

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

IN RE: H CHILDREN, S CHILDREN,	:	APPEAL NO. C-180215
D CHILDREN, G CHILDREN, and	:	TRIAL NO. F10-565Z
E CHILDREN	:	
	:	<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.

This appeal is from the juvenile court’s denial of maternal grandmother’s petition for custody of D.G., J.E., A.R., and N.S. The children were initially removed from their mother’s home when J.E., an infant, was found left in a car unattended. The police located mother who was intoxicated and uncertain of J.E.’s whereabouts. Mother was charged with child endangerment and the children were placed with their maternal grandmother. While the children were living with grandmother, D.G., who was seven at the time, was found performing oral sex on a boy in a school bathroom. An investigation revealed that the children were being beaten by grandmother and by their uncle and were being forced to engage in sexual acts by a cousin who also lived with grandmother.

Grandmother petitioned for custody when the Hamilton County Department of Job and Family Services (“HCJFS”) filed a motion for permanent custody of the

children. The trial court denied grandmother's motion and granted permanent custody to HCJFS.

Grandmother presents one assignment of error alleging that the trial court erred as a matter of law by granting HCJFS's motion for permanent custody and denying her motion for custody of the children.

Grandmother argues that she was uninvolved in the abuse the children endured in her household and that HCJFS found that she is suitable because HCJFS returned another older child to her home. She alleges that the problems were caused by other family members who are no longer part of the household.

R.C. 2151.353(A)(3) states that if a child is adjudicated an abused, neglected, or dependent child, the court may award legal custody of the child to either parent or to any other person who, prior to the dispositional hearing, files a motion requesting legal custody of the child. The juvenile court's award of custody will be upheld if the court did not abuse its discretion, and its determination of the child's best interest is supported by competent, credible evidence. *In Re Patterson*, 1st Dist. Hamilton No. C-090311, 2010-Ohio-766.

The best-interest considerations of R.C. 2151.414(D)(1) are a framework for the factors to be evaluated in determining the child's best interest in an award of legal custody. *In Re A.C.*, 1st Dist. Hamilton No. C-140273, 2015-Ohio-153. As for the interaction and interrelationship of the children with grandmother, the record demonstrates that grandmother participated in beating the children and that she did not believe the children were being sexually abused by their cousin. D.G. disclosed repeated sexual abuse by her cousin in grandmother's home. This abuse took place in grandmother's bedroom while grandmother was sleeping. J.E. was hit by grandmother and uncle with a backscratcher. J.E. had bruises when HCJFS

investigated. Grandmother stated that the children were injured while wrestling with each other. A.R.'s therapist worked with her for nine months and had never met grandmother. She was between three and four years old when she was discovered trying to perform oral sex on J.E. Additionally, N.S.'s therapist worked with her for a year and never met grandmother. At 18 months, N.S. had a four-to-five-word vocabulary.

The record also discloses that the children did not want to go back to living with grandmother, that the children had been in the custody of HCJFS for over 12 months of a 22 month period, and that the children needed a legally secure placement that could not be achieved without a grant of permanent custody. *See* R.C. 2151.414(D)(1). Based on the record before us, the trial court did not abuse its discretion in denying grandmother's petition, and its determination that it was not in the children's best interest to award grandmother custody was based on clear and convincing evidence.

Therefore, the judgment of the trial court is affirmed.

Further, 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.

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

To the clerk:

Enter upon the journal of the court on August 15, 2018

per order of the court _____.

Presiding Judge