

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

In the Matter of:	:	
J.C.,	:	No. 10AP-766
(S.C.,	:	(C.P.C. No. 08JU-13718)
Appellant).	:	(REGULAR CALENDAR)

D E C I S I O N

Rendered on February 17, 2011

Voltolini Law Offices, and *Regina Rosemary Richards*, for
appellant.

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

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

DORRIAN, J.

{¶1} Appellant, S.C. ("appellant"), appeals from a judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, Juvenile Branch, granting permanent custody of J.C. ("the minor child") to Franklin County Children Services ("FCCS"). For the following reasons, we affirm.

{¶2} The minor child at issue was born on May 21, 2008, and has been in the continuous temporary custody of FCCS since October 14, 2008. Appellant has given birth to six children and has had an extensive history with FCCS due to severe

drug/alcohol abuse, mental illness, anger management problems and numerous incarcerations. Appellant's parental rights were terminated as to three of her children pursuant to case No. 01JU-10808; appellant's parental rights were terminated as to a fourth child pursuant to case No. 04JU-15988; and appellant's parental rights were terminated as to a fifth child pursuant to case No. 04JU-15572.

{¶3} On or about September 21, 2008, appellant left her infant daughter with an unrelated adult male in order to commit a robbery, resulting in appellant stealing a vehicle. At this time, appellant was using crack and ecstasy, and abusing alcohol. In addition, appellant was not properly treating her bi-polar disorder with any type of medication or counseling. Prior to her arrest, appellant contacted a family friend who previously adopted three of appellant's children and is the legal custodian of appellant's fourth child, advising that she was presently running from the police in a stolen vehicle and that the minor child was in her apartment. Appellant requested that someone go to her apartment and pick up the minor child. Since September 22, 2008, the minor child has continued to live with her kinship care provider at the same residence as four of her biological siblings.

{¶4} On December 29, 2008, appellant entered a plea of guilty to robbery, and on January 23, 2009, the trial court sentenced appellant to three years in prison, with an anticipated release date of September 19, 2011.

{¶5} On October 9, 2008, FCCS filed a complaint for temporary custody of J.C., alleging that the minor child was an abused, neglected or dependent child. On October 14, 2008, the trial court issued a decision granting FCCS temporary custody of the minor child. Subsequently, on January 5, 2009, an order of the trial court adjudicated

the child a dependent minor as defined by R.C. 2151.04(C), granted FCCS temporary custody pursuant to R.C. 2151.353(A)(2), and approved and adopted a case plan designed to reunify the minor child with appellant. FCCS simultaneously developed a permanency plan as an alternative in the event that the reunification plan failed.

{¶6} In order to satisfy the conditions set forth in the reunification plan, appellant had to meet the following objectives: (1) resolve the legal issues that led to her incarceration; (2) provide for all of the minor child's basic and protective needs; (3) manage her mental health and take all prescribed medications; (4) incur no more legal charges; (5) comply with all terms of parole; (6) complete an alcohol and drug assessment and follow through with all recommendations; (7) complete a psychological evaluation and follow through with all recommendations; (8) complete parenting classes; (9) contact the agency via telephone, letter or in person on a monthly basis; (10) meet with, telephone or write to the minor child at least once per month; (11) provide the agency with names of alleged fathers; and (12) not use any drugs or alcohol.

{¶7} On September 2, 2009, FCCS filed a motion for permanent custody of the minor child pursuant to R.C. 2151.413 and 2151.414. On January 8, 2010, FCCS filed an amended motion for permanent custody pursuant to the same statutes. The court heard the matter on June 21, June 28 and June 29, 2010. Appellant was present in court throughout the entirety of the proceedings and participated as a witness on her own behalf.

{¶8} Appellant filed a timely appeal asserting the following assignments of error for our review:

I. The Trial Court erred by terminating Appellant's parental rights where FCCS did not make reasonable efforts to make it possible for the child to return home safely as provided under R.C. 2151.419 because FCCS did not seek an extension of temporary custody one year before the deadline, but instead moved for PCC to terminate Mother's parental rights before she was released from prison.

II. The Trial Court abused its discretion when it refused to continue the PCC hearing on 21 June 2010 until 8 July 2010, which was a mere two and half weeks until Mother was released from prison, even though Mother substantially complied with the FCCS case plan while incarcerated, and was bonded with J.C. prior to trial.

III. The Trial Judge erred in granting Agency's motion for PCC of J.C. where Mother was not "repeatedly incarcerated" since J.C.'s birth.

IV. The Trial Judge erred in granting Agency's motion for PCC of J.C. where Mother's parental rights were previously terminated voluntarily—as opposed to involuntarily—because Mother did not contest the previous PCC hearings for her older children.

{¶9} We will first consider appellant's first, third and fourth assignments of error because the standard of review for these assignments of error is the same.

{¶10} "It is well recognized that the right to raise a child is an 'essential' and 'basic' civil right." *In re Hayes* (1997), 79 Ohio St.3d 46, 48, citing *In re Murray* (1990), 52 Ohio St.3d 155, 157. "Permanent termination of parental rights has been described as 'the family law equivalent of the death penalty in a criminal case.' " *In re Hayes* at 48, quoting *In re Smith* (1991), 77 Ohio App.3d 1, 16. Accordingly, parents must receive every procedural and substantive protection the law permits. *Id.* "Because an award of permanent custody is the most drastic disposition available under the law, it is an alternative of last resort and is only justified when it is necessary for the welfare of the

children." *In re Swisher*, 10th Dist. No. 02AP-1408, 2003-Ohio-5446, ¶26, citing *In re Cunningham* (1979), 59 Ohio St.2d 100, 105.

{¶11} On appellate review, permanent custody motions supported by the requisite evidence going to all the essential elements of the case will not be reversed as against the manifest weight of the evidence. *In re Brown*, 10th Dist. No. 03AP-969, 2004-Ohio-3314, ¶11, citing *In re Brofford* (1992), 83 Ohio App.3d 869. " '[E]very reasonable presumption must be made in favor of the judgment and the findings of facts [of the trial court].' " *In re Brooks*, 10th Dist. No. 04AP-164, 2004-Ohio-3887, ¶59, quoting *Karches v. Cincinnati* (1988), 38 Ohio St.3d 12, 19. Further, " 'if the evidence is susceptible of more than one construction, we must give it that interpretation which is consistent with the verdict and judgment, most favorable to sustaining the [juvenile] court's verdict and judgment.' " *In re Brooks* at ¶59. " 'The discretion which the juvenile court enjoys in determining whether an order of permanent custody is in the best interest of a child should be accorded the utmost respect, given the nature of the proceeding and the impact the court's determination will have on the lives of the parties concerned.' " *In re Hogle* (June 27, 2000), 10th Dist. No. 99AP-944, quoting *In re Awkal* (1994), 95 Ohio App.3d 309, 316. "An appellate court will not overturn a permanent custody order when it is supported by competent, credible evidence." *In the Matter of Siders* (Oct. 29, 1996), 10th Dist. No. 96APF04-413, citing *In re Brofford* at 876-77.

I. Appellant's First Assignment of Error—R.C. 2151.419, Reasonable Efforts

{¶12} Appellant's first assignment of error contends that the trial court erred by granting FCCS's motion for permanent custody where FCCS chose not to request an extension of temporary custody as part of the "reasonable efforts" requirement set forth in

R.C. 2151.419, thereby proscribing FCCS from seeking permanent custody pursuant to R.C. 2151.413(D)(3). "When the state intervenes to protect a child's health or safety, '[t]he state's efforts to resolve the threat to the child before removing the child or to permit the child to return home after the threat is removed are called 'reasonable efforts.' " *In re C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, ¶28, quoting Will L. Crossley, *Defining Reasonable Efforts: Demystifying the State's Burden Under Federal Child Protection Legislation* (2003), 12 B.U.Pub.Int.L.J. 259, 260. For the following reasons, we disagree.

{¶13} FCCS filed its motion for permanent custody pursuant to R.C. 2151.413(D)(1).

{¶14} R.C. 2151.413(D)(1) states in relevant part that:

Except as provided in division (D)(3) of this section, if a 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, the agency with custody shall file a motion requesting permanent custody of the child.

{¶15} R.C. 2151.413(D)(3) states that:

An agency shall not file a motion for permanent custody under division (D)(1) or (2) of this section if any of the following apply:

* * *

(b) If reasonable efforts to return the child to the child's home are required under section 2151.419 of the Revised Code, the agency has not provided the services required by the case plan to the parents of the child or the child to ensure the safe return of the child to the child's home.

{¶16} Pursuant to R.C. 2151.419(A)(1), there are certain instances where an agency must prove that it made reasonable efforts to "prevent the removal of the child

from the child's home, to eliminate the continued removal of the child from the child's home, or to make it possible for the child to return safely home." R.C. 2151.419(A)(1) specifies that an agency must prove "reasonable efforts" were made to prevent continued removal or to reunify at "any hearing held pursuant to section 2151.28, division (E) of section 2151.31, or section 2151.314, 2151.33, or 2151.353 of the Revised Code at which the court removes a child from the child's home or continues the removal of a child from the child's home[.]"

{¶17} The Supreme Court of Ohio held that "[t]hese sections involve adjudicatory, emergency, detention, and temporary disposition hearings, and dispositional hearings for abused, neglected, or dependent children, all of which occur prior to a decision transferring permanent custody to the state." *In re C.F.* at ¶41. Further, "[t]he statute makes no reference to a hearing on a motion for permanent custody." *Id.* "Therefore, '[b]y its plain terms, the statute [requiring reasonable efforts] does not apply to motions for permanent custody brought pursuant to R.C. 2151.413, or to hearings held on such motion pursuant to R.C. 2151.414.'" *Id.*, quoting *In re A.C.*, 12th Dist. No. CA2004-05-041, 2004-Ohio-5531, ¶30.

{¶18} Previously, this court ruled that the "reasonable efforts" requirement set forth in R.C. 2151.419(A)(1) does not apply to motions for permanent custody filed pursuant to R.C. 2151.413, and hearings held pursuant to R.C. 2151.414. *In re S.S.*, 10th Dist. No. 05AP-204, 2005-Ohio-4282, ¶16-17. See *In re S.P.*, 12th Dist. No. CA2004-10-255, 2005-Ohio-1079; *In re T.T.*, 12th Dist. No. CA2004-07-175, 2005-Ohio-240, ¶11. However, "[t]his does not mean that the agency is relieved of the duty to make reasonable efforts." *In re C.F.* at ¶42.

{¶19} The Supreme Court of Ohio instructs that "[a]t various stages of the child-custody proceeding, the agency may be required under other statutes to prove that it has made reasonable efforts toward family reunification." *Id.* "If the agency has not established that reasonable efforts have been made prior to the hearing on a motion for permanent custody, then it must demonstrate such efforts at that time." *Id.* at ¶43.

{¶20} Here, FCCS filed its motion for permanent custody pursuant to R.C. 2151.413, and the juvenile court heard the matter pursuant to R.C. 2151.414, thereby eliminating the requirement to prove "reasonable efforts" as set forth in R.C. 2151.419 at the permanent custody hearing.

{¶21} However, although a finding of "reasonable efforts" was not required at the permanent custody hearing in this matter, the juvenile court was required to find that FCCS made "reasonable efforts" at prior stages in the case. Specifically, on October 14, 2008, at the temporary custody hearing, the magistrate found that "Franklin County Children Services made reasonable efforts to prevent the continued removal of the child(ren) from the home and that those efforts failed to prevent the continued removal of the child(ren) from the home and continuation in the home is contrary to the welfare of the child." (See Magistrate's Oct. 14, 2008 Findings of Fact and Conclusions of Law.) Also, on January 5, 2009, at the uncontested hearing adjudicating the minor child as abused, neglected or dependent, the magistrate found that FCCS made reasonable efforts "to prevent or eliminate the need for removal of said child from the child's own home." (See Jan. 12, 2009 Magistrate's Decision and Judgment Entry adopting same.) Therefore, because the juvenile court previously found that FCCS made "reasonable efforts"

pursuant to R.C. 2151.419, FCCS did not file its motion for permanent custody in contravention to R.C. 2151.413(D)(3)(b).

{¶22} In addition to the magistrate's express findings, although not required, the judge also made a finding of "reasonable efforts" at the permanent custody hearing. These findings are consistent with the testimony and evidence in the record clearly showing that FCCS made "reasonable efforts" at reunification by providing ongoing services to assist appellant in meeting the goals set forth in the case plan adopted by the trial court on January 5, 2009. Specifically, two caseworkers, Julia Purdom and Christina Grace, actively worked with appellant in order to ensure that she fully understood the goals set forth in the case plan, to determine her ongoing progress toward completing the goals, and to facilitate visitation with the minor child.

{¶23} The record reflects that in spite of numerous obstacles, including scheduling conflicts due to appellant's behavioral issues, the caseworkers transported the minor child from the kinship care provider's home to the Ohio Reformatory for Women in Marysville, Ohio on the following dates: April 3, 2009, May 21, 2009, July 9, 2009, July 23, 2009, August 6, 2009, September 23, 2009, November 4, 2009, January 14, 2010, February 11, 2010, and May 5, 2010.

{¶24} Further, Ms. Grace testified that she searched the Putative Father Registry and sent letters to three individuals, named by appellant as possible fathers, in order to involve them in the situation.

{¶25} Appellant incorrectly suggests that FCCS failed to make "reasonable efforts" in this case because it did not file a motion for an extension of temporary custody but, instead, filed a motion for permanent custody while appellant remained incarcerated.

Our review of R.C. 2151.419 and relevant case law reveals that the law does not require FCCS to file a motion for extension of temporary custody in order to comply with the "reasonable efforts" requirement. The law does require, however, the filing of a motion for permanent custody if a child is in temporary custody for 12 or more months of a consecutive 22-month period. See R.C. 2151.413(D)(1).

{¶26} Based upon the evidence in the record, this court finds that FCCS made "reasonable efforts" throughout the case to provide services and support to appellant by assisting her with the goals set forth in the case plan.

{¶27} Appellant's first assignment of error is overruled.

II. Third and Fourth Assignments of Error—R.C. 2151.414(E)

{¶28} Appellant's third and fourth assignments of error contend that the trial court erred by granting FCCS's motion for permanent custody based upon R.C. 2151.414(E)(13) and 2151.414(E)(11), regarding appellant's repeated incarceration and the involuntary termination of appellant's parental rights with regard to her previous children. Pursuant to R.C. 2151.414(E), a court considers these, along with other "E" factors, when it is required to make a finding, pursuant to R.C. 2151.414(B)(1)(a), that a 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. For the following reasons, we disagree.

{¶29} In order for a juvenile court to properly grant a motion for permanent custody filed pursuant to R.C. 2151.413, the court must follow a two-step approach as delineated by the Supreme Court of Ohio in *In re C.W.*, 104 Ohio St.3d 163, 2004-Ohio-6411, ¶9. In that case, the Supreme Court states that, pursuant to R.C. 2151.414(B)(1), the court, after a hearing, may grant permanent custody of a child to FCCS if the court

determines, 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 and that one of the following applies: (a) 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; or (d) the child has been in temporary custody of one or more public or private children services agencies for 12 or more months of a consecutive 22-month period.

{¶30} The record in this case reflects that the minor child has been in the continuous custody of FCCS since October 14, 2008, and the trial court adjudicated the child as dependent on January 5, 2009. FCCS properly filed its amended motion for permanent custody on January 8, 2010, asserting that, pursuant to R.C. 2151.414(B)(1)(d), the minor child has been in the continuous custody of the agency for "12 of 22" consecutive months. Therefore, because FCCS met the "12 of 22" requirement set forth in R.C. 2151.414(B)(1)(d), it was not necessary for the trial court to make further findings regarding whether the minor child cannot be placed with either parent within a reasonable time or should not be placed with either parent. See *In re C.C.*, 10th Dist. No. 04AP-883, 2005-Ohio-5163.

{¶31} Here, although not required, the trial court did make findings, pursuant to R.C. 2151.414(B)(1)(a), that the minor child cannot be placed with either parent within a reasonable time or should not be placed with either parent. The trial court's findings were based upon several factors listed in R.C. 2151.414(E), including: (E)(1), (2), (10), (11), (13), and (16) as applied to appellant, and (E)(1), (4), (10) and (14) as applied to the minor child's father. Appellant does not challenge the court's findings regarding factors (E)(1), (2), (10) or (16). However, even if the court were required to make a finding

pursuant to R.C. 2151.414(B)(1)(a) that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent, only one factor outlined in R.C. 2151.414(E) must exist. *In re William S.*, 75 Ohio St.3d 95, 1996-Ohio-182. In the present matter, the trial court found that four other factors existed pertaining to appellant, and therefore, even if the trial court erred in finding that R.C. 2151.414(E)(11) and (13) apply to this matter, the end result would remain the same. We note, however, that although not required, the trial court did not err in making findings pursuant to (E)(11) and (13).

{¶32} In addressing R.C. 2151.414(E)(11), we find that FCCS presented some competent, credible evidence that appellant's parental rights were involuntarily terminated as to her older children by presenting to the trial court the previous judgment entries terminating appellant's parental rights with respect to those children. Based upon that evidence, the trial court found that, although appellant testified that she allowed the adoption of her oldest children, in fact, appellant has had her parental rights involuntarily terminated as to four of her older children.

{¶33} In addressing R.C. 2151.414(E)(13), we also find that FCCS presented some competent, credible evidence that appellant was repeatedly incarcerated during the minor child's placement with FCCS and, thus, has been unable to provide care for the minor child. The record clearly shows that as of June 29, 2010, the final day of trial, appellant remained incarcerated at the Ohio Reformatory for Women.

{¶34} Therefore, the trial court did not err in finding that R.C. 2151.414(E)(11) and (E)(13) apply to the present matter as factors against placing the minor child with appellant.

{¶35} Appellant's third and fourth assignments of error are overruled.

III. Second Assignment of Error—Continuance

{¶36} Appellant's second assignment of error contends that the trial court abused its discretion by denying appellant's motion for continuance. Appellant filed her motion on June 11, 2010, for the trial scheduled on June 21, 2010, in order to delay the permanent custody hearing until after July 8, 2010, anticipating that a separate court would grant her pending motion for judicial release relating to her incarceration. In the event that the criminal court granted judicial release, appellant hoped to show further progress on her case plan and to convince FCCS and the juvenile court to extend temporary custody.

{¶37} "The grant or denial of a continuance is a matter which is entrusted to the broad, sound discretion of the trial judge." *State v. Unger* (1981), 67 Ohio St.2d 65, 67. Therefore, an appellate court must not reverse a trial court's decision to deny a motion for continuance unless it finds that the trial court abused its discretion. *Id.* See also *In re B.G.W.*, 10th Dist. No. 08AP-181, 2008-Ohio-3693, ¶23. "The term 'abuse of discretion' connotes more than an error of law or judgment; it implies that the court's attitude is unreasonable, arbitrary or unconscionable." *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, quoting *State v. Adams* (1980), 62 Ohio St.2d 151, 157.

{¶38} In *Unger*, the Supreme Court of Ohio states that "[i]n evaluating a motion for a continuance, a court should note, inter alia: [1] the length of the delay requested; [2] whether other continuances have been requested and received; [3] the inconvenience to litigants, witnesses, opposing counsel and the court; [4] whether the requested delay is for legitimate reasons or whether it is dilatory, purposeful, or contrived; [5] whether the defendant contributed to the circumstance which gives rise to the request for a

continuance; and [6] other relevant factors, depending on the unique facts of each case." Id. at 67-68. Here, in considering whether the trial court abused its discretion in denying appellant's motion for continuance, we consider the *Unger* factors.

{¶39} In considering the first *Unger* factor, the length of delay requested, the trial court properly denied appellant's motion for continuance. Appellant's motion stated that the criminal court scheduled a judicial release hearing on July 8, 2010, in order to determine the outcome of appellant's request for early release from prison. Arguably, as a best-case scenario, the length of delay for the permanent custody hearing would have been for a period of approximately two weeks. However, there was no guarantee that the criminal court would grant judicial release on July 8, 2010. If the criminal court denied appellant's motion for judicial release, appellant would remain incarcerated until September of 2011. If, on the other hand, the criminal court granted judicial release, there was no telling how long it would take appellant to get back on her feet and whether another continuance would have been requested in order for appellant to find housing and employment. In addition, appellant's motion did not specifically request a new date for the permanent custody hearing, thereby requesting an indeterminate period of time. As such, denial of the motion was proper.

{¶40} In considering the second *Unger* factor, prior continuances, the trial court properly denied appellant's motion for continuance. The record reflects that appellant previously filed a motion for continuance on March 22, 2010, for the purpose of seeking judicial release. The trial court granted appellant's motion, thereby continuing the hearing scheduled on May 17, 2010, until June 21, 2010. In weighing the fact that the permanent custody hearing scheduled on May 17, 2010, was delayed due to appellant's previous

continuance, with the importance of providing the minor child with a permanent home after almost two years of temporary placement, we find that the trial court properly denied appellant's motion.

{¶41} In considering the fourth and fifth *Unger* factors, whether the requested delay is for legitimate reasons or whether it is dilatory, purposeful, or contrived, and whether appellant contributed to the circumstances which give rise to the request for continuance, we find that the trial court properly denied appellant's motion for continuance. Although appellant presented the court with a legitimate reason for requesting the continuance, to see if the criminal court would grant her pending motion for judicial release, appellant also contributed to the circumstances giving rise to the request for continuance.

{¶42} First, appellant committed a crime resulting in a prison sentence of three years. Second, while in prison, appellant engaged in behavior requiring disciplinary action which consequently delayed appellant's ability to partake in services offered by the prison. The record reflects that due to assaulting another prisoner and exhibiting aggressive behavior, appellant sat in solitary confinement and received a "pink shirt" designation, limiting her access to services. The prison placed "pink shirt" inmates on waiting lists for services offered such as life skills classes, parenting classes, anger management classes, drug/alcohol classes, counseling and GED services, which delayed appellant's opportunity to progress with her case plan. In addition, appellant missed a scheduled visit with the minor child on May 21, 2009. The caseworker testified that she drove the minor child from Pickerington to Marysville, only to learn that appellant was "in the hole" for 25 days due to assaulting an inmate and threatening to kill another inmate.

{¶43} This court considered a similar fact pattern in *In re B.G.W.*, supra. We held in that case that the trial court did not abuse its discretion by denying a request for continuance where the appellant, incarcerated and suffering from a drug addiction, sought delay only to demonstrate additional progress on her case plan by attempting to continue proceedings until after the completion of her drug treatment program at Maryhaven. Id. In *In re B.G.W.*, the appellant waited 18 months to avail herself to services that "would have assisted her in meeting the objectives of the case plan designed to reunify her with the minor child." Id. at ¶26. We stated that "[w]hile the reasons for appellant's delay may be apparent from the record, the trial court properly could regard her failure to pursue the available services as dilatory." Id.

{¶44} Therefore, because appellant's continued bad behavior contributed to the circumstances giving rise to the request for continuance, we find that the trial court properly denied the motion.

{¶45} In considering the sixth *Unger* factor, unique facts relevant to this case, we consider first that a continuance would not have likely changed the outcome of the case. Even if appellant left prison on July 8, 2010, and the permanent custody hearing was held on July 9, 2010, appellant still could not demonstrate substantial compliance with her case plan in order to ultimately persuade the trial court that it is in the minor child's best interest to remain with appellant. Specifically, the trial court found that appellant "has been unable to substantially remedy the conditions that caused the removal and to demonstrate that she will/has been able to sufficiently remedy her drug addiction and maintain sobriety outside the confines of prisons [sic] and to provide for all of [the minor child's] basic and protective needs and providing her with a safe and permanent home[.]"

(July 16, 2010 Decision and Judgment Entry at 10). Further, the trial court stated that "even if she is granted an early release on July 8, 2010, due to significant obstacles she will encounter upon her release—whenever it should occur as she will have to start quite literally from scratch." (Emphasis sic.) (Decision at 10.) We believe that these types of gross deficiencies: housing, employment, sobriety, transportation, cannot be quickly remedied as suggested by appellant's motion for continuance, although we commend appellant's efforts to address some issues while incarcerated.

{¶46} Second, as a unique fact relevant to this case, we consider that, pursuant to R.C. 2151.414(A)(2), "[t]he court shall hold the hearing * * * not later than one hundred twenty days after the agency files the motion for permanent custody, except that, for good cause shown, the court may continue the hearing for a reasonable period of time beyond the one-hundred-twenty-day deadline." Here, FCCS filed its amended motion for permanent custody on January 8, 2010. Originally, the court scheduled the permanent custody hearing on May 17, 2010, which is approximately 120 days from the January 8, 2010 date. However, because appellant filed a motion for continuance on March 22, 2010, which the court granted, the date of the permanent custody hearing was rescheduled to June 21, 2010. As of June 21, 2010, the court already surpassed the requisite 120 days to hold the hearing. On June 11, 2010, appellant moved the court, yet again, to delay the hearing even further past the 120-day deadline. Therefore, because the trial court previously continued the permanent custody hearing past the 120-day deadline, the court did not abuse its discretion in denying appellant's second motion for continuance.

{¶47} Appellant's second assignment of error is overruled.

{¶48} Having overruled all four of appellant's assignments of error, we affirm the judgment of the trial court.

Judgment affirmed.

TYACK and CONNOR, JJ., concur.
