[Cite as *In re J.B.*, 2009-Ohio-3083.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

In re: J.B. et al.,	:	
		No. 08AP-1108
(M.S.,	:	(C.P.C. No. 06JU-07-10846)
Appellant).	:	(REGULAR CALENDAR)
	:	
In re: K.S. et al.,		
	:	No. 08AP-1109
(M.S.,		(C.P.C. No. 06JU-07-10847)
	:	
Appellant).		(REGULAR CALENDAR)
	:	
In re: K.S. et al.,	:	
		No. 08AP-1122
(K.S. aka K.X.B.,	:	(C.P.C. No. 06JU-07-10847)
Appellant).	:	(REGULAR CALENDAR)
	:	
In re: K.S. et al.,		
	:	No. 09AP-39
(K.S. aka K.B.,		(C.P.C. No. 06JU-07-10847)
	:	
Appellant).		(REGULAR CALENDAR)
	:	

D E C I S I O N

Rendered on June 25, 2009

Rosemarie A. Welch, for appellant M.S.

Jeffrey D. Reynard, for appellant K.S. aka K.X.B.

David Sams, for appellant K.S. aka K.M.B.

Robert J. McClaren, for appellee Franklin County Children Services.

Andrew Russ, Guardian ad Litem.

APPEALS from the Franklin County Court of Common Pleas, Division of Domestic Relations, Juvenile Branch.

SADLER, J.

{¶1} Appellant, M.S., appeals from the judgments of the Franklin County Court of Common Pleas, Division of Domestic Relations, Juvenile Branch ("juvenile court"), in which that court granted the motions of appellee, Franklin County Children Services ("FCCS" or "appellee"), for permanent court commitment ("PCC") of M.S.'s children, K.M.B., K.X.B., A.B., and C.B. (collectively, "the children"), thereby terminating her parental rights with respect to these children. Separately, K.M.B. and K.X.B. appeal from the judgment granting appellee's motions for PCC of K.M.B. and K.X.B., also from the judgment denying the motion of Joann Jordan ("Jordan") for an order of temporary custody of K.M.B. and K.X.B.

{¶2} The following facts and procedural history are taken from the record. M.S.'s appeals involve four of her eight children. A fifth child, J.B., became emancipated during the pendency of the within proceedings, and three additional children are also emancipated adults. Each of the four children subject of M.S.'s appeals has a different biological father, and none of these fathers has ever been involved in these proceedings. A fifth man, who was M.S.'s husband throughout the time period in which she gave birth to these children, is also not a party to this case.

{¶3} The family initially began working with appellee voluntarily in June 2006. At appellee's first two home visits, M.S.'s house was dirty and trash-filled, and contained flies and gnats, but almost no food; unknown unrelated adults would come and go and would sit on the porch drinking alcohol. On July 11, 2006, FCCS filed a complaint alleging that the children were neglected and dependent. More specifically, FCCS alleged that M.S.'s residence had no gas, telephone or food, the home was dirty and filled with trash, and M.S. was unemployed and abusing drugs. The complaint further alleged that an FCCS caseworker had suggested that M.S. re-enroll in a drug treatment program and that M.S. place her children with relatives while she completed the program. According to the complaint, M.S. told the caseworker that drugs were not a problem for her, and she used profanity and made veiled threats to the caseworker.

{¶4} On July 14, 2006, appellee acquired protective supervision of the children. On August 17, 2006, the juvenile court issued an order committing the children to the temporary custody of appellee, and approved a case plan. On October 17, 2006, the juvenile court adjudicated the children dependent, issued an order of protective supervision, approved a case plan, and restored custody of the children to M.S. because M.S. had completed an intensive drug program and had adequate housing. However, on April 10, 2007, appellee re-acquired custody of the children following a S.W.A.T. raid of M.S.'s home during which the children were present, and after M.S. admitted to having recently abused drugs. M.S. was placed in Alvis House because she had violated the terms of a probation imposed by a South Carolina court.

{¶5} On June 27, 2007, the juvenile court granted an order of temporary custody to appellee after M.S. failed to attend the hearing. The court also approved a reunification

plan and scheduled an annual review for April 9, 2008. However, on February 26, 2008, appellee filed motions for PCC with respect to all of the children, pursuant to R.C. 2151.414(B)(1)(a). In addition, Jordan, the older sister of M.S.'s husband,[1] moved for temporary custody of K.M.B. and K.X.B.[2] The trial was continued on April 9, 2008. On May 19, 2008, the trial was continued again, this time at M.S.'s request. On June 3, 2008, the trial was continued again, also at M.S.'s request. On August 8, 2008, M.S. again sought and received a continuance. The juvenile court finally held a trial on the motions on November 3, 4, and 6, 2008.

{¶6} The following facts were adduced at trial and are undisputed unless otherwise noted. Margaret Materu ("Materu") was the caseworker assigned to the family. The family initially began working with Materu voluntarily in June 2006. In July 2006, Materu became concerned because M.S.'s residence had no electricity or water, and M.S. was unemployed. According to Materu, M.S. had no understanding of the reasons her children were removed from her care. The August 17, 2006 case plan required M.S. to: (1) complete a drug and alcohol assessment; (2) complete random urine screens; (3) have employment; and (4) acquire safe and secure housing with working utilities. Appellee provided a community service worker to assist M.S. with housing and budgeting.

{¶7} By October 2006, M.S. had acquired employment, complied with urine screens, completed an intensive outpatient drug treatment program, and met the needs of her children. For this reason, the juvenile court returned custody to M.S. and ordered protective supervision. By December 2006, Materu again became concerned about the

[1] As we noted earlier, M.S.'s husband is not the children's biological father. As such, Jordan is not biologically related to the children.

children because M.S. had not completed urine screens, had been spending more time at home (instead of at work), and her relationship with A.B. had been deteriorating. On March 22, 2007, M.S. signed a 30-day voluntary custody agreement following the S.W.A.T. raid of her home. Materu testified that M.S. told her that she had relapsed in her crack cocaine addiction.

{¶8} Following the June 27, 2007 temporary court commitment to FCCS, the court approved a new case plan. This case plan required M.S. to: (1) have stable housing; (2) have employment to meet the children's needs; (3) complete drug treatment; (4) complete mental health treatment; (5) complete random urine screens; and (6) visit the children. Materu testified that M.S. did not have independent housing and had lived in six to seven different locations between June 2007 and the date of trial. M.S. agreed that she had had six different residences during that time period. Materu testified that M.S. had difficulty maintaining employment. She had been fired from her mother's company for stealing a substantial amount of money from the business. This resulted in a felony theft conviction with the imposition of probation. At the time of trial, M.S. had a job, but she testified that she only earned $69 per week, and conceded that she does not earn enough to support herself and her children.

{¶9} Materu testified that M.S. has not completed the drug and alcohol treatment objectives of the latest case plan. M.S. completed three drug assessments under the plan, and each assessment recommended an intensive outpatient treatment program. M.S. began such a program at Columbus Mental Health and another at Amethyst, but

[2] She testified that she did not request custody of A.B. and C.B. because she understood that these two children did not wish to live with her.

was terminated from both for missed visits and/or lack of adequate participation. M.S. testified that she had begun a third program at Maryhaven, but she had missed her initial assessment there. She testified that she recently had begun trying to get back into a program at Maryhaven.

{¶10} Materu stated that the case plan required mental health treatment and that, to Materu's knowledge, M.S. had not completed any mental health treatment. M.S. claimed that she had seen a counselor at Southeast Mental Health three times; when asked about M.S.'s claim that she had attended counseling at Southeast Mental Health, Materu responded that she had been unable to verify this claim because M.S. had refused to sign any releases. Even assuming the truth of M.S.'s claim that she had been in mental health counseling from August to November 2008, M.S. admitted that this would not constitute significant compliance with this aspect of the case plan.

{¶11} Materu testified that M.S. had completed only one of the 44 urine screens she had been requested to complete. M.S. admitted that she used crack cocaine as recently as one month prior to trial. However, she denied having any problem with cocaine addiction and stated that she does not need any type of outpatient or inpatient drug treatment. Materu testified that M.S. had attended 55 of 98 visits with the children. M.S. claimed that an auto accident en route is what kept her from attending a special birthday visit with D.S.

{¶12} Materu testified that in 2006, when the children were first removed from the home, she contacted Jordan about the possibility of Jordan caring for the children on a temporary basis. Jordan told her that she had recently assumed the care of two other relatives and did not feel she could provide for the children. Materu did not hear from

Jordan again until September 2008, two months before the trial, when Jordan expressed an interest in obtaining custody of the children. Materu began a home study, but ultimately did not complete it. Materu was also concerned because Jordan had relinquished custody of another relative child because she thought another family member would be better able to deal with his behavior problems, and because Jordan and her husband had only seen the children once in the 15 months preceding trial. Jordan admitted that she had not contacted FCCS to request any visits. She also agreed that when the children were assessed, they did not consider Jordan to be family.

{¶13} Materu testified that the children are extremely bonded to M.S., though A.B. has a very strained relationship with her mother. Materu testified that the children's bond with M.S. is not secure however, because they have been exposed to a great deal of negative activity, including witnessing relatives fighting, the S.W.A.T. raid, moving around frequently, and being neglected and not properly supervised. M.S. stated that it would be alright if A.B. did not return home to her.

{¶14} Materu testified that the children have been in the same foster homes since they were removed from M.S.'s home. The girls, C.B. and A.B., were placed in one home, while the boys, K.M.B. and K.X.B., were placed together in a second home. The two foster homes are headed by two individuals who are mother and daughter, so all four children interact daily. Both homes are licensed foster-to-adopt homes. A.B. respects her foster parents and does not respect her natural parents. C.B. and A.B. have a healthy bond with their foster parents. Materu testified that the children's behavior has improved significantly since being placed in foster care. Materu stated that it would be

harmful to remove them from these homes and return to them M.S. or give them to Jordan.

{¶15} Andrew Russ is the children's guardian ad litem. He testified that he was in favor of the court granting the PCC motions as to all four children. He stated that while the children love their mother, there is tension in their relationships with their mother. He was concerned that if Jordan were awarded temporary custody, the children would be separated. He further testified that A.B. is happy in her foster home and does not want to return home to M.S.

{¶16} On December 16, 2008, the juvenile court issued a judgment entry, including findings of fact and conclusions of law, in which the court granted appellee's motions for PCC, and denied Jordan's motion for temporary custody. Specifically, pursuant to R.C. 2151.414(B)(1)(a), the court found that the children cannot be placed with M.S. within a reasonable time, and that PCC is in the children's best interests. K.M.B. and K.X.B. appealed in case Nos. 08AP-1122 and 09AP-39, and jointly filed a brief advancing the following assignments of error for our review:

> Assignment of Error One
>
> THE TRIAL COURT PREJUDICIALLY ERRED IN NOT PLACING THE CHILDREN WITH A SUITABLE RELATIVE.
>
> Assignment of Error Two
>
> THE CHILDREN'S RIGHT TO DUE PROCESS WAS VIOLATED BECAUSE THERE WAS INSUFFICIENT EVIDENCE TO SUPPORT THE FINDINGS CONCERNING THEIR BEST INTERESTS.

{¶17} M.S. separately appealed in case Nos. 08AP-1108 and 08AP-1109, and advances the following assignments of error for our review:

> Assignment of Error One
>
> THE TRIAL COURT'S DECISION TO DENY MOTHER'S REQUEST FOR A CONTINUANCE WAS AN ABUSE OF DISCRETION.
>
> Assignment of Error Two
>
> THE TRIAL COURT'S DECISION DOES NOT SUPPORT A FINDING THAT THE CHILDREN CANNOT BE PLACED WITH MOTHER WITHIN A REASONABLE PERIOD OF TIME PURSUANT TO R.C. 2151[.]414(B)(1)(a).
>
> Assignment of Error Three
>
> THE TRIAL COURT FAILED TO CONSIDER THE RELATIONSHIP BETWEEN [K.M.B. AND K.X.B.] AND THEIR MOTHER IN VIOLATION OF R.C. 2151.414(D).

{¶18} We begin with K.M.B.'s and K.X.B.'s first assignment of error, in which they argue that the trial court erred in denying Jordan's motion for temporary custody. We overrule this assignment of error because K.M.B. and K.X.B. lack standing to assert Jordan's rights. "An appellant cannot raise issues on another's behalf, especially when that party could have appealed." *In re D.T.*, 10th Dist. No. 07AP-853, ¶8; see also *Hanna v. Hanna*, 177 Ohio App.3d 233, 2008-Ohio-3523. Accordingly, K.M.B.'s and K.X.B.'s first assignment of error is overruled.

{¶19} In their second assignment of error, K.M.B. and K.X.B. argue that the trial court deprived them of their right to due process of law by granting the PCC motions when there was insufficient evidence that PCC was in either of their best interests. "[T]he plain language of R.C. 2151.352 establishes that the subject child is a party to the proceeding to terminate parental rights." *In re Williams*, 101 Ohio St.3d 398, 2004-Ohio-1500, ¶22. "[T]he subject child is a party whose due process rights are entitled to

protection." Id. at ¶28. "[T]he phrase [due process] expresses the requirement of 'fundamental fairness.' " *Lassiter v. Dept. of Social Servs. of Durham Cty. North Carolina* (1981), 452 U.S. 18, 24, 101 S.Ct. 2153, 2158.

{¶20} Sufficiency of the evidence is a question of law. *Jackson v. Virginia* (1979), 443 U.S. 307, 99 S.Ct. 2781. " 'The standard for review of the sufficiency of the evidence in a civil case is similar to the standard for determining whether to sustain a motion for judgment notwithstanding the verdict, which is whether the defendant is entitled to judgment as a matter of law when the evidence is construed most strongly in favor of the prevailing party.' " *In re A.E.*, 10th Dist. No. 07AP-685, 2008-Ohio-1375, ¶24, quoting *Brooks-Lee v. Lee,* 10th Dist. No. 03AP-1149, 2005-Ohio-2288, ¶19. " 'In other words, is the verdict one which could reasonably be reached from the evidence?' " Id.

{¶21} In *In re C.M.*, 10th Dist. No. 07AP-933, 2008-Ohio-2977, ¶15, we explained the standard of proof applicable to PCC proceedings:

> [T]o terminate parental rights, the movant must demonstrate by clear and convincing evidence that (1) termination is in the child's best interests, and (2) one of the four factors enumerated in R.C. 2151.414(B)(1) applies. Clear and convincing evidence is the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the allegations sought to be established. Clear and convincing evidence is considered a higher degree of proof than a mere "preponderance of the evidence," the standard generally utilized in civil cases; however, it is less stringent than the "beyond a reasonable doubt" standard used in criminal trials. Clear and convincing evidence, however, does not mean clear and unequivocal evidence and does not require proof beyond a reasonable doubt.

(Citations omitted.)

{¶22} Nowhere in their brief do K.M.B. and K.X.B. challenge the only best-interest findings that the trial court made and the only best-interest findings that R.C. 2151.414 requires in this case – those made with respect to whether *PCC* is in the children's best interest. The entirety of K.M.B.'s and K.X.B.'s argument respecting their second assignment of error focuses on evidence related to Jordan. They argue that they are very bonded to Jordan and her husband and that they wish to live with Jordan. They argue that they think of her as "family" and that the court should have been mindful of "[t]he larger conception of family" that encompasses those who are not biologically related but who often step in to help in times of adversity.[3]

{¶23} As we stated earlier, K.M.B. and K.X.B. lack standing to assert error in the trial court's denial of Jordan's motion for custody. Even if they had standing, there was no requirement that the trial court engage in a best-interest analysis in ruling on Jordan's motion. Moreover, in ruling on appellee's motion for PCC, the trial court was not required to consider placement with Jordan. A court is not even required to consider placement with a biological relative prior to granting PCC. *In re M.E.V.*, 10th Dist. No. 08AP-1097, 2009-Ohio-2408, ¶29.

{¶24} For all of the foregoing reasons, K.M.B.'s and K.X.B.'s second assignment of error is not well-taken and the same is overruled.

{¶25} We now turn to M.S.'s assignments of error. In her first assignment of error, she argues that the trial court abused its discretion in denying her request for a continuance of the November 3, 2008 trial date. On that date, M.S.'s attorney requested a continuance, stating that he needed more time to prepare because he had been unable

[3] Brief of K.M.B. and K.X.B., 7.

to reach M.S. by telephone or mail. He told the court that he had an incorrect address for M.S.

{¶26} We will not reverse a denial of a continuance absent an abuse of discretion. *In re B.G.W.*, 10th Dist. No. 08AP-181, 2008-Ohio-3693, ¶23. "There are no mechanical tests for deciding when a denial of a continuance is so arbitrary as to violate due process. The answer must be found in the circumstances present in every case, particularly in the reasons presented to the trial judge at the time the request is denied." *Ungar v. Sarafite* (1964), 376 U.S. 575, 589, 84 S.Ct. 841, 850. In determining whether the trial court abused its discretion we weigh the potential prejudice to the movant against the trial court's right to control its own docket and the public's interest in the prompt and efficient dispatch of justice. *State v. Unger* (1981), 67 Ohio St.2d 65, 67. "In evaluating a motion for a continuance, a court should note, *inter alia*: the length of the delay requested; whether other continuances have been requested and received; the inconvenience to litigants, witnesses, opposing counsel and the court; whether the requested delay is for legitimate reasons or whether it is dilatory, purposeful, or contrived; whether the defendant contributed to the circumstance which gives rise to the request for a continuance; and other relevant factors, depending on the unique facts of each case." Id. at 67-68.

{¶27} In this case, as the trial court noted, M.S. had requested and received continuances of the trial date on three prior occasions and, as of November 3, 2008, the PCC motion had been pending for over eight months. Thus, M.S. had already had sufficient time to work with her attorney to prepare for trial.

{¶28} Moreover, by not ensuring that her attorney was kept apprised of her change of address, she contributed to the situation forming the stated basis for the fourth request. The record reveals that M.S. was present in court on two of the previous trial dates upon which she obtained a continuance, and she signed the entry for each of these continuances. Thus, M.S. had at least two opportunities to meet with her attorney face-to-face to arrange a meeting where the two could prepare for trial.

{¶29} M.S. argues that she "could have had no way of knowing her counsel was attempting to contact her to no avail. As such, given the severe ramifications to Mother should she lose [at] trial, Mother should be afforded every due process right and protection that the law allows."[4] On the contrary, the "severe ramifications" of these proceedings, coupled with the fact that she had already been given three continuances, should have made M.S. even more acutely aware that she would be going to trial on November 3, 2008, and that she and her attorney would need to be in contact with one another and arrange to prepare for trial. Not only would a reasonable person in that situation expect that their attorney would need to contact them, but such a person would contact their attorney. Because M.S. apparently did not do so, she contributed to the circumstances giving rise to the request for a fourth continuance.

{¶30} Finally, as appellee points out, the children had been waiting for eight months for the resolution of appellee's motion, and had the trial court granted the continuance, appellee would have been forced to yet again subpoena witnesses, prepare for trial, and accommodate a new trial date into its court schedule.

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[4] Brief of M.S., 2-3.

{¶31} Considering all of these circumstances, we find no abuse of discretion in the juvenile court's decision to deny M.S.'s fourth request for a continuance of the trial date. Accordingly, M.S.'s first assignment of error is overruled.

{¶32} In her second assignment of error, M.S. argues that the trial court's finding that the children cannot be placed with her within a reasonable time, pursuant to R.C. 2151.414(B)(1)(a), is unsupported by the evidence. In support of this assignment of error, M.S. argues that the trial court erroneously focused on the aspects of the case plan that she has failed to complete, while not taking into sufficient account the steps she has recently taken toward completion thereof. She directs our attention to her recent receipt of mental health counseling, her recent attempt to enroll in a drug treatment program, her search for alternative housing, and the fact that she is working and "arguably can obtain certain benefits to aid with the support of her children should they be returned to her care."[5]

{¶33} R.C. 2151.414(E) provides, in pertinent part:

> In determining * * * 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, * * * 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:
>
> (1) 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 parent has failed continuously and

[5] Brief of M.S., 4.

> repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home. In determining whether the parents have substantially remedied those conditions, the court shall consider parental utilization of medical, psychiatric, psychological, and other social and rehabilitative services and material resources that were made available to the parents for the purpose of changing parental conduct to allow them to resume and maintain parental duties.
>
> (2) Chronic mental illness, chronic emotional illness, mental retardation, 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 * * *;
>
> * * *
>
> (4) The parent has demonstrated a lack of commitment toward the child by failing to regularly support, visit, or communicate with the child when able to do so, or by other actions showing an unwillingness to provide an adequate permanent home for the child;
>
> * * *
>
> (9) The parent has placed the child at substantial risk of harm two or more times due to alcohol or drug abuse and has rejected treatment two or more times or refused to participate in further treatment two or more times after a case plan issued pursuant to section 2151.412 [2151.41.2] of the Revised Code requiring treatment of the parent was journalized as part of a dispositional order issued with respect to the child or an order was issued by any other court requiring treatment of the parent.
>
> (10) The parent has abandoned the child.
>
> * * *
>
> (14) The parent for any reason is unwilling to provide food, clothing, shelter, and other basic necessities for the child or to prevent the child from suffering physical, emotional, or sexual abuse or physical, emotional, or mental neglect.

* * *

(16) Any other factor the court considers relevant.

(Emphasis added.)

{¶34} Though there are a total of 16 factors, any one of which, alone, will require the trial court to find that the children cannot be placed with the parents within a reasonable time, the trial court in the present case specifically made the foregoing seven findings. First, the court found that the natural father of each of the children had abandoned his child. The remaining findings pertain to M.S.

{¶35} The court found that M.S. has failed continuously and repeatedly to substantially remedy the conditions causing the children to be placed outside of her home. The court found that FCCS provided referrals to treatment, assessments, counseling, and housing; social work services; a down payment for housing; furniture; and transportation. The court noted the case plan requirements of drug and alcohol assessment and treatment, mental health counseling, proof of sufficient income, proof of stable housing, random urine screens, and regular visits. The court found that M.S. had failed to complete drug treatment after her last relapse; completed only one out of 44 urine screens; failed to undergo mental health counseling; only recently had found housing with a friend after six different moves in less than six months, but is still not on the current lease; only recently got a job, but does not earn enough money to support her children; and only attended 55 of 98 scheduled visits with the children.

{¶36} The court found that M.S. suffers from a chemical dependency so severe it makes her unable to provide an adequate permanent home. The court found from the evidence that M.S. suffers from a five-year crack cocaine addiction. She admitted that

she had used crack as recently as one month before trial. The court found that she relapsed five months after completing the first rehabilitation program she attended, and the children have been removed from her home twice due to her drug problems. She is not currently in any treatment program.

{¶37} The trial court found that M.S. has demonstrated a lack of commitment to the children by failing regularly to support, visit, and communicate with them. The court cited M.S.'s failure to maintain a stable home or employment, and the fact that she had attended barely over half of the scheduled visits with the children.

{¶38} The court found that M.S. had placed the children at substantial risk of harm two or more times because of drug abuse and has rejected treatment two or more times or refused to participate in further treatment two or more times after a case plan required treatment. The court cited the removal of the children two times due to neglect caused by M.S.'s drug addiction, and the fact that M.S. had left treatment programs at Amethyst and the Columbus Health Department without completing them.

{¶39} The court found that M.S. is unwilling to provide food, clothing, shelter or other basic necessities for the children. The court cited the fact that M.S. failed to obtain and maintain adequate stable housing and employment, and that psychological evaluations of the children demonstrate that each has a history of suffering severe neglect.

{¶40} The court also found relevant M.S.'s criminal history. She has been incarcerated three times since her children were placed in FCCS's custody. In one case, she stole from her employer and was convicted of felony theft as a result. She was convicted of child neglect in South Carolina and violated her probation in that case when

she was convicted of theft in Franklin County. The court also found relevant the fact that M.S. continues to deny that she has a substance abuse problem.

{¶41} In order to establish that the children cannot be placed with M.S. within a reasonable time, FCCS needed only to prove the existence of any one of the factors enumerated in R.C. 2151.414(E). *In re D.P.*, 10th Dist. No. 06AP-780, 2007-Ohio-1703, ¶11. M.S. argues that the trial court did not focus enough on the progress she is making. Notably, however, she does not argue that any of the trial court's findings set forth above are unsupported by clear and convincing evidence.

{¶42} The case plan required M.S. to: (1) have stable housing; (2) have employment to meet the children's needs; (3) complete drug treatment; (4) complete mental health treatment; (5) complete random urine screens; and (6) visit the children. By her own admission, M.S. does not have stable housing. She lived at six different addresses in the six months prior to trial. She is not currently on the lease at the friend's home in which she was staying at the time of trial. By her own admission, M.S. does not earn enough to support her and her children. She only obtained employment on the eve of trial, and admits that with the short amount of time she has held that position, she has not yet surpassed the length of time she had held past positions from which she was ultimately terminated.

{¶43} By her own admission, M.S. has not completed substance abuse treatment since her last documented relapse. She was terminated from two programs for attendance problems. She testified that one of these terminations was the result of an absence caused by an illness. However, she had no excuse for the other termination or for missing the assessment at Maryhaven. M.S. admitted that she had used crack

cocaine as recently as one month prior to trial. M.S. testified that she had attended three mental health counseling sessions; however, the caseworker was unable to verify this claim because M.S. refused to sign a release. Moreover, M.S. admitted that three counseling sessions does not constitute substantial compliance with this aspect of the case plan. M.S. does not dispute that she completed only one of 44 required urine screens. Finally, M.S. does not dispute that she only attended just over half of the scheduled visits with her children. She blamed many of these absences on transportation problems caused by FCCS, the foster parents or taxi drivers, but did not say that she had tried to do anything to ensure that these problems did not recur.

{¶44} M.S. had two and one-half years to substantially remedy the problems that were the cause for her children's removal from her home, and she has not done so. The trial court's finding that the children cannot be placed with M.S. within a reasonable time was supported by clear and convincing evidence. Accordingly, M.S.'s second assignment of error is overruled.

{¶45} Finally, in her third assignment of error, M.S. argues that the trial court erred as a matter of law when, in conducting its analysis of the children's best interests, it failed to consider the interaction and interrelationship of K.M.B. and K.X.B. with M.S.[6] She points out that in its journal entry, the trial court specifically mentioned the interaction and interrelationship of the children with each other and with their foster parents, and the interaction and interrelationship of A.D. and C.D. (the girls) with M.S., but failed to

[6] She raises no other challenge to any of the trial court's best-interest findings.

consider the interaction and interrelationship M.S. has with the boys, K.M.B. and K.X.B. We agree.

{¶46} "A trial court is not required to specifically enumerate each factor under R.C. 2151.414(D) in its decision. However, there must be some indication on the record that all of the necessary factors were considered." (Citations omitted.) *In re C.C.*, 10th Dist. No. 04AP-883, 2005-Ohio-5163, ¶53. Upon a careful review of the trial court's journal entry, we agree that it does not appear that the trial court took into account the interaction and interrelationship of K.M.B. and K.X.B. with M.S. For this reason, we sustain M.S.'s third assignment of error.

{¶47} In summary, we overrule K.M.B.'s and K.X.B.'s assignments of error; we overrule M.S.'s first and second assignments of error; and we sustain M.S.'s third assignment of error. The judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, Juvenile Branch, in case No. 08AP-1108 (case No. 06JU-07-10846) is affirmed. The judgments in case Nos. 08AP-1109, 08AP-1122, and 09AP-39 (case No. 06JU-07-10847) are affirmed in part and reversed in part, and the causes therein are remanded to that court to issue a new judgment entry in case No. 06JU-07-10847 that is consistent with law and with this decision.

Judgment in case No. 06JU-07-10846 affirmed;
judgment in case No. 06JU-07-10847 affirmed in part and reversed in part;
cause remanded with instructions.

FRENCH, P.J., and McGRATH, J., concur.
