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

IN RE: B.J.H.	:	APPEAL NO. C-190291 TRIAL NO. F16-2636Z
	:	
	:	*JUDGMENT ENTRY.*

We consider this appeal 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.

Twelve-year-old B.J.H. and the child's mother appeal the decision of the trial court terminating mother's parental rights and granting custody of B.J.H. to the Hamilton County Department of Job and Family Services ("HCJFS"). On appeal, neither mother nor B.J.H. argues that B.J.H. should be reunified with mother—arguing instead that this court should grant custody to the child's maternal aunt.

Aunt initially did not want custody of B.J.H. because the child did not get along with the aunt's own children, and the aunt did not have enough time to care for B.J.H. Aunt eventually filed a petition for custody, but she did not cooperate with HCJFS. In particular, aunt did not have B.J.H. assessed so that HCJFS could work toward helping aunt's children and B.J.H. live together in a healthy way. As the magistrate noted,

> [aunt's] commitment to caring for this child vacillates so much that her assurance that she would remain committed cannot be trusted. It would not be in the best interest of this child to be placed in the custody of [aunt]. There is too great a risk that the child would be removed again in the short term, which would be very detrimental given her placement history.

The trial court reached the same conclusion, saying aunt's "previous failure to take Child in for a diagnostic assessment shows that it is unlikely she would continue to

provide Child with therapy, and the Court has no reason to believe the relationship between Child and Maternal Aunt's children would [be] repaired that easily."

Both mother and child argue that maternal aunt should have been given custody. But maternal aunt did not appeal the decision of the trial court. In a similar case, a mother and her guardian appealed the grant of custody to HCJFS, arguing that the trial court should have granted custody instead to the child's maternal grandmother. *In re A.W.*, 1st Dist. Hamilton No. C-120787, 2013-Ohio-909. In that case, the maternal grandmother had not appealed the decision of the trial court. *Id.* at ¶ 3. This court affirmed the decision of the trial court, concluding that "[mother] and [mother's guardian] lack standing on appeal to assert that the trial court should have granted [grandmother's] motion for custody." *Id.*; *see In re T.W.*, 1st Dist. Hamilton No. C-130080, 2013-Ohio-1754, ¶ 9.

In this case, neither mother nor B.J.H. has standing to argue that a party that has not appealed the trial court's determination should have been granted custody. As this court stated, "We cannot assume that she still desires to be awarded custody of [the child]." *See T.W.* at ¶ 9. This is particularly true in this case, where the procedural history demonstrates that aunt was—at least at times—a reluctant participant in the proceedings below. Since neither mother nor B.J.H. has standing to assert their arguments, we overrule their assignments of error and affirm the judgment of the trial court.

A certified copy of this judgment entry is 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., MYERS and **BERGERON, JJ.**

To the clerk:

Enter upon the journal of the court on August 14, 2019

per order of the court _____.

Presiding Judge