

evidence, that the trial court did not err in awarding permanent custody of the child to the Clark County Department of Job and Family Services (the Agency). Accordingly, the judgment of the trial court is Affirmed.

I

{¶ 3} In March 2008, the Agency filed a motion for shelter care of L.G., who was one week old at the time. The motion was denied by a magistrate, who ruled that a protective order of supervision was more appropriate. At that time, the parties stipulated to a twelve-month protective supervision term. In May 2008, the Agency filed another motion for temporary shelter care, due to bruising on the child's face. The child was examined at Dayton Children's Medical Center where it was observed that she "had some petechiae under the right eye and circular bruises on her face." The emergency room doctor who examined the child said he thought the bruising was the result of physical abuse. N.M. and the child's father did not deny that the child was injured, but they offered no explanation for the presence of the bruising. They later alleged that an uncle of N.M.'s had injured the child, but they failed to file any charges against him.

{¶ 4} In July 2008, the trial court found that the child was dependent and granted temporary custody of the child to the Agency. A case plan was approved, which required N.M. to attend parenting classes, participate in the child's Help Me Grow social services program, attend professional psychological counseling, obtain suitable housing, attend the medical and physical therapy appointments of the child, cooperate with the assigned parent aide, and cooperate with her MRDD (Mental Retardation and Developmental Disability) services provider.

{¶ 5} In February 2009, the Agency filed a motion for permanent custody, as a result of N.M.'s failure to comply with her case plan. After two days of hearings, the trial court awarded permanent custody to the Agency. N.M. appeals from the permanent custody award.

II

{¶ 6} N.M.'s sole assignment of error is as follows:

{¶ 7} "THE TRIAL COURT ERRED BY GRANTING THE MOTION FOR PERMANENT CUSTODY WHEN CCDJFS FAILED TO SHOW, BY CLEAR AND CONVINCING EVIDENCE, THAT PERMANENT CUSTODY WAS APPROPRIATE."

{¶ 8} N.M. contends that the Agency failed to provide evidence sufficient to prove that the child could not be placed with a parent within a reasonable time or that an award of permanent custody to the Agency was in the best interest of the child.

{¶ 9} In a proceeding for the termination of parental rights, all of the court's findings must be supported by clear and convincing evidence. R.C. 2151.414(E). An appellate court will reverse a trial court's determination concerning parental rights and custody only when the decision is not supported by sufficient evidence to meet the clear and convincing standard of proof. "Clear and convincing evidence is that level of proof which would cause the trier of fact to develop a firm belief or conviction as to the facts sought to be proven." *Miller v. Greene County Children's Services Board* (2005), 162 Ohio App.3d 416, 2005-Ohio-4035. The credibility of the witnesses and the weight to be given to their testimony are primarily matters for the trial court, as the finder of fact, to resolve. *State v. Terry*, Darke App. No. 1730,

2008-Ohio-6738, ¶46.

{¶ 10} R.C. 2151.414(B)(2) and (E)(1) and (4) provide that a trial court shall award permanent custody if it finds that permanent custody is in the child's best interest and that the child cannot be placed with a parent within a reasonable period of time or should not be placed with either parent because the parent has demonstrated a lack of commitment toward the child by failing to regularly support, visit, or communicate with the child when able to do so, or by other actions showing an unwillingness to provide an adequate permanent home for the child or because the parents have failed to remedy the problem that initially caused the child to be placed outside the home.

{¶ 11} In this case, the evidence clearly and convincingly demonstrates that the child was removed from the home due to unexplained injuries. Thereafter, the Agency implemented a case plan designed to help N.M. address her mental health issues and develop parenting skills. The evidence shows that this aid was necessary. Specifically, the evidence demonstrates that N.M., who has an I.Q. of about 60, is not able to take care of the child. Indeed, she had trouble even dressing L.G. As a result of her disability, N.M. was not able to drive, cook, pay her bills or meet her own basic needs without the help of MRDD personnel.

{¶ 12} By her own admission, N.M. understood the case plan, yet failed to complete the objectives set out therein. Indeed, N.M. failed to attend the majority of the child's medical and physical therapy appointments. She failed to attend the Help Me Grow programming and did not attend parenting classes. N.M. did attend about two months of counseling, but did not complete the services provided to her. While

she testified that she is capable of working, she contradicted herself by testifying that she receives Social Security Disability Income for the reason that she is unable to work. The evidence also shows that N.M. failed to take part in work education programs offered by MRDD. Finally, while N.M. claimed that she was living in suitable housing – a one-bedroom apartment – she failed to make the residence available for inspection by the Agency.

{¶ 13} The evidence also shows that the best interest of the child would be served by an award of permanent custody. The child was placed in foster care at the age of one month, and she remained in foster care until the date of the hearing, at which time she was about fifteen months old. The foster family has expressed an interest in adopting her. L.G. has bonded to the foster family and is doing well in their care. The Guardian Ad Litem appointed to represent L.G. filed a report in which he opined that an award of permanent custody was in L.G.'s best interest. There is no evidence in the record to indicate that any relative is available to take custody of the child.

{¶ 14} We concur with the trial court's conclusions. From the evidence presented, N.M. is not capable of caring for L.G., without substantial assistance. Despite this fact, and the reasonable efforts of the Agency, N.M. did not take any steps to improve her parenting skills. Indeed, as the trial court stated, N.M. was "willfully deficient in completing the reasonable programming offered for her and her child." The child is doing well with her foster family, and her best interests would be served by an award of permanent custody and subsequent adoption. Therefore, we conclude that the trial court did not err in awarding permanent custody to the Agency.

{¶ 15} N.M.'s sole assignment of error is overruled.

III

{¶ 16} N.M.'s sole assignment of error having been overruled, the judgment of the trial court is Affirmed.

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GRADY and FROELICH, JJ., concur.

Copies mailed to:

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