

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

IN RE: S.T. CHILDREN	:	APPEAL NO. C-170656
	:	TRIAL NO. F11-2001Z
	:	
	:	<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.

Appellant mother of Z.S. and D.T. appeals the judgment of the Hamilton County Juvenile Court denying her motion for a remand of custody, terminating her parental rights, and granting permanent custody of the children to the Hamilton County Department of Job and Family Services (“HCJFS”). The children’s guardian ad litem (“GAL”) and HCJFS request this court, following its review of the record, to affirm the juvenile court’s judgment.

Under R.C. 2151.414(B)(1) before a juvenile court may terminate parental rights and grant permanent custody to a children’s services agency, it must find both that it is in the best interest of the child to be placed in the permanent custody of the moving agency and that one of the conditions listed in R.C. 2151.414(B) is met. R.C. 2151.414(B)(1). While the court must find that both prongs are supported by clear and convincing evidence, a reviewing court will not substitute its judgment for that of the juvenile court where some competent, credible evidence supports its determination. *See In re W.W.*, 1st Dist. Hamilton Nos. C-110363 and C-110402, 2011-Ohio-4912, ¶ 46; *see also In re W.M.*, 1st Dist. Hamilton No. C-170003, 2017-Ohio-1398, ¶ 14.

In two assignments of error that we address together, mother contends because she substantially complied with HCJFS case-plan services, the juvenile court's best-interest determination resulting in a grant of permanent custody of the children to HCJFS was against the manifest weight of the evidence, and its denial of her motion seeking a remand of custody was an abuse of discretion.

In this case, Z.S. and D.T. were adjudicated neglected and dependent in May 2015 and placed in the temporary custody of HCJFS. Thereafter, HCJFS moved for a grant of permanent custody, and the matter proceeded to a trial before a magistrate on April 28, and May 3, 2017. Mother filed objections to the magistrate's decision to grant HCJFS permanent custody of the children. The juvenile court overruled the objections and adopted the magistrate's decision.

The record demonstrates the trial court considered that the children had been in the custody of HCJFS for more than 28 consecutive months prior to trial, the GAL supported an award of permanent custody to HCJFS, and the children wished to remain with their current caregivers. Mother consistently missed scheduled visitation appointments with the children, and never advanced beyond the most restrictive level of visitation. And although mother was provided with a number of services to address her mental-health and drug-related issues, she was unsuccessfully discharged from two programs due to her failure to attend the individualized therapy sessions and she failed to successfully participate in any of the recommended drug treatment programs.

Throughout the pendency of the custody proceedings, mother exhibited an inability to address her mental-health issues associated with her diagnoses of Episodic Mood Disorder, Personality Disorder, and Bipolar Disorder. In addition, when requested to participate in random drug screens she failed to respond in most instances. On the occasions when mother did submit to a drug screen, she tested positive for opiates,

amphetamines, and marijuana. Notably, mother was prohibited from further contact with a local drug testing facility after she made threats to damage the facility.

The juvenile court determined that due to mother's ongoing and persistent mental-health and severe drug-abuse issues, coupled with her failure to successfully engage services and comply with the treatment recommendations, she is unable to provide adequately for the children's needs, including their mental health needs. Further, the court determined that the children's best interest is served by their permanent placement with HCJFS.

After reviewing the record, we conclude that the juvenile court's best-interest determination was in accordance with the evidence, and the court did not lose its way and create such a manifest miscarriage of justice that we must reverse its judgment and order a new trial. *See In re A.B.*, 1st Dist. Hamilton Nos. C-150307 and C-150310, 2015-Ohio-3247, ¶ 16, citing *Eastley v. Volkman*, 132 Ohio St.3d 328, 2012-Ohio-2179, 972 N.E.2d 517, ¶ 12. Further, the court's denial of mother's request for return of the children to her care was based on a sound reasoning process, supported by competent and credible evidence. *See AAAA Ents., Inc. v River Place Community Urban Redev. Corp.*, 50 Ohio St.3d 157, 161, 553 N.E.2d 597 (1990); *In re M., R., and H. Children*, 1st Dist. Hamilton No. C-170008, 2017-Ohio-1431, ¶ 30. Thus, we overrule mother's assignments of error, and we affirm the trial court's judgment.

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.

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

OHIO FIRST DISTRICT COURT OF APPEALS

To the clerk:

Enter upon the journal of the court on March 21, 2018
per order of the court _____.

Presiding Judge