

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37**

IN THE INTEREST OF: R.S.B., A  
MINOR

: IN THE SUPERIOR COURT OF  
:  
: PENNSYLVANIA

APPEAL OF: T.D., MOTHER

: No. 2054 EDA 2023

Appeal from the Decree Entered July 13, 2023  
In the Court of Common Pleas of Philadelphia County Juvenile Division at  
No(s): CP-51-AP0000131-2023

BEFORE: BOWES, J., STABILE, J., and DUBOW, J.

MEMORANDUM BY BOWES, J.:

**FILED JANUARY 22, 2024**

T.D. ("Mother") appeals from the July 13, 2023 decree involuntarily terminating her parental rights to her son, R.S.B., born in February 2014.<sup>1</sup> We affirm.

The certified record reveals that Mother has suffered from a long-standing addiction to cocaine. **See** N.T., 7/13/23, at 13-15. At the time of R.S.B.'s placement in October of 2021, the Philadelphia Department of Human Services ("DHS") had an open case pertaining to R.S.B.'s younger sister. **Id.** at 12-13; **see also** DHS Exhibit 3. In connection with that case, Mother was required to participate in mental health and drug and alcohol programs. **Id.** R.S.B. was in the physical custody of his grandmother at this time. **Id.** at 13.

<sup>1</sup> The record reveals that R.B., R.S.B.'s father ("Father"), died sometime between the filing of the termination petition and the evidentiary hearing.

On a date unspecified in the record, R.S.B. returned to Mother's physical custody. *Id.* at 13. In October of 2021, Mother's addiction relapsed, and as best we can discern, she voluntarily placed R.S.B. in emergency protective custody with DHS. *Id.*; **see also** DHS Exhibit 3. The trial court placed R.S.B. in shelter care on October 29, 2021,<sup>2</sup> and, following a hearing, adjudicated him dependent on December 16, 2021.

In furtherance of R.S.B.'s goal of reunification, Mother was required to participate in random drug screens, obtain a dual-diagnosis assessment at the Clinical Evaluation Unit ("CEU"), participate in any recommended drug and alcohol treatment, complete a parenting program at the Achieving Reunification Center ("ARC"), and attend supervised visitations with R.S.B. *Id.* at 18-20.

DHS filed a petition for the involuntary termination of Mother's parental rights on April 4, 2023, pursuant to 23 Pa.C.S. § 2511(a)(1), (2), (5), (8), and (b). By that date, Mother had not participated in a dual-diagnosis assessment. *Id.* at 36. She had not achieved sobriety. *Id.* at 29. Mother had only fully complied with completing a parenting class, and that was not until two months after the filing of the termination petition. *Id.* at 33-41.

An evidentiary hearing occurred on July 13, 2023, during which the legal and best interests of R.S.B., who was then nine years old, were represented

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<sup>2</sup> R.S.B. has remained in the same pre-adoptive foster home since his original placement.

by separate counsel.<sup>3</sup> DHS presented the testimony of two Community Umbrella Agency (“CUA”) caseworkers, Ebony Langston and Joelle Howard.<sup>4</sup> In addition, DHS introduced five exhibits into evidence, which included Mother’s drug testing reports and R.S.B.’s dependency docket. Mother testified and presented a letter from “The Consortium,” an addiction outpatient treatment program, along with drug testing results administered through that program on October 19, 2022, November 17, 2022, December 15, 2022, and January 5, 2023.

At the close of evidence, the trial court set forth its findings of fact and conclusions of law in open court. **See** N.T., 7/13/23, at 78-83. On July 13, 2023, the trial court involuntarily terminated Mother’s parental rights pursuant to 23 Pa.C.S. § 2511(a)(1), (2), (5), (8), and (b).

Mother timely filed a notice of appeal and a concise statement of errors pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b). The trial court complied with Rule 1925(a) by directing us to its reasoning placed on the record at the conclusion of the termination hearing. On appeal, Mother presents the following questions for our review:

1. Whether the trial court erred by terminating the parental rights of [Mother] under 23 Pa.C.S. § 2511(a)(1)?

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<sup>3</sup> We note with displeasure that neither legal-interest counsel nor the guardian *ad litem* (“GAL”) has filed a brief in this Court advocating for R.S.B.’s position.

<sup>4</sup> Ms. Langston was the CUA caseworker for the family until October 2022. Thereafter, Ms. Howard became the CUA caseworker for the family, and remained in that position at the time of the termination hearing.

2. Whether the trial court erred by terminating the parental rights of [Mother] under 23 Pa.C.S. § 2511(a)(2)?
3. Whether the trial court erred by terminating the parental rights of [Mother] under 23 Pa.C.S. § 2511(a)(5)?
4. Whether the trial court erred by terminating the parental rights of [Mother] under 23 Pa.C.S. § 2511(a)(8)?
5. Whether the trial court erred by terminating the parental rights of [Mother] under 23 Pa.C.S. § 2511(b)?

Mother's brief at 5 (cleaned up).

We consider Mother's issues in the context of determining whether the decree is supported by competent evidence. ***In re Adoption of C.M.***, 255 A.3d 343, 358 (Pa. 2021). When applying this standard, appellate courts must accept the trial court's findings of fact and credibility determinations if they are supported by the record. ***Interest of S.K.L.R.***, 256 A.3d 1108, 1123 (Pa. 2021). "Where the trial court's factual findings are supported by the evidence, an appellate court may not disturb the trial court's ruling unless it has discerned an error of law or abuse of discretion." ***In re Adoption of L.A.K.***, 265 A.3d 580, 591 (Pa. 2021) (citation omitted). Simply put, "[a]n abuse of discretion does not result merely because the reviewing court might have reached a different conclusion," or "the facts could support an opposite result." ***In re Adoption of S.P.***, 47 A.3d 817, 826–27 (Pa. 2012) (cleaned up). Instead, an appellate court may reverse for an abuse of discretion "only upon demonstration of manifest unreasonableness, partiality, prejudice, bias, or ill-will." ***Id.*** at 826. This standard of review reflects the deference we pay

to trial courts, who often observe the parties first-hand across multiple hearings. ***Interest of S.K.L.R., supra*** at 1123–24.

The involuntary termination of parental rights is governed by § 2511 of the Adoption Act, which requires a bifurcated analysis. The trial court must initially determine whether the conduct of the parent warrants termination under § 2511(a). Only if the court determines that the petitioner established grounds for termination under § 2511(a) does it then engage in assessing the petition under § 2511(b), which involves a child’s needs and welfare. ***In re T.S.M.***, 71 A.3d 251, 267 (Pa. 2013). To involuntarily terminate parental rights, the petitioner must prove grounds under both § 2511(a) and (b) by clear and convincing evidence, which is evidence that is so “clear, direct, weighty, and convincing as to enable a trier of fact to come to a clear conviction, without hesitation, of the truth of the precise facts in issue.” ***C.M., supra*** at 359 (cleaned up).

It is axiomatic that we need only agree with any one subsection of § 2511(a), along with § 2511(b), to affirm the termination of parental rights. ***In re Adoption of K.M.G.***, 219 A.3d 662, 672 (Pa.Super. 2019) (*en banc*). In this case, we analyze the decree pursuant to § 2511(a)(2) and (b), which provide as follows:

**(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:

. . . .

(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. § 2511(a)(2), (b).

The grounds for termination of parental rights under § 2511(a)(2) due to parental incapacity are not limited to affirmative misconduct; those grounds may also include acts of refusal and incapacity to perform parental duties. **See *In re S.C.***, 247 A.3d 1097, 1104 (Pa.Super. 2021). We have long recognized that a parent is required to make diligent efforts towards the reasonably prompt assumption of full parental responsibilities. ***In re Adoption of M.A.B.***, 166 A.3d 434, 443 (Pa.Super. 2017). At a termination hearing, the trial court may properly reject as untimely or disingenuous a parent's vow to follow through on necessary services when the parent failed to cooperate with the agency or take advantage of available services during the dependency proceedings. ***In re S.C., supra*** at 1105.

Mother argues that DHS failed to prove by clear and convincing evidence that her conduct warranted termination under § 2511(a)(2). The trial court found as follows with respect to Mother's drug addiction, at the conclusion of the termination hearing:

Mother has demonstrated that she cannot remedy the situation. Mo[ther] has not availed herself of any of the assistance offered to her. She has not gone for her dual-diagnosis assessment since the case came into court.

Mother complained that she was not offered any opportunities to participate in drug and alcohol treatment. The opposite is true. Had [she] availed herself and followed the court order, she would have been offered the treatment she is claiming she didn't receive.

In addition, the treatment she was receiving at The Consortium was of no success for [Mother] as she was continually testing positive for cocaine while she was in treatment at The Consortium. And she voluntarily left treatment at The Consortium and has continued to be active in her addiction through to and including yesterday, on the date when she visited her son. She indicated she used yesterday after her visit with her son.

N.T., 7/13/23, at 80.

On appeal, Mother baldly asserts that she "has taken steps to remedy her condition by completing parenting, visits with the child and her attendance at [The] Consortium. The incapacity can be remedied." Mother's brief at 16. The record belies this assertion and instead wholly supports the trial court's conclusions.

Mother testified that she ceased treatment at The Consortium because she had relapsed in her addiction to cocaine. ***Id.*** at 55-56 (explaining the timing of her "really hardcore" relapse as occurring after her "husband died

and [she] had a fire" in her apartment in April 2023);<sup>5</sup> **see also id.** at 47, 57, 66. Mother elaborated that she uses cocaine "whenever [she] ha[s] the money." **Id.** at 60. In fact, on cross-examination, she admitted to using cocaine the day before the termination hearing. **Id.** at 60. When confronted with the fact that she had attended a supervised visit with R.S.B. "yesterday," she claimed to have used cocaine after the visit. **Id.** at 61. Finally, Mother acknowledged at the hearing on cross-examination by the GAL that she would test positive for cocaine. **Id.** at 67.

Moreover, the record supports the court's finding that Mother did not achieve sobriety while attending The Consortium. Despite allegedly participating in group therapy and drug testing there since 2022, she tested positive for cocaine in October, November, and December of 2022. **See** Mother's Exhibit 1. Similarly, Ms. Howard testified that Mother tested positive for cocaine on January 19, 2023, in a drug test at the CEU. **See** N.T., 7/13/23, at 36-37; **see also** DHS Exhibit 4. Furthermore, she stopped attending sessions at The Consortium following her drug relapse in April 2023. **Id.** at 55-56. When asked if she intended to return to The Consortium, Mother

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<sup>5</sup> With respect to the fire, Mother testified that she was renting a property and somebody "started a fire . . . in my linen closet." N.T., 7/13/23, at 57. She testified that it occurred in March or April of an unspecified year. **Id.** As best we can discern, the fire occurred in April of 2023. **Id.** at 47. There is no evidence that Father was living with her at the time of the fire, and he was living in North Carolina when he died. **Id.** at 8-9.



responded “No[,]” and indicated that she instead wanted to “go to a mother and me [*sic*] with my son.” ***Id.*** at 56.

While Mother claimed that the CUA did not refer her for drug addiction treatment, Mother testified on cross-examination by the GAL, as follows:

Q. Do you remember that you didn’t show up for your [dual-diagnosis] assessment?

A. I don’t recall that in 2020. . . . I don’t know.

Q. Are you aware, **had you kept your assessment, you would have been referred to drug and alcohol treatment** that you say no one referred you to?

A. No one referred me[.]

***Id.*** at 64-65 (emphasis added). Ms. Langston testified that Mother “was ordered to have several CEU assessments that she refused to do, and she would state that she would just go down and enroll herself in treatment, but she never did.” ***Id.*** at 18; **see also *id.*** at 26-27. Similarly, Ms. Howard testified that completing a dual-diagnosis assessment remained Mother’s goal, but she failed to do it. ***Id.*** at 36.

The evidence presented at the termination hearing supported the court’s conclusion that Mother’s repeated and continued incapacity and refusal to comply with her permanency objectives due to her cocaine addiction has caused R.S.B. to be without essential parental care, control or subsistence necessary for his physical and mental well-being. Further, the conditions and causes of Mother’s incapacity and refusal cannot or will not be remedied.

Thus, the trial court did not abuse its discretion in terminating Mother's parental rights pursuant to § 2511(a)(2).

Having determined that there was statutory support for termination pursuant to § 2511(a)(2), we now turn to § 2511(b). In that regard, the trial court is required to "give primary consideration to the developmental, physical and emotional needs and welfare of the child." 23 Pa.C.S. § 2511(b). Regarding the "emotional needs and welfare" of the child, our precedent has interpreted it to include "intangibles such as love, comfort, security, and stability." ***T.S.M., supra*** at 267 (citation and quotation marks omitted).

This analysis should include, in part, the child's bond with his or her parent. ***In re E.M.***, 620 A.2d 481, 483 (Pa. 1993). In examining a bond between a child and parent, the court must assess the effect on the child of severing such a bond, and this includes "a determination of whether the bond is necessary and beneficial to the child, *i.e.*, whether maintaining the bond serves the child's developmental, physical, and emotional needs and welfare." ***In the Interest of K.T.***, 296 A.3d 1085, 1113 (Pa. 2023). The High Court recently explained:

Severance of a necessary and beneficial bond would predictably cause more than the adverse impact that, unfortunately, may occur whenever a bond is present. By contrast, severance of a necessary and beneficial relationship is the kind of loss that would predictably cause extreme emotional consequences or significant, irreparable harm.

***Id.*** at 1109-10 (cleaned up).

As such, the Court distinguished “extreme emotional consequences” from an “adverse impact” to the child when parental rights are terminated. **Id.** at 1111. Specifically, it cautioned that a trial court “must not truncate its analysis and preclude severance based solely on evidence of an ‘adverse’ or ‘detrimental’ impact to the child.” **Id.** at 1114. Rather, “to grant termination when a parental bond exists, there must be clear and convincing evidence that the bond is not necessary and beneficial.” **Id.**

Moreover, in reiterating that the parental bond is only one part of the analysis, the **K.T.** Court held that the § “2511(b) inquiry must also include consideration [of] certain evidence **if it is present in the record.**” **Id.** at 1113 n.28 (emphasis in original). The specific evidence at issue in **K.T.** related to the child’s need for permanency and the length of time she had spent in foster care; the pre-adoptive nature of her foster home and the child’s bond with foster parents; and whether the foster home met the child’s developmental, physical, and emotional needs. **Id.** at 1112. The Court emphasized, however, that these foregoing factors were not an exhaustive list for consideration under all § 2511(b) analyses. **Id.** at 1113 n.28. Rather, the particular facts of each case determine the factors to be considered.

Indeed, our “case law indicates that bond, plus permanency, stability and all intangible factors may contribute equally to the determination of a child’s specific developmental, physical, and emotional needs and welfare, and thus are all of primary importance in the [§] 2511(b) analysis.” **Id.** at 1109

(cleaned up). For instance, if relevant in a case, a trial court “can equally emphasize the safety needs of the child” in its analysis under § 2511(b). ***In re M.M.***, 106 A.3d 114, 118 (Pa.Super. 2014) (cleaned up).

Mother argues that the evidence was insufficient to terminate her parental rights because she “can reestablish a bond with R.S.B.” Mother’s brief at 19. In addition, she asserts that R.S.B. “wants to see” her. ***Id.*** However, both CUA caseworkers testified that Mother was inconsistent with attending her weekly supervised visitation. ***See*** N.T., 7/13/23, at 26, 32. For instance, Mother had twelve supervised visits scheduled within the most recent review period, and she attended only four. ***Id.*** at 32. Ms. Howard testified that R.S.B. appears “very nonchalant” when Mother does not attend. ***Id.*** at 39. She stated, “I haven’t seen him get upset about it.” ***Id.***

Ms. Howard observed the supervised visit that occurred between Mother and R.S.B. the day before the termination hearing, and she testified that R.S.B. “was himself; pretty nonchalant, just the normal hi” to Mother. ***Id.*** at 50-51. Ms. Howard believed that R.S.B. would not suffer any irreparable harm if Mother’s parental rights were terminated. ***Id.*** at 41. She explained that she has observed R.S.B. in his foster home, and “[h]e’s happy. He’s healthy. He’s always in a really good mood when he’s in his home.” ***Id.*** at 41. Ms. Howard testified that R.S.B. shares a bond with his foster parents, who are a pre-adoptive resource. ***Id.*** at 42-43. Moreover, when Ms. Howard asked R.S.B. where he preferred to live, he stated that “[h]e likes where he’s at. He

would like to remain with the” foster parents. ***Id.*** at 43. In addition, Ms. Langston described R.S.B.’s relationship with the foster parents from his placement until October 2022, as follows:

He was very bonded. In the beginning, of course, he had some behaviors just due to . . . the adjustment; however, after that he shared multiple times that he wanted to remain with his resource parents. He did state that he missed his parents; however, he stated that he never wanted to go back and that he would like to be adopted by his resource parents.

***Id.*** at 22.

Finally, we note that the GAL and legal-interests counsel both advocated for the termination of Mother’s parental rights. ***See id.*** at 75. Although R.S.B.’s legal-interests counsel stated that “he likes interacting with his mother and seeing her,” R.S.B. nonetheless wished to be adopted by his foster parents. ***Id.*** Indeed, in describing Mother’s visit with R.S.B. the day before the termination hearing, Ms. Howard testified that while Mother “was excited to see him[,]” R.S.B. “was himself; pretty nonchalant; just the normal hi.” ***Id.*** at 50-51. Thus, we emphasize that there is no competent evidence in the certified record that R.S.B.’s relationship with Mother is “necessary and beneficial.” ***See K.T., supra*** at 1113 (reiterating that trial courts must examine the effect on the child of severing such a bond, including “a determination of whether the bond is necessary and beneficial to the child, *i.e.*, whether maintaining the bond serves the child’s developmental, physical, and emotional needs and welfare”).

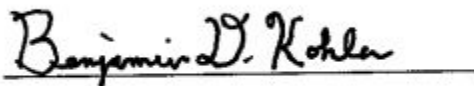
Upon review, Mother's cocaine addiction has rendered her incapable of meeting R.S.B.'s need for permanency, stability, and safety. Based on the foregoing, we hold that the record amply supports the trial court's conclusion that terminating Mother's parental rights will serve R.S.B.'s developmental, physical, and emotional needs and welfare pursuant to § 2511(b).

Accordingly, we affirm the decree involuntarily terminating Mother's parental rights to R.S.B.

Decree affirmed.

Judge Dubow did not participate in the consideration or decision of this case.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.  
Prothonotary

Date: 1/22/2024