



*Gwin, P.J.*

{¶1} Appellant Penni Simpson appeals a judgment of the Court of Common Pleas, Juvenile Division, of Licking County, Ohio, which terminated her parental rights in her three minor children, then aged six, four, and three. Appellant assigns a single error to the trial court:

{¶2} “THE TRIAL COURT’S ORDER GRANTING PERMANENT CUSTODY TO THE AGENCY IS CONTRARY TO LAW AND AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.”

{¶3} The record indicates the Licking County Department of Family Services, Children Services Division, first became involved with the family in about January, 2000. The issues were the same throughout the case: the father’s drinking, the father and appellant’s inability to keep the home clean; marital difficulties; and financial instability leading to the loss of resources and utilities. Children’s Services decided to remove the children and file the case plan for reunification of the family.

{¶4} Thereafter, appellant’s progress was sporadic, as the father, who is not a party to this appeal, left the home and then returned to it. On July 30, 2002, the agency filed its motion for permanent custody, arguing all the problems which caused it to remove the children from the home were still present.

{¶5} After a motion for permanent custody is filed, the trial court must hold a hearing pursuant to R.C. 2151.35, to determine whether, by clear and convincing evidence, it is in the best interest of the child to grant permanent custody to the moving party. In addition, the court must find, *inter allia*, that the child cannot be placed with

either of the child's parents within a reasonable time, or should not be placed with the child's parents. The court made this finding.

{¶6} R.C. 2151.414 (D) sets forth the factors the trial court must consider in determining the best interest of the child:

“(D) In determining the best interest of a child at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) or (5) of section 2151.353 or division (C) of section 2151.415 of the Revised Code, the court shall consider all relevant factors, including, but not limited to, the following:

“(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;

“(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;

“(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;

“(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;

“(5) Whether any of the factors in divisions (E)(7) to (11) of this section apply in relation to the parents and child.”

{¶7} The statute provides various factors a court should consider in determining whether the child cannot be placed with either parent within a reasonable time or should be placed with either parent. One of the factors is that following placement of the child with the agency and notwithstanding reasonable case planning and diligent efforts by the agency to assist the parents to remedy the problems that initially caused the child to be placed outside the home, the parent has failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home. The court must consider what resources were available to the parents and whether they used them.

{¶8} The trial court found the parents had failed continuously and repeatedly to remedy the conditions which existed at the time of the children's removal from the home, notwithstanding reasonable case planning and diligent efforts by the agency to assist them.

{¶9} At the hearing, various witnesses testified the same issues had been present in the family throughout the agency's involvement. The court found the parents were unable to manage their lives in a consistently productive manner. At one period, they allowed eleven relatives to reside with them for several weeks. As a result, the parents lost their subsidized housing.

{¶10} The court found the parents have separated and reconciled, but the marriage is unstable. Both parties have participated in marital and individual counseling without completing either. The father refuses to take prescription anti-depressant medication, and refuses to attend AA meetings. The court found although the father claims to have achieved sobriety, he had no explanation for why he purchased beer. The court found the parties were unable to keep their home clean and fit for family living, and had been unable to maintain the utilities consistently. At one point, all their electrical power was obtained from an extension cord plugged into a neighbor's apartment. Neither the gas nor the electricity were in the father's name at the time of hearing, even though he was the sole source of income. The family had no telephone service. The court found with no subsidized housing, a minimal income, and serious unresolved emotional issues, the parents' future looked bleak. The court found to give the parents additional time to rectify their situation was only likely to yield the same mixture of set backs and minimal progress. The court concluded the parents would not

be able to provide a reasonably stable home for the children any time in the foreseeable future.

{¶11} Our review of the record leads us to conclude the trial court was correct in finding, by clear and convincing evidence, that it was in the best interest of the children to terminate the parental rights and place them in permanent custody of the Children's Services Department.

{¶12} The assignment of error is overruled.

{¶13} For the foregoing reasons, the judgment of the Court of Common Pleas, Juvenile Division, of Licking County, Ohio, is affirmed.

By Gwin, P.J.,

Hoffman, J., and

Wise, J., concur

Topic: Domestic Relations – termination of parental rights