

Since entering HCJFS's custody in 2017, A.S. has had eight different placements. The agency originally sought reunification, but moved for permanent custody in April 2018 with a case plan goal of adoption because, among other things, mother had not fulfilled the primary case plan requirement of obtaining appropriate housing and father had abandoned the child.

The permanent-custody trial commenced before a magistrate on August 27, 2018, and concluded on September 10, 2018. Father did not appear on either date. Mother did not appear for the first day of trial, and her attorney unsuccessfully moved for a continuance so that mother, who had failed to arrange transportation, "could be present."

On the first day of the trial, Erica Holt, the ongoing caseworker at HCJFS for A.S., testified that she had ensured A.S. received the mental-health services needed to facilitate reunification and that she had offered gas cards to assist mother in visiting A.S. during A.S.'s out-of-town placements. Holt admitted, however, that because mother had failed to comply with the threshold requirement of obtaining independent housing, she had not referred mother for case-plan services. Holt also testified that she had reached out to several family members, but none were willing or able to provide a safe, stable environment for A.S. This later testimony was corroborated by Jenelle Hocker, the director of Nella's place, where A.S. had twice been placed and removed for aggressive and disruptive behavior. After Holt and Hocker testified, the magistrate continued the case in progress to September 10 to allow mother another chance to appear.

Mother did not appear on the second trial date until after the conclusion of closing argument. At that time, the magistrate allowed her to reopen her case-in-chief. Mother testified that she was not physically able to move out of the nursing home at that time and had not applied for appropriate housing as required for reunification.

The magistrate issued a decision granting permanent custody to HCJFS, finding by clear and convincing evidence that the child should not be placed with either parent and could not be placed with either parent within a reasonable time, and that it was in the child's best interest to be committed to the permanent custody of HCJFS. Mother objected, contending the decision was against the weight of the evidence. The juvenile court overruled the objections, adopted the magistrate's decision, and entered judgment for HCJFS on its permanent-custody motion.

In her first assignment of error, mother argues the juvenile court erred by granting permanent custody to the agency because the law provided for two potential six-month extensions of temporary custody and HCJFS had failed to complete mother's case-plan services. R.C. 2151.415(D) governs when HCJFS can request an extension of temporary custody. Generally, the agency must allege that significant progress has been made towards reunification. Here, the record shows that mother, who had a guardian, had not made significant progress towards reunification and that her lack of progress was not due to the agency's failure to implement visitation and other aspects of A.S.'s case plan, but to mother's continuing inability to care for herself. This fact prevented mother from ever providing for A.S.'s basic needs, including housing.

Further, a permanent-custody motion cannot be denied solely because the agency failed to implement any particular aspect of a case plan. *See* R.C. 2151.414(C). Ultimately, A.S. must be adopted to provide her with a permanent and stable home, and the juvenile court's judgment granting permanent custody to the agency was supported by sufficient evidence and was not against the manifest weight of the evidence. *See* R.C. 2151.414(B)(1); *In re W.W.*, 1st Dist. Hamilton Nos. C-110363 and C-110402, 2011-Ohio-4912, ¶ 46. Accordingly, we overrule the first assignment of error.

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In her second assignment of error, mother contends that she was wrongfully denied a continuance of the August 27 trial date. We typically review a denial of a continuance under an abuse-of-discretion standard, *see State v. Unger*, 67 Ohio St.2d 65, 67-68, 423 N.E.2d 1078 (1981), and *In re E.A.*, 1st Dist. Hamilton No. C-130041, 2014-Ohio-280, ¶ 4, but mother did not object to the magistrate’s decision on this basis and has waived all but plain error. *See* Juv.R. 40(3)(b)(iv). Here, mother cannot demonstrate plain error, as the record shows counsel sought the continuance only because mother had failed to appear, mother’s absence was not unavoidable and she had missed other court appearances, the guardian ad litem for the child objected to the continuance, and the magistrate allowed mother to reopen her case on September 10 to testify. Consequently, we overrule the second assignment of error.

Therefore, we affirm the trial court’s judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MYERS, P.J., CROUSE and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on May 15, 2019
per order of the court _____.
Presiding Judge