

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

| | | |
|--------------|---|-------------------------|
| IN RE: | : | |
| | : | CASE NOS. CA2015-02-008 |
| P.D., et al. | : | CA2015-03-010 |
| | : | |
| | : | <u>OPINION</u> |
| | : | 7/13/2015 |
| | : | |
| | : | |

APPEAL FROM PREBLE COUNTY COURT OF COMMON PLEAS
JUVENILE DIVISION
Case No. 16896

Michele Thomas, 101 North Barron Street, Eaton, Ohio 45320, attorney for P.D.

Ann Ratcliff, 722 Rockhurst Circle, Troy, Ohio 45373, guardian ad litem

Nathan D. Meeks, 6730 Roosevelt Blvd., Suite 410, Middletown, Ohio 45005, attorney for J.D. and R.D.

Sarah E. Michel, 500 East Fifth Street, Dayton, Ohio 45402, for appellant, B.D.

Martin P. Votel, Preble County Prosecuting Attorney, Valerie Sargent-Eckert, Preble County Courthouse, 101 East Main Street, Eaton, Ohio 45320, for appellee, Preble County Children's Services

PIPER, P.J.

{¶ 1} This is an appeal of a decision of the Preble County Court of Common Pleas, Juvenile Division, granting permanent custody of three minor children to Preble County Children Services (the Agency).

{¶ 2} In the summer of 2013, the Agency had contact with B.D. (Mother) regarding her three children, P.D., J.D., and R.D., and concerns regarding Mother's drug and alcohol addictions, criminal history, and the children's truancy from school. In December 2013, the Agency received a referral that Mother had shoplifted from Wal-Mart when the children were with her. Mother was incarcerated, and the Agency removed the children from Mother's care.

{¶ 3} The Agency filed a motion for temporary custody. The juvenile court granted the Agency's motion, and Mother admitted at a later hearing that the children were dependent. The two younger children were placed with family, and the oldest child, who was almost 16 years old, was placed with a teacher with whom the family had a personal history. However, the Agency later placed the two younger children in foster care when the family informed the Agency they could no longer provide care for the children.

{¶ 4} The Agency developed a case plan for Mother, including a list of objectives for her to complete in order to facilitate reunification with the children. The objectives included actions such as completing drug and alcohol assessment and treatment, maintaining employment and stable housing, completing parenting classes, and obtaining a psychological assessment and following through on the recommendations of that assessment. Mother had visitation with the children during this time, but such was suspended for approximately seven months because she failed to make strides with her case plan. Most notably, Mother continued to abuse drugs, was incarcerated again, and refused to take court-ordered drug testing. Visitation was restored upon Mother's motion in December 2014 once she began to work on her case plan.

{¶ 5} Mother received inpatient drug treatment, took the drug and alcohol assessment, and completed parenting classes while in the drug treatment facility. Mother also secured temporary employment, but had only been working a short while upon her release from treatment. Mother also reported sobriety, and that she had the goal of obtaining

housing for her and the children. However, Mother failed to perform other actions as specified in the case plan.

{¶ 6} The Agency filed motions for permanent custody of the two younger children, as well as a permanent planned living arrangement (PPLA) for the older child. The juvenile court held a hearing on the matter, and granted the Agency's motions for permanent custody and PPLA. Mother now appeals the juvenile court's decision, raising the following assignments of error.¹ For ease of discussion, and when appropriate, we will combine some of Mother's assignments of error.

{¶ 7} Assignment of Error No. 1:

{¶ 8} THE TRIAL COURT ERRED IN GRANTING PERMANENT CUSTODY/PPLA TO PREBLE COUNTY CHILDREN SERVICES BECAUSE THE AGENCY FAILED TO PROVE BY CLEAR AND CONVINCING EVIDENCE THAT PERMANENT CUSTODY WAS IN THE BEST INTEREST OF THE CHILDREN.

{¶ 9} Assignment of Error No. 4:

{¶ 10} THE TRIAL COURT ERRED IN ALLEGING THAT MOTHER HAD ABANDONED HER CHILDREN FOR A PERIOD EXCEEDING 90 DAYS.

{¶ 11} Mother argues in her first and fourth assignments of error that the juvenile court erred in granting permanent custody of the two younger children and PPLA for the older child and in finding that she had abandoned the children for over 90 days.

{¶ 12} "Before a natural parent's constitutionally protected liberty interest in the care and custody of [her] 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. Clear and convincing

1. The children's father has had no involvement in the case, and has taken no action since the children became involved with the Agency.

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.

{¶ 13} Even if a trial court's judgment is sustained by sufficient evidence, an appellate court may nevertheless conclude that the judgment is against the manifest weight of the evidence. *In re S.M.*, 12th Dist. Clermont No. CA2015-01-003, 2015-Ohio-2318, ¶ 9. "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. * * * 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. In considering a challenge to the manifest weight of the evidence, the reviewing court weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the trial court clearly lost its way and created such a manifest miscarriage of justice that the judgment must be reversed and a new trial ordered. *In re S.M.* at ¶ 10.

{¶ 14} In weighing the evidence, a reviewing court must be mindful of the presumption in favor of the finder of fact. *Id.* In determining whether the trial court's decision 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." *Eastley* at ¶ 21. "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." *Id.*

PPLA

{¶ 15} According to R.C. 2151.353(A)(5), once a child has been adjudicated dependent, the Agency can move for a PPLA if the juvenile court finds by clear and

convincing evidence that a PPLA is in the child's best interests and one of the following exists,

(a) The child, because of physical, mental, or psychological problems or needs, is unable to function in a family-like setting and must remain in residential or institutional care now and for the foreseeable future beyond the date of the dispositional hearing held pursuant to section 2151.35 of the Revised Code.

(b) The child is sixteen years of age or older, the parents of the child have significant physical, mental, or psychological problems and are unable to care for the child because of those problems, adoption is not in the best interest of the child, as determined in accordance with division (D)(1) of section 2151.414 of the Revised Code, and the child retains a significant and positive relationship with a parent or relative.

(c) The child is sixteen years of age or older, has been counseled on the permanent placement options available to the child, and is unwilling to accept or unable to adapt to a permanent placement.

{¶ 16} The juvenile court found that the PPLA was in the oldest child's best interests and that Mother had significant physical, mental, or psychological problems rendering her unable to care for the child even though adoption was not in the child's best interests because the child retained a significant relationship with Mother.² This finding is supported by the record, as the child expressed her love for Mother, the deep bond she feels between them, and that she desires to continue her familial relationship with Mother. Even so, and while adoption of the 16-year-old child is not in her best interests, the court properly found that Mother is unable to care for the child.

{¶ 17} As will be discussed in greater detail below, Mother's drug addictions and instability demonstrate that she is not in a position to provide care for the child. The juvenile court expressly found, and we agree, that Mother "has a severe and long lasting drug

2. Mother did not challenge the juvenile court's specific finding regarding PPLA, and only couched her arguments in regard to permanent custody. Even so, we will address the juvenile court's findings specific to PPLA because the standard is somewhat different than the findings necessary for permanent custody.

problem and addiction which creates physical, mental, and psychological problems for her." Mother, although she has made some strides, remains unable to provide assurances that she can properly care for the child, especially where her history indicates brief periods of sobriety followed by relapse and an extended history of poor choices related to the children because of her drug and alcohol addictions. Again, and as will be discussed below in greater detail regarding the child's best interests, Mother's choices and lack of stability make her unable to care for the oldest child so that the PPLA was properly granted

Permanent Custody

{¶ 18} 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 the grant of permanent custody to the agency is in the child's best interest, and one of the following factors applies: (a) the child is not abandoned, orphaned, or has not been in custody of the Agency for 12 of 22 months but nonetheless cannot be placed with either parent within a reasonable time or should not be placed with either parent, (b) the child is abandoned, (c) the child is orphaned, (d) the child has been in the temporary custody of the agency for at least 12 months of a consecutive 22-month period, or (e) the child or another child in the custody of the parent from whose custody the child has been removed has been adjudicated an abused, neglected, or dependent child on three separate occasions by any court in Ohio or another state.

{¶ 19} After reviewing the record, we find that the juvenile court's grant of permanent custody was proper. The juvenile court made a finding that Mother abandoned the children for almost eight months, which is a period in excess of 90 days. While Mother assigns as error the juvenile court's decision regarding abandonment, we overrule Mother's fourth assignment of error because the juvenile court properly determined that Mother abandoned the children for more than 90 days.

{¶ 20} According to R.C. 2151.011(C), "for the purposes of this chapter, a child shall be presumed abandoned when the parents of the child have failed to visit or maintain contact with the child for more than ninety days, regardless of whether the parents resume contact with the child after that period of ninety days."

{¶ 21} Mother argues that she did not intentionally abandon her children because her visitation was suspended from May 12, 2014 until December 19, 2014, and she could not visit with the children during that time. However, the record is clear that Mother's visitation was suspended because of her incarceration, continued drug abuse, failure to submit to a court-ordered drug screen, and failure to make any strides on her case plan. Mother did not take any action to try and resume visitation with the children for over seven months. As such, it was Mother's active choices that led to her not being able to see the children, and the juvenile court's finding of abandonment was proper. See *In re C.C.*, 12th Dist. Warren Nos. CA2011-11-113, CA2011-11-127, 2012-Ohio-1291, ¶ 19 (affirming trial court's finding of abandonment where the trial court suspended the parents' visitation but "it was the parents' voluntary action in failing to consistently visit with the children, along with their failure to begin making any progress on the case plan, which led to the suspension of visitation").³

{¶ 22} Having found that the juvenile court properly found that the children had been abandoned, we next review the juvenile court's determination that granting permanent custody is in the children's best interests.

Best Interest Factors for PPLA and Permanent Custody

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

3. The juvenile court also found in the alternative that placement with Mother cannot or should not occur. However, the finding of abandonment fulfilled the statutory requirement pursuant to R.C. 2151.414(B)(1) and the court's analysis of the alternative factor was gratuitous.

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[.]

{¶ 24} In regard to the best interest factors, the record demonstrates that the juvenile court's grant of PPLA and permanent custody was in the children's best interests. Regarding the interaction and interrelationship of all concerned, the record is clear that Mother has a history of poor decision making regarding the children because of her drug and alcohol addictions, and that the impact on the children is profound. Mother has a 24-year history of drug use, including marijuana, heroin, and methamphetamine, and also has problems with alcohol abuse. Mother asserts that she had approximately 18 months of sobriety at some point in the past, but could not remember when. Mother also asserts that while incarcerated, she would not use drugs or alcohol. Regardless of her sobriety in the past, Mother continued to relapse and use heroin and methamphetamine on a consistent basis, often leading to criminal charges related to her drug addictions, including theft and possession. Mother also received probation for failure to support her children because the children did not attend

school regularly while in her care.

{¶ 25} During the permanent custody hearing, Mother testified that she is in a relationship with Arnon Collins, who at the time of the hearing, was incarcerated. Mother admitted that Collins had a history of manufacturing methamphetamine and that his criminal history is "rather extensive," including having weapons under disability and carrying a concealed weapon. Collins' criminal history indicates that his drug problems had been in existence for at least 15 years prior to the date of the hearing. Even so, Mother did not deny that she plans on resuming her relationship with Collins upon his release, so long as he remains sober, and also testified that she lives with Collins' parents.

{¶ 26} Mother also testified to her own criminal history, including theft charges and her probation for the children's nonattendance at school. Mother testified to her multiple incarcerations and that she would resume using heroin upon her release from jail. Mother testified that she was not employed for several years because of a lack of transportation, but that she sold her personal items or stole in order to obtain money to buy heroin.

{¶ 27} Mother testified that she is employed with a temporary employment agency since her release from drug treatment, and that she obtained drug treatment for addictions to heroin and methamphetamine. Mother testified that part of her case plan has not been completed, including a parenting assessment or psychological evaluation, and that she missed several counseling appointments due to lack of transportation. Mother also testified that she missed several drug screenings that were ordered because of either a lack of transportation or fear of what consequence having "dirty urines" would have upon her reunification efforts with the children.

{¶ 28} Mother also testified to the conditions the children lived in while in her custody. Mother testified that before she lived with Collins' parents, she and the children shared a one-bedroom house with her mother. Mother testified that the oldest child would sleep with her

mother in the only bed in the house, and she and the two younger children would sleep on the floor.⁴ Mother testified that the children had school attendance issues and missed large amounts of schooling. Mother also admitted that she did not pay school fees as required. Mother testified to her knowledge that all the children are doing very well in their current placements, and that the oldest child had only missed one day of school for the entire year while in placement.

{¶ 29} The two younger children's foster mother testified, and stated that when the two younger children came into her care, they were both aggressive, wanted to eat only unhealthy foods, and also experienced nightmares. Since their time with the foster parents, the children have become less aggressive, are eating healthy foods, and are doing much better in school. The foster mother testified that she and her husband help the children with their homework, require the children to read every day, and provide the children with structure. The foster mother testified that the children are "amazing young kids" and that she and her husband want to adopt the children. She also testified that she would continue to permit the children to have contact with their older siblings, as well as their grandmother.

{¶ 30} The foster mother who is providing care for the oldest child also testified. She stated that the oldest child came to live with her once the Agency removed the children and that she was aware of the family because of her having Mother's other son (who is not involved with the Agency due to his age) as a student in school. The foster mother testified that she took an interest in Mother's son because he would often be absent from school because he was forced to provide care for the younger children when Mother would leave them unattended. Based on her knowledge of the family, and upon hearing that the three

4. The record also indicates that Mother has another son who is older and not in the Agency's custody. That child also has drug addictions and was seeking drug treatment at the same time as Mother. That child would sleep on the couch when Mother and the children lived with her mother.

children had been removed from Mother's care, the foster mother agreed to provide care for the oldest child.

{¶ 31} The foster mother testified that the oldest child had tested positive for marijuana three times, so that now the child receives counseling and drug screenings. The child also took time adjusting to the rules of the house, such as doing chores and making healthy food choices because she lacked knowledge of such things while living with Mother. The child also shared with her foster mother some of the difficulties of her past, including that she was absent from school so many times because she was forced to provide care for the younger children when Mother would leave the home and leave the children unattended. The child also shared her feelings regarding activities that she witnessed while in Mother's care that "kept her awake at night," such as people using drugs, as well as seeing her brother's drug problems and arrests. Since living in her placement, the child has been attending school regularly, doing well in school, has become involved in church youth group activities, and has begun playing softball. The foster mother testified that the child has become excited at the prospect of increasing her education and having a meaningful career one day, and that she will continue to facilitate the child's education and social progression should the PPLA be granted.

{¶ 32} The Agency's caseworker also testified, and stated that Mother has not completed the case plan, including not obtaining a parenting assessment or psychological evaluation. Nor has Mother completed the counseling as ordered. The caseworker also testified that Mother had completed only 16 of 48 recommended sessions and that Mother reported to her that she was attending Alcoholics Anonymous meetings for her alcoholism. The caseworker also testified that despite Mother indicating that she has completed the drug treatment program at Nova House, she has not yet received any completion paperwork from the facility. Mother also canceled home visits with the caseworker.

{¶ 33} The caseworker shared her opinion that permanent custody/PPLA was the best option for the children based upon how well they were doing in their placements, how they had begun thriving in school, had become involved in extracurricular activities, and had much-needed structure in their lives.

{¶ 34} On cross-examination, the caseworker testified that while Mother passed several drug screens, those screens occurred while Mother was incarcerated, but that Mother would not submit screenings upon her release from jail. Mother also refused to return phone calls from the caseworker, would not permit home visits, and did not submit drug screening results.

{¶ 35} The caseworker also reiterated her belief that permanent custody/PPLA was in the children's best interest because Mother had only shown a very short time of being sober, had temporary but not permanent employment, had not completed the case plan within the two-year time frame since it was created, and did not have stable housing for herself or the children especially when considering that Mother planned on the children living with her and her boyfriend who had a history of methamphetamine manufacturing and use.⁵

{¶ 36} Regarding the children's wishes, the court considered that the children have expressed some interest in being reunified with Mother. However the court noted that the two youngest children's desire to be with Mother waned and that their desire for reunification is "soft." As previously discussed, the oldest child expressed a strong bond with Mother and a desire to maintain a relationship with her. Even so, the juvenile court found that the oldest child, while expressing her love and bond with Mother, was conflicted because of her desire to reinstitute the familial unit as a whole. The record indicates a strong bond between the

5. Although the record does not definitively establish how long Mother has been sober, her case manager through a probation-related program testified that Mother had supplied eight clean urine samples and that the samples were taken once a week.

oldest child and the two younger children, especially because the oldest child was forced to mother the children when Mother would leave the children unattended. However, the record is clear that the foster parents for all children have expressed a willingness and desire for the bond and relationship between the siblings to continue even if permanent custody and the PPLA are granted.

{¶ 37} Regarding the custodial history of the children, and as stated above, the children are doing very well in their placement. The children are thriving in both school and social activities, with the children having consistent attendance in school and improved grades and behavior. The children also have experienced structure that was otherwise missing in their lives, such as rules regarding healthy eating habits, proper movies and programs to watch, and age-appropriate chores.

{¶ 38} The record is clear that both foster families have taken an interest in the children's respective educational endeavors, and have also provided the opportunity for the children to participate in extracurricular activities, all while allowing the children to maintain their bond with each other. The two younger children's foster mother testified that she invites the oldest child over to spend time with the two younger children, that their family invites the oldest child to participate in their plans and special events, and that such involvement would continue indefinitely. All involved, including Mother and the guardian ad litem for the children, expressed the positive impact the placements have had on the children.

{¶ 39} Regarding the need for permanent placement, and as referenced above, the children lack stability, structure, and security with Mother. Mother, who did not have a valid driver's license at the time of the hearing, had a long history of drug and alcohol abuse, a history of unemployment, and an inability to provide the children with proper care or housing. Mother, although she had made some strides toward completing her case plan, was only newly sober, newly/temporarily employed, and living with her boyfriend's parents because of

their good graces. Mother is dependent upon the good will of her boyfriend's parents for shelter, and had not secured any independent housing for herself or the children.

{¶ 40} The juvenile court noted, and we agree, that all of the strides Mother has made regarding employment, transportation, and mental health are all dependent upon sobriety, which was short-lived at the time of the hearing. Mother admitted that she has a long history of relapse, and only recently admitted to having a drug problem. While we agree with the juvenile court that Mother's sobriety was a step in the right direction for her own life, we also agree that the damage she had done to the children was significant and the actions she took in the three months prior to the permanent custody hearing were "too little" to overcome her prolonged history.

{¶ 41} As noted by the juvenile court, Mother's credibility and adamancy that she would continue her sobriety are questionable given the very short amount of time she has been sober versus her long and documented history of relapse and continued drug abuse to the detriment of the children. As stated by the juvenile court, "this Court dealt with [Mother] numerous times trying to get her to take care of her children's needs. This Court jailed her several times in [an] attempt to get her clean and to a point that she would understand that her children were important and needed her. She kept failing * * *."

{¶ 42} In granting PPLA and permanent custody, and in finding that such were in the best interest of the children, the juvenile court noted its unwillingness to subject the children to any further relapse by Mother or her failure to establish an ability to parent the children properly. We agree with the juvenile court because, as we have previously stated, "the future well-being of a child dictates that the child need not wait any longer than necessary for its mother or father to assume his or her rightful responsibilities. Therefore, where a parent has repeatedly exhibited behavior which adversely affects the child, the parent's right to the child is properly subordinated." *In re Rucker*, 12th Dist. Butler No. CA2002-05-126, 2002-Ohio-

6878, ¶ 22.

{¶ 43} After reviewing the record, we find that the juvenile court's decisions granting permanent custody and PPLA were proper. As such, Mother's first and fourth assignments of error are overruled.

{¶ 44} Assignment of Error No. 2:

{¶ 45} THE TRIAL COURT ERRED IN FINDING THAT PREBLE COUNTY CHILDREN SERVICES HAD MADE EVERY REASONABLE EFFORT TO PREVENT THE REMOVAL OF THE CHILDREN FROM THEIR BIOLOGICAL PARENTS AND/OR FAMILY MEMBERS.

{¶ 46} Mother argues in her second assignment of error that the Agency had not made reasonable efforts because the caseworker failed to assist her in remedying the problems that caused the children to be removed.

{¶ 47} According to R.C. 2151.412, the Agency was under an obligation to prepare and maintain a case plan for the children in temporary custody.⁶ When examining whether the agency made reasonable efforts, 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 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 K.L.*, 12th Dist. Clermont No. CA2012-08-062, 2013-Ohio-12, ¶ 18.

{¶ 48} The juvenile court found that "the case plan was standard and relatively simple," and that services to support all of the requirements in the case plan were "in place"

6. According to R.C. 2151.419(A)(2)(d), a trial court is not obligated to make a reasonable efforts finding where the trial court finds the child abandoned and states that no such reasonable efforts finding is necessary. While the juvenile court found the children abandoned, it did not make a finding that no reasonable efforts were necessary.

for Mother.⁷ Notwithstanding the fact that the Agency offered support for Mother in completing the case plan, the record clearly indicates that Mother failed to perform according to the plan. Despite the Agency's prolonged involvement with Mother and the children, Mother has failed to prove that she can remain drug free, provide for the children's basic needs, or provide a safe home for the children. Even with times of sobriety in her life, Mother has a history of relapse, and she has not shown the ability to maintain employment or hold a driver's license. She also plans on reuniting with a boyfriend who struggles with drug addiction, has a documented history of methamphetamine manufacturing and gun-related convictions, and was incarcerated at the time of the permanent custody hearing.

{¶ 49} Mother essentially argues that the Agency did not do enough to help her with the plan, and that her caseworker was less than diligent. However, and as this court has stated in the past, the issue is not whether the Agency could have done more. The record does demonstrate that the caseworker had a large case load, was not up to date on entering case notes into the computer, and did not visit with Mother as often as she did the children. Even so, Mother has not cited a single case to stand for the proposition that an Agency fails to provide reasonable efforts because its employees are overworked. There is no indication in the record that the Agency failed to support Mother. Instead, the record is patently clear that Mother took no action on her case plan until approximately three months prior to the permanent custody hearing, and that even when she did take steps, she failed to complete the items on the case plan.

7. The juvenile court did not expressly couch its findings in terms of "reasonable efforts" in its entry for permanent custody. Nonetheless, the juvenile court made express "reasonable efforts" findings within past entries, stating that the Agency had made reasonable efforts to prevent the removal of the children. Therefore, the juvenile court's findings were properly journalized because the court is not required to make a reasonable efforts determination at a hearing on a permanent custody motion so long as the finding was made at other stages of the child-custody proceeding. *In re A.D.*, 12th Dist. Fayette No. CA2014-06-014, 2014-Ohio-5083, ¶ 17.

{¶ 50} After reviewing the record, we find that the juvenile court's finding of reasonable efforts was proper. As such, Mother's second assignment of error is overruled.

{¶ 51} Assignment of Error No. 3:

{¶ 52} THE TRIAL COURT ERRED IN MAKING A DECISION PRIOR TO HEARING THE EVIDENCE REGARDING THE MOTION FOR EXTENSION OF TEMPORARY CUSTODY FILED BY MOTHER'S COUNSEL.

{¶ 53} Mother argues in her third assignment of error that the juvenile court erred in denying her motion for an extension of temporary custody.

{¶ 54} At the beginning of the permanent custody hearing, which occurred on January 13, 2015, the juvenile court noted that Mother had filed a motion to extend the Agency's temporary custody on January 7, 2015. The juvenile court denied Mother's motion and continued with the permanent custody hearing. Mother argues that the juvenile court's dismissal of the motion was a "pre-judgment" and that the court should have allowed Mother to present evidence on the strides she had taken to complete her case plan.

{¶ 55} According to R.C. 2151.415(D)(1), a trial court shall hold a hearing before ruling on a motion for an extension of custody filed by the Agency. However, the record is clear that Mother, not the Agency, filed the motion for an extension of the Agency's temporary custody. Mother offers no support for her contention that the statute's requirement for a hearing applies equally when the motion is filed by a parent, rather than the Agency. "It seems illogical to require a court to schedule a separate hearing for extending temporary custody where the court just held an entire hearing on the more drastic dispositions of permanent and legal custody." *In re Nice*, 141 Ohio App.3d 445, 453, 2001-Ohio-3214 (7th Dist.). Instead, "if evidence at that hearing on permanent and legal custody persuaded the court that the factors for extending temporary custody existed, then the court could extend temporary custody immediately thereafter" according to R.C. 2151.415(D)(1). *Id.*

{¶ 56} The extension of temporary custody is permitted at the juvenile court's discretion, and requires the court to find that the extension is in the children's best interests and that, among other factors, there had been significant progress on the case plan to warrant extension. *In re H.G.*, 12th Dist. Clinton No. CA2014-11-014 2015-Ohio-1764, ¶ 19.

{¶ 57} The record is clear that the juvenile court would not have made findings to this effect because the court's findings expressly stated that permanent custody/PPLA was in the children's best interests in part because Mother had failed to make enough progress on her case plan. As such, and even if we were to find that a hearing should have been held, the record is clear that the juvenile court considered all of the evidence offered at the permanent custody hearing that it would have heard and considered after a hearing to extend temporary custody. Consequently, the juvenile court's permanent custody determination rendered moot any attempt by Mother to extend the Agency's temporary custody. *See In re H.G.*, 12th Dist. Clinton No. CA2014-11-014, 2015-Ohio-1764, ¶ 24 (affirming dismissal of a father's motion to extend temporary custody because the juvenile court's finding that a grant of permanent custody to the agency was in the child's best interest "necessarily implied that an extension of temporary custody was not").

{¶ 58} Despite Mother's concern that the juvenile court's decision not to extend the Agency's temporary custody was a "pre-judgment," the record indicates that the juvenile court would not have granted the extension of temporary custody given Mother's failure to make sufficient strides on her case plan and because granting permanent custody/PPLA was in the children's best interests. As such, Mother's third assignment of error is overruled.

{¶ 59} Judgment affirmed.

HENDRICKSON and M. POWELL, JJ., concur.