

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

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| IN RE R.M., ET AL. | : | |
| | : | No. 107877 |
| Minor Children | : | |
| | : | |
| [Appeal by T.C., Mother] | : | |

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: June 13, 2019

Civil Appeal from the Cuyahoga County Court of Common Pleas
Juvenile Division
Case Nos. AD18903384 and AD18903385

Appearances:

Anita Staley, *for appellant.*

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, Rachel Eisenberg and Cheryl Rice, Assistant Prosecuting Attorneys, *for appellee.*

ANITA LASTER MAYS, J.:

{¶ 1} The appellant T.C., mother of two minor children, appeals the juvenile court's decision that it is in the best interest of her children, R.M. and B.D., to be placed in the permanent custody of the Cuyahoga County Department of Children and Family Services ("CCDCFS"). The mother asks this court to reverse

the juvenile court's decision and remand for further proceedings. As required by App.R. 11.1(D), this court has expedited the hearing and disposition of this appeal. We affirm.

{¶ 2} This case involves two children, R.M. and B.D. On March 13, 2018, CCDCFS received an ex parte telephonic order of removal of the children. On March 14, 2018, CCDCFS was granted temporary emergency custody of the children after the juvenile court found B.D. to be abused and R.M. a dependent. On May 29, 2018, T.C. stipulated to an amended complaint, and B.D. was adjudicated abused and R.M. was adjudicated dependent. The maternal grandmother, or alternatively, the maternal great-grandmother of the children, filed for legal custody on June 6, 2018. However, they failed to appear at the September 27, 2018 hearing for permanent custody, and permanent custody of the children was granted to CCDCFS.

I. Facts and Procedural History

{¶ 3} On March 13, 2018, CCDCFS removed the children from T.C.'s care after B.D. was found with bruises and scratches throughout his body. B.D. had previously been in CCDCFS' care and was returned to the care of T.C. a few months before the discovery of the bruises. T.C. had been previously offered domestic violence counseling, mental health services, and parenting education. T.C. has three other children that were removed from her custody due to her mental health issues.

{¶ 4} At the September 27, 2018 hearing, Marilyn Perkins ("Perkins"), an employee at University Settlement, testified regarding her observations of T.C. with her children. Perkins explained that University Settlement "is a community agency

which we have one of the programs called Family-to-Family through the Department of Children and Family Services where we have visitations at our location.” (Tr. 15.) The goal of the Family-to-Family program is “to provide resources for the families and to try and stabilize families.” *Id.* In 2013, Perkins began observing T.C. with B.D., who was an infant at the time. Perkins testified that when T.C. brought B.D. to University Settlement, T.C. would continuously talk on her phone. (Tr. 17.) Perkins also testified that these observed visits continued for eight months to a year, and they stopped because Perkins thought that B.D. was removed from T.C.’s custody. However, in 2018 the case was reopened, and University Settlement resumed observed visits with T.C. This time T.C. brought B.D. and R.M. At the time the supervised visits resumed, R.M. was six months old and B.D. was five years old.

{¶ 5} Perkins testified that T.C. was not nurturing. T.C. would not hold R.M. to feed her, and when Perkins suggested that T.C. hold R.M. to bottle feed her, T.C. stated that R.M. needed to learn how to hold her own bottle. Perkins also stated that T.C. was not consistent with her visitations, and would not call in advance to let Perkins know she would be absent. Due to T.C.’s missed visitations, University Settlement, in accordance with their policy, cancelled the visitations.

{¶ 6} After Perkins, Karla Trammell (“Trammell”), an assistant care manager and supervisor of the Family-to-Family program at University Settlement, testified that she was concerned about one of the visitations with T.C. and the children. She stated,

Yes, there were some concerns. [T.C.], when she would come into the visits, she oftentimes would talk to the person supervising the visit a lot and would have to be redirected to focus on her children during her visitations. So I did have a concern about that. There was a particular time where [B.D.] came into the visitation and he was wearing shorts. This is probably about the beginning of the summer, and she kind of fussed at [B.D.] about having on shorts and told him he shouldn't wear shorts because it was too cold. So I had concerns about that, because he's not at the age where he was dressing himself or picking out his own clothes, I'm sure.

(Tr. 39-40.)

{¶ 7} Trammell also testified that T.C.'s behavior towards the children was inappropriate. Trammell observed that T.C. would get easily agitated with the children for doing age-appropriate behaviors. Trammell stated,

For example, we have a rug in our room that has the ABCs. It's a round rug. It has the ABCs and [B.D.] was going around the rug and [T.C.], you know, kind of disciplined him and told him to sit down and fussed at him for going around the rug. And at that point he was made to sit down and watch a movie. He wanted to kind of play with games or toys, but she wouldn't let him. Also, she wanted to take pictures of [B.D.] and [R.M.]. [R.M.] was in a stroller and [B.D.] had to bend down in order for her to get, you know, the picture. At one point [B.D.] said his legs were hurting him and tried to stand up. She physically tried to put him back down into the position and he complained again that he didn't want to stand in that position because it was starting to hurt. [T.C.] told him that he was being lazy and told him, you know, she wanted to take the picture. At that point I suggested that they stop taking the pictures and do something else. So that was concerning to me. And at the end of that visit I did speak with [T.C.] about, you know, the concerns I had. * * * Also at one point she let [R.M.] out of the stroller and [R.M.] was crawling. She told [R.M.] to stop crawling and tried to pull [R.M.] kind of closer to her. [R.M.] tried to crawl again, and she told [R.M.], since you're not listening, you'll go back in the stroller, and put her back in the stroller, which, you know, at that age [R.M.] was just doing what I thought was age-appropriate behavior.

(Tr. 40-42.)

{¶ 8} As a result of Trammell's observations, she wrote a letter detailing her concerns about T.C.'s parenting. In addition to inappropriate behaviors towards B.D. and R.M., Trammell observed T.C. not paying attention to the children during visitations, but instead talking on her phone. (Tr. 46.)

{¶ 9} After Trammell's testimony, Gina Branco ("Branco"), an extended services case worker for CCDCFS, testified that she took over T.C.'s case management in April 2018. Branco testified that T.C.'s involvement with CCDCFS began in 2013 with her three older children and B.D. At the time Branco was assigned to T.C.'s case, B.D. had been returned to T.C.'s custody for four months before he was discovered with bruises covering his entire body. Prior to the removal of B.D. and R.M., T.C.'s three older children were removed from her custody and placed with her mother in West Virginia, who was granted permanent custody of the children.

{¶ 10} Branco testified that T.C. was placed on a case plan that included "parenting, mental health and emotional stability, and domestic violence. The case plan was also for [B.D.] for emotional stability for him to attend therapy, and for [R.M.], for her to have Help Me Grow referrals and any necessary medical care regarding mom." (Tr. 53.)

{¶ 11} Branco testified that prior to 2018, T.C. had completed a parenting course. However, Branco, observed that T.C. never applied what she learned in the course to her actual parenting. (Tr. 56.) Branco observed T.C. with her children at T.C.'s graduation from parenting class, and testified that T.C.'s interaction with B.D.

involved T.C. yelling at B.D. for socializing with the other children and ignoring B.D. while socializing with everyone else around her. Branco also stated that CCDCFS attempted to provide T.C. additional services to help with her parenting skills. Branco testified, “[w]e tried another service through Ohio Guidestone, it’s called Nurturing Parenting. Nurturing Parenting is a program that comes into the home and, you know, helps more of a home-based parenting.” (Tr. 60.) However, T.C. refused the service.

{¶ 12} Branco testified that it was difficult communicating with T.C. about the children or the agency’s involvement with the children. Branco stated,

[d]iscussions with mom are difficult to have. She becomes extremely irate really quickly and, you know, when I try to have a discussion with her, it normally ends up with her screaming at me and then hanging up. It’s very difficult to get any basic information across to [T.C.] because she becomes very upset very quickly, and then just, like I said, hangs up the phone, doesn’t want to hear what you have to say and things like that. So I can’t get — it’s very difficult to get basic information across to her, like when I had to change the visits.

(Tr. 61-62.)

{¶ 13} Branco testified that she changed T.C.’s visits because T.C. failed to show up to scheduled visitations with the children and would not call in advance to notify them of her absence. On one occasion, Branco tried contacting T.C., and she did not answer her phone. T.C. later called Branco and told her that she overslept. Branco explained to T.C. that she needed to attend next week’s visitation. T.C. failed to show for the next visitation with the children. University Settlement cancelled the visitation program. Branco called T.C., and T.C. became angry and hung up on

Blanco. Blanco's supervisor then called T.C. to inform her that the visits were rescheduled at another location, where T.C. was receiving other services. Because of this, Blanco thought that the new location would be more convenient for T.C. However, T.C. failed to show for the visitation again.

{¶ 14} Branco testified that T.C. does not have a working vehicle or reliable transportation. T.C. does not have a job or income, and does not give clear answers about whether she is looking for a job. Branco also testified that T.C. continues to have inappropriate interactions with her children at visitations. Branco stated that B.D. completely shuts down when he is around T.C., and as a result, Branco requested that B.D.'s visits with T.C. stop because she feels that they were harmful for him. Branco also testified that B.D. told her that he hates visits, and she had observed that B.D. has completely bonded with his foster family.

{¶ 15} In addition to parenting courses, CCDCFS referred T.C. to domestic violence classes, which she completed. However, T.C. still maintains a relationship with S.D., the alleged father of B.D., who is known to be physically abusive towards T.C. in front of the children. (Tr. 76.) T.C. and S.D. live in the same home, and S.D., although given opportunities to do so, has refused to comply with CCDCFS and the parenting plan. S.D. has not established paternity of R.M.

{¶ 16} Another component of T.C.'s case plan is mental health services. Branco stated, "[t]here had been some behaviors that we believe are questionable and would like to have assessed through a mental health professional. She's also disclosed in the past to other workers that she has bipolar disorder, so we needed to

see an assessment to see what type of services were necessary.” (Tr. 78-79.) Branco testified that T.C. had not completed her mental health services. (Tr. 80.)

{¶ 17} Branco also expressed concern with T.C.’s emotional stability. She stated,

I go back to the phone calls. She calls and she’ll yell and scream into my voicemail or on my phone, or I’ll come into, you know, 50 missed calls from T.C. in a short period of a few hours if I’m not at my desk. I’ve also been on the phone before and will watch her phone calls keep coming through and through and through. And I’ve called her back and said, T.C., just please leave me a message. Call me one time. I will return your call. You know, there’s no need to call me 50 times in a row. I will return your call every time. She will become like belligerent on the phone and yell, scream, hang up. I’ve seen her interactions with her kids. They’re not appropriate for a parent to have with their children.

(Tr. 80-81.)

{¶ 18} When asked why CCDCFS asked for permanent custody instead of continued temporary custody, Branco stated,

Because these children keep coming back into custody for abuse and neglect, so asking for temporary custody when services have been completed not once, but twice, and in some cases more services have come into play, and there hasn’t been anything gained from these services, and we’re, you know, taking custody four months after reunification for countless bruises that can’t be identified for putting them back in that home is not safe for them. * * * We can’t just keep giving chance after chance after chance. I mean, at some point the safety factor is just not there. We’ve given her time. We’ve given her time since 2013. She had [B.D.] out of her custody. She regained custody of [B.D.]. [B.D.] came back into custody. I, as the caseworker on this case, cannot knowingly say let’s give her another chance knowing that they’re not safe in her care. I don’t want to wait until [R.M.] gets harmed like [B.D.] has.

(Tr. 85-86.)

{¶ 19} After Branco's testimony and cross-examination, the trial judge questioned Troy Hough ("Hough"), the guardian ad litem for the children about the written report he submitted to the court. Hough stated,

I've been on this case since it was first assigned to me; however, I've been involved with [B.D.] since his birth in 2013. I've met with all the parties on this case. I've observed a visit between mother and the children. I've met with both children at their home. I've spoken with the foster parents, spoken with providers and filed a report in this matter. At this time I believe it would be in [B.D.'s] best interest to grant the Agency's motion placing him in the permanent custody of the Agency, and for [R.M.'s] best interest to deny the Agency's motion and place him in the temporary custody of the Agency. Mother's been working services on [B.D.] for approximately — considering the entire length of all the cases, she's been working with him for about five years now, and I don't believe that the issues which led to his initial removal or his second subsequent removal were remedied and I do not believe they can be remedied in a reasonable amount of time. However, [R.M.] is a newborn and I believe that mother should be given every opportunity to try to resolve those issues on the newborn. Certainly I think there might be a few more services that could be put in place in regards to her, an actual one-on-one supportive visitation perhaps, to resolve some of those other issues. That's my recommendation at this time.

(Tr. 111-112.)

{¶ 20} Hough also testified that he believes that S.D. and T.C. still live together. He stated that he saw open mail with S.D.'s name on it at the residence. Hough also stated that he met S.D. in 2013, and S.D. indicated that "he was not interested in the seeing the children at all." (Tr. 115.) S.D. has not been available to the agency since that time. When describing his observations of T.C. and her children, Hough stated,

I would say that the testimony we've heard from the other three witnesses, my observations were very consistent with that. A lot of

time on the phone. A lot of time engaging University Settlement personnel regarding the details of her case. A lot of time involving complete strangers who were just walking through, stopping them and telling them about her case. * * * It's hard to act like a good parent or do the right thing at all times. But mother was just completely — she really seemed to need to have some sort of validation from other people that what was happening to her was unjust. * * * She was very good probably for the first 30 minutes, but then towards the last hour and a half, two hours, you know, she certainly went off the rails. More phone calls to other people, conversations with other people. [B.D.] was kind of on his own. * * * And other things, too. You know, yelling at [B.D.] about the clothing that he was wearing, why are you wearing that? And there were some other disturbing things that I heard during the visit.

(Tr. 116-117.)

{¶ 21} When asked about the disturbing things that Hough heard during the visit, he asked if he could refer to his notes. This is what he read from his observation notes:

Mother was talking to a University Settlement worker about having a pending traffic case that wasn't her fault because she wasn't driving and she was just taking the rap for her boyfriend who had domestic violence charges and she didn't want him to get into trouble. She also asked [B.D.] about why he was telling the foster parents that he was scared of her. She told him not to tell people those things because it made her look bad. * * * Well, it's not the best decision to be involved in a relationship with somebody who also has current domestic violence charges and certainly not taking the rap for him for any sort of criminal issues. And also discussing the case with [B.D.] regarding what he tells me and what he doesn't I didn't think was appropriate.

(Tr. 118.)

{¶ 22} At the end of the hearing, the juvenile court stated that it would make its decision by way of journal entry. The juvenile court subsequently decided the following regarding B.D. and R.M.,

[it] is ordered, adjudged, and decreed that the order heretofore made committing the child to the temporary custody of the Cuyahoga County Division of Children and Family Services is terminated. The child is committed to the permanent custody of the Cuyahoga County Division of Children and Family Services. The parental rights and responsibilities of the Mother, T.C. and the alleged Father S.D., and John Doe, are hereby terminated. The court finds that the child's continued residence in or return to the home of T.C. Mother will be contrary to the child's best interest.

Journal entry No. 106221780 (Oct. 15, 2018).

{¶ 23} After the juvenile court's ruling, T.C. filed this appeal and assigned three errors for our review:

- I. The trial court erred in their determination as the CCDCFS failed to establish by clear and convincing evidence that Appellant would not be able to parent her child within a reasonable time;
- II. The trial court did not properly consider the option of granting temporary custody as opposed to permanent custody of the children; and
- III. The trial court erred by finding that CCDCFS used reasonable case planning and diligent efforts in assisting appellant with regard to remedying the problems that caused her child to be placed outside of the home.

II. Best Interest of the Children

A. Standard of Review

{¶ 24} It has been determined that

“‘[t]he discretion that the juvenile court enjoys in deciding whether an order of permanent custody is in the best interest of child should be accorded the utmost respect, given the nature of the proceeding and the impact the court's decision will have on the lives of the parties concerned.’” *In re L.O.*, 8th Dist. Cuyahoga No. 101805, 2015-Ohio-1458, ¶ 22, quoting *In re Awkal*, 95 Ohio App.3d at 316, 642 N.E.2d 424. We, therefore, review trial court determination of child best

interest under R.C. 2151.414(D) for abuse of discretion. *In re L.O.* at 22. An abuse of discretion implies that the court's decision was unreasonable, arbitrary or unconscionable. *Blakemore v. Blakemore*, Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983).

In re V.C., 8th Dist. Cuyahoga Nos. 102903, 103061, and 103367, 2015-Ohio-4991,

¶ 52.

B. Whether CCDCFS Failed to Establish by Clear and Convincing Evidence that Appellant Would Not be Able to Parent Her Children within a Reasonable Time

{¶ 25} In T.C.'s first assignment of error she argues that the trial court's decision was not supported by clear and convincing evidence.

In accordance with R.C. 2151.414(B), a trial court may grant permanent custody of a child to a county children's services agency if the court determines, by clear and convincing evidence, (1) the existence of at least one of the four conditions enumerated in R.C. 2151.414(B)(1)(a) through (d) and (2) that granting permanent custody to the agency is in the child's best interest. "Clear and convincing evidence" is that measure or degree of proof that is more than a "preponderance of the evidence" but does not rise to the level of certainty required by the "beyond a reasonable doubt" standard in criminal cases. *In re M.S.*, 8th Dist. Cuyahoga Nos. 101693 and 101694, 2015-Ohio-1028, ¶ 8, citing *In re Awkal*, 95 Ohio App.3d 309, 315, 642 N.E.2d 424 (8th Dist.1994). It "produces in the mind of the trier of fact a firm belief or conviction as to the facts sought to be established." *In re M.S.* at ¶ 8.

Id. at ¶ 36.

{¶ 26} The juvenile court, in its journal entry, considered the factors in R.C. 2151.414, and determined that one of the four conditions applied. The juvenile court also determined that granting permanent custody to CCDCFS was in the children's best interest. R.C. 2151.414(B)(1)(a) through (d) states,

(1) Except as provided in division (B)(2) of this section, the court may grant permanent custody of a child to a movant if the court determines at the hearing held pursuant to division (A) of this section, by clear and convincing evidence, that it is in the best interest of the child to grant permanent custody of the child to the agency that filed the motion for permanent custody and that any of the following apply:

(a) The child is not abandoned or orphaned, has not been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period, or has not been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period if, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state, and the child cannot be placed with either of the child's parents within a reasonable time or should not be placed with the child's parents.

(b) The child is abandoned.

(c) The child is orphaned, and there are no relatives of the child who are able to take permanent custody.

(d) The child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period, or the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period and, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state.

{¶ 27} In the journal entries regarding B.D. and R.M., the juvenile court stated,

The child has not been in the temporary custody of the Cuyahoga County Division of Children and Family Services for twelve (12) or more months of consecutive twenty-two (22) month period ending on

or after March 18, 1999, and the child cannot be placed with either of the child's parents within reasonable time or should not be placed with the child's parents.

Journal entry No. 106221780 (Oct. 15, 2018).

{¶ 28} We understand that,

[i]t is well established that a parent has a fundamental right to raise and care for his or her child. *In re C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, 862 N.E.2d 816, ¶ 28; *In re K.H.*, 119 Ohio St. 3d 538, 2008-Ohio-4825, 895 N.E.2d 809, ¶ 40. However, that right is not absolute. *Id.* Government children's services agencies have broad authority to intervene when necessary for a child's welfare. *In re C.F.* at ¶ 28. "All children have the right, if possible, to parenting from either natural or adoptive parents which provides support, care, discipline, protection and motivation." *In re J.B.*, 8th Dist. Cuyahoga No. 98546, 2013-Ohio-1704, ¶ 66, quoting *In re Hitchcock*, 120 Ohio App.3d 88, 102, 696 N.E.2d 1090 (8th Dist.1996). When parental rights are terminated, the goal is to create "a more stable life" for dependent children and to "facilitate adoption to foster permanency for children." *In re N.B.*, 8th Dist. Cuyahoga No. 01390, 2015-Ohio-314, ¶ 67, citing *In re Howard*, 5th Dist. Tuscarawas No. 85 A10-077, 1986 Ohio App. LEXIS 7860, *5 (Aug. 1, 1986). We recognize, however, that termination of parental rights is "the family law equivalent of the death penalty in a criminal case." *In re J.B.* at ¶ 66, quoting *In re Hoffman*, 97 Ohio St. 3d 92, 2002-Ohio-5368, 776 N.E.2d 485, ¶ 14.

In re V.C., 8th Dist. Cuyahoga Nos. 102903, 103061, and 103367, 2015-Ohio-4991, ¶ 35.

{¶ 29} We find that the juvenile court relied on clear and convincing evidence when it decided that the children could not be placed with either parent within a reasonable time or that the children should not be placed with the parents and, therefore, granted permanent custody of B.D. and R.M. to CCDCFS. The record demonstrates that the T.C. "has a chronic emotional illness that is so severe that it makes the parent unable to provide an adequate permanent home for the child at

the present time and, as anticipated, within one year from the time the court holds the hearing.” In addition B.D. was adjudicated abused because he was discovered to have bruises and scratches all over his body, and T.C. did not have a reliable explanation for how B.D. sustained the bruises. T.C. does not have a job or income to provide for the children. T.C. is still involved and lives with the alleged father of the children, who has a history of domestic violence, and who has expressed that he wants nothing to do with the children. The juvenile court echoed this in the journal entries for the children, stating,

Following the placement of the child outside the child’s home and notwithstanding reasonable case planning and diligent efforts by the agency to assist the parents to remedy the problems that initially caused the child to be placed outside the home, the mother and alleged father have failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child’s home.

{¶ 30} The record reveals that the juvenile court also considered the factors enumerated in R.C. 2151.414(D)(1) to determine if terminating the mother’s parental rights were in the best interest of the child. R.C. 2151.414(D)(1) states,

(1) In determining the best interest of a child at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) or (5) of section 2151.353 or division (C) of section 2151.415 of the Revised Code, the court shall consider all relevant factors, including, but not limited to, the following:

(a) The interaction and interrelationship of the child with the child’s parents, siblings, relatives, foster caregivers and out-of-home providers, and any other person who may significantly affect the child;

(b) The wishes of the child, as expressed directly by the child or through the child's guardian ad litem, with due regard for the maturity of the child;

(c) The custodial history of the child, including whether the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period, or the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period and, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state;

(d) The child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency;

(e) Whether any of the factors in divisions (E)(7) to (11) of this section apply in relation to the parents and child.

For the purposes of division (D)(1) of this section, a child shall be considered to have entered the temporary custody of an agency on the earlier of the date the child is adjudicated pursuant to section 2151.28 of the Revised Code or the date that is sixty days after the removal of the child from home.

{¶ 31} In the journal entries for both children, the court stated,

Upon considering the interaction and interrelationship of the child with the child's parents, siblings, relatives, and foster parents; the wishes of the child; the custodial history of the child, including whether the child has been in temporary custody of a public children services agency or private child placing agency under one or more separate orders of disposition for twelve or more months of a consecutive twenty-two month period; the child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody; and the report of the Guardian ad Litem, the Court finds by clear and convincing evidence that a grant of permanent custody is in the best interests of the child and the child cannot be placed with one of the child's parents within a reasonable time or should be placed with either parent.

{¶ 32} In addition the juvenile court determined that R.C. 2151.414(E)(2) applied as well. The statute states,

In determining at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code whether a child cannot be placed with either parent within a reasonable period of time or should not be placed with the parents, the court shall consider all relevant evidence. If the court determines, by clear and convincing evidence, at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code that one or more of the following exist as to each of the child's parents, the court shall enter a finding that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent:

(2) Chronic mental illness, chronic emotional illness, intellectual disability, physical disability, or chemical dependency of the parent that is so severe that it makes the parent unable to provide an adequate permanent home for the child at the present time and, as anticipated, within one year after the court holds the hearing pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code.

{¶ 33} In its journal entries, the juvenile court stated, "Mother has a chronic emotional illness that is so severe that it makes the parent unable to provide an adequate permanent home for the child at the present time and, as anticipated, within one year from the time the Court holds the hearing."

{¶ 34} Given all the testimony concerning the children's welfare while in T.C.'s custody such as T.C.'s inability to have appropriate visits with the children; T.C.'s refusal to take advantage of the offered mental health services; T.C.'s lack of explanation for the massive injuries sustained by her son; T.C.'s refusal to take additional in-home classes; T.C. not applying skills already learned to present

situations with the children; T.C.'s inappropriate discipline of the children for age appropriate activities; and T.C.'s continued relationship with her abuser, we find that the trial court did not abuse its discretion in awarding permanent custody to CCDCFS. T.C.'s first assignment of error is overruled.

C. Whether The Trial Court Properly Considered the Option of Granting Temporary Custody as Opposed to Permanent Custody of the Children.

{¶ 35} T.C. incorrectly argues that the trial court did not properly consider continuing CCDCFS's temporary custody of the children.

The court must also find by clear and convincing evidence that the grant of permanent custody is in the best interest of the child. *Id.* R.C. 2151.414(D) requires the trial court to consider all relevant factors in determining whether the child's best interests would be served by granting the permanent custody motion. These factors include but are not limited to: (1) the interrelationship of the child with others; (2) the wishes of the child; (3) the custodial history of the child; (4) the child's need for a legally secure placement and whether such a placement can be achieved without permanent custody; and (5) whether any of the factors in divisions (E)(7) to (11) apply.

In addition, "except for some narrowly defined statutory exceptions, the state must make reasonable efforts to reunify the family before terminating parental rights. If the agency has not already proven reasonable efforts, it must do so at the hearing on a motion for permanent custody. However, the specific requirement to make reasonable efforts that is set forth in R.C. 2151.419(A)(1) does not apply in a R.C. 2151.413 motion for permanent custody." *In re A.M.*, 4th Dist. Adams No. 08CA862, 2008-Ohio-4835, at ¶15, quoting *In re C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, 862 N.E.2d 816, at ¶4; *see also*, R.C. 2151.413(D)(1) ("[I]f a child has been in the temporary custody of one or more public children services agencies * * * for twelve or more months of a consecutive twenty-two-month period, the agency with custody shall file a motion requesting permanent custody of the child.").

In re J.K., 4th Dist. Athens No. 09CA20, 2009-Ohio-5391, ¶ 25-26.

{¶ 36} In its journal entry, the juvenile court stated,

The Court finds that the Cuyahoga County Division of Children and Family Services has made reasonable efforts to prevent the removal of the child, to eliminate the continued removal of the child from his home, or to make it possible for the child to return home, and to finalize the permanency plan. These efforts are: Parenting, visitation, domestic violence, and mental health services for mother. Mother completed but did not benefit from parenting services. Mother's visitation with the child has not been appropriate. Mother completed domestic violence however, she continues to have relationship with her abuser, and mother's behaviors are still questionable as to mental health. Alleged Father, has not made himself available to the Cuyahoga County Division of Children and Family Services.

{¶ 37} We find that the record supports that the trial court properly considered the option of continued temporary custody, but by clear and convincing evidence presented to the trial court, determined that permanent custody to CCDCFS was in the best interest of the children.

{¶ 38} T.C.'s second assignment of error is overruled.

D. Whether the Trial Court Erred by Finding that CCDCFS Used Reasonable Case Planning and Diligent Efforts in Assisting Petitioner with Regard to Remediating the Problems that Caused Her Children to be Placed Outside the Home.

{¶ 39} T.C. contends that CCDCFS did not diligently create a case plan tailored to remedy her issues.

[A] parent's substantial compliance with a case plan is not dispositive in and of itself on the issue of reunification and does not preclude a grant of permanent custody to a social services agency. *In re A.G.*, 8th Dist. Cuyahoga No. 105254, 2017-Ohio-6892, ¶ 39; *In re J.M.*, 8th Dist. Cuyahoga No. 104030, 2016-Ohio-7307, ¶ 49. The crucial issue is whether the parent has remedied the conditions that caused the child's removal. *Id.*

In re K. W., 8th Dist. Cuyahoga No. 106700, 2018-Ohio-3314, ¶ 27.

{¶ 40} CCDCFS made every effort to assist T.C. in remedying her issues. When T.C. missed several visitation appointments with her children at University Settlement, her case worker moved the visitations to a location that would be easier for T.C. to attend. When T.C. missed the visitations at the new location, the case worker convinced University Settlement to reschedule visitations at their location. T.C. then resumed her visits with the children at University Settlement. T.C.'s case worker recognized that T.C. had severe emotional and mental health challenges and provided mental health services for T.C. T.C. refused to make herself available for the mental health services. Despite B.D.'s unexplained bruises and scratches, T.C. continues to have a relationship and live with her abuser. T.C. has not demonstrated that she has remedied the conditions that caused her children to be removed.

{¶ 41} In addition, T.C.'s caseworker testified, "[w]e tried another service through Ohio Guidestone, it's called Nurturing Parenting. Nurturing Parenting is a program that comes into the home and, you know, helps more of a home-based parenting." (Tr. 60.) However, T.C. refused this service.

{¶ 42} We find that the record is replete with instances showing that CCDCFS used reasonable case planning and diligent efforts in assisting T.C. with remedying the problems that caused B.D. and R.M. to be placed outside the home.

[I]n making custody determinations, the trial court's principal concern is the children's best interest. While completing her case plan may be in mother's best interest, this is not a factor in determining what is in the children's best interest. *In re M.J.M.*, 8th Dist. Cuyahoga No. 94130, 2010-Ohio-1674, at ¶14. The successful

completion of a case plan, “is not dispositive on the issue of reunification.” *In re W.A.J.*, 8th Dist. Cuyahoga No. 99813, 2014-Ohio-604, at ¶19, quoting *In re C.C.*, 187 Ohio App.3d 365, 2010-Ohio-780, 932 N.E.2d 360, ¶25 (8th Dist.). “A parent can successfully complete the terms of a case plan yet not substantially remedy the conditions that caused the children to be removed — the case plan is simply a means to a goal, but not the goal itself.” *Id.*

In re D.T., 8th Dist. Cuyahoga Nos. 100970 and 100971, 2014-Ohio-4818, ¶ 23.

The juvenile court found that “the child’s continued residence in or return to the home of T.C. would be contrary to the child’s best interest.”

{¶ 43} We overrule T.C.’s third assignment of error.

{¶ 44} Judgment is affirmed.

It is ordered that the appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court, juvenile division, to carry this judgment into execution.

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

ANITA LASTER MAYS, JUDGE

LARRY A. JONES, SR., P.J., and
RAYMOND C. HEADEN, J., CONCUR