

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

IN RE: T.A. AND Z.G. : APPEAL NOS. C-180104
C-180146
: TRIAL NO. F14-2298Z
: *JUDGMENT ENTRY.*

We consider these appeals 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 and father each appealed from the juvenile court's decision granting legal custody of T.A., now seven years old, to maternal grandparents, and granting legal custody of Z.G., now a little over three years old, to paternal grandmother. Because father has not prosecuted his appeal, we dismiss the appeal numbered C-180146. We affirm the trial court's judgment in mother's appeal numbered C-180104.

In mother's single assignment of error, she argues that the trial court abused its discretion by awarding legal custody of T.A. and Z.G. to the respective grandparents after each child had been adjudicated dependent, and both the maternal grandparents and paternal grandmother had filed petitions for custody. We are unpersuaded.

Under R.C. 2151.353(A)(3), if the juvenile court finds a child to be abused, dependent or neglected, it may award legal custody to any person who has filed a

petition for custody. *In re M*, 1st Dist. Hamilton No. C-170008, 2017-Ohio-1431, ¶ 30, citing *In re Nedom*, 1st Dist. Hamilton Nos. C-080107 and C-080121, 2008-Ohio-2196, ¶ 14. The juvenile court has discretion to determine what placement option is in the child's best interest, and an appellate court will not reverse its decision absent an abuse of discretion. *Id.*, citing *In re Patterson*, 1st Dist. Hamilton No. C-090311, 2010-Ohio-766, ¶ 15. An abuse of discretion exists if the court's decision regarding the child's best interest is not supported by competent, credible evidence. *In re D.M.*, 1st Dist. Hamilton No. C-140648, 2015-Ohio-3853, ¶ 11.

A review of the record demonstrates that there was competent, credible evidence to support the trial court's determination that it was in the best interest of each child to award legal custody to the respective grandparents.

With respect to T.A., he was placed with maternal grandparents when he was two years old. He was diagnosed with post-traumatic stress disorder due to acts of domestic violence he witnessed between mother and father. Because of aggressive behaviors T.A. displayed in preschool and daycare, which caused him to be briefly hospitalized, he participated in the Therapeutic Interagency Program ("TIP"), which is a mental-health-treatment program targeting preschool children. Mother only attended one TIP meeting, whereas maternal grandparents maintained involvement with the TIP providers. T.A. is now on a low-dose of medication, which helps to calm him, but mother testified that she would likely discontinue the medicine if she received custody of him. Throughout the custody proceedings, mother often disagreed with the recommendations of the children's service providers and was combative with them. T.A. is bonded with his maternal grandparents and has made progress in their care.

Z.G. was born prematurely and eventually placed with paternal grandmother at three months old following his release from the hospital. Z.G. suffered from significant medical issues. He was required to wear a heart monitor and was on oxygen due to lung disease. Prior to being released from the hospital, hospital staff members testified at an emergency hearing that although mother spent a lot of time with Z.G. in the hospital and was shown how to care for him, she would sleep through alarms indicating that Z.G. was in danger—either his oxygen tube had fallen out or his heartbeat was erratic. Additionally, because of Z.G.’s lung disease, he cannot be around smoke. Mother smokes, although she testified she only smoked outside and not in the home. Paternal grandmother does not smoke.

Paternal grandmother has rearranged her life to care for Z.G. and takes him to his numerous medical appointments. She testified that he requires constant one-on-one attention. Mother has minimally attended Z.G.’s numerous medical appointment and/or therapy sessions due to her work schedule. Mother has not demonstrated how she will keep up with Z.G.’s medical/therapy appointments if she is awarded custody of him. Z.G. has made excellent progress with paternal grandmother and has bonded with her. He has never lived with mother.

Although both children are bonded with mother and visit with her regularly, the visitation has remained at the supervised level throughout these custody proceedings. The children’s guardian ad litem supports an award of legal custody of T.A. to maternal grandparents and an award of legal custody of Z.G. to paternal grandmother.

In light of the evidence presented, we cannot say that the trial court abused its discretion by concluding that an award of legal custody of T.A. to maternal

OHIO FIRST DISTRICT COURT OF APPEALS

grandparents and an award of legal custody of Z.G. to paternal grandmother was in each child's best interest.

Mother's 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., ZAYAS and MYERS, JJ.

To the clerk:

Enter upon the journal of the court on April 10, 2019
per order of the court _____.
Presiding Judge