

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

In the Matter of
Amonte A.

Court of Appeals No. L-02-1280

Trial Court No. 01097496

DECISION AND JUDGMENT ENTRY

Decided: December 20, 2002

* * * * *

Stephen A. Meyer, for appellant.

Dianne L. Keeler, for appellee.

* * * * *

KNEPPER, J.

{¶1} This is an appeal from a judgment of the Lucas County Court of Common Pleas, Juvenile Division, that awarded permanent custody of Amonte A. to the Lucas County Children Services Board ("LCCS"). Pursuant to 6th Dist. Loc.App.R. 12(C), this case is assigned to the accelerated calendar.

{¶2} Appellant sets forth the following assignments of error:

{¶3} "I. The trial court abused its discretion and committed reversible error when it adopted the magistrate's decision which terminated the parental rights of appellant but failed to make an award of permanent custody to Lucas County Children Services Board.

{¶4} "II. The trial court abused its discretion and erred as a matter of law by issuing a nunc pro tunc order awarding permanent custody of Amonte to the Lucas County Children Services Board."

{¶5} Amonte A. was born on November 24, 2001 to appellant Brenda A. On November 27, 2001, emergency custody of Amonte was awarded to LCCS, for placement in shelter care, and on January 9, 2002, the agency received temporary custody. The agency filed a motion for permanent custody on April 23, 2002, a hearing was held on August 14, 2002, and the magistrate filed a decision on August 19, 2002, terminating appellant's parental rights. On September 3, 2002, the trial court adopted the magistrate's decision. No written objections were filed by either parent.

{¶6} Appellant filed a timely notice of appeal. On September 12, 2002, the parties filed a joint motion for a nunc pro tunc entry regarding the September 3, 2002 judgment entry. In their memorandum in support, the parties stated that "*** it is clear that the court has merely inadvertently, through clerical error, omitted a clear award of permanent custody to the L.C.C.S.B. from its Judgment Entry and such an award should be made." The parties further stated that counsel for appellant had been made aware of the problem and that counsel joined his signature "*** for purposes of indicating his consent to the correction of the Judgment Entry and herewith asks that the Court amend his notice of appeal to include its Nunc Pro Tunc Entry, should it choose to enter such of record." The parties concluded by asking the trial court to "*** mak[e] a clear award of permanent custody of this child to Lucas County Children Services

Board, as it intended." The memorandum was signed by counsel for LCCS and appellant's counsel.

{¶7} On September 26, 2002, the trial court filed a nunc pro tunc order in which it stated that "[p]ermanent custody of this child is specifically awarded to the Lucas County Children Services Board."

{¶8} In her first assignment of error, appellant argues that the trial court erred by adopting the magistrate's decision because, while the decision clearly terminated her parental rights, it failed to award permanent custody to LCCS. After a thorough review of the trial court record, this court finds that, while the trial court's September 3, 2002 judgment entry was lacking language specifically awarding permanent custody to LCCS, this omission was corrected by the nunc pro tunc entry filed on September 26, 2002. In her second assignment of error, appellant asserts that the trial court erred by issuing a nunc pro tunc order. As we acknowledged above, the trial court's omission was remedied, pursuant to appellant's request by motion filed on September 13, 2002, by the very nunc pro tunc entry of which appellant now complains. As clearly indicated in the portion of the memorandum quoted above, appellant consented to the correction of the judgment entry by nunc pro tunc entry. Based on the foregoing, this court finds that neither of appellant's arguments have merit and her first and second assignments of error are not well-taken.

{¶9} On consideration whereof, this court finds that substantial justice was done the party complaining and the judgment of the Lucas County Court of Common Pleas is affirmed. Costs of this appeal are assessed to appellant.

JUDGMENT AFFIRMED.

Peter M. Handwork, J.

JUDGE

Richard W. Knepper, J.

Mark L. Pietrykowski, P.J.
CONCUR.

JUDGE

JUDGE