

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN RE: ADOPTION OF: A.S.R., A : IN THE SUPERIOR COURT OF
MINOR : PENNSYLVANIA
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APPEAL OF: B.R., FATHER :
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 : No. 1893 MDA 2019

Appeal from the Decree Entered October 22, 2019
In the Court of Common Pleas of Franklin County Orphans' Court at
No(s): 31 Adopt 2019

BEFORE: OLSON, J., DUBOW, J., and McLAUGHLIN, J.

MEMORANDUM BY McLAUGHLIN, J.: **FILED: MAY 27, 2020**

B.R., Father, appeals from the decree terminating his parental rights to A.S.R. (Child). He claims that the trial court abused its discretion because the evidence did not support termination of his parental rights under 23 Pa.C.S.A. §§ 2511(a)(1) and 2511(b). We affirm.

Father, A.S. (Mother),¹ and Child, who was born in September 2017, lived with Linda Churchey. When Child was approximately five months old, in late February 2018, Father and Mother ended their relationship and both left the home, leaving Child in the care of Ms. Churchey. Approximately two months later, in April 2018, Ms. Churchey entrusted Child into the care of D.H. and R.H. (Petitioners). They sought sole legal and physical custody of Child, which, in May 2018, the court granted. In June 2018, the court conducted a

¹ Mother, whose parental rights were also terminated on October 22, 2019, is not a party to the instant appeal.

custody conciliation conference, which Father attended. Father did not seek any visitation during the conference, his only comment being, "I want my child and I need a lawyer." N.T. Hearing, 9/03/19, at 50.

In June 2019, Petitioners filed petitions to terminate the parental rights of Father and Mother and a report of intention to adopt Child. The court appointed a guardian *ad litem* to represent Child's best interest in the proceedings. The court held a hearing on the petition on September 3, 2019, and entered a decree on October 22, 2019, terminating the parental rights of both Father and Mother, finding grounds for termination under subsections 2511(a)(1) and 2511(b). This timely appeal followed.

Father raises one issue on appeal.

[Whether], the trial court abused its discretion in terminating the parental rights of Father where he had not revealed a settled interest to relinquish parental claim to his Child or refuse to perform parental duties; rather Petitioner (sic), natural Mother, and her family engaged in conduct to keep Father from the child[?]

Father's Br. at 4.

When we review termination of parental rights cases, we "accept the findings of fact and credibility determinations of the trial court if they are supported by the record." ***In re T.S.M.***, 71 A.3d 251, 267 (Pa. 2013) (citation omitted). "If the factual findings have support in the record, we then determine if the trial court committed an error of law or abuse of discretion." ***In re Adoption of K.C.***, 199 A.3d 470, 473 (Pa. Super. 2018). We may reverse a trial court decision "for an abuse of discretion only upon

demonstration of manifest unreasonableness, partiality, prejudice, bias, or ill-will.” ***In re Adoption of S.P.***, 47 A.3d 817, 826 (Pa. 2012).

In his issue, Father claims that the trial court erred when it concluded that he revealed a settled purpose to relinquish his parental claim to Child and refused to perform parental duties. Rather, he contends that the evidence at the hearing showed that Mother and Petitioners engaged in conduct to keep Father from Child. **See** Father’s Br. at 4. He argues that he had neither Petitioners’ address nor their phone number and asserts that Petitioners did not offer Father time to exercise custody of the Child. **See id.** at 10. Therefore, he claims the evidence did not show he failed to perform parental duties. We disagree.

A party seeking to terminate parental rights has the burden of establishing grounds for termination by clear and convincing evidence. **See *In re Adoption of K.C.***, 199 A.3d at 473. Clear and convincing evidence means evidence “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.*** (citation and internal quotation marks omitted).

Termination of parental rights is controlled by Section 2511 of the Adoption Act. **See *In re L.M.***, 923 A.2d 505, 511 (Pa.Super. 2007). Under Section 2511, the trial court must engage in a bifurcated analysis 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.

Id. (citations omitted).

Here, the trial court terminated Father's parental rights pursuant to Section 2511(a)(1). That subsection provides, in 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.

* * *

23 Pa.C.S.A. § 2511(a)(1). Section 2511(b) provides:

(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(b).

Subsection (a)(1) does not require that a parent demonstrate both a settled purpose to relinquish parental claim **and** a failure to perform parental duties. Rather, parental rights may be terminated if a parent demonstrates either factor. **See *In re Z.S.W.***, 946 A.2d 726, 730 (Pa.Super. 2008).

Once the evidence establishes a failure to perform parental duties or a settled purpose of relinquishing parental rights, the court must engage in three lines of inquiry: (1) the parent's explanation for his or her conduct; (2) the post-abandonment contact between parent and child; and (3) consideration of the effect of termination of parental rights on the child pursuant to Section 2511(b).

Id. (citation omitted).

In the instant case, the trial court found that Father's last contact with Child was in March 2018, shortly after his abandonment. At that time, he provided \$300 in support to Ms. Churchey for Child's care. Since then, Father has not provided any financial support, nor has he sent gifts, cards, or letters for Child. Father attended the custody conciliation; however, he did not seek visitation with Child. The court observed that although "Father did not know where [Child] was living until [custody] conciliation, after that date **he made no efforts** to contact [Child] or assert a place in her life. He spoke to no one, gathered no more information, and made no efforts to perform parental duties." Decree, 10/22/19, at 8 (emphasis in original, footnote omitted). Hence, the trial court found that Petitioners proved by clear and convincing evidence that Father, for a period of at least six months prior to filing of the petition, failed to perform parental duties.

We discern no abuse of discretion by the trial court in terminating Father's parental rights pursuant to Section 2511(a)(1). Father has not been a presence in Child's life since she was six months old. He has failed to perform any parental duties post-abandonment, and has failed to make any effort to contact Child. Hence, the record supports the trial court's finding that Father failed to perform parental duties pursuant to Section 2511(a)(1).

Having concluded that Father's parental rights should be terminated under Section 2511(a), the court must next determine whether, considering the Child's developmental, physical, and emotional needs and welfare, termination is in the best interests of the Child. **See** 23 Pa.C.S.A. § 2511(b).

Section 2511(b) focuses on whether termination of parental rights would best serve the developmental, physical, and emotional needs and welfare of the child. As this Court has explained, Section 2511(b) does not explicitly require a bonding analysis and the term 'bond' is not defined in the Adoption Act. Case law, however, provides that analysis of the emotional bond, if any, between parent and child is a factor to be considered as part of our analysis. While a parent's emotional bond with his or her child is a major aspect of the subsection 2511(b) best-interest analysis, it is nonetheless only one of many factors to be considered by the court when determining what is in the best interest of the child.

In re Adoption of C.D.R., 111 A.3d 1212, 1219 (Pa.Super. 2015) (quotation marks and citations omitted).

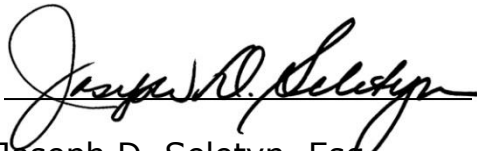
Presently, the trial court found that Child "does not have any relationship or bond with [] Father." Decree, 10/22/19, at 9. Therefore, it found that "there would be no detrimental effect to [Child] by terminating the parental rights of [] Father. She does have a strong bond with Petitioners. It is clearly in [Child's]

best interests that the parental rights of [] Father be terminated and [Child's] bond with Petitioners be cemented by adoption." ***Id.***

Upon review, we conclude that the record supports the trial court's conclusion that Child's developmental, physical and emotional needs and welfare favor termination of Father's parental rights pursuant to Section 2511(b). Accordingly, we conclude that termination of Father's parental rights was in Child's best interest as required by Section 2511(b).

Decree 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: 05/27/2020