

J-S46029-13

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P 65.37

IN THE INTEREST OF: J.M.P., JR., J.M.P.,
J.R.P., AND J.P.R.P., MINOR CHILDREN

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: C.P., BIOLOGICAL MOTHER

No. 813 EDA 2013

Appeal from the Order dated February 14, 2013,
in the Court of Common Pleas of Northampton County, Orphans' Court
at No(s): CP-48-DP-0000001-2012, CP-48-DP-0000088-2010,
CP-48-DP-0000089-2010, CP-48-DP-0000090-2010

BEFORE: DONOHUE, ALLEN, and MUSMANNO, JJ.

MEMORANDUM BY ALLEN, J.: **FILED MARCH 19, 2014**

C.P. ("Mother") appeals from the order dated February 14, 2013, and entered April 8, 2013, denying and dismissing her petition to vacate the adjudications of dependency with respect to her twin sons, J.M.P. Jr. and J.M.P. (born in July of 2009), her daughter, J.R.P. (born in May of 2010), and her daughter, J.P.R.P. (born in January of 2012) ("the Children").¹ After review, we affirm.

On May 19, 2010, the Northampton Department of Human Services, Division of Children, Youth and Families ("CYF") became involved with the family due to Mother's inappropriate housing. N.T., 2/14/13, at 16-17. In July of 2010, the eldest three children were removed from Mother's care pursuant to an emergency custody and shelter care order. The youngest child, J.P.R.P., was removed immediately after her birth. Mother attributes the removal of the elder children to homelessness. Mother's Brief at 5. In

¹ Father separately appeals the trial court's order at Docket No. 817 EDA 2013.

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P 65.37

September of 2010, the elder children were adjudicated dependent. J.P.R.P. was adjudicated dependent on January 31, 2012.² Mother last saw the three oldest children in June of 2012, and in July of 2012, Mother last saw the youngest child. *Id.* at 79. In August of 2012, Mother was incarcerated for failing to pay child support. *Id.* at 13. Mother was released in October of 2012. *Id.* at 79.

On January 11, 2013, Mother filed a petition to dismiss the dependencies with regard to the Children. The trial court held a hearing on the petition on February 14, 2013. At the hearing, the trial court concluded: “Okay. On [M]other’s petition requesting dependency be dismissed, I’m going to deny that petition.” N.T., 2/14/13, at 35. On March 5, 2013, Mother timely filed her notices of appeal and concise statements of errors complained of on appeal pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b). On March 11, 2013, Mother filed amended notices of appeal and concise statements of errors complained of on appeal. The trial court subsequently entered its order, denying Mother’s petition, upon the docket, on April 8, 2013. On August 9, 2013, this Court remanded Mother’s appeal and directed the trial court to file an Opinion pursuant to Pa.R.A.P. 1925(a). **See *In the Interest of J.M.P., Jr., J.M.P., J.R.P., and J.P.R.P.***, 813 EDA 2013 (Pa. Super. 2013) (unpublished memorandum). The trial court filed its

² On December 27, 2012, Mother gave birth to a daughter, J.S.P., who is not subject to these proceedings and who was never removed from Mother’s care.

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

Pa.R.A.P. 1925(a) opinion on August 16, 2013. On September 30, 2013, this Court reinstated Mother’s appeal.

Mother presents one issue for our review:

The trial court abused its discretion and committed an error of law by denying Mother’s petition to dismiss the dependencies? [sic]

Mother’s Brief at 4.

We review this matter under the following standard of review:

Our standard of review in dependency cases is well established; the standard this Court employs is broad. We accept the trial court’s factual findings that are supported by the record, and defer to the court’s credibility determinations. We accord great weight to this function of the hearing judge because he is in the position to observe and rule upon the credibility of the witnesses and the parties who appear before him. “Relying upon his unique posture, we will not overrule [the trial court’s] findings if they are supported by competent evidence.”

In re R.P., 957 A.2d 1205, 1211 (Pa. Super. 2008) (citations omitted).

Our Supreme Court stated that a court:

is empowered by 42 Pa.C.S. § 6341(a) and (c) to make a finding that a child is dependent if the child meets the statutory definition by clear and convincing evidence. If the court finds that the child is dependent, then the court may make an appropriate disposition of the child to protect the child's physical, mental and moral welfare, including allowing the child to remain with the parents subject to supervision, transferring temporary legal custody to a relative or a private or public agency, or transferring custody to the juvenile court of another state. 42 Pa.C.S. § 6351(a).

In re M.L., 562 Pa. 646, 757 A.2d 849, 850–51 (2000).

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

To adjudicate a child dependent, a trial court must determine that the child:

is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals. A determination that there is a lack of proper parental care or control may be based upon evidence of conduct by the parent, guardian or other custodian that places the health, safety or welfare of the child at risk.

42 Pa.C.S.A. § 6302. “The burden of proof in a dependency proceeding is on the petitioner to demonstrate by clear and convincing evidence that a child meets that statutory definition of dependency.” *In re G., T.*, 845 A.2d 870, 872 (Pa. Super. 2004).

Even after a child has been adjudicated dependent, however, a court may not separate that child from his or her parent unless it finds that the separation is clearly necessary. “Such necessity is implicated where the welfare of the child demands that he [or she] be taken from his [or her] parents’ custody.”

Id. at 873 (citations omitted) (alterations in original).

Mother argues that the trial court abused its discretion and committed an error of law by denying her petition to dismiss the dependency adjudications. Mother argues that the trial court abused its discretion in finding that Mother did not make significant progress or remain in compliance with her permanency plan. Mother’s Brief at 11.

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

The trial court found that the continuation of the Children's dependencies was necessary and appropriate, and that the Children were safe in their placements. Trial Court Opinion, 8/16/13, at 4.

The [trial court] also determined that notwithstanding her admirable goals of furthering her education and providing a stable, nurturing living environment for [the C]hildren, Mother had made little to no progress on the goals of the [C]hildren's permanency plans, and likewise, had made little progress toward alleviating the conditions originally necessitating the [C]hildren's placement. In this regard, [the trial court] note[d] that at the time of the hearing, Mother was residing in a home at the kindness of a friend, who themselves were residing there without a lease. While Mother had started to pursue an education, her belief that her youngest child should not be left to the care of another while she pursued her education had swiftly derailed her from those goals. She provided no testimony as to any current employment, nor did she testify with specificity as to any past employment. [Mother] plainly testified that she did not believe she had to comply with the mental health component of her permanency plans, nor did she believe that she had any duty to maintain contact with [CYF] and keep them apprised of her whereabouts, or to take any responsibility for ensuring visits with [the C]hildren.

Id. at 4-5. The trial court found that Mother admitted that she had not seen the Children since August of 2012, and that Mother had no explanation for her failure to attend visits with the Children. **Id.** at 4. Moreover, CYF Caseworker Ms. Moriah Harms, testified that Mother did not complete her permanency plan, and had unresolved issues concerning housing, domestic violence, and instability. N.T., 2/14/13, 87-89. Ms. Harms also testified that the Children are happy and well-adjusted in their foster home. **Id.** at 62. Consequently, the trial court found that Mother's compliance with her permanency plan was "woefully inadequate," and it was in the best interests

J-S46029-13

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

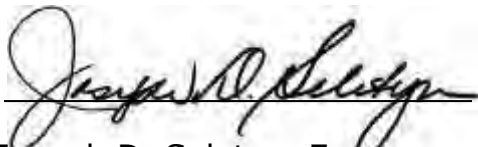
of the Children to deny Mother's petition to vacate the dependency adjudications. Trial Court Opinion, 8/16/13, at 4-5.

After careful review of the record, we find that competent evidence supports the trial court's determination that the Children are dependent, and that placement of Children with CYF is warranted and appropriate. **See in Re G., T.**, 845 A.2d at 873. Although Mother evinced a desire to care for the Children, the trial court concluded that Mother did not make any progress with her permanency plans. Therefore, the trial court did not abuse its discretion when competent evidence supported the conclusion that the Children did not have proper parental care.

Accordingly, we affirm the trial court's order denying and dismissing Mother's petition to vacate the adjudications of dependency.

Order 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: 3/19/2014

J-S46029-13

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