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

IN RE: X.T.S.	:	APPEAL NOS. C-170625 C-170626
	:	TRIAL NO. F09-1609Z
	:	*JUDGMENT ENTRY.*

We consider these appeals 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.

Mother and father both appeal the decision of the Hamilton County Juvenile Court granting permanent custody of their daughter, X.T.S., to the Hamilton County Department of Job and Family Services ("HCJFS"). We find no merit in their assignments of error, and we affirm the trial court's judgment.

Mother and father each present a single assignment of error in which they contend that the trial court's decision awarding permanent custody of X.T.S. to HCJFS was not supported by sufficient evidence. Clear and convincing evidence supported the trial court's determination that the child could not or should not have been placed with one of her parents within a reasonable time and that permanent custody was in the child's best interest. *See* R.C. 2151.414(B)(1); *In re M., R., & H. Children*, 1st Dist. Hamilton No. C-170008, 2017-Ohio-1431, ¶ 17. Therefore, the evidence was sufficient to support the award of permanent custody to HCJFS. *See In re A.B.,* 1st Dist. Hamilton Nos. C-150307 and C-150310, 2015-Ohio-3247, ¶ 15.

Mother and father also argue that the trial court's decision was against the manifest weight of the evidence. After reviewing the record, we cannot hold that the trial court lost its way and created such a manifest miscarriage of justice that we must reverse the judgment and order a new trial. Therefore, the judgment was not against the manifest weight of the evidence. *See id.* at ¶ 16, citing *Eastley v. Volkman*, 132 Ohio St.3d 328, 2012-Ohio-2179, 972 NE.2d 517, ¶ 12.

Father also argues that the trial court erred in failing to allow him to present evidence. The record shows that because father lived in Michigan, the court permitted him to participate in the hearings on the motion for permanent custody by telephone. After all the evidence had been presented, father wanted to testify by telephone. The court would not allow him to do so, and it denied his motion for a continuance.

The record shows that father had adequate notice of the hearings, but did not raise the issue until the very end of the permanent-custody hearing, after all other evidence had been presented. He never sought to present testimony by deposition or other means. He was not denied the opportunity to participate in the proceedings, but instead forfeited his right to do so by failing to timely raise the issue. He was represented by counsel and a full record of the hearing was made. *See In re A.W.*, 3d Dist. Defiance Nos. 4-16-23, 4-16-24 and 4-16-25, 2017-Ohio-1486, ¶ 15; *In re L.C.*, 2d Dist. Montgomery Nos. 27125 and 27174, 2016-Ohio-8188, ¶ 11. Under the circumstances, we cannot hold that the trial court abused its discretion by refusing to let father testify by telephone or by denying his motion for a continuance. *See A.W.* at ¶ 16-17; *In re C.E. 1*, 1st Dist. Hamilton No. C-140674, 2015-Ohio-5710, ¶ 3.

In sum, we hold that the trial court did not err by granting permanent custody of X.T.S. to HCJFS. We overrule mother's and father's assignments of error and affirm the trial court's judgment.

A certified copy of this judgment entry constitutes 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