



**WINKLER, Judge.**

{¶1} Mother appeals a decision of the Hamilton County Juvenile Court granting permanent custody of her children, P.B. and L.K., to the Hamilton County Department of Job and Family Services (“HCJFS”). We find merit in one of mother’s arguments. Therefore, we reverse the juvenile court’s decision and remand the cause to the juvenile court.

{¶2} The record shows that P.B., mother’s oldest child, was born on May 7, 2016. P.B.’s father was incarcerated and had no contact with his child. Mother, who was a minor, lived with her maternal grandmother. In August 2016, mother had an altercation with maternal grandmother, during which mother pushed in a door and attempted to open it with a butter knife. Maternal grandmother told police that mother could no longer reside in her house due to mother’s out-of-control behavior. HCJFS filed a motion for emergency custody of P.B., which the juvenile court granted. The juvenile court later adjudicated P.B. dependent and adopted a case plan with a goal of reunification with mother.

{¶3} In April 2017, P.B. was returned to mother’s custody with protective supervision. Subsequently, HCJFS moved to terminate protective supervision due to mother’s compliance with the case-plan requirements

{¶4} On August 4, 2017, mother’s second child, L.K., was born. L.K.’s father (“father”) had a history of domestic violence with mother. In the hospital, mother and father had an argument, and father became disruptive. Mother called the police, and father was asked to leave.

{¶5} In September 2017, a caseworker visited mother at the maternal grandmother’s home, where mother was living with the children. Father appeared at the

front door. He was angry that his car was missing. Mother became upset. She initially told the caseworker that she had not seen father in weeks. Subsequently, she admitted that he had spent the night before at the home and that mother had moved his car because it was blocking something.

{¶6} The caseworker talked with father on the porch. She told father that mother had reported that he had previously kicked in a door, broken a window, broken a television, and stolen clothes out of the home. Father eventually agreed to leave. The caseworker told mother not to have any contact with father, and mother agreed.

{¶7} On October 1, 2017, HCJFS filed a motion for emergency custody of P.B. and L.K. after it had received reports that father had broken into the home of the maternal grandmother and assaulted mother while the children were in the home. Both children were adjudicated abused and dependent, and temporary custody was awarded to HCJFS, with a goal of reunification with mother. Mother continued receiving services under the case plan.

{¶8} In April 2018, the caseworker confronted mother about a police report she had viewed about an incident at the address where mother lived. Father had been charged with domestic violence as a result of the incident, but the victim listed had a different name than mother. Although mother initially denied any knowledge of this incident, she later admitted that father had entered her home and assaulted her. She contacted the police, but gave them a false name because she was afraid of losing her children.

{¶9} Mother was charged with falsification, but ultimately pleaded guilty to disorderly conduct. Mother testified against father regarding the incident, and he was convicted of domestic violence. He went to prison and was due to be released in April 2019.

{¶10} On July 9, 2018, HCJFS filed a motion to modify temporary custody of P.B. and L.K. to permanent custody. After a hearing, the magistrate found that the children could not be placed with a parent within a reasonable time and should not be placed with a parent. She also found that it was in the children’s best interest that HCJFS be granted permanent custody.

{¶11} Mother objected to the magistrate’s decision. The juvenile court overruled mother’s objections, approved the magistrate’s decision, and awarded permanent custody of P.B. and L.K. to HCJFS. This appeal followed.

{¶12} In her sole assignment of error, mother contends that the juvenile court erred by granting HCJFS’s motion to modify temporary custody to permanent custody. Among other things, she argues that the court erred by concluding it was in the children’s best interest to grant permanent custody to HCJFS when it failed to consider the mandatory best-interest factors in R.C. 2151.414(D)(1). This assignment of error is well taken.

{¶13} R.C. 2151.414(B) provides that the juvenile court may grant permanent custody of a child to a public children services agency if it finds by clear and convincing evidence that (1) permanent custody is in the child’s best interest and (2) that one of the conditions in R.C. 2151.414(B)(1)(a) through (e) applies. *In re J.G.S.*, 1st Dist. Hamilton Nos. C-180611 and C-180619, 2019-Ohio-802, ¶ 34. Clear and convincing evidence is evidence sufficient to produce in the trier of fact a firm belief or conviction as to the facts sought to be established. *In re Adoption of Holcomb*, 18 Ohio St.3d 361, 368, 481 N.E.2d 613 (1985); *In re M., R., & H. Children*, 1st Dist. Hamilton No. C-170008, 2017-Ohio-1431, ¶ 17.

{¶14} R.C. 2151.414(D)(1) provides that in determining the child's best interests, the court shall consider “all relevant factors,” including (a) the child's

interaction with parents, siblings, relatives, foster caregivers and out-of-home providers, and any person who could have significantly affected the child; (b) the wishes of the child, as expressed by the child or the child's guardian ad litem; (c) the custodial history of the child; (d) the child's need for legally secure placement and the type of placement that could have been achieved without a grant of permanent custody; and (e) whether any of the factors under R.C. 2151.414(E)(7) to (11) apply.

{¶15} The factors listed in R.C. 2151.414(E)(7) to (11) include whether (1) the parent had been convicted of or pleaded guilty to certain criminal offenses; (2) the parent had repeatedly withheld medical treatment or food from the child when the parent had the means to provide the treatment and food; (3) the parent had placed the child at substantial risk of harm two or more times due to alcohol or drug abuse or had refused to participate in further treatment two or more times; (4) the parent had abandoned the child; and (5) the parent had had parental rights involuntarily terminated with respect to a sibling of the child, and the parent had failed to provide clear and convincing evidence that the parent can provide a legally secure permanent placement and adequate care for the health, welfare and safety of the child.

{¶16} In *In re K.T.1*, 1st Dist. Hamilton Nos. C-170667, C-170687, C-170701, C-170702 and C-170707, 2018-Ohio-1381, ¶ 14 (“*In re K.T.1 I*”), this court held that while a trial court need not specifically enumerate the R.C. 2151.414(D)(1) factors in its decision, the record must contain some indication that it considered all of the necessary factors. In that case, the juvenile court’s decision omitted any reference to the factors in R.C. 2151.414(D)(1)(e), and the record was devoid of any indication that it had considered those factors. *Id.* Consequently, we reversed the juvenile court’s judgment and remanded the matter for the trial court to consider those factors and

to discuss them with specificity. *Id.* at ¶ 15. We found the other assignments of error except one to be moot, and we declined to address them. *Id.* at ¶ 16.

{¶17} On remand, the juvenile court held a hearing relating to other issues in the permanent-custody proceeding, heard new evidence, and again ruled on HCJFS’s motion for permanent custody. *In re K.T.1*, 2018-Ohio-4312, 121 N.E.3d 847, ¶ 3 (1st Dist.) (“*In re K.T.1 II*”). It further stated in a judgment entry that it had considered all of the statutory best-interest factors, and it set forth findings that were relevant to its analysis. *Id.* at ¶ 47. In affirming that part of the juvenile court’s decision, we stated that “[w]e strongly encourage the juvenile court’s discussion of each factor, but we cannot find error in the juvenile court’s failure to discuss each factor if the record otherwise indicates that all of the necessary factors were considered.” *Id.* at ¶ 46.

{¶18} In the present case, the magistrate’s decision only referenced the R.C. 2151.414(D)(1)(e) factors in regard to the children’s fathers. It did not discuss them in relation to mother, and the record does not show that the court considered them as to mother. Consequently, we sustain mother’s assignment of error and reverse the juvenile court’s decision solely on this basis. As in *In re K.T.1 I*, we remand the cause with instructions to the juvenile court to consider the best interest-factors and to discuss them with specificity. We make no determination regarding mother’s other arguments under this assignment of error.

Judgment reversed and cause remanded.

**ZAYAS, P.J.**, and **CROUSE, J.**, concur.

Please note:

The court has recorded its own entry this date.