

C.W. ("Mother") appeals from the Orders granting the Petitions filed by the Philadelphia Department of Human Services ("DHS") to involuntarily terminate her parental rights to R.A.W. (d/o/b April 2006), and twins C.S.C. and C.T.C. (d/o/b December 2008) (collectively, "Children"),¹ pursuant to the Adoption Act, 23 Pa.C.S.A. § 2511(a)(1), (2), (5), (8), and (b), and to change Children's permanency goals to adoption pursuant to the Juvenile Act, 42 Pa.C.S.A. § 6351. We affirm.

The trial court aptly summarized the factual and procedural history of this case, which we adopt for the purpose of this appeal. **See** Trial Court Opinion, 6/22/17, at 1-5.

On appeal, Mother raises the following questions for our review:

1. Whether the trial court's ruling to involuntarily terminate [Mother's] parental rights to [Children] was not supported by clear and convincing evidence establishing grounds for involuntary termination?
2. Whether the trial court's decision to change [Children's] permanency goal from reunification with their parent to adoption was not supported by clear and convincing evidence that such decision would best protect [] [C]hildren's needs and welfare?

Mother's Brief at 5.

We review an appeal from the termination of parental rights in accordance with the following standard:

¹ In separate Orders, the trial court also terminated the rights to the fathers and any unknown fathers of Children. No individual claiming to be the putative father has filed an appeal.

In an appeal from an order terminating parental rights, our scope of review is comprehensive: we consider all the evidence presented as well as the trial court's factual findings and legal conclusions. However, our standard of review is narrow: we will reverse the trial court's order only if we conclude that the trial court abused its discretion, made an error of law, or lacked competent evidence to support its findings. The trial judge's decision is entitled to the same deference as a jury verdict.

In re L.M., 923 A.2d 505, 511 (Pa. Super. 2007) (citations omitted).

Termination of parental rights is controlled by section 2511 of the Adoption Act. **See** 23 Pa.C.S.A. § 2511. The burden is upon the petitioner "to prove by clear and convincing evidence that its asserted grounds for seeking the termination of parental rights are valid." ***In re R.N.J.***, 985 A.2d 273, 276 (Pa. Super. 2009). "[C]lear 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 hesitance, of the truth of the precise facts in issue." ***Id.*** (citation and quotation marks omitted). Further, 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 the 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).

Satisfaction of any one subsection of section 2511(a), along with consideration of section 2511(b), is sufficient for the involuntary termination of parental rights. ***In re B.L.W.***, 843 A.2d 380, 384 (Pa. Super. 2004) (*en*

banc). In this case, we will review the trial court's decision to terminate Father's parental rights based upon sections 2511(a)(1) and (b), which state the following:

§ 2511. Grounds for involuntary termination.

(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.

* * *

(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.A. § 2511(a)(1), (b).

Parental rights may be terminated pursuant to [s]ection 2511(a)(1) if the parent either demonstrates a settled purpose of relinquishing parental claim to a child or fails to perform parental duties. ... [P]arental duty is best understood in relation to the needs of a child. ... [T]his court has held that the parental obligation is a positive duty which requires affirmative performance. This affirmative duty ... requires a continuing interest in the child and a genuine effort to maintain communication and association with the child.

In the Interest of J.T., 983 A.2d 771, 776-77 (Pa. Super. 2009) (quotation marks and citations omitted). Further,

[a] parent must utilize all available resources to preserve the parental relationship, and must exercise reasonable firmness in resisting obstacles placed in the path of maintaining the parent-child relationship. Parental rights are not preserved by waiting for a more suitable or convenient time to perform one's parental responsibilities while others provide the child with his or her physical and emotional needs.

In re K.Z.S., 946 A.2d 753, 759 (Pa. Super. 2008) (citations omitted).

In her first claim, Mother contends that the trial court erred in granting the Petitions to involuntarily terminate her parental rights to Children, because DHS did not satisfy, by clear and convincing evidence, that her parental rights should be terminated under section 2511(a)(1). Mother's Brief at 18. Mother argues that she regularly and consistently visited Children, loved Children, completed a parenting skills class, attended therapy for her bipolar and depression disorders, tested negative for drugs and alcohol, and was gainfully employed. ***Id.*** at 18-19. Mother concedes that while she did not have adequate housing for Children, she substantially complied with the family service plan objectives and did not evidence a settled purpose for relinquishing her parental rights. ***Id.*** at 19.

Here, the trial court thoroughly considered the facts and determined that Mother failed to perform her parental duties for the requisite six-month period. ***See*** Trial Court Opinion, 6/22/17, at 5-6. After our careful review of the trial court's application of the law to the facts of this case, there is no

reason to disturb the trial court's conclusions that Mother failed to perform her parental duties with regard to Children, and that she failed to sustain her burden of proof. **See id.** Thus, the trial court's determinations regarding section 2511(a)(1) are supported by competent, clear and convincing evidence in the record, and we affirm on the reasoning set forth in its Opinion. **See id.; see also In re B., N.M.**, 856 A.2d 847, 858 (Pa. Super. 2004) (concluding that father showed a settled purpose of relinquishing his parental rights where he sat idle for most of child's life, and that father's wish to not have his parental rights terminated was insufficient to protect those rights without affirmatively fostering a parental relationship with child).

Regarding section 2511(b), the trial court inquires whether the termination of parental rights would best serve the developmental, physical and emotional needs and welfare of the child. **See In re C.M.S.**, 884 A.2d 1284, 1286-87 (Pa. Super. 2005). "Intangibles such as love, comfort, security, and stability are involved in the inquiry into the needs and welfare of the child." **Id.** at 1287 (citation omitted). The 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.; see also In re Z.P.**, 994 A.2d 1108, 1121 (Pa. Super. 2010) (stating that "the court must take into account whether a bond exists between child and parent, and whether termination would destroy an existing, necessary and beneficial

relationship.”). “[C]ourts considering termination must also consider whether the children are in a pre-adoptive home and whether they have a bond with their foster parents.” ***In re T.S.M.***, 71 A.3d 251, 268 (Pa. 2013). In conducting a bonding analysis, the court is not required to use expert testimony, but may rely on the testimony of social workers and caseworkers. ***In re Z.P.***, 994 A.2d at 1121. Finally, although the focus in terminating parental rights under section 2511(a) is on the parent, it is on the child under section 2511(b). ***See In re Adoption of C.L.G.***, 956 A.2d 999, 1008 (Pa. Super. 2008) (*en banc*); ***see also In re Z.P.***, 994 A.2d at 1125 (stating that, a child’s life “simply cannot be put on hold in the hope that [a parent] will summon the ability to handle the responsibilities of parenting.”).

Mother contends that the trial court erred in determining that termination served Children’s best interests under section 2511(b). Mother’s Brief at 23. Mother argues that that there was no evidence presented demonstrating a lack of a bond with Children, or that termination would best serve Children’s interests. ***Id.*** at 23-24. Mother asserts that DHS’s caseworker should not have been permitted to offer opinion testimony regarding Mother’s lack of a bond with Children. ***Id.*** at 24. Mother maintains that Children would be significantly harmed if her parental rights were terminated. ***Id.***

Here, the trial court found that the evidence demonstrated, by clear and convincing evidence, that Children have no bond with Mother. ***See*** Trial

Court Opinion, 6/22/17, at 7-8. The trial court's determination that Mother cannot provide for Children's needs and welfare, and that their best interests are served by the termination of Mother's parental rights, is supported by competent, clear and convincing evidence in the record. **See *id.*; see also *In re J.L.C.***, 837 A.2d 1247, 1249 (Pa. Super. 2003) (stating that parent must put himself in a position to assume daily parenting responsibilities so that he could develop a bond with child). Moreover, contrary to Mother's claim, the testimony of caseworkers may be used in conducting a bonding analysis. **See *In re Z.P.***, 994 A.2d at 1121. We, therefore, conclude that the trial court did not abuse its discretion in terminating the parental rights of Mother under section 2511(b), and affirm on the basis of the trial court's Opinion. **See** Trial Court Opinion, 6/22/17, at 7-8.²

Orders affirmed.

² While Mother raised the issue of the goal change in her Statement of Questions, she has not set forth a separate argument in her appellate brief. Thus, she waived any challenge to the goal change. **See** Pa.R.A.P. 2119(a). Even if Mother had properly preserved this challenge, we would conclude that the trial court did not abuse its discretion in changing the goal to adoption, as it was in Children's best interests. **See *In re S.B.***, 943 A.2d 973, 978 (Pa. Super. 2008) (stating that in a change of goal proceeding, "[t]he trial court must focus on the child and determine the goal with reference to the child's best interests, not those of the parents."); **see also *In re R.M.G.***, 997 A.2d 339, 347 (Pa. Super. 2010) (noting that under section 6351, "[s]afety, permanency, and well-being of the child must take precedence over all other considerations[.]" (emphasis omitted)).

J-S72016-17

Judgment Entered.

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

Joseph D. Seletyn, Esq.
Prothonotary

Date: 2/14/18