

with the children and had continued to commit domestic-violence offenses against his family. E.M.B. and O.M.B. were adjudicated dependent, and, following a hearing, a juvenile court magistrate granted HCJFS's motion for permanent custody. L.H.'s objections to the magistrate's decision were overruled, and the decision was adopted by the juvenile court.

In one assignment of error, L.H. argues that the juvenile court's judgment granting permanent custody of her children to HCJFS was not supported by the sufficiency or the weight of the evidence. Under former R.C. 2151.353(A)(4),¹ after a child is adjudicated abused, neglected, or dependent, the juvenile court may commit the child to the permanent custody of a children services agency if it determines under former R.C. 2151.414(E) that the child cannot or should not be placed with one of the child's parents within a reasonable time, and it determines that permanent custody is in the best interest of the child in accordance with former R.C. 2151.414(D)(1). The findings required by former R.C. 2151.353(A)(4) must be supported by clear and convincing evidence. *In re Kh.M.*, 6th Dist. Lucas Nos. L-16-1199 and L-16-1223, 2017-Ohio-8706, ¶ 21.

When reviewing the sufficiency of the evidence, we must determine whether some evidence exists on each element. *In re A.B.*, 1st Dist. Hamilton Nos. C-150307 and C-150310, 2015-Ohio-3247, ¶ 15. In reviewing a challenge to the weight of the evidence, we weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether the trial court clearly lost its way and created such a manifest miscarriage of justice that the judgment must be reversed and a new trial ordered. *Id.* at ¶ 16, citing *Eastley v. Volkman*, 132 Ohio St.3d 328, 2012-Ohio-2179, 972 N.E.2d 517, ¶ 12. We may not substitute our

¹ We will apply the version of the statute that was in effect on the date that the motion for permanent custody was filed. See *In re C.M.*, 1st Dist. Hamilton Nos. C-150365 and C-150396, 2015-Ohio-3971, ¶ 13.

judgment for that of the trial court where some competent and credible evidence supports the elements of the case. *Id.* at ¶ 14.

L.H. first challenges the juvenile court's findings under former R.C. 2151.414(E) that the children could not or should not be placed with her within a reasonable time. The juvenile court found that under former R.C. 2151.414(E)(1), L.H. and K.B. had failed to remedy the conditions that had caused the children to be placed outside the home, and that under former R.C. 2151.414(E)(16), the children's history with HCJFS demonstrated that they could not or should not be placed with either parent. These findings were supported by competent and credible evidence.

K.B. had a lengthy criminal record, a history of both drug abuse and domestic violence, and he failed to participate in services or to maintain consistent visitation with E.M.B. and O.M.B. L.H., however, did participate in services. She attended therapy, obtained stable housing and income, visited the children consistently and was bonded with the children. Nonetheless, she continually allowed K.B. access to the children in contravention of the court's order that K.B. was to have no contact with them outside of supervised visits at the Nurturing Center. Her history of allowing K.B. contact with the children supported the juvenile court's finding that L.H.'s therapy had failed to remedy the condition that had brought the children into the care of HCJFS, namely K.B.'s domestic violence. L.H. contends that because K.B. is currently incarcerated and because she is involved in a different romantic relationship, K.B. would no longer be a threat to the children. But the record demonstrates otherwise. Despite K.B.'s past periods of incarceration and L.H.'s previous relationship with someone other than K.B., L.H. continued to allow K.B. access to the children.

The juvenile court additionally found that the children could not or should not be returned to L.H.'s care because of the volatile relationship between E.M.B. and L.H. The record supported this finding. L.H. struggled to manage E.M.B.'s behavior during supervised visitation. The evidence established that, during a

particular visitation, L.H. and E.M.B. argued and E.M.B. threw a chair through a window.

L.H. further challenges the juvenile court's finding that a grant of permanent custody was in the best interest of the children under former R.C. 2151.414(D). The record demonstrates that both E.M.B. and O.M.B. are bonded with L.H., but that E.M.B. and L.H. have a volatile and argumentative relationship. While in the care of L.H., the children were repeatedly exposed to domestic violence. Both E.M.B. and O.M.B. desired to be returned to their mother's care, but their guardian ad litem advocated for a grant of permanent custody. While E.M.B. has struggled to find a successful out-of-home placement, O.M.B. has thrived in her foster home. These circumstances, along with the children's lengthy history with HCJFS, support the juvenile court's finding that the children are in need of a legally secure placement that can be only be facilitated through a grant of permanent custody, and its determination that a grant of permanent custody was in the best interest of the children.

The juvenile court's judgment granting permanent custody of E.M.B. and O.M.B. to HCJFS was supported by sufficient evidence and was not against the manifest weight of the evidence. L.H.'s assignment of error is overruled, and the judgment of the juvenile 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 24, 2018
per order of the court _____.

Presiding Judge