

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

IN RE: ROBINSON/BROOKS

MINOR CHILDREN

: JUDGES:
: Hon. Sheila G. Farmer, P.J.
: Hon. Julie A. Edwards, J.
: Hon. John F. Boggins, J.
:
:
: Case No. 2003CA00354
:
:
: OPINION

CHARACTER OF PROCEEDING: Appeal from the Court of Common Pleas,
Juvenile Division, Case Nos. JU-
111071/125406

JUDGMENT: Reversed and remanded

DATE OF JUDGMENT ENTRY: January 20, 2004

APPEARANCES:

For Appellant

KELLY S. MURRAY
116 Cleveland Avenue, N.W.
Suite 305
Canton, OH 44702

For Appellee

RANDALL B. MUTH
220 East Tuscarawas Street
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Farmer, P.J.

{¶1} On February 29, 2000, appellee, the Stark County Department of Job and Family Services, filed a complaint seeking temporary custody of Rayla Robinson, born August 14, 1997, alleging the child to be a dependent and neglected child. Mother of the child is appellant, Turonia Robinson; alleged father is Robert Covington.

{¶2} On May 25, 2000, the trial court found the child to be a neglected child and placed the child in appellee's temporary custody.

{¶3} On December 18, 2002, appellee filed a complaint seeking temporary custody of Demaren Brooks, born July 13, 2002, alleging the child to be a dependent and neglected child. Mother of the child is appellant; alleged fathers are Different Brooks and Arthur Skinner.

{¶4} On March 10, 2003, the trial court found the child to be a dependent child and placed the child in appellee's temporary custody.

{¶5} On June 10, 2003, appellee filed a complaint for permanent custody of both children. A hearing was held on August 12, 2003. By judgment entry filed September 15, 2003, the trial court terminated appellant's parental rights and granted permanent custody of the children to appellee.

{¶6} Appellant filed an appeal and this matter is now before this court for consideration. Assignments of error are as follows:

I

{¶7} "THE TRIAL COURT ABUSED ITS DISCRETION BY FAILING TO HOLD THE BEST INTEREST PHASE OF THE PERMANENT CUSTODY TRIAL BEFORE

GRANTING PERMANENT CUSTODY TO THE STARK COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES."

II

{¶8} "THE TRIAL COURT ABUSED ITS DISCRETION AND/OR ERRED AS A MATTER OF LAW BY FAILING TO BASE ITS FINDINGS OF FACTS ON THE EVIDENCE PRESENTED AT TRIAL."

III

{¶9} "THE TRIAL COURT ERRED IN ITS DETERMINATION THAT THE STARK COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES PUT FORTH GOOD FAITH AND DILIGENT EFFORTS TO REHABILITATE THE FAMILY SITUATION."

IV

{¶10} "THE JUDGMENT OF THE TRIAL COURT THAT THE MINOR CHILDREN CANNOT OR SHOULD NOT BE PLACED WITH APPELLANT WITHIN A REASONABLE TIME WAS AGAINST THE MANIFEST WEIGHT AND SUFFICIENCY OF THE EVIDENCE."

I

{¶11} Appellant claims the trial court failed to conduct a best interests hearing or to hear evidence on best interests pursuant to R.C. 2151.414(D) before awarding permanent custody of the children to appellee.

{¶12} In its brief at 5, appellee concedes "the trial court did not possess sufficient information after the hearing which it did hold to determine the best interest of the children."

{¶13} This court has held "based upon a reading of R.C. 2151.414, a trial court must conduct the hearing provided for in section (A) of the statute before it can terminate parental rights and grant permanent custody to the Agency." *In Re Wallace Children* (December 30, 1997), Stark App. No. 1997CA00033, at 5. See also, *In Re Lewis Children* (June 15, 1998), Stark App. No. 1997CA00251.

{¶14} Upon review, we find the trial court erred in not conducting a best interests review pursuant to R.C. 2151.414(D). The matter is reversed and remanded for a best interests review.

II, III, IV

{¶15} Based upon our decision in Assignment of Error I, these assignments are moot.

{¶16} The judgment of the Court of Common Pleas Court of Stark County, Ohio, Juvenile Division is hereby reversed.

By Farmer, P.J.

Edwards, J. and

Boggins, J. concur.