

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

IN RE: M.C.	:	APPEAL NO. C-170348 TRIAL NO. F16-821x
	:	<i>JUDGMENT ENTRY.</i>
	:	

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.

The mother of M.C. appeals the Hamilton County Juvenile Court’s judgment adopting the magistrate’s decision that granted legal custody of M.C. to the child’s father. In a single assignment of error, mother argues that the trial court erred by overruling her objection to the magistrate’s decision. For the following reasons, we affirm the trial court’s judgment.

First, mother contends that her objection to the magistrate’s decision should have been sustained because father’s parentage had not been established. However, in mother’s written objection to the magistrate’s decision, she did not object to the magistrate’s determination that the child was born to father and mother. See Civ.R. 53(D)(3)(b)(ii). Therefore, absent plain error, mother has forfeited her right to assign as error on appeal the trial court’s adoption of the magistrate’s finding. See Civ.R. 53(D)(3)(b)(iv); *Souders v. Souders*, 1st Dist. Hamilton No. C-150552, 2016-Ohio-3522, ¶ 31; *Neu v. Neu*, 1st Dist. Hamilton No. C-140170, 2015-Ohio-1466, ¶ 22-24.

Mother has not alleged any plain error on appeal, and a review of the record reveals no such error. Mother testified at trial that father was M.C.'s father, father's name is listed on the child's birth certificate,¹ and mother had initiated a proceeding against father for support of the child. Therefore, we cannot conclude that the trial court erred by adopting the magistrate's finding regarding father's parentage of M.C.

Next, mother contends that her objection to the magistrate's decision should have been sustained because the grant of legal custody to father was not in the child's best interest. A court's determination of legal custody must be based on the best interest of the child, in accordance with the factors set forth in R.C. 3109.04. *See In re D.M.*, 1st Dist. Hamilton No. C-140648, 2015-Ohio-3853, ¶ 11; *In re M., R., & H. Children*, 1st Dist. Hamilton No. C-170008, 2017-Ohio-1431, ¶ 31. We review the custody determination under an abuse-of-discretion standard. *In re Patterson*, 1st Dist. Hamilton No. C-090311, 2010-Ohio-766, ¶ 15. An abuse of discretion exists if the court's decision regarding the child's best interest is not supported by competent, credible evidence. *Id.*

After considering the evidence and the statutory factors, the court concluded that it was in the child's best interest for the father to have custody. Our review of the record convinces us that the court's findings were supported by competent, credible evidence. We conclude that the trial court did not abuse its discretion in awarding legal custody to father. *See D.M.* at ¶ 11-12. We overrule the assignment of error and affirm the trial court's judgment.

¹ The amendment of R.C. 3111.03 by 1997 H.B. 352, which became effective on January 1, 1998, eliminated the statutory presumption that a man was the natural father of a child if he was named as the child's father on the child's birth certificate. *See In re Adoption of G.B.*, 3d Dist. Seneca No. 13-10-01, 2010-Ohio-5059, ¶ 11.

OHIO FIRST DISTRICT COURT OF APPEALS

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

CUNNINGHAM, P.J., MYERS and DETERS, JJ.

To the clerk:

Enter upon the journal of the court on April 4, 2018
per order of the court _____.
Presiding Judge