

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
BUTLER COUNTY

IN RE: :
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 J.L., et al. : CASE NOS. CA2009-02-062
 : CA2009-02-064
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 : OPINION
 : 8/31/2009
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APPEAL FROM BUTLER COUNTY COURT OF COMMON PLEAS,
JUVENILE DIVISION
Case Nos. JN2006-0447, JN2006-0449, JN2006-0450, JN2006-0451 and JN2006-0452

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YOUNG, J.

{¶1} Appellants, Amanda L. and Ronald L., appeal the decision of the Butler County Common Pleas Court, Juvenile Division, granting permanent custody of four of their children

to the Butler County Department of Job and Family Services (the Agency), and granting legal custody of their oldest son to a family acquaintance.

{¶2} Amanda and Ronald are the parents of six children: C.L. (born in 1996), A.L. (born in 1998), Jo.L. (born in 1999), Je.L. (born in 2000), and twins Am.L. and P.L. (a girl and a boy respectively, born in 2002). Ronald also has six older children. In 1997, while living in Warren County, Amanda permanently lost custody of a daughter from a previous relationship. With regard to the children at issue in this case, the parents have a long history with the Agency: between 1999 and May 2006, the Agency received seven referrals. Then, on July 13, 2006, the Agency received a referral that Jo.L., age seven, was severely burned after playing with gasoline in the family's backyard. At the time, Amanda and Ronald were at work; the children were supervised by their maternal grandmother, a diabetic prone to seizures. According to Amanda, a neighbor was helping the grandmother supervise the children that day. Jo.L. was air-carried to Children's Hospital in Cincinnati, Ohio and later transferred to Shriners' Hospital. Jo.L. suffered second-degree burns to his right arm, was hospitalized for 11 days, and continues to require medical care.

{¶3} On July 19, 2006, the Agency filed a complaint alleging that all six children were neglected and dependent. The complaint also alleged that the family's home was "unsanitary" and had "a strong smell of cat urine and loads of dirty clothing;" "numerous physical hazards in the yard," including an unkempt pool and "a hole in the garage that allowed access to the [garage] and many dangerous items;" accelerants accessible to the children in the home, yard, and garage; and scorch marks in the children's bedroom from the twin brother's recent attempt to set a fire. Further, four of the children, including the twins then age four, reported smoking cigarettes.

{¶4} All six children were removed from their parents' care. C.L. and A.L. were

placed with a family friend; however, due to C.L.'s aggressiveness, C.L. was removed from the family friend's house. C.L. subsequently went through several placements and is currently in a therapeutic foster home. In December 3, 2007, the juvenile court granted legal custody of A.L. to the family friend. Amanda and Ronald do not challenge the grant of legal custody of A.L. to the family friend; this appeal, therefore, only addresses the juvenile court's decision regarding C.L., Jo.L., Je.L., and the twins.

{¶15} Je.L. and the twins were placed together in a foster home. Jo.L. was placed in the temporary custody of a family acquaintance. This person met Jo.L. and his siblings in 2004 when she was their school bus driver. Prior to the gasoline accident, at the request of the children, Amanda and Ronald allowed Jo.L. and some of his siblings to spend overnight weekends at the home of this family acquaintance. Of all the children, Jo.L. spent the most time at her house: weekends, holiday breaks, and summer breaks.

{¶16} Amanda and Ronald were granted supervised visitation. In addition, a case plan was implemented. Throughout the proceedings, visitation remained supervised and at the highest level of supervision. The children were never returned to their parents' custody and care.

{¶17} On December 14, 2006, the children were adjudicated neglected and dependent. Je.L. and the twins remained together in their foster home; Jo.L. remained in the temporary custody of the family acquaintance (Jo.L.'s "custodian"). As noted earlier, C.L. went through several placements. On December 4, 2007, the Agency moved for permanent custody of C.L., Je.L., and the twins Am.L. and P.L. The Agency also moved the juvenile court to grant legal custody of Jo.L. to his custodian.

{¶18} Custody hearings were held between April 29 and July 29, 2008. Throughout the proceedings, the children were represented by an attorney, a guardian ad litem (GAL),

and a court-appointed special advocate (CASA). The CASA reported spending at least 150 hours in personal contact with the children. In March 2008, Amanda was arrested for cocaine possession. She was subsequently charged with three drug-related offenses and two traffic violations. In July 2008, she pled guilty to cocaine possession and driving under suspension. On January 22, 2009, the juvenile court granted permanent custody of C.L., Je.L., and the twins Am.L. and P.L. to the Agency. The juvenile court found by clear and convincing evidence that the four children had been in the temporary custody of the Agency for more than 12 months of a consecutive 22-month period; and that granting permanent custody of C.L., Je.L., Am.L., and P.L. to the Agency was in the best interest of the children. The juvenile court further found that the four children should not be placed and could not be placed with either parent within a reasonable period of time. The juvenile court granted legal custody of Jo.L. to his custodian. Applying the best interest of the child standard set forth in R.C. 3109.04(F), the juvenile court found it was in Jo.L.'s best interest to grant the custodian legal custody of the child.

{¶9} Amanda and Ronald separately appeal, both raising two assignments of error. The wording in their respective first assignment of error is nearly identical; the wording in their respective second assignment of error is identical.

{¶10} Assignment of Error No 1:

{¶11} "THE TRIAL COURT'S DECISION TO PLACE THE CHILDREN IN THE PERMANENT CUSTODY OF BUTLER COUNTY WAS NOT SUPPORTED BY CLEAR AND CONVINCING EVIDENCE."

{¶12} Amanda and Ronald both argue that the juvenile court erred by granting the Agency permanent custody of C.L., Je.L., Am.L., and P.L. Specifically, both parents challenge the juvenile court's findings they failed to complete the case plan services and

neglected the needs of the children, and the court's emphasis on the parents' missed visits during the pendency of the case and their long history with the Agency. Ronald also challenges the juvenile court's evaluation of the best interest factors under R.C. 2151.414(D).

{¶13} Before a natural parent's constitutionally protected liberty interest in the care and custody of his child may be terminated, the state is required to prove by clear and convincing evidence that the statutory standards for permanent custody have been met. *Santosky v. Kramer* (1982), 455 U.S. 745, 759, 102 S.Ct. 1388. An appellate court's review of a juvenile court's decision granting permanent custody is limited to whether sufficient credible evidence exists to support the juvenile court's determination. *In re Starkey*, 150 Ohio App.3d 612, 2002-Ohio-6892, ¶16. A reviewing court will reverse a finding by the juvenile court that the evidence was clear and convincing only if there is a sufficient conflict in the evidence presented. *In re Rodgers* (2000), 138 Ohio App.3d 510, 520.

{¶14} R.C. 2151.414(B) requires the juvenile court to apply a two-part test when terminating parental rights and awarding permanent custody to a children services agency. Specifically, the court must find that: (1) the grant of permanent custody to the agency is in the best interest of the child, utilizing, in part, the factors of R.C. 2151.414(D); and, (2) any of the following apply: the child cannot be placed with either parent within a reasonable time or should not be placed with either parent; the child is abandoned; the child is orphaned; or the child has been in the temporary custody of the agency for at least 12 months of a consecutive 22-month period. R.C. 2151.414(B)(1)(a), (b), (c) and (d); *In re Schaefer*, 111 Ohio St.3d 498, 2006-Ohio-5513, ¶1-36; *In re Ebenschweiger*, Butler App. No. CA2003-04-080, 2003-Ohio-5990, ¶9.

{¶15} R.C. 2151.414(D) provides that in considering the best interest of a child in a permanent custody hearing, "the court shall consider all relevant factors, including, but not

limited to the following:

{¶16} "(1) 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;

{¶17} "(2) 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;

{¶18} "(3) 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 ending on or after March 18, 1999;

{¶19} "(4) 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;

{¶20} "(5) Whether any of the factors in divisions (E)(7) to (11) of this section apply in relation to the parents and child."

{¶21} R.C. 2151.414(E) provides an inexhaustive list of factors for a court to consider in determining whether a child cannot or should not be placed with either parent. The statute provides that if a court determines that any of the factors apply, 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.

{¶22} The parents do not dispute, and the record supports, the juvenile court's finding that C.L., Je.L., and the twins have been in the temporary custody of the Agency for more than 12 months of a consecutive 22-month period as of the date the Agency filed the permanent custody motion. The parents, however, dispute the juvenile court's finding that it is in the children's best interest to grant permanent custody to the Agency.

{¶23} The case plan required both parents to participate in a psychological evaluation and follow all recommendations, to participate in the Development of Living Skills (DLS) program, to correct any physical safety hazards in their house, to visit Je.L. and the twins at Family Connections, and to visit C.L. The case plan also required Amanda to participate in a substance abuse assessment. It is undisputed that the parents removed the safety hazards in their house and improved the safety level of the house. Amanda also participated in a substance abuse assessment.

{¶24} Both parents participated in a psychological evaluation in September 2006. Amanda's psychological evaluation indicated that she "present[ed] no insight into her present circumstances for having her six children removed from her custody recently and a daughter removed by Warren County in 1997." The evaluation recommended that she participate in individual counseling. Eleanor Maley, a chemical dependency counselor who evaluated Amanda, testified that Amanda minimized any substance use. Maley suspected drug use by Amanda.

{¶25} Although Amanda consistently tested negative for drugs, she was arrested in March 2008 for cocaine possession and subsequently incarcerated. As a result of her incarceration, she did not visit Je.L. and the twins for five consecutive weeks. In July 2008, she pled guilty to cocaine possession. During the custody hearings, she admitted using cocaine in early 2008, but only "once a week, if that;" denied she had a drug problem; but agreed to follow a court-ordered substance abuse treatment if she needed it. At the last custody hearing on July 29, 2008, she had not received and was not in treatment for substance abuse.

{¶26} With regard to individual counseling, the record shows that Amanda has been resistant to it since the onset of the case. In the fall of 2006, Amanda insisted she did not

need individual counseling and would not do it. In 2007, after a referral, she only attended five sessions before she stopped going. She then told the Agency caseworker she did not need counseling and did not need another referral. According to Ronald, Amanda was willing to re-enter counseling in 2008; but she was then arrested in March 2008. During the custody hearings, Amanda admitted she "could use counseling." However, there is no evidence that she has re-engaged in counseling.

{¶27} Tests performed during Ronald's evaluation suggested "the presence of grandiose thoughts" and "a sense of inflated self-esteem," and described Ronald as someone who "perceive[s] himself in a non-critical way;" "is likely to attribute the responsibility for his difficulties to external sources rather than to personal failings;" "is not likely to be receptive to psychological treatment;" and "does not see the need for changes in his behavior." Ronald was also described as man with a strong work ethic working long hours to provide for his family, seemingly more dedicated to his job than to his family, not actively involved in rearing the children, and without a reasonable understanding of typical developmental expectations. When confronted about the fact some of the children reportedly smoked cigarettes (including the twins), Ronald replied, "They get in the habit of that." During the custody hearings, Ronald testified the children did not need any services.

{¶28} Both parents participated in but did not complete the DLS program. The program was the third time the parents were involved with DLS since 2002; lasted from November 2006 to March 2007; and was meant to focus on budgeting, Amanda's self-esteem, and the interaction between the parents and the children during visitation. The program was terminated after the parents missed several lessons and cancelled several visits with the children. Karen Lavender, the DLS director, testified that because of the cancelled visits, she was unable to observe any interaction between the parents and the

children. Lavender recommended individual counseling for Amanda who refused to consider it. Lavender further testified that despite DLS' help, the parents never went to visit the children, yet blamed others for their failure to visit; while both parents had good skills, they were so angry at the Agency for the removal of the children that they were unable to focus on what they needed to do, including visiting their children every week; Amanda loved and cared for her children; yet, with the exception of C.L., was unable to say one positive thing about her children even with the help of Lavender.

{¶29} The case plan also required the parents to regularly visit C.L. at her placement and Je.L. and the twins at Family Connections. Due to her incarceration in 2008, Amanda missed visitation with Je.L. and the twins for five consecutive weeks. Ronald attended ten of the 21 scheduled visits in 2008. The DLS program (November 2006 – March 2007) was terminated due in part to the parents' cancellation of visitation. The parents testified that visits were generally cancelled because of work or transportation issues.

{¶30} When visiting Je.L. and the twins at Family Connections in 2008, both parents were equally involved with the children; the visits went well; the children were happy to see their parents; there was affection between the parents and the children; and the parents always brought crafts and meals, oftentimes home-cooked. Whereas the children were rambunctious, running wild, and generally not minding their parents during visitation in 2006, they were more disciplined and paying attention in 2008.

{¶31} With regard to C.L., both parents last saw her in early 2008; at the time, C.L.'s placement was in Cleveland, Ohio. Amanda testified that she calls C.L. twice a week; Ronald talks to her "all the time." The Agency caseworker testified that she gave the parents a gas card when they went to visit C.L. in Cleveland. She further testified that the Agency offered to provide more gas cards to facilitate visitation with C.L. However, after their one

visit, the parents did not request other gas cards.

{¶32} Witnesses testified that while the parents have the skills to properly parent their children and maintain a clean, uncluttered house, they were unable or unwilling to apply those skills. It was also the consensus that both parents either failed to recognize or refused to acknowledge that their children had emotional, behavioral, and academic difficulties and needs, and that these issues did not merely arise after the children's removal but in fact existed well before they were removed. Ronald does not believe the children need services or have behavioral issues. Amanda believes C.L.'s current emotional and behavioral issues were caused by the removal. Several witnesses were also concerned about the lack of parental supervision before the gasoline incident. Both parents blamed others, including Jo.L. to a certain extent by Amanda, for the removal of the children in 2006. According to the parents, while there had been an accident, it did not justify the removal of the children. Both parents refused to take any responsibility as to why the children were removed.

{¶33} In its decision, the juvenile court referred to the seven referrals received by the Agency between 1999 and July 2006. The majority of the referrals alleged neglect and lack of supervision of the children. The court noted that one referral was substantiated, three were not, and the children were all found to be dependent in January 2003.

{¶34} At the time of the last custody hearing (July 2008), both parents were unemployed. With the exception of two days in 2008, Amanda last worked in 2006. She does not receive unemployment benefits. When employed, Ronald works full time and used to work long hours. Since July 2006, he has been laid off three times; once was in 2007 for testing positive for cocaine (which he blamed on a "spiked" drink at a bar). Ronald denies he has a substance abuse problem. Ronald is considering retiring and personally taking care of the children at home if they are returned. Both parents enjoy gambling, have been going to

gambling boats in Indiana for ten years, and have on occasions won money.

{¶35} The juvenile court found that when they were removed in July 2006, "[a]ll of the children were developmentally delayed, unclean, unsupervised, and damaged. Since removed from their parents' care, all of the children have made great strides, and to put them back in the environment that created their issues would be detrimental to their well-being." The court referred to the children's need for consistency and safety in their lives and their significant need of a legally secure placement. The juvenile court found that C.L., Je.L., Am.L., and P.L. could not achieve a secure permanent placement without a grant of permanent custody to the Agency.

{¶36} The CASA testified that following their removal, the children exhibited at times extreme aggression; used age-inappropriate language; were all suffering from learning disabilities; and were far behind in their educational accomplishments. Some of the children reportedly smoked cigarettes and/or missed school. When confronted by the CASA, Amanda would blame others for spoiling the children, and would blame the school for not making her children go to school. The CASA testified the children were "starved for growth experiencing moments."

{¶37} C.L. was ten years old when she was removed from her parents' care. She is the oldest child and the child with the most severe psychological problems. A psychological evaluation in June 2007 suggested she was a very damaged and disturbed child. She was diagnosed with depression and Post Traumatic Stress Disorder (PTSD). In 2002, the Agency received a referral that C.L. was sexually abused by a family acquaintance (no relation to Jo.L.'s custodian, also a family acquaintance).

{¶38} After removal, C.L. was initially placed with a family friend; however, due to C.L.'s overly aggressiveness and after she physically attacked the family friend several times,

she was placed in a therapeutic foster home in January 2007. Because of her aggressiveness and her threats to hurt herself and others, she was hospitalized three times when she lived with the family friend. Her stay at the therapeutic foster home only lasted until April 2007. She was then placed at a residential-type setting for a few months where she received intensive therapy. Her progress there was minimal, she was extremely aggressive, and was again hospitalized twice after she threatened to hurt herself and others. In August 2007, she was placed in the Berea Children's Home in Cleveland in order to receive even more intensive treatment. She made progress while there. She is currently in a therapeutic foster home where she is doing quite well.

{¶39} Ronald testified he could not understand what had happened to C.L. According to Ronald, when living at home, C.L. was always a good child, was never physically aggressive, and never hit. Amanda testified that since the removal, C.L. is a different child who "needs a lot of help now" to deal with her anger issues and what she has been through. Amanda was confident she could address C.L.'s needs.

{¶40} The CASA testified that C.L. has a lot of anger and frustration and serious emotional and behavioral issues. The CASA stated that because her childhood was spent taking care of her siblings, C.L. did not have the opportunity to simply be a child, and somehow needs to regain her lost childhood. The CASA further testified that before she moved to Cleveland, C.L.'s outbursts of anger and violence were often triggered whenever the parents would cancel a visit; C.L. is attached to her parents and is upset when she does not hear from them; C.L. struggles to adjust to not being able to see her siblings and her parents; is very concerned about her siblings; and is fearful they might return to the parents' care and she will not be there to protect them. The CASA made sure C.L. received drawings and cards from her siblings. At the time of the custody hearings, C.L. was still struggling with

therapy. The CASA described C.L.'s progress as a roller coaster ride; for example, upon learning of Amanda's incarceration, C.L. suffered a very serious setback which required hospitalization; C.L. has since recovered and is doing better. C.L. will need to be in therapy for a long time, perhaps even for the rest of her life.

{¶41} The Agency caseworker testified that C.L. continues to need intensive mental health services; needs to continue receiving educational services; and needs assistance in school where she is struggling. Further, her behavior will need to be closely monitored. The caseworker also testified that since her removal from home, C.L. has made real improvements academically; however, her behavior has not really improved. With regard to the parents' assertion that C.L. never had behavioral or academic issues before her removal from home, the caseworker testified that in fact, it was well documented that C.L. had behavior and academic problems well before the removal "which they did not address. It was court ordered that she attend individual counseling through the last open case with [the Agency], which they did not follow through with."

{¶42} Je.L. was six years old when he was removed from his parents' care. He reportedly smoked cigarettes. He had noticeable articulation problems when speaking and needed speech therapy. A psychological evaluation completed in the fall of 2006 revealed that mother figures were seen as selfish; anger was associated with father figures; and children were generally perceived as being on their own without parental guidance and supervision. Je.L. reported that his parents let him do everything by himself. Je.L. also reported enjoying going to school; yet missing school regularly when he was living with his parents; enjoying living at the foster home; and missing his parents (who were his favorite grownups) but only wanting to visit them.

{¶43} The CASA testified that Je.L. is a bright child, eager to learn, and with the

potential to do well academically. Je.L. was diagnosed in 2008 with ADHD and receives medication; he also receives speech therapy through his school. According to the Agency caseworker, Je.L. has greatly improved his school work and in his ability to learn at school. Since his removal in 2006, his speech and ability to function in school have vastly improved. In addition, he is more calm and able to express his feelings and his needs without acting out. Je.L. has made great strides emotionally and educationally while in foster care and is thriving.

{¶44} The twins were four years old when they were removed from their parents' care. They reportedly smoked cigarettes. Both were wearing diapers and using a baby bottle; they were quickly potty-trained and weaned by the foster mother. Am.L., the twin sister, had to have her head shaved due to head lice. P.L., the twin brother, was unable to count past one and had a speech problem with poor articulation (Am.L. did not). They both completed a psychological evaluation in the fall of 2006.

{¶45} With regard to P.L., the psychological evaluation revealed that he viewed the world as a very hostile and dangerous place where the children were helpless in the face of danger and parents were unavailable to comfort children in distress. Often, father figures were aggressive and hostile toward their children; mother figures were generally absent or irrelevant. P.L. reported a lack of supervision while living with his parents. He wished his father would jump off the roof and break his leg. Rather than identifying his parents as his favorite grownups, as a child normally would, P.L. named C.L. and A.L. (his two older sisters) instead. Am.L. named her parents as her favorite grownups but stated she felt best when rocked and held by her sisters. Notwithstanding the parents' denial, the record indicates that C.L. and A.L. took on the role of supervising and parenting their younger siblings.

{¶46} With regard to Am.L., the psychological evaluation revealed that children were

seen as generally anxious, sometimes crying, and not safe in their own homes. Am.L. drew a self-portrait with a blanket wrapped around her body which was indicative of a heightened need for security. She wished her father would "not bust our butts or shoot us when he's fired up." She indicated that if she were bigger, she would not go to her mother's house. When asked to simply describe her parents, she replied that "they goes to the boat to get drunk."

{¶47} In 2008, both twins were in kindergarten. According to the Agency caseworker, P.L. has greatly improved his school work and in his ability to learn at school; he participates in an after-school reading tutorial and is on an IEP for his speech problem. Am.L. excels in school. Both twins have made great strides emotionally and educationally while in foster care and are thriving. Both have shown the same improvements as Je.L.

{¶48} The GAL, the CASA, the Agency caseworker, and C.L.'s therapist all supported granting the Agency permanent custody of C.L., Je.L., and the twins Am.L. and P.L., even if it meant potentially separating Je.L., Am.L., and P.L.

{¶49} The parents love and care for C.L., Je.L., and the twins. The children, in turn, love their parents, are bonded with them, and enjoy seeing them. According to the GAL, the children have expressed a desire to return to their parents' custody. The children (and their siblings Jo.L. and A.L.) are very bonded to one another and enjoy seeing one another. However, the record clearly indicates that the parents are incapable or unwilling to do what is needed to provide a safe, nurturing, enriching environment for their children. The record also indicates they are not earnestly pursuing actions that would result in the children being returned to them. As the CASA stated in one of her reports, the children "deserve the right to be happy, healthy, and free of fear and worry in a safe permanent home. They deserve the right to an education and the ability to pursue their given talents."

{¶50} In finding that granting permanent custody of C.L., Je.L., Am.L., and P.L. to the Agency was in the best interest of the children, the juvenile court thoroughly analyzed the evidence and testimony from the permanent custody hearings, and its findings are supported by sufficient clear and convincing evidence. The juvenile court, therefore, did not err in granting the Agency permanent custody of C.L., Je.L., Am.L., and P.L.

{¶51} Amanda's first assignment of error and Ronald's first assignment of error are accordingly overruled.

{¶52} Assignment of Error No. 2:

{¶53} "THE TRIAL COURT'S DECISION TO PLACE [JO.L.] IN THE LEGAL CUSTODY OF [THE CUSTODIAN] WAS NOT SUPPORTED BY CLEAR AND CONVINCING EVIDENCE."

{¶54} Amanda and Ronald both argue that the juvenile court erred in awarding legal custody of Jo.L. to his custodian upon a finding that such placement was in the child's best interest. Specifically, both parents challenge the juvenile court's reliance on the lack of contact between Jo.L. and his parents as its main basis for granting legal custody to the guardian. Both parents assert the custodian was responsible for the lack of contact.

{¶55} Upon adjudicating a child as abused, neglected, or dependent, a juvenile court may award legal custody of a child to a parent or a nonparent upon the filing of a motion for legal custody. R.C. 2151.353(A)(3). A court must make its custody decision in accordance with the best interest of the child. *In re M.D.*, Butler App. No. CA2006-09-223, 2007-Ohio-4646, ¶26. A juvenile court's standard of review in legal custody proceedings is by a preponderance of the evidence. *Id*; *In re Nice*, 141 Ohio App.3d 445, 455, 2001-Ohio-3214. A preponderance of the evidence is "evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it." *In re M.D.* at ¶26.

{¶56} A juvenile court's custody decision will not be reversed on appeal absent an abuse of discretion. *Id.* at ¶27. The discretion granted to a juvenile court in custody matters should be accorded the utmost respect, given the nature of the proceedings and the impact the court's determination will have on the lives of the parties concerned. The knowledge a trial court gains through observing the witnesses and the parties in a custody proceeding cannot be conveyed to a reviewing court by a printed record. *Id.* Thus, an appellate court affords deference to the findings of a judge or a magistrate regarding witness credibility. *Id.*

{¶57} Our review of the record shows that the juvenile court considered the relevant factors under R.C. 3109.04(F) in making its best interest determination, and that the evidence presented during the custody hearings supports the juvenile court's findings.

{¶58} Following the gasoline incident in July 2006, Jo.L. was placed in the temporary custody of the custodian and has been living with her and her family ever since. As stated earlier, even before the gasoline incident, Jo.L. used to spend a lot of time at her house. At the time he was placed with the custodian, Jo.L. was seven; in second grade yet was unable to read or write; was aggressive, prone to outbursts, and using foul language; and had great difficulties with inattention and hyperactivity. He also had a speech delay and was difficult to understand at times. He was diagnosed with Reactive Attachment Disorder; on a visual-motor integration test, he scored as a child aged four years and ten months, even though he was seven and one-half years old; drawings during a psychological evaluation in October 2006 evidenced an incoherent thought process and suggested he did not feel safe and protected.

{¶59} Jo.L. has been going to therapy since September 2006; his custodian is actively involved in his therapy. By contrast, his parents have never contacted Jo.L.'s therapist and are not involved in their son's therapy. The therapist testified that Jo.L. suffers from PTSD;

symptoms of PTSD include zoning out, fear, and body shaking; Jo.L. does not talk about his parents unless prompted to do so; and in therapy, Jo.L. exhibits PTSD symptoms whenever and only when they are discussing his parents. The therapist further testified that following a visit with his parents in 2007, Jo.L. required an emergency therapy session due to decompensation in his behavior (which included urinating and defecating on himself). The therapist recommended *no* contact between Jo.L. and his parents as it would be detrimental to his sense of safety and security.

{¶60} Although he continues to need therapy and to struggle academically, Jo.L. has improved greatly in the temporary custody of his custodian. As the Agency caseworker explained, while Jo.L. used to be "an extremely hyperactive child with a lot of pent-up aggression *** unable to communicate," he was now "able to talk and have full conversations and explain things in great detail," and "able to sit still and play games and do things."

{¶61} Jo.L. is very well adjusted in his custodian's home, at school, and in the community. There is a deep bond between Jo.L. and his custodian. Jo.L. is attached to his custodian and considers her and the grandchildren she adopted as *his* family. Likewise, the custodian's extended family treats Jo.L. as part of their family. The custodian moved to a different school district so that Jo.L.'s needs and learning difficulties would be addressed at the best schools. Several witnesses testified that Jo.L. has many times said he wants to live with his custodian and does not want to live with his parents or see them again. Jo.L.'s therapist, the Agency caseworker, the CASA, and the GAL all supported granting legal custody of Jo.L. to his custodian.

{¶62} Both parents love Jo.L. However, Amanda blames Jo.L. to an extent for the Agency's removal of all of the children. Ronald's psychological evaluation suggested he did not feel emotionally close to Jo.L. and that he experienced a considerable amount of stress

with regard to Jo.L.'s difficulties. Both parents are opposed to granting legal custody of Jo.L. to his custodian and want Jo.L. returned to them. Yet, both testified that if Jo.L. was returned to them, they would allow him to spend as much time with the custodian as he did before the gasoline incident.

{¶63} Both parents challenge the juvenile court's reliance on the lack of contact between Jo.L. and his parents as its main basis for granting legal custody to the custodian. Both parents testified that they were prevented by the custodian from seeing or talking to Jo.L. As a result, one of the very few visits they had with Jo.L. was awkward and did not go well. The Agency caseworker testified that she offered several times to facilitate visitation between Jo.L. and his parents; however, Amanda declined the offer, reasoning that she should be able to see Jo.L. whenever she wanted, without any kind of arrangement.

{¶64} The record shows that Jo.L. had very little contact with his parents throughout the pendency of this case. When he was hospitalized 11 days for his burn injuries, his parents only visited him a handful of times even though they were told they could have unlimited, unrestricted access to him. By contrast, Jo.L.'s custodian visited him every day and helped with his medical care. Once Jo.L. was in the temporary custody of his custodian, there was very little contact between Jo.L. and his parents. The custodian denied preventing the parents from seeing or talking to Jo.L.

{¶65} The custodian testified she wants legal custody of Jo.L. The record shows she maintains visitation between Jo.L. and his siblings and is supportive of their relationships. The custodian testified she would follow Jo.L.'s recommendation regarding Jo.L.'s visitation and contact with his parents; would abide by any court-ordered visitation between Jo.L. and his parents, as well as with his siblings; and intended to keep the contact between Jo.L. and his siblings.

{¶66} Upon thoroughly reviewing the record, we find that the evidence presented during the custody hearings supports the juvenile court's findings, and that the juvenile court did not abuse its discretion when it found it was in the best interest of Jo.L. to be placed in the legal custody of his custodian. Amanda's second assignment of error and Ronald's second assignment of error are accordingly overruled.

{¶67} Judgment affirmed.

BRESSLER, P.J., and POWELL, J., concur.

[Cite as *In re J.L.*, 2009-Ohio-4463.]