[Cite as *In re S.M.*, 2015-Ohio-2318.]

IN THE COURT OF APPEALS

TWELFTH APPELLATE DISTRICT OF OHIO

CLERMONT COUNTY

IN THE MATTER OF:	:	
		CASE NO. CA2015-01-003
S.M.	:	
		O P I N I O N
	:	6/15/2015
	:	
	:	

APPEAL FROM CLERMONT COUNTY COURT OF COMMON PLEAS
JUVENILE DIVISION
Case No. 2012JC004411

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M. POWELL, P.J.

{¶ 1} This is an appeal of a decision by the Clermont County Court of Common Pleas, Juvenile Division, granting permanent custody of a minor child to the Clermont County Department of Jobs and Family Services (the Agency). For the reasons that follow, we affirm the judgment of the juvenile court.

{¶ 2} Appellant, J.F. (Mother), and J.M. (Father) are the parents of S.M. (born 2009).[1] The three lived together in the Bronx, New York for about one year until Mother and Father split up. In November 2010, Mother and S.M. went to live with Father's relatives in Clermont County, Ohio. A month later, Mother returned to New York, leaving S.M. with Father's relatives. S.M. stayed with Father's relatives for about one year. During this time, S.M was diagnosed with Reactive Attachment Disorder (RAD) and Post-traumatic Stress Disorder (P.T.S.D.). When Father's relatives became unable to provide care for S.M. due to the child's serious behavioral problems, they reported this to Clermont County Children's Protective Services (CCCPS), a division of the Agency.

{¶ 3} On July 19, 2012, a CCCPS caseworker filed a complaint in the juvenile court alleging that S.M. "appears to be [n]eglected" as defined in R.C. 2151.03(A)(2). That same day, an emergency custody hearing was held, which resulted in S.M. being placed in the Agency's temporary custody. In January 2013, the Agency placed S.M. in the certified foster home where he remains to this day. S.M.'s initial diagnosis of RAD and P.T.S.D. was amended to a diagnosis of Autism Spectrum Disorder (autism) and P.T.S.D. Also in January 2013, the Agency developed a case plan for Mother at her request, with the goal of reunifying Mother with S.M. On April 9, 2013, S.M. was formally adjudicated to be neglected.

{¶ 4} Mother, who has resided in New York throughout the neglected child proceedings, completed all requirements of her case plan, which included undergoing drug treatment, taking parenting classes, finding a job, and obtaining stable housing. Mother visited with S.M. on four occasions in February 2013, June 2013, June 2014 and July 2014. At some point during these proceedings, Mother made an "interstate compact placement request" that required her to submit to a "home study" of her New York apartment. However,

1. Father did not participate in the proceedings below and is not a party to this appeal.

Mother received a failing grade on the "home study" because the residence was sparsely furnished and had an inadequate amount of food.

{¶ 5} Mother's failing grade on the home study prompted the Agency to file a motion for permanent custody of S.M. in June 2014. Following a hearing on the matter, the magistrate determined that S.M. had been in the Agency's custody for at least 12 months of a consecutive 22-month period and that it was in S.M.'s best interest to permanently terminate the parental rights of the child's biological parents and grant permanent custody to the Agency. The trial court affirmed the magistrate's decision after overruling Mother's objections to it.

{¶ 6} Mother now appeals and assigns the following as error:

{¶ 7} IN A CHILD CUSTODY CASE, THE TRIAL COURT ERRED IN ITS DECISION AND ORDER GRANTING PERMANENT CUSTODY OF THE CHILD TO THE AGENCY DESPITE THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶ 8} Mother essentially argues the juvenile court's decision granting the Agency permanent custody of S.M. is contrary to the sufficiency and manifest weight of the evidence.

{¶ 9} "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." *In re E.G.*, 12th Dist. Butler No. CA2013-12-224, 2014-Ohio-2007, ¶ 6-7, citing *Santosky v. Kramer*, 455 U.S. 745, 759, 102 S.Ct. 1388 (1982). "Clear and convincing evidence is that which will produce in the trier of fact a firm belief or conviction as to the facts sought to be established." *In re McCann*, 12th Dist. Clermont No. CA2003-02-017, 2004-Ohio-283, ¶ 11, citing *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus. Where "the degree of proof required to sustain an issue must be clear and convincing, a reviewing court will examine the record to determine whether the trier of facts had sufficient evidence

before it to satisfy the requisite degree of proof." *Cross* at 477. 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*, 138 Ohio App.3d 510, 520 (12th Dist.2000).

> [E]ven if a trial court judgment is sustained by sufficient evidence, an appellate court may nevertheless conclude that the judgment is against the manifest weight of the evidence:
>
> Weight of the evidence concerns "the inclination of the *greater amount of credible evidence,* offered in a trial, to support one side of the issue rather than the other. It indicates clearly to the jury that the party having the burden of proof will be entitled to their verdict, if, on weighing the evidence in their minds, they shall find the *greater amount of credible evidence* sustains the issue which is to be established before them. Weight is not a question of mathematics, but depends on its *effect in inducing belief*."

(Emphasis sic.) *Eastley v. Volkman*, 132 Ohio St.3d 328, 330-32, 2012-Ohio-2179, ¶ 12, quoting *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997), paragraph two of the syllabus, quoting *Black's Law Dictionary* 1594 (6th Ed.1990).

{¶ 10} In considering a manifest-weight-of-the-evidence challenge in both civil and criminal cases

> """[t]he [reviewing] court * * * weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the [finder of fact] clearly lost its way and created such a manifest miscarriage of justice that the [judgment] must be reversed and a new trial ordered."""

(Alterations made in *Tewarson*.) *Eastley* at ¶ 20, quoting *Tewarson v. Simon*, 141 Ohio App.3d 103, 115 (9th Dist.2001), quoting *Thompkins* at 387, quoting *State v. Martin*, 20 Ohio App.3d 172, 175 (1st Dist.1983).

> In weighing the evidence, the court of appeals must always be mindful of the presumption in favor of the finder of fact.
>
> "[I]n determining whether the judgment below is manifestly

> against the weight of the evidence, every reasonable intendment and every reasonable presumption must be made in favor of the judgment and the finding of facts. * * *
>
> "If the evidence is susceptible of more than one construction, the reviewing court is bound to give it that interpretation which is consistent with the verdict and judgment, most favorable to sustaining the verdict and judgment."

Eastley at ¶ 21, quoting *Seasons Coal Co., Inc. v. Cleveland*, 10 Ohio St.3d 77, 80 (1984), fn. 3, quoting 5 Ohio Jurisprudence 3d, Appellate Review, Section 60, at 191-192 (1978).

{¶ 11} R.C. 2151.414(B)(1) states that a court may terminate parental rights and grant permanent custody of a child to a children services agency if it finds that (1) the grant of permanent custody to the agency is in the child's best interest, utilizing, in part, the nonexclusive list of factors in R.C. 2151.414(D), and (2) the child is abandoned, orphaned, or has been in the temporary custody of the agency for at least 12 months of a consecutive 22-month period, or where the preceding three factors do not apply, the child cannot be placed with either parent within a reasonable time or should not be placed with either parent, R.C. 2151.414(B)(1)(a), (b), (c) and (d). *In re E.B.*, 12th Dist. Warren Nos. CA2009-10-139 and CA2009-11-146, 2010-Ohio-1122, ¶ 22.

{¶ 12} R.C. 2151.414(D)(1) provides, in pertinent part, that in determining the "best interest" of a child at a permanent custody hearing, the court must consider all "relevant factors," including, but not limited to, the following:

> (a) The interaction and interrelationship of the child with the child's parents, siblings, relatives, foster caregivers and out-of-home providers, and any other person who may significantly affect the child;
>
> (b) The wishes of the child, as expressed directly by the child or through the child's guardian ad litem, with due regard for the maturity of the child;
>
> (c) The custodial history of the child, including whether the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or

> more months of a consecutive twenty-two-month period, or the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period and, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state;
>
> (d) The child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency[.]

{¶ 13} Mother acknowledges that S.M. has been in the agency's temporary custody for at least 12 or more months of a consecutive 22-month period, for purposes of R.C. 2151.414(B)(1)(c). Nevertheless, she asserts that the juvenile court's determination that the agency presented clear and convincing evidence to show that it was in S.M.'s best interest to grant permanent custody of the child to the agency is against the sufficiency and manifest weight of the evidence. However, the "best interest" factors in R.C. 2151.414(D)(1) are almost all in favor of awarding the Agency permanent custody of S.M.

{¶ 14} As to the "interaction and interrelationship" factor in R.C. 2151.414(D)(1)(a), Mother contends that the evidence shows that the child's interactions with her during their visits when the child was in the agency's temporary custody were "appropriate" and "affectionate" and that, by contrast, S.M. has "frequently exhibited severe temper tantrums" when he was away from her. However, the evidence shows that S.M. became less interested in Mother the longer he was in foster care. For instance, one of S.M.'s caseworkers testified that when Mother visited with S.M. in 2013, the child was very affectionate towards Mother, but when Mother visited with S.M. in 2014, the child was less affectionate towards Mother and it took a little bit of time before S.M. would engage in activity with her.

{¶ 15} Additionally, the evidence indicates that Mother visited with S.M. on only four occasions during the time the child has been in foster care. Mother telephoned S.M.'s foster

mother once in October 2013, but Mother did not begin to make regular telephone contact with the foster mother until June 2014, which was about two months before the permanent custody hearing. Mother asked the foster mother about the possibility of using Skype to communicate, and S.M.'s foster mother texted the pertinent Skype information to Mother. However, Mother never responded to foster mother's text or followed up on the possibility of contacting the foster mother or S.M. by using Skype. Furthermore, S.M. has never received any cards or gifts from Mother during the time the child has been in foster care.

{¶ 16} By contrast, the evidence shows that S.M. is "thriving" in his foster family's care. S.M.'s foster mother testified that S.M. "is very sweet," but she acknowledged that S.M. "has severe temper tantrums due to his autism and any other problems he may have had in the past." Foster mother also testified that S.M. sees a physical therapist, a speech therapist, and an occupational therapist for one-half hour apiece every Tuesday morning at the local hospital, and that S.M. goes to a special school for the autistic that provides him with daily physical, occupational and speech therapy, along with an applied behavior analysis program that S.M. needs for his autism.

{¶ 17} Foster mother testified that S.M. is not able to talk in complete sentences but can say words like "pizza," "cookie," "no," and "Mickey Mouse," and has recently started saying "'Mooska Mickey Mouse' for the Mickey Mouse Clubhouse.'" Foster mother testified that eight months ago, S.M. "was able to start feeding himself. He's not always the cleanest, but he can." However, foster mother acknowledged that S.M. cannot dress himself and still is not toilet-trained and that when they have tried to address the latter issue "it just leads to increased behaviors." Foster mother testified that she has been told by the personnel at S.M's school that S.M. "will probably always be socially unaccepted, but as far as education-wise he can catch up."

{¶ 18} Despite all of this, foster mother testified that she and her husband and other

family members still accept S.M. and are committed to him; that S.M gets "along very well" and "fits in" with the rest of her family; that S.M. plays with her other children to the best of his ability; that the "world revolves around [S.M.]"; that she is a foster-to-adopt parent; and that their home is one that could be a permanent home for S.M. if he was available for adoption.

{¶ 19} As to the "child's wishes" factor in R.C. 2151.414(D)(1)(b), Mother notes that S.M.'s "wishes were difficult to articulate due to [the child's] age and special needs," but contends, nevertheless, that the child's wishes can be discerned from the fact that "[t]he child was affectionate towards [her] during visits[,]" and that this was despite S.M.'s difficulty with verbal expression during telephone calls with her. Mother also alludes to the fact that S.M. has had "outbursts" while he was in foster care, despite the fact that his foster parents provided S.M. with "luxuries" like two miniature horses that S.M. liked.

{¶ 20} The record supports the juvenile court's determination that S.M. "is not able to articulate his wishes due to his age and the developmental issues associated with this autism." This was also the view of the guardian ad litem (GAL), who recommended that the Agency be awarded permanent custody of S.M. The GAL stated that he was unable to determine S.M.'s wishes, because the child "is developmentally delayed in speech" and that while S.M. "continues to make progress[,]" the child "is unable to string more than a couple of words together." As noted earlier, while the evidence shows that the interactions between Mother and S.M. were affectionate in 2013, they were less so in 2014 after S.M. had been away from Mother for about a year. S.M.'s foster mother acknowledged during her testimony that S.M. has "severe temper tantrums" due to the child's autism and any other problems the child may have had in the past. However, the GAL reported that S.M.'s temper tantrums were diminishing in both numbers and length.

{¶ 21} As to the "child's custodial history" factor in R.C. 2151.414(D)(1)(b), this factor

also weighs heavily in favor of granting the Agency permanent custody of S.M. S.M. has been in the Agency's temporary custody since July 19, 2012. During this time, Mother has visited with S.M. on only four occasions; she did not begin making regular telephone contact with either foster mother or S.M. until June 2014, which was approximately two months before the permanent custody hearing; and she did not send S.M. any cards, letters or gifts during the time the child has been in the Agency's temporary custody. Mother contends that her failure to visit and communicate with S.M. more often was caused by the geographical distance between the two and her lack of money. However, the critical issue here is not *why* Mother failed to visit and to communicate with S.M. more often, but rather, *what effect* Mother's failure to visit and to communicate with S.M. more often has had on the child.

{¶ 22} At a hearing in October 2012, the magistrate suggested to Mother that it would be helpful to her, in terms of her efforts to retain custody of S.M., to relocate to Clermont County, Ohio, as the child had been out of her custody "for a good long while" and that such "time" considerations in cases involving children of S.M.'s age are "important." However, Mother failed to follow the suggestion, and the evidence shows that the longer S.M. was in the Agency's custody, the less familiar Mother became to S.M., as evidenced by the diminished level of affection that S.M. showed to Mother from her visit with the child in 2013, to her subsequent visit with the child in 2014.

{¶ 23} As for the "child's need for a legally secure permanent placement" factor in R.C. 2151.414(D)(1)(d), Mother argues the evidence in the record does not show that a secure placement could not be made without granting the Agency permanent custody of S.M., and instead shows that she has made "significant progress on improving her life." She contends that she has completed the case plan the Agency devised for her by completing drug rehabilitation and parenting classes, by obtaining "steady employment" that has her working approximately 25 hours, and by leasing a three-bedroom and two-bath apartment in New

York City that has a separate room for S.M., which is furnished with children's furniture, toys and a bed set. Mother also contends that she did even more than the case plan required of her by attending more parenting classes than required under the plan.

{¶ 24} While Mother is to be commended for completing her case plan, it is well established that completion of a case plan's requirements does not preclude a grant of permanent custody to a social services agency. *In the Matter of Mraz*, 12th Dist. Brown Nos. CA2002-05-011 and CA2002-07-014, 2002-Ohio-7278, ¶ 13. "A case plan is merely a means to a goal and not a goal in itself." *In re S.U.*, 12th Dist. Clermont No. CA2014-07-047, 2014-Ohio-5166 ¶ 35. The key concern is not whether the parent has successfully completed the case plan, but whether the parent has *substantially remedied* the concerns that caused the child's removal from the parent's custody. *In the Matter of E.B.*, 12th Dist. Warren Nos. CA2009-10-139 and CA2009-11-146, 2010-Ohio-1122, ¶ 30. Here, the evidence clearly and convincingly shows that the problems that led to S.M.'s removal have not been substantially remedied.

{¶ 25} Mother contends that the juvenile court placed the "onus" on her to find parenting classes or services for children with special needs, but "at no point in the case plan was there a recommendation or referral for such services[,]" and that, "[i]n fact, even after it was determined that the child did not have RADS, but rather Autism and [P.T.S.D.], no recommendations changed." Mother then states, somewhat paradoxically, that "[e]ven then, such a recommendation would not have been necessary" as she "has an intimate history with the special needs of S.M. since [autism] has afflicted her family in New York" and Mother has "assisted in the care for her special needs sister along with S.M.'s maternal grandmother." Mother concludes by alleging that the juvenile court "unfairly discounted her support system

due to relatively mild and treatable ailments of grandmother's diabetes and heart disease."[2]

{¶ 26} In faulting the juvenile court for placing the "onus" on her to find parenting classes or services when the Agency failed to provide her with a recommendation or referral for such classes or services, Mother appears to be arguing that the Agency failed to make "reasonable efforts" to reunify her with S.M. *See*, *generally*, *In re C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, ¶ 43 (generally, the state must make reasonable efforts to reunify family during child custody proceedings prior to termination of parental rights).

{¶ 27} Initially, the magistrate expressly found that "the Agency made reasonable efforts to reunify S.M. with his mother." Mother failed to object to this finding, and thus waived all but plain error with respect to the juvenile court's decision to affirm it. Civ.R. 53(D)(3)(b)(iv). As this court recently stated in *Richards v. Newberry*, 12th Dist. Clermont No. CA2014-08-061, 2015-Ohio-1932, ¶ 14:

> Plain error in a civil case is an error that "seriously affects the basic fairness, integrity, or public reputation of the judicial process, thereby challenging the legitimacy of the underlying judicial process itself." *Goldfuss v. Davidson*, 79 Ohio St.3d 116 (1997), syllabus. The doctrine of plain error in civil cases is not favored and thus, its application must be limited to "those extremely rare cases where exceptional circumstances require its application to prevent a manifest miscarriage of justice, and where the error complained of, if left uncorrected, would have a material adverse effect on the character of, and public confidence in, judicial proceedings." *Id.* at 121; *Fender v. Miles*, 185 Ohio App.3d 136, 2009-Ohio-6043, ¶ 28 (12th Dist.).

{¶ 28} Here, the juvenile court did not commit plain error in affirming the magistrate's decision that the Agency made reasonable efforts to reunify S.M. with Mother. The magistrate's decision mentioned that the parenting classes Mother took did not provide much information on dealing with special needs children and that while Mother had an opportunity

2. At the permanent custody hearing, Mother testified that her grandmother had "diabetes and high blood pressure[,]" not diabetes and heart disease as Mother now states in her appellate brief. This inconsistency does not affect our decision.

to deal with an autistic sister in the past, there was no evidence that Mother was responsible for the daily care of her sister and no evidence of the level of her sister's autism. However, this language does not suggest that the Agency failed to make reasonable efforts to reunify Mother with S.M.

{¶ 29} Mother was aware that S.M. has been diagnosed with autism, yet she never asked for a recommendation for, or referral to, parenting classes or services for special needs children nor did she seek out such instruction on her own. Indeed, as noted above, Mother herself states in her appellate brief that "such a recommendation would not have been necessary" as she "has an intimate history with the special needs of S.M. since [autism] has afflicted her family in New York" and she has "assisted in the care for her special needs sister[.]" Mother also testified that she knew some of the providers that her autistic sister utilizes and that she intended to use these providers if she were to retain custody of S.M.

{¶ 30} In any event, the case plan does not relieve Mother of all personal responsibility to do whatever may be necessary to provide a home for S.M. As a corollary, the absence of a specific case plan requirement for parenting education relating to autistic children, particularly in view of Mother's awareness of S.M.'s special needs, does not mitigate the consequences of Mother being unprepared to provide necessary care for her autistic son. Further, as we recently stated in *In re L.J.*, 12th Dist. Warren No. CA2014-10-124, 2015-Ohio-1567, ¶ 27:

> In determining whether the agency made reasonable efforts to reunify the family during the child-custody proceedings prior to the termination of parental rights "the issue is not whether the agency could have done more, but whether it did enough to satisfy the reasonableness standard under the statute." *In re S.U.*, 12th Dist. Clermont No. CA2014-07-055, 2014-Ohio-5748, ¶ 16, citing *In re A.D.*, 12th Dist. Fayette No. CA2014-06-014, 2014-Ohio-5083. "'Reasonable efforts' does not mean all available efforts. Otherwise, there would always be an argument that one more additional service, no matter how remote, may have made reunification possible." *In re S.U.*, citing *In re K.L.,*

12th Dist. Clermont No. CA2012-08-062, 2013-Ohio-12, ¶ 18.

{¶ 31} The determination of whether the Agency's efforts, as reflected in the case plan, were "reasonable efforts" requires a consideration of the nature of a case plan in cases such as this. Case plans routinely evolve as a case progresses. Initial case plans, as the case plan here, set forth the foundational requirements upon which further progress is based. For instance, until Mother was drug free, had income to support S.M., had an adequate home to shelter S.M. and basic parenting skills there was no reason to address more specific concerns such as the parenting challenges presented by S.M.'s autism. Here, as the results of the interstate home study reveal, Mother has yet to achieve a suitable home for S.M., since, despite having ample time to prepare for the home study, Mother failed to ensure that her residence was properly furnished and contained a sufficient amount of food.

{¶ 32} Finally, while the magistrate found that Mother's parenting classes did not provide Mother with much information on dealing with special-needs children and that Mother's testimony regarding her experiences in helping care for her autistic sister did not demonstrate that Mother was well prepared for dealing with an autistic child, these findings were not dispositive of the juvenile court's decision to terminate Mother's parental rights and award the Agency custody of S.M. Instead, these findings were among numerous others made by the magistrate and then affirmed by the juvenile court in support of the juvenile court's decision to terminate Mother's parental rights and award the Agency custody of S.M., and the absence of these findings would not have changed the outcome of these proceedings.

{¶ 33} Mother contends that the juvenile court "unfairly discounted her support system [i.e., her grandmother who was to care for S.M. while Mother was away at work] due to [her grandmother's] relatively mild and treatable ailments[.]" However, in addition to her personal health issues, Mother's 77-year-old grandmother already provides care for Mother's special-

needs sister. Given the age, health problems and circumstances of the person whom Mother intended to use as S.M.'s caregiver while she was away at work, the juvenile court was entirely justified in finding that these facts weighed in favor of terminating Mother's parental rights and granting the Agency permanent custody of S.M.

{¶ 34} Mother also argues there was no evidence that she was unable to provide an adequate and permanent home for S.M. within one year after the hearing. She contends that the only concerns identified in the home study of her New York apartment were a lack of food in the refrigerator and suitable furnishings in the apartment and that she already has taken steps to remedy both of these concerns. We find this argument unpersuasive.

{¶ 35} The "home study" in this case was not admitted into evidence due to Mother's hearsay objection, but Mother stipulated that she failed the home study. During her testimony, Mother attempted to assure the juvenile court that she would keep her home well-furnished and stocked with food. Mother testified that she failed her home study because she was "running low on food because she and her sister are always working," thereby suggesting that she did not have the opportunity to go to the store. However, as the Magistrate noted, "[t]his is troublesome, considering how much more challenging * * * [M]other's life would become with S.M. in the home."

{¶ 36} Additionally, the juvenile court based its decision to terminate Mother's parental rights and to award the Agency permanent custody of S.M. not only on the fact that Mother failed her home study, but for a number of other reasons, as well, including that S.M. has been in the Agency's custody for more than two years; that Mother visited with S.M. only four times during the time the child was in the Agency's custody; that Mother did not attempt to maintain regular telephone contact with the foster mother and child until two months before the permanent custody hearing; and that Mother testified that if she retains custody of S.M. while she is away at work, she intends to leave the child in the care of his 77-year-old

grandmother who has medical issues of her own and who already cares for Mother's autistic sister.

{¶ 37} R.C. 2151.415(D)(4) provides as follows:

> No court shall grant an agency more than two extensions of temporary custody pursuant to division (D) of this section and the court shall not order an existing temporary custody order to continue beyond two years after the date on which the complaint was filed or the child was first placed into shelter care, whichever date is earlier, regardless of whether any extensions have been previously ordered pursuant to division (D) of this section.

{¶ 38} Here, S.M. had been in the Agency's temporary custody more than two years when the permanent custody hearing commenced on August 8, 2014. Therefore, temporary custody could not be extended, reunification and protective supervision were not possible as Mother and S.M. were insufficiently bonded, Mother did not have a suitable home for S.M., Mother was not prepared for S.M.'s special needs and no relatives were identified as being suitable legal custodians. Due to the long-standing pendency of this case and S.M.'s needs for permanency, there was no other viable disposition in this case other than awarding the Agency permanent custody of the child.

{¶ 39} In light of the foregoing, we conclude that the juvenile court's decision finding that the evidence clearly and convincingly demonstrates that it was in S.M.'s best interest to terminate the parental rights of the child's biological parents and grant the agency permanent custody of the child was supported by clear and convincing evidence and was not against the manifest weight of the evidence.

{¶ 40} Accordingly, Mother's assignment of error is overruled.

{¶ 41} Judgment affirmed.

S. POWELL and HENDRICKSON, JJ., concur.