

COURT OF APPEALS
GUERNSEY COUNTY, OHIO
FIFTH APPELLATE DISTRICT

IN THE MATTER OF T.B.	:	JUDGES:
	:	Hon. W. Scott Gwin, P. J.
	:	Hon. William B. Hoffman, J.
	:	Hon. Sheila G. Farmer, J.
	:	
	:	
	:	Case No. 15 CA 3
	:	
	:	
	:	<u>OPINION</u>

CHARACTER OF PROCEEDING:	Civil appeal from the Guernsey County Court of Common Pleas, Case No. 12JC00534
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JUDGMENT:	Affirmed
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DATE OF JUDGMENT ENTRY:	May 26, 2015
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APPEARANCES:

For-Appellant

JEANNETTE M. MOLL
P.O. Box 461
Zanesville, OH 43702

MELISSA WILSON
GUARDIAN *AD LITEM*
1009 Steubenville Avenue
Cambridge, OH 43725

For- Father
RONALD COUCH
121 West 8th Street
Cambridge, OH 43725

For-Appellee

BRIAN CONAWAY
Assistant Prosecuting Attorney
139 West 8th Street
Box 640
Cambridge, OH 43725

Gwin, P.J.

{¶1} Appellant-mother Michelle Castner ["Mother"] appeals the January 22, 2015, Judgment Entry of the Guernsey County Court of Common Pleas, Juvenile Court Division, which terminated her parental rights with respect to her minor child, T.B. (b. Feb 17, 2008) and granted permanent custody of the child to appellee, Guernsey County Child Services (hereinafter "GCCS").

Facts and Procedural History

{¶2} In August 2012, GCCS began receiving reports concerning the living conditions and parenting ability of Mother. A home visit was conducted on September 5, 2012 during which it was determined that T.B. could not safely remain in the home. Mother signed a 30-day voluntary agreement for the care of T.B. At that time, T.B. was placed in a licensed foster home. Mother signed a second 30-day voluntary agreement on October 4, 2012.

{¶3} A Complaint for Dependency was filed November 5, 2012 alleging that T.B. was a dependent minor pursuant to R.C. 2151.04(C). By Judgment Entry filed November 26, 2012, the trial court granted temporary custody of T.B. to GCCS.

{¶4} On January 9, 2013, an Adjudicatory Hearing was held. By Judgment Entry filed January 17, 2013, the trial court found T.B. to be a dependent child and T.B. was placed in the temporary custody of GCCS.

{¶5} On January 24, 2013, a Dispositional Hearing was conducted. By Judgment Entry filed February 5, 2013, temporary custody was continued to GCCS.

{¶6} By Entry of May 8, 2013, the Court ordered, "the child is to have an extended visitation with the mother beginning April 22, 2013 for thirty (30) days."

{¶7} Although T.B. was given extended visitation with Mother, he was again removed from Mother's home because of concerns for parental supervision. On May 29, 2013, a surprise visit was conducted at Mother's home. It was discovered at that time that T.B. had been left unattended. Mother told the workers that she had been lying down and her dogs had been watching T.B.

{¶8} By Entry of September 3, 2013, temporary custody to GCCS was extended for six (6) months.

{¶9} GCCS filed a motion for permanent custody on February 26, 2014.

{¶10} On June 2, 2014, the GAL filed her report recommending that permanent custody be granted to GCCS.

{¶11} By Entry filed June 12, 2014, the parties agreed the Permanent Custody hearing was continued to August 25, 2014.

{¶12} On August 21, 2014, GCCS filed a Motion to Dismiss Permanent Custody Motion.

{¶13} On August 25, 2014, GCCS filed a Motion to Modify Dispositional Orders to Permanent Custody.

{¶14} By Judgment Entry filed September 5, 2014, the trial court continued temporary custody to GCCS for six months.

{¶15} The hearing on the motion for permanent custody took place on November 3, 2014 and December 11, 2014.

{¶16} The initial concerns that led to the child's removal were the living conditions, parenting ability, and lack of age appropriate supervision. In response to these conditions, a case plan was developed to remedy the concerns that led to the

removal of the child. The caseworker testified at length about the different services that were implemented. (2T. at 213-217). However, the services were not successful in remedying the concerns. Areas of concern remained, including appropriate supervision of the T.B.; appropriate decision making for T.B., and whether Mother would be able to meet the child's basic needs and provide a protective environment for the child.

{¶17} The caseworker further indicated that there were no additional services that were available to remedy the concerns and reunify the family.

{¶18} Two parenting assessments were obtained for Mother. Michael Stranathan, M.A., performed the first evaluation. The purpose of the exam was to determine Mother's ability to safely and adequately parent T.B.

{¶19} Stranathan found that Mother acted in a very negative manner, displaying passive aggressive traits. Stranathan further found Mother was unwilling to address the circumstances that led to her involvement with GCCS and was unable to say what would prevent a recurrence of the situation. Stranathan further noted that Mother did not provide him with any assurance that if she were able to regain custody of T.B., the same or similar circumstances would not occur.

{¶20} Aimee Thomas, PhD, J.D., PCC-S performed a further evaluation. Dr. Thomas expressed concerns for Mother's cause and effect reasoning and that Mother was not learning from past mistakes. (1T. at 133). Further, although Mother was being taught certain parenting techniques, she was unable to internalize this information and was unable to learn the information and transfer it to real life situations.

{¶21} Dr. Thomas further indicated that Mother does not appear to understand how her lifestyle choices adversely affect her child.

{¶22} When asked whether the conditions that prohibited reunification were likely to change in the future, Dr. Thomas indicated she did not anticipate a change in Mother's behavior because the case had been open two years with repeated redirection, and from the information presented to her, nothing has changed in Mother's approach to parenting.

{¶23} The trial court found that Mother had terminated her counseling services and relied upon her current boyfriend to do the parenting.

{¶24} By Judgment Entry filed January 22, 2015, the trial court granted permanent custody of T.B. to GCCS.

Assignments of Error

{¶25} Mother raises three assignments of error,

{¶26} "I. THE JUDGMENT OF THE TRIAL COURT THAT THE AGENCY HAD MADE REASONABLE EFFORTS TO PREVENT REMOVAL IS NOT SUPPORTED BY CLEAR AND CONVINCING EVIDENCE.

{¶27} "II. THE JUDGMENT OF THE TRIAL COURT THAT THE BEST INTERESTS OF THE MINOR CHILD WOULD BE SERVED BY THE GRANTING OF PERMANENT CUSTODY WAS AGAINST THE MANIFEST WEIGHT AND SUFFICIENCY OF THE EVIDENCE.

{¶28} "III. THERE WAS NOT CLEAR AND CONVINCING EVIDENCE FOR THE TRIAL COURT TO FIND THAT THE MINOR CHILD SHOULD NOT BE PLACED WITH APPELLANT AND THAT IT WAS IN THE MINOR CHILD'S BEST INTEREST TO BE PLACED IN THE PERMANENT CUSTODY OF GUERNSEY COUNTY CHILDREN'S SERVICES."

Burden of Proof

{¶29} “[T]he right to raise a child is an ‘essential’ and ‘basic’ civil right.” *In re Murray*, 52 Ohio St.3d 155, 157, 556 N.E.2d 1169(1990), *quoting Stanley v. Illinois*, 405 U.S. 645, 92 S.Ct. 1208, 31 L.Ed.2d 551(1972). A parent's interest in the care, custody and management of his or her child is “fundamental.” *Id.*; *Santosky v. Kramer*, 455 U.S. 745, 753, 102 S.Ct. 1388, 71 L.Ed.2d 599(1982). The permanent termination of a parent's rights has been described as, “* * * the family law equivalent to the death penalty in a criminal case.” *In re Smith*, 77 Ohio App.3d 1, 16, 601 N.E.2d 45(6th Dist. 1991). Therefore, parents “must be afforded every procedural and substantive protection the law allows.” *Id.*

{¶30} An award of permanent custody must be based upon clear and convincing evidence. R.C. 2151.414(B)(1). The Ohio Supreme Court has defined “clear and convincing evidence” as “[t]he measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the allegations sought to be established. It is intermediate, being more than a mere preponderance, but not to the extent of such certainty as required beyond a reasonable doubt as in criminal cases. It does not mean clear and unequivocal.” *In re Estate of Haynes*, 25 Ohio St.3d 101, 103-104, 495 N.E.2d 23 (1986).

Standard of Review

{¶31} The Ohio Supreme Court has delineated our standard of review as follows,

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. See *Ford v. Osborne*, 45 Ohio St. 1, 12 N.E. 526, *Cole v. McClure*, 88 Ohio St. 1, 102 N.E. 264, and *Frate v. Rimenik*, 115 Ohio St. 11, 152 N.E. 14.

Cross v. Ledford, 161 Ohio St. 469, 477, 120 N.E. 2d 118 (1954). A court of appeals will affirm the trial court's findings "if the record contains competent, credible evidence by which the court could have formed a firm belief or conviction that the essential statutory elements for a termination of parental rights have been established." *In re Adkins*, 5th Dist. Nos. 2005AP06–0044 and 2005AP07–0049, 2006-Ohio-431, 2006 WL 242557, ¶17.

{¶32} In *Cross*, the Supreme Court further cautioned,

The mere number of witnesses, who may support a claim of one or the other of the parties to an action, is not to be taken as a basis for resolving disputed facts. The degree of proof required is determined by the impression which the testimony of the witnesses makes upon the trier of facts, and the character of the testimony itself. Credibility, intelligence, freedom from bias or prejudice, opportunity to be informed, the disposition to tell the truth or otherwise, and the probability or improbability of the statements made, are all tests of testimonial value. *Where the evidence is in conflict, the trier of facts may determine what should be accepted as the truth and what should be rejected as false.* See *Rice v. City of Cleveland*, 114 Ohio St. 299, 58 N.E.2d 768.

161 Ohio St. at 477-478. (Emphasis added).

Requirements for Permanent Custody Awards

{¶33} R.C. 2151.414 sets forth the guidelines a trial court must follow when deciding a motion for permanent custody. R.C. 2151.414(A)(1) mandates the trial court schedule a hearing and provide notice upon filing of a motion for permanent custody of a child by a public children services agency or private child placing agency that has temporary custody of the child or has placed the child in long-term foster care.

{¶34} Following the hearing, R.C. 2151.414(B) authorizes the juvenile court to grant permanent custody of the child to the public or private agency if the court determines, by clear and convincing evidence, it is in the best interest of the child to grant permanent custody to the agency, and that any of the following apply:

(a) The child is not abandoned or orphaned, has not 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 has not 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 if, 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, and 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;

(b) the child is abandoned;

(c) the child is orphaned and there are no relatives of the child who are able to take permanent custody; or

(d) 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.

{¶35} Therefore, R.C. 2151.414(B) establishes a two-pronged analysis the trial court must apply when ruling on a motion for permanent custody. In practice, the trial court will usually determine whether one of the four circumstances delineated in R.C. 2151.414(B)(1)(a) through (d) is present before proceeding to a determination regarding the best interest of the child.

1. The Child Had Been in the Temporary Custody of the Agency for a Period of Time in Excess of Twelve of the Prior Twenty-Two Consecutive Months—R.C. 2151.414(b)(1)(d).

{¶36} In the case sub judice, the trial court found, pursuant to R.C. 2151.414(B)(1)(d) that the child had been in the temporary custody of the agency for a period of time in excess of twelve of the prior twenty-two consecutive months. Specifically the trial court found that T.B. has been in the custody of GCCS for 27 months.

{¶37} Before a public children-service agency or private child-placing agency can move for permanent custody of a child on R.C. 2151.414(B)(1)(d) grounds, the child must have been in the temporary custody of an agency for at least 12 months of a consecutive 22-month period.” *In re: C.W.*, 104 Ohio St.3d 163, 2004–Ohio–6411, 818 N.E.2d 1176 at paragraph one of the syllabus. When calculating this time period, the court in *C.W.* cautioned, “the time that passes between the filing of a motion for permanent custody and the permanent-custody hearing does not count toward the 12-month period set forth in R.C. 2151.414(B)(1)(d).” *Id.* at 167, 2004–Ohio–6411 at ¶ 26, 818 N.E.2d at 1180. *Accord, In re: N.C.*, 5th Dist. Stark No. 2011–CA–00141, 2011–Ohio–6113, ¶ 32.

{¶38} As findings under R.C. 2151. 414(B)(1)(a) and R.C. 2151. 414(B)(1)(d) are alternative findings, each is independently sufficient to use as a basis to grant the motion for permanent custody. *In re Langford Children*, 5th Dist Stark No. 2004CA00349, 2005–Ohio–2304, ¶17; *In re Dalton*, 5th Dist. Tuscarawas App. No. 2007 AP 0041, 2007–Ohio–5805, ¶88. Thus, having made this finding, which is supported by the record, it was not necessary for the trial court to also make a finding that the minor child could not be returned within a reasonable time. *In re: C.W.*, 104 Ohio St.3d 163, 2004–Ohio–6411, 818 N.E.2d 1176, ¶21.

{¶39} In the case at bar, GCCS was given temporary custody of T.B. beginning on September 5, 2012. The motion for permanent custody was filed on August 25, 2014. Thus, the child had been in the temporary custody of GCCS for at least 12 months of a consecutive 22-month period at the time the motion for permanent custody was filed. Mother has not challenged the twelve of twenty-two month finding.

{¶40} This finding alone, in conjunction with a best-interest finding, is sufficient to support the grant of permanent custody. *In re Calhoun*, 5th Dist. Stark No. 2008CA00118, 2008–Ohio–5458, ¶ 45. *Accord In re H.P.*, 12th Dist. Preble No. CA2010-07-010, 2011-Ohio-1148, ¶42; *In re C.E.*, 3rd Dist. Hancock Nos. 5-09-02, 5-09-03, 2009-Ohio-6027, ¶18; *In re D.J.*, 2nd Dist. Montgomery No. 21906, 2007-Ohio-6677, ¶23; *In re Donell F.*, 6th Dist. Lucas No. L-04-1308, 2005-Ohio-4175, ¶25.

{¶41} In her First Assignment of Error Mother challenges the trial court's determination concerning removal of the child from the home. In her Third Assignment of Error, Mother challenges the trial court's finding ostensibly under R.C. 2151.414(B)(1)(a), that the child could not or should not be placed with Mother within a reasonable period of time, based upon a finding that one or more of the factors set forth in R.C. 2151.414(E) are applicable, and also upon a separate finding that it is in the best interest of the child, using the best-interest factors set forth under R.C. 2151.414(D).

2. Reasonable Efforts to Prevent the Removal of the Child from the Child's Home.

{¶42} Pursuant to R.C. 2151.419, the agency that removed the child from the home must have made reasonable efforts to prevent the removal of the child from the child's home, eliminate the continued removal of the child from the home, or make it possible for the child to return home safely. The statute assigns the burden of proof to the agency to demonstrate it has made reasonable efforts.

{¶43} However, R.C. 2151.419 does not apply in a hearing on a motion for permanent custody filed pursuant to R.C. 2151.413 and 2151.414. *In re C.F.*, 113 Ohio St.3d 73, 81, 2007–Ohio–1104, 862 N.E.2d 816, (Citation omitted). Therefore, the trial

court was not required to make a specific finding that GCCS had made reasonable efforts to reunify the family. In *In re C.F., supra*, the court also stated that this does not mean that the agency is relieved of the duty to make reasonable efforts,

At various stages of the child-custody proceeding, the agency may be required under other statutes to prove that it has made reasonable efforts toward family reunification. To the extent that the trial court relies on 2151.414(E)(1) at a permanent custody hearing, the court must examine the reasonable case planning and diligent efforts by the agency to assist the parents' when considering whether the child cannot and should not be placed with the parent within a reasonable time.

Id. at paragraph 42.

{¶44} The Ohio Supreme Court has held that the trial court is not obligated by R.C. 2151.419 to make a determination that the agency used reasonable efforts to reunify the family at the time of the permanent custody hearing unless the agency has not established that reasonable efforts have been made prior to that hearing. See *In re C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, 862 N.E.2d 816, ¶¶41; 43. See, also, R.C. 2151.419. The trial court is only obligated to make a determination that the agency has made reasonable efforts to reunify the family at "adjudicatory, emergency, detention, and temporary-disposition hearings, and dispositional hearings for abused, neglected, or dependent children, all of which occur prior to a decision transferring permanent custody to the state." *In re C.F.*, ¶41.

{¶45} A review of the record indicates at multiple review hearings, the Court found GCCS utilized reasonable efforts to reunify the family. Therefore, the showing of

reasonable efforts was not required to be proven by the state or found by the Court during the permanent custody hearing. *In re J.J.F.*, 5th Dist. Stark No. 2009–CA–00133, 2009-Ohio-4736, ¶26.

{¶46} We find that the evidence established that GCCS did provide services designed to alleviate the problem that led to the child's removal and did make diligent efforts to assist Mother in remedying the problem.

3. Parental Placement within a Reasonable Time—R.C. 2151.414(B)(1)(a).

{¶47} The court must consider all relevant evidence before determining the child cannot be placed with either parent within a reasonable time or should not be placed with the parents. R.C. 2151.414(E). The statute also indicates that if the court makes a finding under R.C. 2151.414(E)(1)—(15), the court shall determine the children cannot or should not be placed with the parent. A trial court may base its decision that a child cannot be placed with a parent within a reasonable time or should not be placed with a parent upon the existence of any one of the R.C. 2151.414(E) factors. The existence of one factor alone will support a finding that the child cannot be placed with the parent within a reasonable time. See *In re William S.*, 75 Ohio St.3d 95, 1996–Ohio–182, 661 N.E.2d 738; *In re Hurlow*, 4th Dist. Gallia No. 98 CA 6, 1997 WL 701328 (Sept. 21, 1998); *In re Butcher*, 4th Dist. Athens No. 1470, 1991 WL 62145 (Apr. 10, 1991)..

{¶48} R.C. 2151.414(E) sets forth factors a trial court is to consider in determining whether a child cannot be placed with either parent within a reasonable period of time or should not be placed with the parents. Specifically, Section (E) provides, in pertinent part, as follows:

(E) In determining at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code whether a child cannot be placed with either parent within a reasonable period of time or should not be placed with the parents, the court shall consider all relevant evidence. If the court determines, by clear and convincing evidence, at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code that one or more of the following exist as to each of the child's parents, the court shall enter a finding that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent:

(1) Following the placement of the child outside the child's home 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. In determining whether the parents have substantially remedied those conditions, the court shall consider parental utilization of medical, psychiatric, psychological, and other social and rehabilitative services and material resources that were made available to the parents for changing parental conduct to allow them to resume and maintain parental duties.

* * *

{¶49} (16) Any other factor the court considers relevant.

R.C. 2151.414(D) requires the trial court to consider all relevant factors in determining whether the child's best interests would be served by granting the permanent custody motion. These factors include but are not limited to: (1) the interrelationship of the child with others; (2) the wishes of the child; (3) the custodial history of the child; (4) the child's need for a legally secure placement and whether such a placement can be achieved without permanent custody; and (5) whether any of the factors in divisions (E)(7) to (11) apply.

{¶50} As previously noted, findings under R.C. 2151. 414(B)(1)(a) and R.C. 2151. 414(B)(1)(d) are alternative findings, each is independently sufficient to use as a basis to grant the motion for permanent custody. *In re Langford Children*, 5th Dist. Stark No. 2004CA00349, 2005–Ohio–2304, ¶17; *In re Dalton*, 5th Dist. Tuscarawas No. 2007 AP 0041, 2007–Ohio–5805, ¶88. Thus, the trial court having made this finding, which is supported by the record, was not required to also make a finding that the minor child could not be returned within a reasonable time. *See In re Whipple Children*, 5th Dist. Stark No. 2002CA00406, 2003–Ohio–1101, ¶ 26.

{¶51} Therefore, Mother's reliance upon R.C. 2151.414(B)(1)(a) is misplaced because no finding under R.C. 2151. 414(B)(1)(a) was necessary under the facts of this case.

4. Best Interest of the Child.

{¶52} In determining the best interest of the child at a permanent custody hearing, R.C. 2151.414(D) mandates the trial court must 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 parents 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; and (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.

{¶53} The focus of the "best interest" determination is upon the child, not the parent, as R.C. 2151.414(C) specifically prohibits the court from considering the effect a grant of permanent custody would have upon the parents. *In re: Awkal*, 95 Ohio App.3d 309, 315, 642 N.E.2d 424(8th Dist.1994). A finding that it is in the best interest of a child to terminate the parental rights of one parent is not dependent upon the court making a similar finding with respect to the other parent. The trial court would necessarily make a separate determination concerning the best interest of the child with respect to the rights of the mother and the rights of the father.

{¶54} The trial court made findings of fact regarding the child's best interest. It is well-established that "[t]he discretion which the juvenile court enjoys in determining whether an order of permanent custody is in the best interest of a child should be accorded the utmost respect, given the nature of the proceeding and the impact the court's determination will have on the lives of the parties concerned." *In re: Mauzy Children*, 5th Dist. Stark No. 2000CA00244, 2000 WL 1700073(Nov. 13, 2000), *quoting In re Awkal*, 95 Ohio App.3d 309, 316, 642 N.E.2d 424(8th Dist. 1994).

{¶55} As an appellate court, we neither weigh the evidence nor judge the credibility of witnesses. Our role is to determine whether there is relevant, competent and credible evidence, upon which the fact finder could base its judgment. *Cross Truck v. Jeffries*, 5th Dist. Stark No. CA–5758, 1981 WL 6321 (Feb. 10, 1982). “Reviewing courts should accord deference to the trial court’s decision because the trial court has had the opportunity to observe the witnesses’ demeanor, gestures, and voice inflections that cannot be conveyed to us through the written record, *Miller v. Miller*, 37 Ohio St.3d 71, 523 N.E.2d 846 (1988).

{¶56} In the present case, the trial court’s decision indicates it considered the best interest factors. Upon review of the record, it is clear that the record supports the trial court’s finding that granting the motion for permanent custody is in T.B.’s best interest. The trial court concluded the child’s need for legally secure placement could not be achieved without awarding permanent custody to GCCS. In the case at bar, in addition to the testimony, the trial court considered the report of the GAL.

{¶57} The record makes clear that Mother failed to complete the majority of the case plan provided by GCCS and failed to meet even the basic needs of the child. As set forth in our *Facts and Procedural History*, *supra*, Mother failed to remedy the problems that initially caused the removal of the child from the home. Mother was not consistent with her case plan. Very little if anything, has changed with respect to Mother since this case began. She does not understand the problems with her behavior or, her lifestyle. Mother displays poor judgment and poor coping skills. Mother has been unable to demonstrate any meaningful change in her behavior in nearly two years.

{¶58} The evidence demonstrated the successful efforts Mother had made on portions of the case plan. On that point, the evidence demonstrates that any improvement that Mother has made in her life is tentative and, perhaps, temporary, and that she is at risk of relapse. The trial court found that, regardless of Mother's compliance with aspects of her case plan, she was still not able and unwilling to remedy the conditions that led to T.B.'s removal.

{¶59} Based upon the foregoing, as well as the entire record in this case, the Court properly found both T.B. could not or should not be returned to Mother within a reasonable time. Despite offering numerous services, Mother was unable to mitigate the concerns that led to the children's removal. The record does not demonstrate that if she had been offered different case plan services, the result would have been different. The record supports the trial court's finding that granting the motion for permanent custody is in T.B.'s best interest.

Conclusion

{¶60} For these reasons, we find that the trial court's determination that the child had been in the temporary custody of the agency for a period of time in excess of twelve of the prior twenty-two consecutive months was not against the manifest weight or sufficiency of the evidence. We further find that the trial court's decision that permanent custody to GCCS was in the children's best interest was not against the manifest weight or sufficiency of the evidence.

{¶61} Appellant's first, second and third assignments of error are overruled.

{¶62} The judgment of the Guernsey County Court of Common Pleas, Juvenile Court Division is affirmed.

By Gwin, P.J.,

Hoffman, J., and

Farmer, J., concur