

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

In the matter of:
Joe L. D., III

Court of Appeals No. L-02-1295

Trial Court No. JC-98007267

DECISION AND JUDGMENT ENTRY

Decided: November 7, 2003

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Jeremiah A. Hoffer, for appellant.

Joseph W. Westmeyer, Jr., for appellee.

* * * * *

KNEPPER, J.

{¶1} This is an appeal from a judgment of the Lucas County Court of Common Pleas, Juvenile Division, that denied appellants' motion for a change of custody of their child Joe L. D., III. Pursuant to 6th Dist. Loc.App.R. 12(C), this case is hereby assigned to the accelerated calendar.

{¶2} Appellants assert on appeal that the trial court erred by not allowing appellant Joe L. D. Jr. to challenge the validity of the document in which he consented to the transfer of custody of his son to two other individuals in March 1998, and by submitting it into evidence without proper authentication. (At the time of the custody change, the whereabouts of the child's mother were unknown.) There is no evidence in the record, however, that appellant father ever filed objections to the 1998 custody order

or ever objected at any time to admission of the document into evidence. While appellants are appealing a recent judgment of the trial court, the basis for their claimed error is admission of a document into evidence at a proceeding in 1998. Appellants cannot now challenge the validity of a document admitted into evidence at a proceeding five years ago. The time to make such a challenge and preserve his right to appeal this issue was either at the hearing, by filing an objection to the magistrate's decision pursuant to Civ.R. 53(E), or by filing an appeal pursuant to App.R. 3, et seq. Accordingly, appellants' first and second assignments of error are not well-taken.

{¶3} On consideration whereof, this court finds that appellants were not prejudiced and the judgment of the Lucas County Court of Common Pleas, Juvenile Division, is affirmed. Costs of this appeal are assessed to appellants.

JUDGMENT AFFIRMED.

Richard W. Knepper, J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, J.
CONCUR.

JUDGE