

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

IN RE: E.P. : APPEAL NO. C-170549  
 : TRIAL NO. F15-147z  
 : *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.

Appellant, E.P.’s mother, appeals from the judgment of the Hamilton County Juvenile Court awarding legal custody of E.P. to the Hamilton County Department of Job and Family Services (“HCJFS”). In a single assignment of error, appellant argues that the trial court erred in granting HCJFS’s motion for permanent custody. Appellant contends that the trial court’s finding that permanent custody was in the best interest of E.P. was based on insufficient evidence and against the manifest weight of the evidence. We disagree.

R.C. 2151.414(B)(2) governs the procedures that apply when a motion for permanent custody has been filed under R.C. 2151.413(D)(2). *See generally In re W.W.*, 1st Dist. Hamilton Nos. C-110363 and C-110402, 2011-Ohio-4912, ¶ 47. The statute requires the trial court to follow a two-pronged analysis for the termination of parental rights. First, the court must find that, in accordance with factors listed in R.C. 2151.414(E), the child cannot be placed with one of the child’s parents within a

reasonable time or should not be placed with either parent. Second, the court must find that, in accordance with R.C. 2151.414(D), it is in the child's best interest to be placed in the custody of HCJFS. Both prongs must be supported by clear and convincing evidence. *Id.* at ¶ 46. Clear and convincing evidence is evidence "which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established." *Id.*, quoting *Cross v. Ledford*, 161 Ohio St. 469, 120 N.E.2d 118 (1954), paragraph three of the syllabus. When reviewing a trial court's decision to grant permanent custody, we will not substitute our own judgment for that of the trial court when its determinations are supported by competent and credible evidence. *Id.*

Here, the trial court found that E.P. should not be placed with appellant because of her history of substance abuse, mental-health problems, and lack of stable housing. Appellant has been involved with children's services agencies on and off since 2008, and her issues are very well-documented. E.P.'s father has substance-abuse and housing problems as well, and because of his incarceration, the court found that E.P. could not be placed with him within a reasonable period of time. The magistrate's decision, which the trial court adopted, described these issues in detail.

E.P. was born on January 14, 2015, and was first removed from his parents' care in February 2015 and placed in temporary custody of HCJFS for almost one year due to his parents' mental-health and substance-abuse problems. Appellant apparently has a history of abusing crack cocaine and marijuana, while E.P.'s father, a registered sex offender, is a reported heroin abuser. Appellant and E.P.'s father had two other children that were permanently committed to children's services in 2014. Appellant has another child in the legal custody of a relative in Warren County. E.P. was returned to appellant in January 2016, but HCJFS became involved again in October 2016, when appellant

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appeared at a hospital with suicidal ideations after smoking crack cocaine all day with a stranger.

The trial court found that it would be in the best interest of E.P. to be committed to the permanent custody of HCJFS, due to the parents' history of neglect, the custodial history of the child, and the guardian ad litem's recommendation. The court properly considered the factors outlined in R.C. 2152.414(D)(1)(a)-(d) and 2151.414(E). The documentation in this case overwhelmingly supports the trial court's decision. Appellant's single assignment of error is overruled.

The judgment of the trial court is affirmed.

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

**MYERS, P.J., MILLER and DETERS, JJ.**

To the clerk:

Enter upon the journal of the court on January 19, 2018

per order of the court \_\_\_\_\_.  
Presiding Judge