

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

IN RE: A.S. and J.C. : APPEAL NO. C-180355
 : TRIAL NO. F15-2489X
 :
 :
 : *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.

Appellant mother of A.S. and J.C. appeals the judgment of the Hamilton County Juvenile Court 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 maintain that a grant of permanent custody was necessary, and they request we affirm the juvenile court’s judgment.

A.S., who is currently three-and-a-half-years old, was removed from his parents’ home in November 2015 due to concerns about his parents’ inability to meet his nutritional needs, mother’s mental health and cognitive limitations, and domestic violence in the home. A.S. was later adjudicated dependent, and HCHFS was awarded temporary custody of him. The trial court granted HCJFS’s two requests to extend temporary custody so that mother and A.S.’s father, who is the “alleged” father of J.C., could comply with the services provided to remedy the conditions that led to A.S.’s removal. During most of this time, mother lived apart from father and was homeless. The agency moved for permanent custody of A.S. in September 2017.

J.C. was born in November 2017. After the agency learned of J.C.'s birth and concluded that mom and his alleged father were not meeting J.C.'s basic needs, it obtained an emergency order for custody. J.C. was later adjudicated dependent, and the agency moved for permanent custody as the initial disposition. After a combined trial on the permanent custody motions, the court granted both motions.

In two assignments of error that we address together, mother argues the juvenile court erred in granting permanent custody of A.S. and J.C. to the agency and terminating her parental rights. She contends the juvenile court's entry fails to show the court considered the necessary statutory factors when making its decision, and that the court's determinations that resulted in an award of permanent custody were not supported by sufficient evidence and were against the manifest weight of the evidence.

As provided in R.C. 2151.414, the decision to award permanent custody to the agency, and thus terminate parental rights, involves a two-prong test. With respect to A.S., before the juvenile court could grant permanent custody of him to HCJFS, the court was required to find by clear and convincing evidence that it was in the best interest of the child to be placed in the permanent custody of the agency, considering all relevant factors, including those set forth in R.C. 2151.414(D)(1), and that one of the five conditions listed in R.C. 2151.414(B)(1) was met. Here, the juvenile court found that the best-interest prong was met and that the condition of R.C. 2151.414(B)(1)(d) had been met because A.S. had been in the temporary custody of the agency for more than 12 months of a consecutive 22-month period.

With respect to J.C., before the juvenile court could grant permanent custody of him to HCJFS, the court was required to find by clear and convincing evidence that it was in the best interest of the child to be placed in the permanent custody of the agency, and that the child could not be placed with either parent within a reasonable time or should

not be placed with either parent. R.C. 2151.414(B)(2). The juvenile court expressly made both of these determinations.

We first reject mother's argument that the juvenile court failed to consider the necessary factors when granting permanent custody of her children to the agency. The court explained in its decision that the standards set forth in R.C. 2151.414 governed its determination, and the court's analysis indicates that the necessary factors were considered when making the determination to grant permanent custody, which is all that was required. *See In re K.T.1*, 1st Dist. Hamilton Nos. C-170667, C-170687, C-170701, C-170702 and C-170707, 2018-Ohio-1381, ¶ 14.

We also reject mother's arguments that the evidence does not support the juvenile court's determinations and that the court lost its way in giving weight to the evidence. *See In re A.B.*, 1st Dist. Hamilton Nos. C-150307 and C-150310, 2015-Ohio-3247, ¶ 14-16. The record demonstrates that A.S. had been in the temporary custody of the agency for 20 months at the time the agency moved for permanent custody, and that neither child could be returned to a parent within a reasonable time, despite the reasonable efforts by the agency, as contemplated in R.C. 2151.414(E). Both mother and father failed continuously and repeatedly to substantially remedy the conditions that had caused the children to be removed. Mother did not complete the recommended mental-health individual therapy, parenting coaching, or domestic-violence counseling. While mother did participate in some domestic-violence services provided by a homeless shelter, domestic-violence incidents continued involving father, with whom she intended to raise the children. Father failed to participate in the recommended services designed to address this serious issue.

Further, mother suffers from cognitive disabilities that severely limit her ability to consistently provide for her own basic needs and to recognize and care for even the basic

needs of her children, such as adequate nutrition and stable housing, and the developmental and medical issues of the children that the foster parents currently monitor. She is unemployed and has not applied for any jobs. None of mother's family members have consistently stepped forward to help her, and mother has refused to obtain assistance through Developmental Disability Services or a payee, as recommended by her caseworker. Notwithstanding mother's demonstrated love for the children, she has not been consistent in her visitation of them, which never progressed beyond a supervised setting. She cancelled several visits leading up to the trial date because she was not "comfortable" visiting one child independent of the other, demonstrating, among other things, a lack of commitment to the relationship. Father discontinued supervised visitation with A.S., never established paternity of J.C., and did not appear for the final day of the permanent-custody trial.

The evidence also supported the determination that the children's best interest would be best served by terminating parental rights and awarding permanent custody to HCJFS. The custodial history of the children shows that A.S. has spent the majority of his life with the same foster family, with whom he has bonded. He has been well cared for by his foster parents and refers to them as "Mamma" and "Dadda." J.C. resided with mother for only 14 days after his birth. He has been well cared for by the same foster parents since then, and has also bonded with his foster family. Although A.S. and J.C. are not in the same home, the foster parents have embraced visitation between the siblings and have indicated they would adopt the children if given the opportunity. The children were too young to express their wishes, but their GAL recommended that an award of permanent custody to HCJFS was in the children's best interest. As the trial court noted, the children are in need of a legally secure placement, which mother and father cannot provide, and that legally secure placement cannot be achieved without a grant of permanent custody.

OHIO FIRST DISTRICT COURT OF APPEALS

After reviewing the record, we hold that the juvenile court did not err by granting permanent custody to HCJFS and terminating mother's parental rights. 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.

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

To the clerk:

Enter upon the journal of the court on September 26, 2018
per order of the court _____.

Presiding Judge