

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN RE: R.C.F., A MINOR : IN THE SUPERIOR COURT OF
: PENNSYLVANIA
APPEAL OF: T.M.L., MOTHER :
: No. 2171 MDA 2012
Appellant :

Appeal from the Order Entered November 13, 2012,
in the Court of Common Pleas of Dauphin County
Orphans' Court Division at No. 29 ADOPT 2012

BEFORE: STEVENS, P.J., FORD ELLIOTT, P.J.E., AND OLSON, J.

MEMORANDUM BY FORD ELLIOTT, P.J.E.: **FILED MAY 01, 2013**

T.M.L. ("Mother") appeals from the order entered on November 13, 2012 in the Court of Common Pleas of Dauphin County which granted the petition of J.M.F. ("Father") and terminated her parental rights to her child, R.C.F. ("Child"), born in January of 2003, pursuant to the Adoption Act, 23 Pa.C.S.A. § 2511(a)(1),(2) and (b). We affirm.

The relevant facts and procedural history of this case are as follows. Mother and Father never married, but lived together following the birth of Child for approximately seven months. In July of 2003, Father ended his relationship with Mother due to his concerns regarding Mother's mental health as well as the safety of Child. Father and Child moved in with Father's parents, the paternal grandparents. During July of 2003, Mother and Father reached an agreement regarding custody of Child. The terms of the agreement were incorporated into a stipulation for custody and entered

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as a court order on July 24, 2003. The order provided for shared legal custody and physical custody of Child alternating on a weekly basis.

In September of 2003, Father and A.T.F. ("Stepmother") began dating. According to Stepmother, beginning in December of 2003, she spent at least three days a week with Father and Child. (Notes of testimony, 7/17/12 at 110-111.) In July of 2004, Father filed a complaint for custody seeking primary physical custody of Child. In his custody complaint, Father averred that after his break-up with Mother, he believed Mother would remain in the Harrisburg area with her mother ("the maternal grandmother.") However, the maternal grandmother had moved to North Carolina and Mother moved to Altoona after the order was entered. Father claimed he was concerned about Child's safety and well-being while in Mother's care without the maternal grandmother being present to assist.

A custody conciliation conference occurred on February 25, 2005 at which both parties were present and represented by counsel. The parties entered into an agreement, the terms of which were incorporated into a court order dated March 5, 2005. Father was given primary physical custody of Child and Mother was given two four-hour periods of partial custody per week.

Father testified that during 2005, Mother frequently missed her periods of partial custody and she was often late when she did show up. (Id. at 18-22.) Father testified Mother was invited to his home for birthday

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parties, Christmas gatherings and other events. He estimated Mother made an appearance less than twenty (20%) percent of the time. Father also pointed out Mother did not call Child on the telephone, she did not take him to doctors' appointments or provide him with food or clothing, nor did she ask Father about Child's health.

On February 27, 2006, Father filed a petition for modification of custody wherein he sought an order restricting Mother to limited supervised visitation pending a mental health evaluation along with a full drug and alcohol evaluation. Father was concerned for Child's safety because Mother had been admitted into a rehabilitation facility based on a dual diagnosis of emotional problems and substance abuse. Mother subsequently left the rehabilitation facility against medical advice and without permission.

On March 21, 2006, a custody conciliation conference took place at which the parties entered into an agreement that gave Mother partial periods of physical custody subject to Father's consent on the condition that Mother refrain from abusing alcohol and/or controlled substances. Mother was incarcerated at the time of the conciliation conference; however, she was represented by her attorney. Father retained primary physical custody of Child. The parties' agreement was entered as a court order on March 24, 2006 and has been in place, without modification, since that time.

Six years later, on March 23, 2012, Father filed a petition to involuntarily terminate Mother's parental rights. During the six year period

between the last custody order and the filing of Father's petition to terminate Mother's parental rights, the trial court made the following findings of fact:

9. In 2006, Mother visited [Child] infrequently, with visits lasting approximately one hour.
10. In 2007, Mother visited [Child] approximately four times.
11. In 2008, [Child] started kindergarten.
 - A) Mother never inquired as to [Child]'s scholastic progress
 - B) Mother never attended any parent/teacher conferences.
12. In 2008, Mother called [Child] one time, and she visited him six times for approximately an hour each time.
13. In 2008, Father and Stepmother bought their house, where they currently reside.
14. In 2009, Father and Stepmother married.
15. In 2009, Mother visited [Child] approximately five times, totaling six hours.
16. In 2010, Mother called [Child] two times, and visited [Child] approximately three times, totaling four to five hours.
17. [Father and Stepmother] testified that during a Halloween party in 2010, Mother was visibly and admittedly under the influence of drugs.
18. In 2011, [Father and Stepmother] no longer welcomed Mother in their home.

- A) [Father and Stepmother] learned that Mother was charged with Aggravated Assault after she allegedly stabbed a man in the face.
 - B) Mother also had numerous arrests for drug charges and related offenses.
 - C) [Father and Stepmother] required that Mother submit three clean drug tests before resuming visitation with [Child] in their home, as provided in the March 24, 2006 Order (See 18D supra) .
 - D) Mother did not submit to any drug tests.
19. Mother has had no contact with [Child] since June 13, 2011.
20. Maternal Grandmother still has weekly contact with [Child].
21. Mother has been in and out of drug rehabilitation facilities for most of [Child]'s life.
22. Mother has been diagnosed with Bipolar Disorder, ADHD, and Impulse Control Disorder.
23. Mother also admitted to having a long history of cutting herself as self-mutilation.
24. Mother testified that due to her mental health issues, she will continue to get into trouble with the law for the rest of her life.
25. Mother testified that [Child] is better off in the care of Father and Stepmother because they can provide for him much better than she can. She testified that unlike herself, Father and Stepmother can provide a loving home with

two parents, as well as stability for [Child]. Further, Mother acknowledged that Stepmother has acted as [Child]'s mother for many years.

26. Mother testified that it is mainly her fault that she does not have a relationship with [Child].
27. Stepmother has been in [Child]'s life since he was ten months old. Stepmother testified that from 2003 to 2007, she saw [Child] three days a week and every major holiday. During that time, Stepmother taught [Child] how to dress himself, tie his shoes, and perform household chores.
28. Since Father and Stepmother moved in together in 2008, Stepmother has provided [Child] with all of his day to day needs, such as clothing, food, and healthcare. She has taken [Child] to the doctors on a regular basis, and has taken care of him when he was sick.
29. Stepmother has always attended parent/teacher conferences and helped [Child] with his homework.
30. [Child] refers to Stepmother as, "Mom."
31. Stepmother testified that she has a deep, loving bond with [Child] and that he now calls her, "Mommy."

Trial court opinion, 11/13/12 at 4-6.

On May 7, 2012, Jennifer Lehman, Esq. was appointed guardian ***ad litem*** ("GAL") for Child. The trial court held the termination hearing on July 17, 2012. The GAL interviewed Mother, Father, Stepmother and Child and submitted a report to the court dated July 30, 2012 in which she recommended terminating Mother's parental rights. On November 13, 2012,

the trial court filed an opinion and order terminating Mother's parental rights pursuant to 23 Pa.C.S.A. § 2511(a)(1), (2) and (b). Mother appeals and raises the following issues for our review:

- A. Whether the Trial Court erred in finding [Father] had established by clear and convincing evidence that the statutory requirements for involuntary termination were met under Pa.C.S.A. §2511(a)(1).
- B. Whether the Trial Court erred in finding that [Mother] exhibited conduct or lack thereof in a continuous period for six (6) months.
- C. Whether the Trial Court erred in finding Petition for Involuntary Termination of [Mother's] parental rights should be granted because the Trial Court failed to asses[sic] any explanation of extenuating circumstances made by [Mother].
- D. Whether the Trial Court erred in finding that [Mother's] parental rights should be terminated because the Trial Court failed to give appropriate weight to [Mother's] mental health diagnosis and the burdens [Mother] had to overcome associated with such illness.
- E. Whether the Trial Court erred in finding [Mother's] parental rights should be terminated because the Trial Court failed to consider and give appropriate weight to testimony evidencing obstructive behavior on the part of the [Father] aimed at thwarting [Mother's] maintenance of a parental relationship with the minor child.
- F. Whether the Trial Court erred in finding that involuntary termination of [Mother's] parental rights best serves the needs and welfare of the child where the Trial Court record is devoid of expert opinion testimony.

Mother's brief at viii.

The standard and scope of review applicable in termination of parental rights cases are as follows:

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 it 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 B.L.W., 843 A.2d 380, 383 (Pa.Super. 2004) (***en banc***), ***appeal denied***, 581 Pa. 668, 863 A.2d 1141 (2004) (internal citations omitted).

Furthermore, we note that the trial court, as the finder of fact, is the sole determiner of the credibility of witnesses and all conflicts in testimony are to be resolved by [the] finder of fact. The burden of proof is on the party seeking termination to establish by clear and convincing evidence the existence of grounds for doing so.

In re Adoption of A.C.H., 803 A.2d 224, 228 (Pa.Super. 2002) (internal citations omitted). The standard of clear and convincing evidence means 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. ***In re J.D.W.M.***, 810 A.2d 688, 690 (Pa.Super. 2002). We may uphold a termination decision if any proper basis exists for

the result reached. ***In re C.S.***, 761 A.2d 1197, 1201 (Pa.Super. 2000) (***en banc***). If the trial court's findings are supported by competent evidence, we must affirm the court's decision, even though the record could support an opposite result. ***In re R.L.T.M.***, 860 A.2d 190, 191-192 (Pa.Super. 2004). The termination of parental rights is controlled by statute. ***In re Adoption of R.J.S.***, 901 A.2d 502, 507 (Pa.Super. 2006).

In terminating Mother's parental rights, the trial court relied upon Section 2511(a)(1), (2) and (b) of the Adoption Act, which provides:

§ 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.
- (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.A. § 2511(a)(1), (2), and (b). “[W]e need only agree with [the trial court’s] decision as to any one subsection in order to affirm the termination of parental rights.” *In re B.L.W.*, 843 A.2d at 384.

On appeal, the issues raised by Mother challenge the evidence supporting the termination of her parental rights pursuant to Section 2511(a)(1). Therefore, we will focus our discussion on that particular section.

To satisfy the requirements of section 2511(a)(1), the moving party must produce clear and convincing evidence of conduct, sustained for at least the six months prior to the filing of the termination petition, which reveals a settled intent to relinquish parental claim to a child or a refusal or failure to perform parental duties. *In re Adoption of R.J.S.*, 901 A.2d 502, 510 (Pa.Super. 2006). In addition,

Section 2511 does not require that the parent demonstrate both a settled purpose of relinquishing parental claim to

a child and refusal or failure to perform parental duties. Accordingly, 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.

In re Adoption of Charles E.D.M., 550 Pa. 595, 708 A.2d 88, 91 (Pa. 1998).

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 [s]ection 2511(b).

Id. at 92 (citation omitted).

In re Z.S.W., 946 A.2d 726, 730 (Pa.Super. 2008).

Regarding the definition of "parental duties," this court has stated:

There is no simple or easy definition of parental duties. Parental duty is best understood in relation to the needs of a child. A child needs love, protection, guidance, and support. These needs, physical and emotional, cannot be met by a merely passive interest in the development of the child. Thus, this court has held that the parental obligation is a positive duty which requires affirmative performance.

This affirmative duty encompasses more than a financial obligation; it requires continuing interest in the child and a genuine effort to maintain communication and association with the child.

Because a child needs more than a benefactor, parental duty requires that a parent exert himself to take and maintain a place of importance in the child's life.

Parental duty requires that the parent act affirmatively with good faith interest and effort, and not yield to every problem, in order to maintain the parent-child relationship to the best of his or her ability, even in difficult circumstances. 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 B.,N.M., 856 A.2d 847, 855 (Pa.Super. 2004), ***appeal denied***, 582 Pa. 718, 872 A.2d 1200 (2005) (internal citations omitted).

Mother's first three issues are inter-related and revolve around her assertion that Father failed to prove that the requirements of Section 2511(a)(1) were satisfied. Specifically, Mother contends the trial court erred in finding that she exhibited conduct for a continuous six-month period that showed a settled purpose of relinquishing her parental claim to Child.

The trial court considered, and rejected, Mother's contentions. The trial court concluded Mother's rights were properly terminated under Section 2511(a)(1) (parent by conduct continuing for at least six months immediately preceding the filing of petition either has evidenced settled

purpose of relinquishing parental claim **or has refused or failed to perform parental duties**). The trial court found that Mother had failed to perform her parental duties for the six-month period prior to the filing of the termination petition. The petition was filed in May of 2012, and the trial court found that for approximately one year prior to the filing of the petition Mother had no contact with Child. (Trial court opinion, 11/13/12 at 5.)

Moreover, the record indicates Mother's failure to perform her parental duties dates back to 2004. Since that time, Mother has never kept Child overnight, and she has only visited him an average of four times per year for approximately one hour at a time.¹ Mother has never provided Child with his basic needs, such as, food, clothing or any form of financial support. Mother has never taken Child to a doctor's visit or asked Father about Child's health and well-being. Child started school in 2008, and Mother has never attended a parent/teacher conference or asked how Child was performing in school. Mother admitted she never called Child on the telephone because she did not like being put on a speakerphone. (Notes of testimony, 7/17/12 at 286.) The testimony clearly established that Mother did not perform parental duties for Child within the relevant time period.

¹ Mother disputes Father's testimony regarding the number of visits she made. Father testified he kept a journal in which the visits were documented. Mother testified she "was never, ever consistent" visiting Child. (Notes of testimony, 7/17/12 at 285.) But, she claimed she visited "at worst, once a month." (**Id.**) Instead of 4, 5 or 6 visits a year as Father recalled, Mother's number of 12 visits a year is hardly such that it would make a difference in this matter.

Mother's next argument is that the trial court failed to properly assess her explanation regarding extenuating circumstances. Having determined that grounds for termination under Section 2511(a)(1) clearly existed, the trial court heard Mother's explanation for her conduct. Mother testified when she was three-years-old she was diagnosed with bipolar disorder, ADHD and impulse control disorder. (*Id.* at 282-283.) At the time of the hearing, Mother was 27 years old. (*Id.* at 278.) Mother revealed that she has struggled all her life with her mental health problems. She stated:

My mental health. I'm -- I'm -- if I work, then I don't take care of myself, and then I quickly lose my job. Whereas, opposed to, if I'm going and seeing a psychiatrist and doing all the things I need to do, I can't work, 'cause as soon as I start working, I start not taking care of myself.

I'm currently on -- waiting for disability because of the fact that I can't keep a job and maintain my mental health.

Id. at 292-293.

In addition to suffering from the above-listed mental health disorders, Mother was in and out of prison from 2004 through 2006 for criminal trespass, retail theft and subsequent probation violations.² (*Id.* at 287-

² Mother testified regarding the incident where she stabbed a man in the face. She admitted stabbing the man in the face, but said it was not intentional. (*Id.* at 281.) According to Mother, the man came into her yard and hit her dog with a two-by-four. (*Id.*) Mother threw the man against a wall. (*Id.*) As a friend of mother's pulled her off this man, he was stabbed in the face with a knife. (*Id.* 281, 318.) Ultimately, Mother was cited for disorderly conduct and had to pay for her victim's ambulance bill. (*Id.* at 281.)

288.) Mother testified she was medicated while in the prison system but once she was released she was not consistent in seeking counseling and therapy. (*Id.* at 287.) Mother testified “I could have went and got help a long time ago and stuck with it. But I didn’t.” (*Id.* at 311.) Mother also admitted to smoking marijuana as recently as December of 2011. (*Id.* at 296.) Mother claimed the last time she used crack cocaine was in October of 2010. (*Id.* at 296-297.) Clearly, Mother suffers from mental health and substance abuse issues. However, she has failed to successfully complete any type of treatment program even though she was aware that failing to seek help prevented her from seeing or caring for her child.

In her testimony, Mother admitted that she has not acted as a parent to Child. Mother stated: “[Stepmother] has been [Child’s] mom this entire time. (*Id.* at 303.) Mother was asked, “Do you think you’ve been a mother, or just some distant friend that [Child] sees once in a while?” She responded, “I guess you would say I’ve just been a friend.” (*Id.* at 311.)

This court has instructed:

It is incumbent upon a parent when separated from his child to maintain communication and association with the child. This requires an affirmative demonstration of parental devotion, imposing upon the parent the duty to exert himself, to take and maintain a place of importance in the child’s life.

In re G.P.-R., 851 A.2d 967, 976 (Pa.Super. 2004).

In this case, the record demonstrates the trial court heard Mother’s testimony regarding her circumstances and concluded Mother failed to

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address her own problems which, in turn, prevented her from performing parental duties for years. Mother's interest in her own child was sporadic at best; meanwhile, Stepmother assumed the role of Child's mother. We conclude the evidence presented supports the termination of Mother's parental rights pursuant to Section 2511(a)(1).

Next, Mother argues the trial court failed to give appropriate weight to Mother's mental health diagnosis and the burdens Mother has to overcome. As noted in the preceding argument, Mother was diagnosed with mental health issues at age 3 and was 27 years old at the time of the hearing. By her own admission, Mother failed to follow through with treatment and proper medication. Mother admitted she has a drug problem and has "self-medicated for quite a number of years." (Notes of testimony, 7/17/12 at 313.) Mother testified she now wants to be a part of Child's life. Parental duties and obligations, however, cannot be suspended or postponed until a more convenient time. ***In Interest of Q.J.R.***, 664 A.2d 164 (Pa.Super. 1995); ***see In re E.M.***, 908 A.2d 297, 304 (Pa.Super. 2006) (parental rights not preserved by waiting for more suitable or convenient time to perform parental responsibilities while others provide for child's physical and emotional needs). Mother's mental health issues do not excuse her failure to fulfill her parental duties to Child. After careful review, we conclude the trial court's credibility and weight determinations are supported by competent evidence in the record.

Next, Mother argues the trial court failed to consider and give appropriate weight to testimony evidencing obstructive behavior on Father's part aimed at thwarting Mother's ability to maintain a parental relationship with Child. In ***In re B., N.M., supra***, this court explained that a parent has a duty to exert himself, to take and maintain a place of importance in a child's life, to utilize all available resources to preserve the parental relationship, and exercise reasonable firmness in resisting obstacles placed in the path of maintaining a parent-child relationship.

Mother argues this matter is similar to ***Adoption of M.S.***, 664 A.2d 1370 (Pa.Super. 1995) where this court affirmed the trial court's decision and refused to terminate the parental rights of a mother to her child. Briefly, mother's brother and sister-in-law ("appellants") had mother involuntarily committed to a mental institution and simultaneously commenced proceedings seeking custody of mother's child. Mother was released three days later. Following a hearing, appellants retained custody of child, and Children and Youth Services ("CYS") was ordered to investigate and provide supervised visitation between mother and child. ***Id.*** at 1372.

Approximately, one year later, mother filed a petition to modify custody but her mental stability declined and she voluntarily entered a state mental institution for five months. Unfortunately for mother, a hearing on her petition occurred and she was not present. The trial court awarded physical and legal custody of child to appellants. ***Id.***

Upon mother's release from the institution, she came under the care of a psycho-social day program and obtained employment and her own living quarters. Mother also began taking medication that helped her lead a normal life. Mother then obtained counsel and filed a complaint for custody. Appellants filed a petition to terminate mother's parental rights. Following a hearing, the trial court denied appellants' petition. Appellants appealed and argued that mother made no attempt to see her child or send the child letters, cards, or packages. Mother testified to the contrary and stated she made a substantial effort to maintain contact by sending cards and letters once a month and gifts at holidays. **Id.** at 1372-1373.

The trial court resolved this factual dispute in favor of mother and pointed to evidence of a package returned to mother with the notation "does not want." **Id.** at 1373. The trial court noted "that [mother] was utilizing the means at her disposal to maintain the relationship with her child." **Id.** at 1374. Mother was unable to telephone her child because appellants had changed their number to an unlisted number. Mother also feared if she showed up at appellants' house, her brother would seek another involuntary commitment against her. (**Id.**) In affirming the trial court's refusal to terminate mother's parental rights, this court warned "that obstructive behavior on the part of the custodial parent aimed at thwarting the other parent's maintenance of a parental relationship will not be tolerated, and

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certainly will not provide a sound basis for the involuntary termination of parental rights." (*Id.*)

In this matter, unlike mother in *Adoption of M.S.*, the trial court found Mother did not send cards, letters or gifts to Child. Mother admitted she never placed a call to Child. Father had extended invitations to Mother to be part of holidays and birthdays. Mother seldom accepted these invitations. As the years went by, Mother's mental health and substance abuse issues alarmed Father who credibly testified he was concerned for Child's safety. The situation deteriorated to the point where in May of 2011, Father asked for clean drug screens before Mother could see Child.³ Mother testified she was never going to give Father a drug test unless it was court ordered. (Notes of testimony, 7/17/12 at 319.) Mother stated, "I'm not gonna accommodate them -- I'll -- I'll play nice and let them supervise my visits and try and -- be there for my son, but I'm not givin' them permission to evade [sic] my HIPPA Act." (*Id.*) Mother was asked, "What was more important, taking a drug test or seeing [Child]?", and she responded: "At that point in time, to me, not letting them have control was more important. I thought it was time to stand up and fight them instead of giving in and being submissive to them once again." (*Id.* at 319-320.)

³ Father's request was based on the 2006 custody order that granted Mother periods of partial custody, "so long as Mother refrains from abusing alcohol and/or controlled substances." *See* certified record, Order, filed 3/28/05. Mother was represented by counsel at this time.

Clearly, the trial court accepted Father's testimony that his behavior was that of a concerned parent and was not obstructive. In a termination of parental rights proceeding, the trial court, "as the finder of fact, is the sole determiner of the credibility of witnesses and all conflicts in testimony are to be resolved by [the] finder of fact." ***Adoption of A.C.H.***, 803 A.2d 224, 228 (Pa.Super. 2002). In this regard, we defer to the trial court's credibility findings as to the testimony of Father and Mother. Moreover, it is apparent from her testimony that Mother's priorities were in the wrong order. If Mother wanted to see her child then she should have provided proof that she was not on drugs and, therefore, was not a threat to Child's safety.

Last, Mother argues the trial court erred when it decided the termination of her parental rights best serves the needs and welfare of the child when the record was devoid of expert testimony. We begin by observing that once the statutory requirement for involuntary termination of parental rights has been established under section (a), the court must consider whether the child's needs and welfare will be met by termination pursuant to section (b). ***In re D.W.***, 856 A.2d 1231, 1234 (Pa.Super. 2004). Pursuant to Section 2511(b), the trial court must engage in an analysis of the best interests of the child by taking into primary consideration the developmental, physical, and emotional needs of the child. ***In re Adoption of R.J.S.***, supra at 508. The trial court must consider "intangibles such as love, comfort, security, and stability." ***In re C.P.***, 901

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A.2d 516, 520 (Pa.Super. 2006). To this end, this court has indicated that the trial court “must also discern the nature and status of the parent-child bond, paying close attention to the effect on the child of permanently severing the bond.” ***In re C.L.G.***, 956 A.2d 999, 1009 (Pa.Super. 2008) (***en banc***).

Recently, in ***In re K.M.***, 53 A.3d 781, 791 (Pa.Super. 2012), we explained that an orphans' court is not required by statute or precedent to order a formal bonding evaluation by an expert. Moreover, the mere existence of an emotional bond does not preclude the termination of parental rights. (***Id.***) As this court explained in ***In re A.S.***, 11 A.3d 473 (Pa.Super. 2010):

[I]n addition to a bond examination, the trial court can equally emphasize the safety needs of the child, and should also consider the intangibles, such as the love, comfort, security, and stability the child might have with the foster parent. Additionally, this Court stated that the trial court should consider the importance of continuity of relationships and whether any existing parent-child bond can be severed without detrimental effects on the child.

Id. at 483.

Instantly, in answer to a question asking her to describe her relationship with Child, Mother responded, “I don’t really have a relationship with him.” (Notes of testimony, 7/17/12 at 306.) Stepmother testified that since Child was ten months old she has developed a relationship with him and has taken care of him as if he was her own son. (***Id.*** at 111-116.) She

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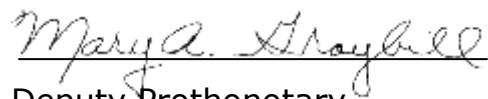
stated, "We are like mother and son." (*Id.* at 113.) The trial court opined, "Since Stepmother has been in [Child's] life, she has been a positive influence, assuming the typical parental duties, such as being involved in [Child's] education, health, and upbringing." (Trial court opinion, 11/13/12 at 8.)

The trial court does not specifically state whether it thought a bond existed between Mother and Child. However, based on this record, if one does exist it is minimal at best. Moreover, the GAL unequivocally reported it was in Child's best interest to terminate Mother's parental rights.

Accordingly, we discern no abuse of discretion by the trial court terminating Mother's parental rights to Child.

Order affirmed.

Judgment Entered.


Deputy Prothonotary

Date: 5/1/2013