

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

IN RE: J.C. : APPEAL NO. C-170610
TRIAL NO. FO7-1757Z
: *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.

J.C.'s mother appeals from the judgment of the Hamilton County Juvenile Court awarding permanent custody of J.C. to the Hamilton County Department of Job and Family Services ("HCJFS"). In a single assignment of error, appellant contends that the trial court's findings (1) that J.C. could not or should not be placed with her and (2) that permanent custody was in J.C.'s best interest were not supported by the record. We disagree.

HCJFS proceeded under R.C. 2151.414(B)(2). That 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 R.C. 2151.414(E), the child cannot be placed with one of his 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. *In re W.W.*, 1st Dist. Hamilton Nos. C-

110363 and C-110402, 2011-Ohio-4912, ¶ 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.

Evidence presented at trial indicates that appellant’s home was in an appalling condition. There was only subflooring in appellant’s home, there was mold or mildew growing in the house, the bathrooms contained unflushed excrement and urine-caked toilets, there was bug-infested rotting food in the refrigerator, there were dirty pots and pans scattered about the kitchen, and dirty clothing all over the house. One of the piles of dirty clothing was approximately three feet high, was covered in feces, and had cats with seeping eyes sleeping on it. There was a dog in the home with open sores on her back. The stench coming from the home was overwhelming. Approximately 13 people lived in the house, including, at one point, a registered sex offender who appellant was dating. HCJFS had previously referred appellant to Lighthouse Youth Services for help with teaching her family how to keep house. That effort was unsuccessful.

Evidence also established that appellant allowed 30 year old Jason Vogel to have an inappropriate relationship with J.C., who was ten years old at the time. Appellant allowed J.C. to spend the summer with Vogel instead of attending summer school classes. Further, J.C. stated that someone had touched his “front private” and that J.C. thought the perpetrator’s name was “Jason.” Appellant allowed Vogel to spend the night at her house with J.C.

When J.C. was interviewed at the Mayerson Clinic, he exhibited withdrawn behavior and wished to change the topic when asked about sexual abuse by Vogel. In response to questions about sexual abuse, J.C. stated that he didn’t want his mother to go to jail. While appellant visited with J.C. at HCJFS after J.C. had been removed from

appellant's home, J.C. became very agitated to the point that he had to be removed from the visitation room in handcuffs by officers, while screaming "Please just let me go. I'll tell you everything * * * I'll tell you what Jason Vogel did and I'll tell you what my mom did."

The trial court found that J.C. could not or should not be placed with appellant because appellant kept her house in "deplorable condition," despite having been provided services to remedy this condition; because she allowed J.C. to have an inappropriate relationship with a 30 year old man; and because of other serious lapses in appellant's judgment. *See* R.C. 2151.414(E)(1), (E)(2), (E)(4), (E)(14), (E)(15) and (E)(16). Upon a review of the record, we hold that the trial court's findings are supported by clear and convincing evidence.

The trial court also properly considered the factors outlined in R.C. 2152.414(D)(1)(a)-(e) in determining that it was in J.C.'s best interest to be placed in the permanent custody of HCJFS. Appellant specifically contends that there was no "concrete evidence" that Vogel had sexually abused J.C. *See* R.C. 2152.414(D)(1)(a). We agree with the trial court that there were strong indicators of sexual abuse. However, the seemingly sexual nature of the relationship was not the sole basis for the trial court's decision. The court noted that while it appeared that Vogel had sexually abused J.C., even if he hadn't, the relationship was inappropriate and not in J.C.'s best interest as appellant allowed J.C. to sleep with the 30 year old, and to spend a summer with Vogel instead of attending summer school classes. These findings are supported by clear and convincing evidence. Overall, the record in this case overwhelmingly supports the trial court's decision to terminate appellant's parental rights.

Appellant's sole assignment of error is overruled.

The judgment of the trial court is affirmed.

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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.

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

To the clerk:

Enter upon the journal of the court on February 7, 2018

per order of the court _____.

Presiding Judge