

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.

After reviewing the record, we hold that the trial court properly granted permanent custody of the children to HCJFS. First, there was clear and convincing evidence to support the trial court's finding, under R.C. 2951.414(B)(1), that the children could not and should not be returned to the care of either parent. Mother had substance-abuse and mental-health issues and failed to complete any of the recommended services. Eventually, mother advocated for father to have custody of the children.

Father did not make his home accessible to HCJFS to determine if it was suitable for the children. Moreover, despite having completed most of the recommended services, father still failed to realize how mother's issues could adversely affect the children. He testified at the permanent-custody hearing that mother was capable of taking care of the children and that "had never been a problem." But father and mother lost custody of their two older children because of mother's issues, domestic violence and the state of the parents' home at that time. And S.R., whose custody is at issue here, was born with marijuana in her system. Father also minimized an incident of domestic violence between mother and father, even after having completed domestic-violence education.

Despite mother's drug addiction and mental-health issues, father repeatedly testified that he wanted the children to have a relationship with mother. Both the HCJFS caseworker and the Beech Acres parenting liaison testified that it was unlikely father would be able to provide a safe home for the children because he did

not understand that the children could be adversely affected if exposed to mother, whose substance-abuse and mental-health issues created a volatile environment.

We also hold that there was competent, credible evidence to support the trial court's finding that a grant of permanent custody was in the best interest of the children. *See* R.C. 2151.414(D). Since their birth, both children have been out of the custody of their parents. Father did not visit the older child during the first year of her life, and when visitation did begin with both children it had to be briefly stopped because of S.R.'s adverse reaction to her father. Eventually visitation resumed, and while father bonded with the children, it never advanced beyond supervised visitation.

The children are currently placed together with a foster family interested in adopting, and the children's guardian ad litem recommends a grant of permanent custody to HCJFS. The children are very young and are in need of a safe and secure environment, and father has not demonstrated that he has the ability to place the interest and safety of his children over his desire to help mother have a relationship with the children.

Because there was competent, credible evidence to support the grant of permanent custody, the second assignment of error is overruled.

In his first assignment of error, father contends the trial court erred by admitting evidence of a prior conviction for domestic violence that was over ten years old in violation of Evid.R. 609(B). Evid.R. 609(B) does not preclude the admission of evidence of a conviction more than ten years old for purposes of impeachment if "the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect," and advance notice of intent to use the conviction is provided. We

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note that the record does not reflect that father ever argued to the trial court that his 2006 conviction had been admitted into evidence in contravention of Evid.R. 609(B) nor is there any indication that this conviction had been admitted for purposes of impeachment. Nevertheless, even if the evidence should have been excluded, we find any error was harmless, because there was competent, credible evidence to support the trial court's determination that an award of permanent custody to HCJFS was in the best interest of the children in light of all the factors considered. The first 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 March 6, 2019
per order of the court _____.
Presiding Judge