

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

IN RE: A.S.F.

APPEAL NO. C-180419
TRIAL NO. Foo-1116X

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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 judgment of the Hamilton County Juvenile Court overruling her objections and adopting the magistrate's decision terminating her parental rights and granting permanent custody of her 14-year-old daughter, A.S.F, to the Hamilton County Department of Job and Family Services ("HCJFS").

To grant permanent custody of A.S.F. to HCJFS, the trial court was required to find that HCJFS had proven by clear and convincing evidence that it was in A.S.F.'s best interest that the agency be granted permanent custody and that one of the conditions set forth in R.C. 2151.414(B)(1)(a)-(d) applied. *See In re C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, 826 N.E.2d 816, ¶ 23-27.

In her first assignment of error, mother argues the trial court erred by concluding that the conditions in R.C. 2151.414(B)(1)(a) had been met where the record was devoid of any testimony or documentary evidence to support its finding that HCJFS had made reasonable efforts to assist her in remedying the problems that

had caused A.S.F. to be placed outside her home, and determining that notwithstanding these efforts, mother had continuously and repeatedly failed to remedy these conditions. In her second assignment of error, mother argues the trial court erred by granting the agency's motion for permanent custody where no clear and convincing evidence supported its determination that a grant of permanent custody was in A.S.F.'s best interest.

Here, the magistrate heard evidence on four separate days before granting permanent custody to HCJFS and journalizing her decision with findings of fact. While mother filed objections to the magistrate's decision challenging the factual findings, she did not file the transcripts from the permanent-custody trial to support her objections. *See* Juv.R. 40(D)(3)(b)(iii). Her failure to do so precluded the trial court from independently reviewing her objections to ascertain whether the magistrate had properly determined the factual issues. *See In re Seldon/Boyd Children*, 1st Dist. Hamilton Nos. C-170440, C-070441 and C-070481, 2007-Ohio-5123, ¶ 9. Thus, the trial court was required to presume the validity of the magistrate's factual determinations. *In re Spencer*, 1st Dist. Hamilton No. C-070321, 2008-Ohio-2844, ¶ 11; *In re Walling*, 1st Dist. Hamilton No. C-040745, 2005-Ohio-1558, ¶ 16.

While mother filed three of the four transcripts from the permanent-custody trial with this court, we are precluded from considering these transcripts to support any factual objections on appeal because they were not before the trial court. *See State ex rel. Duncan v. Chippewa Twp. Trustees*, 73 Ohio St.3d 728, 730, 654 N.E.2d 1254 (1995); *Cwik v. Cwik*, 1st Dist. Hamilton No. C-090843, 2011-Ohio-463, ¶ 52. Without the transcripts properly before us, we have no basis to conclude that the trial court erred by adopting the magistrate's findings and decision. We, therefore,

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overrule mother's two assignments of error and affirm the judgment of the juvenile court.

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., MILLER and DETERS, JJ.

To the clerk:

Enter upon the journal of the court on November 30, 2018

per order of the court _____.
Presiding Judge