

IN THE COURT OF APPEALS OF OHIO  
FOURTH APPELLATE DISTRICT  
HIGHLAND COUNTY

IN RE:        B.S.                                :        Case No. 19CA10  
               G.S.                                :  
    :  
    :        DECISION AND  
    :        JUDGMENT ENTRY  
    :  
    :        **RELEASED: 08/09/2019**

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APPEARANCES:

Lynn Turner, Hillsboro, Ohio, for appellant.

Anneka P. Collins, Highland County Prosecutor, and James Roeder, Highland County Assistant Prosecutor, Hillsboro, Ohio, for appellee.

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Hess, J.

{¶1} K.S. (“Father”) appeals from a judgment of the Highland County Common Pleas Court, Juvenile Division, that adjudicated his children, B.S. and G.S., dependent children and awarded temporary custody of them to Highland County Children Services.<sup>1</sup> K.S. asserts that the trial court erred at the adjudicatory hearing when it admitted statements B.S. made to a clinical forensic psychiatrist and that the dependency findings are against the manifest weight of the evidence. However, our ability to review the trial court’s decision is hindered by a failure to comply with R.C. 2151.28(L), which mandates that if the court determines a child is a dependent child, “the court shall incorporate that determination into written findings of fact and conclusions of law and enter those findings of fact and conclusion of law in the record of the case” and include “specific findings as to the existence of any danger to the child and any underlying family problems that are the basis for the court’s determination that

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<sup>1</sup> The children’s mother did not participate in this appeal.

the child is a dependent child.” Thus, we reverse the trial court’s judgment and remand for it to issue findings of fact and conclusions of law in conformity with R.C. 2151.28(L).

### I. FACTS

{¶2} On January 3, 2019, Highland County Children Services filed a complaint alleging that B.S. and G.S. appeared to be abused, neglected, and dependent children. After an adjudicatory hearing, the trial court dismissed the abuse and neglect counts but found the children were “dependent child(ren) as outlined in the Complaint.” Pursuant to R.C. 2151.353(A)(2), the court awarded the agency temporary custody of the children for a one-year period, to automatically terminate on January 3, 2020, “unless a timely motion is filed with the Court.”

### II. ASSIGNMENT OF ERROR

{¶3} Father presents the following assignment of error: “THE TRIAL COURT ERRED IN ITS FINDING OF DEPENDENCY. SUCH A FINDING WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.”

### III. LAW AND ANALYSIS

{¶4} In his assignment of error, Father contends that the trial court erred at the adjudicatory hearing when it admitted statements B.S. made to a clinical forensic psychiatrist and that the dependency findings are against the manifest weight of the evidence.

{¶5} We cannot engage in a meaningful review of the trial court’s decision due to a failure to comply with R.C. 2151.28(L), which states:

If the court, at an adjudicatory hearing held pursuant to division (A) of this section upon a complaint alleging that a child is an abused, neglected, dependent, delinquent, or unruly child \* \* \*, determines that the child is a dependent child, the court shall incorporate that determination into written

findings of fact and conclusions of law and enter those findings of fact and conclusions of law in the record of the case. The court shall include in those findings of fact and conclusions of law specific findings as to the existence of any danger to the child and any underlying family problems that are the basis for the court's determination that the child is a dependent child.

{¶6} The trial court did not issue the statutorily mandated written findings of fact and conclusions of law. The judgment entry adjudicating the children dependent simply states that the court found the children to be “dependent child(ren) as outlined in the Complaint.” The language in the complaint does not satisfy R.C. 2151.28(L). The complaint contains “to wit” language that summarizes the events that led to the filing of the complaint and an allegation of dependency that tracks the language of both R.C. 2151.04(A) and (C). Such a general statement is insufficient to constitute conclusions of law. See *In re S.W.*, 12th Dist. Butler Nos. CA2006-09-211 & CA2006-10-263, 2008-Ohio-1194, ¶ 11. In addition, the allegations in the complaint do not satisfy the requirement for specific findings as to the existence of any danger to the children and any underlying family problems that are the basis for the dependency determinations.

{¶7} Although the trial court made some statements during the adjudicatory hearing about the reasons for its dependency finding, R.C. 2151.28(L) mandates written findings of fact and conclusions of law. Moreover, these statements did not specifically address the R.C. 2151.04(A) dependency allegation in the complaint even though the court later found the children to be dependent “as outlined in the Complaint.” The oral statements also do not include specific findings on danger to the children and underlying family problems.

{¶8} “Where the juvenile court has failed to make the specific findings of fact and conclusions of law in support of its adjudication of dependency, the judgment must

be reversed and the matter remanded to the trial court to make the statutorily required written findings.” *In re T.C.*, 9th Dist. Wayne Nos. 18AP0021 & 18AP0022, 2018-Ohio-4369, ¶ 11, citing *In re S.L.*, 2016-Ohio-5000, 56 N.E.3d 1026, ¶ 9 (3d Dist.); *In re A.B.C.*, 5th Dist. Stark No. 2010CA00087, 2011-Ohio-531, ¶ 31. Accordingly, we reverse the trial court’s judgment and remand for it to issue findings of fact and conclusions of law in conformity with R.C. 2151.28(L).<sup>2</sup> This decision renders the assignment of error premature, so we decline to address it at this time.

JUDGMENT REVERSED AND  
CAUSE REMANDED.

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<sup>2</sup> The record indicates that B.S. turned 18 during the pendency of this appeal. On remand, the trial court and parties may want to consider the impact that fact has on the trial court’s continued jurisdiction over B.S. See generally R.C. 2151.353(F)(1) (“The court shall retain jurisdiction over any child for whom the court issues an order of disposition pursuant to division (A) of this section \* \* \* until the child attains the age of eighteen years if the child does not have a developmental disability or physical impairment, the child attains the age of twenty-one years if the child has a developmental disability or physical impairment, or the child is adopted and a final decree of adoption is issued, except that the court may retain jurisdiction over the child and continue any order of disposition under division (A) of this section \* \* \* for a specified period of time to enable the child to graduate from high school or vocational school. The court shall retain jurisdiction over a person who meets the requirements described in division (A)(1) of section 5101.1411 of the Revised Code and who is subject to a voluntary participation agreement that is in effect. The court shall make an entry continuing its jurisdiction under this division in the journal”).

**JUDGMENT ENTRY**

It is ordered that the JUDGMENT IS REVERSED and that the CAUSE IS REMANDED. Appellee shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Highland County Common Pleas Court, Juvenile Division to carry this judgment into execution.

Any stay previously granted by this Court is hereby terminated as of the date of this entry.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Abele, J. & McFarland, J.: Concur in Judgment and Opinion.

For the Court

BY: \_\_\_\_\_  
Michael D. Hess, Judge

**NOTICE TO COUNSEL**

**Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.**