

her custody because they had been placed in their fathers' custody or had reached the age of majority.

In October 2016, HCJFS obtained an interim order of temporary custody of the seven children who remained in mother's custody because she and the children had been homeless for several months and had been living in a van; her school-aged children were not enrolled in school; she was not taking prescribed medication for her mental-health issues; and she had been involved in a domestic-violence incident with the father of one of her children. Within days of her children being removed from her care, mother was charged with interference with custody and ordered to stay away from the children.

The children were later adjudicated dependent and neglected. One of the children was placed in the legal custody of her father, and six of them were placed into the temporary custody of HCJFS.

Mother's case plan for reunification required her to engage in individual therapy, to take prescribed medication, to maintain safe and secure housing, to maintain stable income, and to visit consistently with the children. The stay-away order stemming from mother's interference charge prevented her from visiting the children until February 2017, when she was convicted of the charge and placed on probation.

By March 2018, mother had progressed enough that she was allowed to have three of her children in her home for an extended visit. However, the children were soon removed from her home because E.H. came to mother's home, and in a violent encounter between mother and E.H., two of the children sustained injuries that required stitches. E.H. fled from the home before police arrived.

The family's caseworker recommended that mother find alternate housing because E.H. remained at large. Mother testified that the caseworker told her that she had to immediately vacate her current home and that she had done so because she was afraid that E.H. would return there. The caseworker, however, testified that HCJFS assumed that mother would not leave the home until she found other housing, and that

in May 2018, mother was evicted from the home for nonpayment of rent. According to the caseworker, mother was to work with another agency to obtain housing, but mother reportedly failed to follow through with that agency.

Mother's visits with the three children who had been in her home at the time of the domestic-violence incident with E.H. were suspended for several months. According to a report by the children's guardian ad litem, the attempt to begin reunification with mother had had an "extremely negative effect on the children."

E.H. was eventually arrested, convicted of two counts of aggravated assault, and sentenced to nine months in prison.

HCJFS later moved to modify temporary custody to permanent custody. After a trial, the magistrate granted the motion. The juvenile court overruled mother's and E.H.'s objections to the magistrate's decision and granted permanent custody of the children to HCJFS. These appeals followed.

R.C. 2151.414(B) allows a juvenile court to grant permanent custody of a child to a children-services agency if it finds that a grant of permanent custody is in the child's best interest pursuant to the factors contained in R.C. 2151.414(D), and that one of the conditions set forth in R.C. 2151.414(B)(1)(a) through (e) apply. Here, the juvenile court found that a grant of permanent custody was in the children's best interest and that the children had been in the temporary custody of a children-services agency for 12 or more months of a consecutive 22-month period, pursuant to R.C. 2151.414(B)(1)(d). Neither party challenges the court's "12 of 22" finding, so we focus on the court's best-interest determination.

Following our review of the record, we find that the juvenile court's determination that a grant of permanent custody was in the children's best interest was supported by both the sufficiency and the weight of the evidence. *See In re J.W. and H.W.*, 1st Dist. Hamilton No. C-190189, 2019-Ohio-2730, ¶ 13.

After having been in different foster homes, five of the six children (three of whom were E.H.'s) were placed together in the same foster home, and their foster parent expressed interest in adopting them. The sixth child, whose diagnoses included

Disruptive Mood Dysregulation Disorder and Post-Traumatic Stress Disorder, was placed in a residential crisis stabilization unit due to his aggressive behaviors and his need for therapeutic services. Mother's weekly visits with the children were positive, but had never progressed beyond facilitated visitation, and two of the children refused to attend visitation with mother. *See* R.C. 2151.414(D)(1)(a).

Two of the children wanted to return to mother's care, including the child who required residential treatment. Three of the children wanted to remain with their foster parent, two of whom specifically expressed that they did not want to return to mother's care. While the sixth child was too young to express her own wishes regarding custody, her guardian ad litem was in favor of a grant of permanent custody. *See* R.C. 2151.414(D)(1)(b). The children have been in the custody of HCJFS since October 2016. *See* R.C. 2151.414(D)(1)(c).

All six children are in need of a legally secure permanent placement that can only be achieved with a grant of permanent custody to HCJFS. *See* R.C. 2151.414(D)(1)(d). Although mother complains that HCJFS improperly required her to move from her home, mother did not object below to HCJFS's instruction or to her case plan, which required her to maintain safe and secure housing. Mother asserts that the juvenile court failed to properly consider evidence that HCJFS had required her to vacate her home after the domestic-violence incident and that the court incorrectly found that she had not left her home until she was evicted a few months later. Mother's argument misses the mark, however, because the juvenile court determined that the children's best interest would be served by a grant of permanent custody even if mother had been able to maintain safe and secure housing.

Mother had not progressed enough in her case plan to warrant a return of her children. Mother testified that she had relocated often because of domestic violence with her paramours and that she had not learned much from her case-plan services. HCJFS was concerned that mother continued to demonstrate a lack of protective capacity. Mother was unsuccessfully discharged from individual therapy for noncompliance, and she failed to complete a second diagnostic assessment. Mother's

visits with the children were inconsistent and remained at the facilitated level. Despite the services offered to her, she continued to fail to maintain stable housing and income. Although mother reported that she had income and was re-engaged in mental-health treatment, she never provided proof despite repeated requests by the caseworker. The court's finding that the children were in need of a legally secure permanent placement that could only be achieved by a grant of permanent custody was supported by the evidence.

With respect to R.C. 2151.414(D)(1)(e), which requires the juvenile court to consider whether any of the factors in R.C. 2151.414(E)(7) to (11) apply, the court found that all fathers had abandoned the children, and the record supports the finding. *See* R.C. 2151.414(E)(10).

Consequently, we hold that the juvenile court's determination that the children's best interest would be served by a grant of permanent custody is supported by clear and convincing evidence and is not against the manifest weight of the evidence. *See In re W.W.*, 1st Dist. Hamilton Nos. C-110363 and C-110402, 2011-Ohio-4912, ¶ 46. We hold, therefore, that the court did not err in granting HCJFS's motion to modify temporary custody to permanent custody. We overrule both of mother's assignments of error and E.H.'s assignment of error and affirm the juvenile 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.

MOCK, P.J., MYERS and BERGERON, JJ.

To the clerk:

Enter upon the journal of the court on November 27, 2019

per order of the court _____.

Presiding Judge