

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

IN RE: A.N.G., A MINOR

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

APPEAL OF: A.G.

No. 945 WDA 2013

Appeal from the Order of May 9, 2013  
In the Court of Common Pleas of Allegheny County  
Family Court at No.: TPR 164-2012

BEFORE: FORD ELLIOTT, P.J.E., OTT, J., and WECHT, J.

MEMORANDUM BY WECHT, J.:

**FILED DECEMBER 20, 2013**

A.G. ("Mother") appeals from the trial court's May 9, 2013 order. That order granted the Petition for Involuntary Termination of Parental Rights filed by Allegheny County's Office of Children, Youth and Families ("CYF") with respect to her daughter, A.N.G. ("Child"), born in September 2011.<sup>1</sup> After a review of the record, we affirm.

The trial court detailed the relevant facts and procedural history of this case as follows:

[Child] first came into the care of [CYF] on September 22, 2011 when the agency received a report that [Child] tested positive for methadone and opiates at birth. Since five weeks old, after her release from the hospital because of withdrawal symptoms, [Child] has been living with her foster mother. Mother was arrested on delinquency charges at the hospital following [Child's] birth and taken to the Shuman Center, a juvenile

---

<sup>1</sup> The May 9 order also terminated T.C.'s ("Father") parental rights. Father has not appealed the order and is not a party to this case.

detention facility. On October 17, 2011, [Child] was adjudicated dependent and the goal was reunification. Mother was ordered to participate in a drug and alcohol program to be followed by a teen parenting program. Mother was placed at Gateway, an in-patient facility, in October 2011, but ran away from the facility on November 23, 2011. Upon her apprehension, Mother was placed in Abraxas, a juvenile delinquency placement, with a drug treatment component, from February 27, 2012 until she successfully completed the program in July 2012. Following her discharge from Abraxas, Mother began residing at Family Links, an adult in-patient treatment facility, but she ran from this program in August 2012. She finally resurfaced in January 2013 when she was arrested and incarcerated at Allegheny County Jail. In March 2013 she was placed at another addiction treatment facility, White Deer Run, but she also ran from this facility.

The termination petition was filed on December 10, 2012, during the time when [M]other's whereabouts were unknown. The contested termination of parental rights hearing was originally scheduled for February 11, 2013. At that hearing, Mother appeared, and requested a postponement due to the fact that she had recently hired counsel. She was told at the conclusion of the February 11, 2013 hearing that the hearing would be postponed until May 6, 2013. Subsequently, Mother failed to attend the May 6, 2013 [hearing], despite being given notice at the February 11, 2013 hearing, and despite the fact that Mother had retained counsel, who did appear at the hearing.

At the May 6, 2013 termination hearing, CYF Caseworker Kris Kisiday testified to the history of this case. Mother herself was a dependent child and has had a long standing addiction problem. She also admitted to [having] mental health issues. Mother was seventeen when [Child] was born and has not graduated from high school nor has she obtained employment. The agency created a Family Service Plan (FSP) for Mother to follow in order to potentially reunify with [Child]. The FSP goals for Mother were complying with probation and meeting with her probation officer on a regular basis, participating in a drug and alcohol evaluation and following through with recommendations from the evaluations, attending a parenting program and complying with recommendations, maintaining regular contact with [Child], and attending a mental health evaluation and following recommendations.

Caseworker Kisiday testified that Mother made little progress, if any, with respect to most of these FSP goals. Regarding the complying with probation goal, Mother's history of running from placement continued well after that goal was instituted. Mother had been in several placements, include Gateway, Abraxas, Family Links, and White Deer Run. The only facility which Mother did not run from is Abraxas, but she ran from her after care program. If the goal was to refrain from running from facilities and complete treatment, clearly Mother had fallen short of this goal as the TPR petition was filed while Mother was on the run from Family Links, and the termination hearing was held without Mother because she again had left a treatment facility, White Deer Run. Caseworker Kisiday testified that Mother had not met this goal. Similarly, because these facilities were drug and alcohol treatment programs, and because Mother repeatedly ran from these facilities, Caseworker Kisiday stated that she has not met the goal of drug and alcohol treatment. Regarding the mental health goal, Mother has not completed any mental health treatment besides what she received at Abraxas, and Caseworker Kisiday argued that there is a continued need for mental health treatment for [M]other, yet she is not enrolled in any mental health treatment program. Mother has not met the mental health goal as outlined in her FSP plan.

Regarding the visitation goal, Caseworker Kisiday testified that Mother's visitation has been sporadic [since Child] has been removed from Mother's care. Mother visited [Child] a few times in the hospital after [Child's] birth. Between June 10, 2012 and December 10, 2012[,], Mother had two visits in June, two visits in July, and one visit in August. [The court] permitted visits between [Child] and Mother at the February 11, 2013 hearing and Mother went on the run on March 23, 2013. According to Caseworker Kisiday, during that period Mother had only one or two visits with [Child]. Mother was not cooperative with CYF and was difficult to contact. Due to the infrequency of Mother's visitation with [Child], she has not met the goal of regular visitation.

Caseworker Kisiday argues that [] the conditions for removal, including drug abuse, mental health, and [M]other's frequent disappearances continue to exist and that those conditions could not be remedied within a reasonable period of time. [Child] has been in care for longer than [twelve] months with a pre-adoptive foster mother. Caseworker Kisiday stated that the foster mother provides a stable and loving home for the young child and that

foster mother meets all of [Child's] needs. Caseworker Kisiday testified that it was CYF's position that termination meets the needs and welfare of [Child].

Dr. [Neil] Rosenblum, a licensed clinical psychologist, also testified at the May 6, 2013 hearing. Dr. Rosenblum performed an interactional evaluation between [Child] and foster mother in January 2013 and found [Child] to be advanced and vivacious. He noted that [Child] was energetic, positive, and extremely friendly for a child at her age, with no signs of stranger anxiety or difficulty in accepting other people. He testified that [Child] is intelligent and somewhat advanced in terms of her overall functioning. She also appears to be very secure, happy, and comfortable with her foster mother. The foster mother works as a professional in the child development field for an Early Head-Start Family Foundations Program, so she has experience in promoting child development. Dr. Rosenblum described the foster mother as mature and very responsible. Dr. Rosenblum also testified that [Child] established a clear emotional preference for her foster mother and that [Child] views the foster mother as her base of security and emotional foundation. Dr. Rosenblum also had a scheduled evaluation with Mother on April 12, 2103, but Mother did not attend the evaluation. Dr. Rosenblum stated that termination would be beneficial for [Child] and that it would be in her best interest to remain in the foster home with a stable, loving family as opposed to the instability which has so characterized Mother's life. Dr. Rosenblum stated that severing whatever bond [Child] has with Mother would not be so detrimental that it should prevent [Child] from being adopted.

Trial Court Opinion ("T.C.O."), 7/26/2013, at 1-6.

At the termination hearing, Sherry Ihrig, the family's current CYF caseworker, testified that she never had the opportunity to witness any of the visits between Mother and Child. Notes of Testimony ("N.T."), 5/6/2013, at 76-77. However, Ms. Ihrig testified that she did observe Child's interaction with her foster mother, a single foster parent, at least once a month. Ms. Ihrig opined that Child is doing very well in her current

placement, and that Child's needs would be well-served by staying with her foster mother. *Id.* at 72-73.

Following the termination hearing on May 6, 2013, the trial court issued a May 9, 2013 order terminating Mother's parental rights pursuant to 23 Pa.C.S.A. §§ 2511(a)(2), (5), (8), and (b). On June 5, 2013, Mother filed a notice of appeal. On the same date, Mother filed a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b).

Mother's issue on appeal is as follows:

Did the trial court abuse its discretion and/or err as a matter of law in concluding that CYF met its burden of proving by clear and convincing evidence that termination of Mother's parental rights would best serve the needs and welfare of the child pursuant to 23 Pa.C.S. § 2511(b)?

Mother's Brief at 5.

Our standard and scope of review 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*) (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 quotation marks and 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 affirm 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 the opposite result. ***In re R.L.T.M.***, 860 A.2d 190, 191-92 (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). This Court has explained the following regarding the analysis for a termination petition:

[O]ur 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 after determining that the parent’s conduct warrants termination of his or her parental rights must the court engage in the second part of the analysis: determination of the needs and welfare of the child under the standard of best interests of

the child. Although a needs and welfare analysis is mandated by the statute, it is distinct from and not relevant to a determination of whether the parent's conduct justifies termination of parental rights under the statute. One major aspect of the needs and welfare analysis concerns the nature and status of the emotional bond between parent and child.

***In re C.L.G.***, 956 A.2d 999, 1004 (Pa. Super. 2008) (*en banc*) (citations omitted).

On appeal, we note that Mother does not contest that there were sufficient grounds for termination pursuant to sections 2511(a)(2), (5), and (8). Mother's Brief at 12. Rather, Mother confines her appeal to the question of whether the trial court properly terminated her parental rights in accordance with 23 Pa.C.S.A. § 2511(b), which requires that the termination of parental rights meets Child's needs and welfare.

Thus, we focus solely upon section 2511(b), which provides as follows:

**(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.

In considering a child's best interest pursuant to subsection (b), "[i]ntangibles such as love, comfort, security, and stability" must be evaluated. ***In re C.M.S.***, 884 A.2d 1284, 1287 (Pa. Super. 2005). As part of the inquiry, the trial court also must examine the parent-child bond and

determine the effect that permanently severing that bond will have on the child. ***Id.***

When evaluating a parental bond, “the court is not required to use expert testimony. Social workers and caseworkers can offer evaluations as well. Additionally, section 2511(b) does not require a formal bonding evaluation.” ***In re Z.P.***, 994 A.2d 1108, 1121 (Pa. Super. 2010) (citations omitted). Although a bonding evaluation can be beneficial to the court’s analysis, “[t]here are some instances . . . where direct observation of the interaction between the parent and the child is not necessary and may even be detrimental to the child.” ***In re K.Z.S.***, 946 A.2d 753, 762 (Pa. Super. 2008).

A parent’s abuse and neglect are likewise a relevant part of this analysis:

[C]oncluding a child has a beneficial bond with a parent simply because the child harbors affection for the parent is not only dangerous, it is logically unsound. If a child’s feelings were the dispositive factor in the bonding analysis, the analysis would be reduced to an exercise in semantics as it is the rare child who, after being subject to neglect and abuse, is able to sift through the emotional wreckage and completely disavow a parent . . . . Nor are we of the opinion that the biological connection between [the parent] and the [child] is sufficient in [and] of itself, or when considered in connection with a child’s feeling toward a parent, to establish a *de facto* beneficial bond exists. The psychological aspect of parenthood is more important in terms of the development of the child and its mental and emotional health than the coincidence of biological or natural parenthood.

***In re K.K.R.-S.***, 958 A.2d 529, 535 (Pa. Super. 2008) (internal citations and quotation marks omitted).



In the instant case, Mother contends that the trial court abused its discretion and erred as a matter of law in concluding that termination of her parental rights would serve the needs and welfare of Child. Mother argues that, at Child's young age, she would have no concept of permanency, and that a delay in a potential adoption would have no impact on Child. Because Dr. Rosenblum did not conduct an interactional evaluation with Mother and Child, Mother claims that there was not a sufficient assessment of Child's bond with Mother. Mother also contends that the court did not give sufficient consideration to alternative placements, such as permanent legal custodianship, that would have allowed Mother to continue to strengthen her bond with Child and that possibly would have allowed for reunification. Given young ages of both Mother and Child, Mother argues that this would have been a more appropriate outcome. Mother's Brief at 12-14.

The trial court determined that the facts of this case overwhelmingly established that termination would best support Child's needs and welfare. T.C.O. at 9. Competent testimonial evidence revealed that no strong bond existed between Mother and Child. At the termination hearing, Dr. Rosenblum testified that he conducted evaluations of Child and foster mother. Also, Dr. Rosenblum noted that Mother did not even appear for her evaluation. Dr. Rosenblum further testified that, in evaluating the other evidence in the case, he found very little evidence of a strong bond between Mother and Child. The trial court found that the foster mother was meeting Child's needs. Child has formed a strong bond with her foster mother. The

trial court determined that it was in Child's best interest to remain in a stable, loving environment where Child has thrived. The trial court further concluded that disrupting that environment would have a negative effect on Child. T.C.O. at 9. Contrary to Mother's implications, the trial court did consider how terminating Mother's parental rights would affect the needs and welfare of Child.

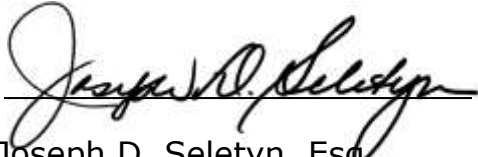
The trial court determined that delaying permanency would have a negative impact on Child. ***See In re Adoption of A.M.B.***, 812 A.2d 659, 675 (Pa. Super. 2002) ("A child's life, happiness, and vitality simply cannot be put on hold until the parent finds it convenient to perform parental duties."). In our judgment, the trial court properly concluded that Child had formed a secure bond with her foster mother, that Mother had not remedied the conditions that led to the Child's removal, and that Child could not be "put on hold" indefinitely. The record amply supports the trial court's conclusions.

As the trial court's determinations concerning sections 2511(a)(2), (5), (8), and (b) are supported by competent evidence, we find no reason to disturb its decision on appeal.

Order affirmed.

J-S65041-13

Judgment Entered.

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

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 12/20/2013