

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

IN RE: : ORPHANS' COURT DIVISION
: NW :
: :
: NO. 5708 ADOPTION
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OPINION IN SUPPORT OF ORDER
DATED OCTOBER 31, 2003 IN
COMPLIANCE WITH RULE 1925(A) OF
THE RULES OF APPELLATE PROCEDURE

PL, mother of NW, has appealed this Court's Order dated October 31, 2003, which terminated her parental rights to said child, pursuant to the Petition for Involuntary Termination of Parental Rights, brought by Lycoming County Children and Youth. The Opinion issued by this Court in support of its Order sets forth this Court's findings of fact and conclusion that termination is justified under 23 Pa. C.S. Sections 2511 (a)(2), (a)(5), and (a)(8). In her statement of Matters Complained of on Appeal, mother lists 9 issues for consideration. Each will be addressed in order.

In her first contention of error, mother indicates the trial court disregarded evidence that made it impossible to find by the appropriate clear and convincing standard that there was sufficient evidence to terminate mother's parental rights. Since mother fails to indicate what evidence was disregarded, the Court cannot address this issue further.

Next, mother contends the Court disregarded evidence of a strong mother/child bond

and thus could not find by clear and convincing evidence that termination was in the best interest of the child. With respect to the issue of a mother/child bond, mother's counsel asked her if she sensed when they met those few times that there was an immediate bond between them. Mother answered yes and when asked why she felt so, answered that the child smiled at her when he saw her. The foster mother, however, testified that the child did not talk about mother at all between visits and the Court notes mother visited only 9 hours from the time of placement in January 2002 until the time of the hearing in September 2003. The Court sees no evidence of a strong mother/child bond which was disregarded and believes its finding that termination is in the child's best interest to be supported by the record.

Next, mother contends the Court disregarded basic estoppel principles inasmuch as the agency represented that reunification was the goal but all the while had been developing a plan for adoption. While the Court is unsure of which "estoppel principles" mother seeks to invoke, the record does not support her contention that the agency was developing a plan for adoption while reunification was stated to be the goal. The testimony adduced at the hearing indicated that no plan for adoption had yet then begun. Further, the Court believes that once the Petition for Involuntary Termination was filed, mother was put on notice that the agency was no longer seeking reunification but, rather, termination of her parental rights and ultimately, adoption.

Next, mother contends the Court erred in disallowing questioning of the foster mother regarding her home schooling practices. Mother contends such questioning would have shown that the foster mother's home schooling had a religious nature and was contrary to the child's best interest, inasmuch as mother is a Muslim. Since the area of sought after questioning is not relevant to any of the factors to be examined in a termination decision, the Court sees no error

in its ruling.

Next, mother contends the Court erred in refusing to recognize that the reasons for placement were “not legitimate grounds for keeping the child dependent”, specifically contending the reason for placement was that mother left the child with an individual who she mistakenly believed would pick up the child. As explained in its Opinion in Support of the Decree of Termination, while the caretaker’s failure to pick the child up when expected led to the agency’s initial involvement, the reasons for placement were various and not related to the initial contact.

Next, mother contends the Court erred in disregarding evidence that when mother moved to Philadelphia, the agency failed to transfer the matter to Philadelphia County. Evidence on this issue indicated that when mother moved to Philadelphia, the agency advised her that she could contact the Philadelphia Department of Human Services and ask them to accept the case and if they would do so, the agency would move to transfer the matter to Philadelphia County. The agency informed mother that it could not itself ask the Department of Human Services to take the child. Also related to transferring the child’s custody to Philadelphia County was evidence that mother asked the agency to place the child with her cousin, SK, in Philadelphia. The agency did send the paperwork to Philadelphia DHS to have a home study done but in response to that home study, Ms. K declined to take the child. The Court believes any obstacles to reunification posed by mother’s relocation to Philadelphia were not generated by the agency, but rather, by mother. The agency attempted to accommodate this transfer to the best of its ability.

Next, mother again contends the initial reason for placement did not exist at the time of

filing the Petition, contending the reason for placement was the failure of the caretaker to pick up the child at the expected time. As stated above, while that may have been the reason for the initial involvement of the agency, it was not the reason for placement.

Next, mother contends the Court abused its discretion when it disregarded evidence that the agency filed the Petition in April yet the hearing was not scheduled until September and that the agency presented no evidence that the child was neglected, malnourished, abused or that a requested psychological was called for under any circumstances which related to the initial placement for any purpose except to delay any scheduled return from the mother, where the agency failed to steer the mother to subsidized housing or employment. The Court is unable to understand this alleged error and therefore will not address it further.

Finally, mother contends the Court erred in disregarding its own finding for the initial reason for placement. As noted above, mother appears to misunderstand the reasons for placement. There was sufficient evidence that the conditions which led to placement, lack of stable housing, stable employment or financial resources, drug and alcohol issues and mother's indicated report of abuse on another child (involving medical neglect and lack of supervision), continued to exist and it was apparent that mother could not or would not remedy those conditions within a reasonable period of time. Since termination of mother's parental rights would best serve the needs and welfare of N, the Court granted the Petition for Termination.

DATE: February 4, 2004

By The Court,

Dudley N. Anderson, Judge

cc: Lycoming County Children and Youth
Charles Greevy, III, Esq.
Asher Morris, Esq.
John Pietrovito, Esq.
John Felix, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson