welfare of [C]hild.

TCO at 4-7 (footnotes omitted).

Based upon the facts found by the trial court that our review reveals are supported by the evidence of record, we discern no abuse of discretion in its conclusion that terminating Mother's parental rights would best serve the developmental, physical, and emotional needs and welfare of Child. ***See In re Adoption of C.D.R.***, 11 A.3d 1212, 1220 (Pa. Super. 2015) (concluding that the mother's bond with the child was outweighed by her repeated failure to remedy her incapacity and by her child's need for permanence and stability).<sup>2</sup> Accordingly, we affirm the court's order terminating Mother's parental rights to Child.

Order affirmed.

Judgment Entered.



Joseph D. Seletyn, Esq.  
Prothonotary

Date: 11/15/2016

---

<sup>2</sup> We further observe that the Guardian *Ad Litem* filed a brief in support of the court's decision to terminate Mother's parental rights.