

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

IN RE: H CHILDREN : APPEAL NO. C-180358
 : TRIAL NO. F12-1161X
 :
 : *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.

Mother appeals the decision of the Hamilton County Juvenile Court granting permanent custody of her three children (ages 17, 14 and nine) to the Hamilton County Department of Job and Family Services (“HCJFS”). We affirm.

The termination of parental rights is governed by R.C. 2151.414. Before a juvenile court may terminate parental rights, it must first find one of the four conditions listed in R.C. 2151.414(B)(1). It must then find that it is in the child’s best interest to be placed in the permanent custody of the moving agency. R.C. 2151.414(B)(1) and (D). The court must find both prongs by clear and convincing evidence. We will not substitute our judgment for that of the trial court where some competent and credible evidence supports the essential elements of the case. See, e.g., *In re W.W.*, 1st Dist. Hamilton Nos. C-110363 and C-110402, 2011-Ohio-4912, ¶ 46.

In her single assignment of error contesting the grant of permanent custody to HCJFS, mother first argues that the juvenile court's determination under R.C. 2151.414(B)(1)(a) that the children should not or could not be returned to her within a reasonable amount of time was not supported by clear and convincing evidence. We disagree.

A juvenile court may find that a child cannot be returned to a parent within a reasonable amount of time if the court finds that the parent has "failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home." *See* R.C. 2151.414(E)(1). Here, the children were removed from the home in July 2016 because of mother's drug problem, mental-health issues and lack of appropriate housing for the children.

The record demonstrates that mother has failed to remedy her drug problem despite trying to do so in two different treatment facilities. Since the children were removed from mother's care, mother has relapsed twice, testing positive for heroin in November 2016 and testing positive for cocaine in June 2017. She also admitted that she had been charged with disorderly conduct in October 2016 for overdosing in public.

Mother has also failed to complete her case-plan services. Mother has a diagnosis of borderline personality disorder and has attempted suicide four times. Although she testified that she has been consistently taking her mental-health medications, she is not participating in mental-health counseling, as she was required to do by HCJFS. She also failed to engage in parenting classes or with Women Helping Women. Finally, the record demonstrates that mother cannot provide for the physical needs of the children. She has been employed for only one month in the past two years, and at the time of the permanent-custody hearing, she

had no housing for the children and no income. She was living in a charity-run rooming house, where she could not house the children.

Mother maintains that the juvenile court erred by granting permanent custody to HCJFS instead of granting her request for an extension of temporary custody for four months. She contends that within that timeframe she could complete her case plan services, obtain a job and find housing for the children. But in May 2017, mother attended a family conference, asking HCJFS to give her six more months to complete her case plan. Yet, nine months later, at the time of the permanent custody hearing, she still had not completed any case-plan services, found a job or secured appropriate housing for the children. There was no evidence presented to the court to demonstrate that another four months would make a difference in this case.

Next, mother argues that the juvenile court did not consider all of the factors set forth in R.C. 2151.414(D) before determining that it was in the best interest of the children to grant permanent custody to HCJFS. But the juvenile court specifically stated in its judgment entry that it had done so, and also stated that the magistrate had set out an “extensive and well-reasoned decision” and that it was “accept[ing] and approv[ing]” the magistrate’s decision as the order of the court.

The record demonstrates that it was in the best interest of the children to grant permanent custody to HCJFS. Mother had not visited with the children in the last 18 months and had not asked to do so. Mother failed to visit with the children initially, and then HCJFS terminated visitation at the recommendation of the children’s therapists.

The children are afraid of mother’s boyfriend, and do not want to live with him. But despite mother knowing this, she refused to stop seeing him. Mother’s

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boyfriend is a drug user, has a criminal history and failed to complete HCJFS's diagnostic assessment, even though he and mother were told that he would have to engage in services if mother wanted to be reunited with the children and still live with him. All three children indicated that they do not want to live with mother, and the guardian ad litem supports a grant of permanent custody to HCJFS, noting that they need a legally secure placement to recover from trauma they have experienced.

Based on the forgoing, we hold that the juvenile court's grant of permanent custody to HCJFS is supported by clear and convincing evidence.

The single assignment of error is overruled, and 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.

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

To the clerk:

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