

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

IN RE: D.B. : APPEAL NO. C-170283
 : TRIAL NO. F11-1240(Z)
 :
 : *JUDGMENT ENTRY.*

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

In one assignment of error, appellant L.B., a nonparent, claims that the trial court erred when awarded custody of D.B. to J.J., another nonparent. We disagree.

L.B. was the legal custodian of D.B., a minor. On July 30, 2015, D.B. was placed in the temporary custody of the Hamilton County Department of Jobs and Family Services after having been adjudicated abused and dependent. The allegations were that D.B. had been beaten with an electrical cord and back scratcher in L.B.'s home as punishment for behavior issues in preschool. Temporary custody was eventually awarded to J.J. while D.B. began to engage in services to facilitate reunification.

D.B. suffered from behavioral and mental-health issues, including post-traumatic-stress disorder, disruptive-behavior disorder, and attention-deficit-hyperactivity disorder. While L.B. had participated in efforts at reunification, she had not demonstrated a willingness to take responsibility for what had occurred or to support D.B. through the processing of his trauma history. During visits, L.B. had difficulty controlling D.B., and had walked out of one visit. L.B.'s husband tested positive for marijuana and failed to complete his anger management program. L.B. claimed to be unaware of any abuse, and indicated that she did not believe that it had occurred unless D.B. could "prove" it. Based on this, the assigned

therapist indicated that she had “very little to work with.” As a result, the therapy was discontinued.

On the other hand, D.B. showed improvement while in the care of J.J. According to the case worker, D.B. was “not the same child I had placed there a year ago * * * he’s made significant progress overall with his behaviors and within his personal growth.” He was doing well in school, had made significant progress regarding his ability to follow directions and function within an educational setting, and otherwise appeared comfortable and happy.

A juvenile court may award legal custody of a child who has been adjudicated dependent to any person who has filed a petition for legal custody. *In re Patterson*, 1st Dist. Hamilton No. C-090311, 2010-Ohio-766, ¶ 15. The court has discretion to determine what placement is in the child’s best interest. *Id.* In determining the child's best interest, the court must consider the factors set out in R.C. 2151.414(D). *Id.*, citing *In re Needom*, 1st Dist. Hamilton Nos. C-080107 and C-080121, 2008-Ohio-2196, ¶ 14. An appellate court will not reverse the juvenile court's award of custody absent an abuse of discretion. *Id.*

In this case, the trial court did not abuse its discretion when it awarded custody of D.B. to J.J. The trial court specifically considered the factors set forth in R.C. 2151.414(D) in making its best-interest determination. On this record, we cannot say that the trial court abused its discretion when it denied L.B.’s petition for custody of D.B., and granted custody to J.J. We overrule appellant’s sole assignment of error, and affirm the judgment of the trial court.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MOCK, P.J., ZAYAS and MYERS, JJ.

OHIO FIRST DISTRICT COURT OF APPEALS

To the clerk:

Enter upon the journal of the court on November 9, 2017
per order of the court _____.
Presiding Judge

