



of the children in the temporary custody of HCJFS. Mother maintained a relationship with her children thereafter through supervised visits at the Family Nurturing Center, and continued to engage in treatment services. However, she frequently missed drug screens, tested positive in screens, and had diluted screens from drinking excess water, which at times still tested positive. In addition, she failed to regularly attend programs designed to help her gain and support her sobriety.

HCJFS filed for permanent custody in May 2017. After four days of testimony, the magistrate granted HCJFS permanent custody. Mother filed objections, but did not appear at the hearing in front of the trial judge. The trial judge overruled the objections, adopted the decision of the magistrate, and awarded permanent custody of the children to HCJFS.

We first address the record presented to us on appeal. Two volumes of the transcript of proceedings from the magistrate's hearing were filed with the trial court. Two additional volumes were filed directly with this court on August 28, 2018. The additional volumes were stricken by our entry of September 13, 2018, pursuant to a motion filed by HCJFS because they had not been filed in the trial court. *See Juv.R. 40(D)(3)(b)(iii)*.

Mother's first assignment of error alleges that juvenile court erred in accepting testimony regarding three hair follicle tests. Mother argues that the results of the tests were hearsay, because no witness properly authenticated the tests prior to their admission into evidence as required by Evid.R. 901. Mother, however, failed to object to the magistrate's decision on this basis and thus has forfeited her right to raise that matter on appeal absent a claim of plain error. *See Juv.R. 40(D)(3)(b)(iv)*

Plain error "may be applied only in the extremely rare case involving exceptional circumstances where error, to which no objection was made at the trial court, seriously

affects the basic fairness, integrity, or public reputation of the judicial process, thereby challenging the legitimacy of the underlying judicial process itself.” *Goldfuss v. Davidson*, 79 Ohio St.3d 116, 122-123, 679 N.E.2d 1099 (1997).

In this case, we cannot find plain error as the record contains ample evidence that Mother had failed urine screens as well as the hair follicle tests. One of the urine screens tested positive for cocaine in July, and another was diluted in August, just before the September 2017 hearing before the magistrate. Mother’s job and income instability also prevented the children from being placed with her within a reasonable time. Mother’s first assignment of error is overruled.

Mother’s second assignment of error alleges that the decision of the trial court was against the manifest weight of evidence. Having reviewed the record available to us and finding nothing to indicate otherwise, we must presume the regularity of the proceedings below. *See In re Seldon/Boyd Children*, 1st Dist. Hamilton Nos. C-070440, C-070441 and C-070481, 2007-Ohio-5123 ¶ 9. Mother’s second assignment of error is overruled.

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 MILLER, JJ.**

To the clerk:

Enter upon the journal of the court on October 24, 2018  
per order of the court \_\_\_\_\_.  
Presiding Judge