**[Cite as *In re Mi.D.*, 2014-Ohio-1895.]**

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

In re Mi.D., Ma.D.

Court of Appeals No. L-13-1247

Trial Court No. JC 12222663

**DECISION AND JUDGMENT**

Decided: May 2, 2014

* * * * *

Laurel A. Kendall, for appellant.

Angela Y. Russell, for appellee.

* * * * *

**PIETRYKOWSKI, J.**

**{¶ 1}** This is an appeal by mother, C.D., of an October 7, 2013 judgment of the Juvenile Division of the Lucas County Court of Common Pleas that awarded permanent custody of her two children to Lucas County Children Services ("LCCS") in an action brought by the agency for dependency, neglect and abuse. The two children are Mi.D. and Ma.D. T.M. is the father of Ma.D. The father of Mi.D. is unknown.

**{¶ 2}** The trial court removed the children from the home and granted temporary custody of them to LCCS for shelter care in a judgment filed on March 27, 2012. At the time, Mi.D. was seven years of age and Ma.D. was age three. LCCS filed a complaint for dependency, neglect and abuse on March 28, 2012. In a June 13, 2012 judgment, the trial court approved and adopted an April 30, 2012 decision of the magistrate that found the children to be dependent, neglected and abused and awarded temporary custody of the children to LCCS. Mother stipulated to the finding and to the award of temporary custody of the children to LCCS. In its judgment, the trial court also ordered LCCS to provide case planning services with a goal of reunification.

**{¶ 3}** LCCS filed a motion on March 14, 2013, for the court to award permanent custody of the children to the agency. Mother appeals the trial court's judgment granting the motion and awarding permanent custody of the children to LCCS.

**{¶ 4}** Mother asserts two assignments of error on appeal:

**Assignments of Error**

1. The court's grant of permanent custody to Lucas County Children Services was against the manifest weight of the evidence.

2. The court's grant of permanent custody to Lucas County Children Services was not proven by clear and convincing evidence.

**{¶ 5}** The original caseworker at LCCS testified at trial that the reasons the agency acted to seek removal of the children from the home in March 2012, were a domestic violence incident involving mother's boyfriend, Kayvon Shelman, that occurred with the

children present and physical abuse of the children by mother. The caseworker testified that the agency received a call in January 2012, reporting that Mi.D. had a bruise on her forehead from being hit with a belt. In March 2012, the caseworker observed that Mi.D. had a welt under her eye. Mother admitted that she whipped the child with a belt and stated that the belt buckle accidently hit the child. Ma.D. had bruises between his thighs from whippings with a belt.

**{¶ 6}** A case plan with a goal to reunify the family was implemented. Mother was provided services to address issues with anger management, domestic violence, parenting, substance abuse, mental health functioning, and housing.

**Anger Management Services**

**{¶ 7}** Mother was initially referred to Providence Center for both domestic violence and anger management services. Mother completed the anger management program at Providence on August 12, 2012.

**Domestic Violence Services**

**{¶ 8}** At mother's request, on June 1, 2012, she was referred to a different service provider for domestic violence services. Mother was referred to Project Genesis, a 16-week domestic violence program provided by Family Services of Northwest Ohio.

Mother began domestic violence treatment at Project Genesis in July 2012. Beforehand, mother encountered a second incident of domestic violence. In June 2012, an incident occurred that involved another argument between mother and Shelman. During the incident, mother threw rocks and broke three windows at Shelman's

apartment. Mother was charged and convicted of criminal damaging as a result of the incident.

**{¶ 9}** Intake for the domestic violence program at Project Genesis occurred on June 1, 2012. In 2012, mother attended seven or eight sessions of group counseling at Project Genesis. In November 2012, mother was asked to leave the treatment program because of behavioral issues she displayed in group counseling. She had not completed domestic violence treatment.

**{¶ 10}** A third domestic violence incident occurred in October 2012, also with Shelman. The two argued and fought. Mother incurred two black eyes in the altercation. Charges were filed against Shelman. According to her caseworker at LCCS, mother did not follow through to pursue the criminal charges. Mother testified otherwise. Mother testified that she cooperated with the prosecution and attended all requested court hearings except one. She testified that she missed one hearing because it conflicted with another scheduled court appearance dealing with her financial situation. Mother testified that she explained the circumstances to a court advocate and was told it was not necessary for her to appear.

**{¶ 11}** Mother was accepted back into the Project Genesis domestic violence treatment program on March 13, 2013. She was compliant with attendance from March until June 2013. Mother began missing sessions and did not complete the program. The director of Project Genesis testified at trial that mother was months from completing the program; that is, if she started on that day (August 19, 2013) and attended all sessions,

she would not complete the program until January 2014. The program director testified that her last contact with mother was on July 2, 2013, when mother was late, caused a commotion, and was disrespectful of staff.

**{¶ 12}** Mother appeared at a pretrial conference in May 2013, with a black eye. Mother testified that she received the injury in a family altercation, when she intervened in an argument between her father and aunt.

**{¶ 13}** On May 28, 2013, mother was involved in an incident at LCCS when she appeared for visitation. Mother was involved in an altercation with a staff member at the agency. The LCCS caseworker testified that visitation staff was signing children in for visitation and mother came out, and "had some verbiage like she was going to slap someone." Words were exchanged. "As mom signed her kids in to go to the room, she bumped the lady. The staff turned around and said some things to mom." The caseworker testified that she had to call security to assist in calming mother down. The incident occurred in front of the children.

**{¶ 14}** Appellant's LCCS caseworker also learned that on June 11, 2013, appellant threatened her. Mother was heard speaking over her telephone as she came to attend a review meeting with her caseworker. Mother stated that when she saw her caseworker, she would "smack" her. Mother was also overheard saying that her caseworker would "feel her wrath" if any questions were asked at their meeting.

## Parenting Services

**{¶ 15}** On April 3, 2012, mother was referred to a parenting program at Providence Center. On June 19, 2012, the LCCS caseworker transferred mother to the LCCS parenting program. Mother participated in the program at LCCS from June of 2012 until November 2012.

**{¶ 16}** Ms. Cherese Mitchell-El was the parent educator for the LCCS parenting program. Ms. Mitchell-El testified that the program included 12 sessions. In the program, the first six sessions work on coping with stress skills. The next five sessions work on coping with children skills. The final session is devoted to review of the prior eleven weeks. The program included observation of a parent's interaction with their children.

**{¶ 17}** Mother did not successfully complete the parenting program. Ms. Mitchell-El testified that mother "did not demonstrate recognizing, managing feelings, and did not demonstrate empathy." With respect to empathy, Ms. Mitchell-El explained: "I did not see her put her children's needs before her own." Mother disputes the assertion that she lacks empathy for her children. She contends that the evidence does not support the claim.

**{¶ 18}** Ms. Mitchell-El testified that mother's attitude towards group facilitators in the parenting program was unpredictable. She would be confrontational on some days and pleasant on others. Ms. Mitchell-El testified as to one incident in which mother "lashed out" at one facilitator because the woman did not have children.

**{¶ 19}** Ms. Mitchell-El recommended in her November 2012 report that mother participate in parent-child interaction therapy ("PCIT") to develop empathy for her children and that mother also participate in trauma focused therapy. The LCCS caseworker testified that referral to PCIT therapy was delayed until April 2013, to wait for mother "to stabilize with her individual counseling and address the domestic violence." The first PCIT appointment was on July 9, 2012, and mother did not participate further. Mother argues that the delay in starting PCIT prevented her from completing PCIT services before trial and that continued participation in PCIT was prevented by loss of medical insurance.

**{¶ 20}** Mother admits that she did not raise any concern about the delay in referral to PCIT until trial. Mother's LCCS caseworker testified that the delay in scheduling PCIT after the referral was made was due, in part, by difficulties getting in contact with mother.

**{¶ 21}** With respect to insurance, mother testified at trial that she received notice in April 2013, that insurance coverage would be cut off. It terminated on May 31, 2013. Mother testified that she never inquired why insurance coverage ended, failed to notify her LCCS caseworker of the development, and did not seek aid from her LCCS caseworker in securing continuation of services without insurance.

**{¶ 22}** Mother maintained relatively consistent visitation with the children until the last few months prior to trial. Trial proceeded on August 19, 2013. Mother did not

attend the two PCIT sessions scheduled for July 2013. Ma.D. was in counseling but mother attended only 4 of 21 counseling sessions with him.

**Substance Abuse Services**

**{¶ 23}** Substance abuse services were added to the case plan after mother tested positive for marijuana in October and November 2012. Mother underwent an assessment by Lloyd Letterman, LISW-S who recommended intensive outpatient treatment through Unison. Unison placed mother in an aftercare program, which she completed successfully in April 2013.

**Mental Health Services**

**{¶ 24}** The original case plan required mother to continue working with a mental health agency for counseling and medication management. Mother received mental health treatment at Harbor from 2009 to 2011. When mother first came to LCCS, her diagnosis was major depressive disorder recurrent, moderate dysthymic with an early onset, post traumatic stress disorder, chronic cocaine dependence in sustained full remission, and cannabis dependence in early full remission. She had received previous mental health services.

**{¶ 25}** In April 2012, mother was treating with the Zepf Center. Mother transferred treatment to Laura Wright at Family Services. After a diagnostic assessment, Ms. Wright had one or two counseling appointment with mother during the period from July 2012 until September 2012. Ms. Wright left the agency. Afterwards, counseling services were provided by Kim Yenser at the agency from September 2012 until April

2013. Counseling ended with Ms. Yenser when mother requested another counselor. Another counselor, Laura McLaughlin, was assigned in April 2013, but mother did not appear at two scheduled appointments with the new counselor.

**{¶ 26}** Ms. Yenser testified at trial. She testified that mother had a long history of emotional abuse, was a victim of rape and molestation during her youth, and a victim of physical abuse by her grandmother from age 8 to 12. Ms. Yenser testified that she and mother discussed trauma at one counseling session and that mother stated that she had talked about it with her mother and grandmother and did not feel the need to talk about it in therapy.

**{¶ 27}** Ms. Yenser testified that mother reported improvements during the course of therapy. She no longer had daily blowups. She reported having blowups a couple times a week. Mother missed six out of eighteen appointments with Ms. Yenser.

**{¶ 28}** At the time of trial, mother was not seeing anyone for mental health treatment. Mother testified that she no longer sought treatment because her medical insurance terminated on May 31, 2013. As discussed earlier in this decision, mother did not contact LCCS to report the development, did not investigate to determine the cause of the loss of coverage, and did not seek alternative arrangements through LCCS to secure treatment without cost.

**{¶ 29}** Karen Bower, the guardian ad litem for the children, testified at trial. She testified that although there had been some improvement, with mother "it's like one minute terrible anger, very upset and the next, oh, there is no problem."

**Housing**

**{¶ 30}** At the time the children were removed from the home, mother resided at Birmingham Terrace. In May 2012, mother signed a housing contract that provided that she would be subject to eviction if there were any further altercations on the premises. After the June 2012 incident, m other was required to move. Since leaving Birmingham Terrace in the fall of 2012, mother has resided with her mother in a one bedroom apartment. It is agreed that the apartment is not a suitable place for the children upon reunification.

**{¶ 31}** Mother has pursued other suitable housing without success. The search has been complicated by the fact that mother has an outstanding obligation to pay $500 to the Lucas County Metropolitan Housing Authority ("LMHA") arising from damage to Shelman's apartment in the June 2012 incident that resulted in mother's conviction for criminal damaging. Subsidized housing through LMHA remains unavailable until the $500 obligation is paid.

**{¶ 32}** A parent's right to raise his or her children is a fundamental right. *Troxel v. Granville*, 530 U.S. 57, 66, 120 S.Ct. 2054, 147 L.Ed.2d 49 (2000); *In re C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, 862 N.E.2d 816, ¶ 28. The interest in the care, custody, and control of one's children is "one of the oldest of the fundamental liberty interests recognized in American law." *In re K.H.*, 119 Ohio St.3d 538, 2008-Ohio-4825, 895 N.E.2d 809, ¶ 39, citing *Troxel*, 530 U.S. at 65. "Permanent termination of parental rights has been described as 'the family law equivalent of the death penalty in a criminal

case.' *In re Smith* (1991), 77 Ohio App.3d 1, 16, 601 N .E.2d 45, 54. Therefore, parents 'must be afforded every procedural and substantive protection the law allows.' *Id.*" *In re Hayes*, 79 Ohio St.3d 46, 48, 679 N.E.2d 680 (1997).

**{¶ 33}** In order to award permanent custody to a public children services agency, a court must find, under R.C. 2151.414(B)(1)(a), where the child is not orphaned or abandoned, 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." Alternatively, under R.C. 2151.414(B)(1)(d), the court must find that the child has been in the temporary custody of a public children services agency for "twelve or more months of a consecutive twenty-two-month period * * *." The trial court must also determine that an award of permanent custody to the agency is in the child's best interests. R.C. 2151.414(B)(1). R.C. 2151.414(D)(1) identifies factors to be considered in determining the best interest of a child.

**{¶ 34}** R.C. 2151.414(E)(1) through (16) lists 16 factors. Under R.C. 2151.414(E), where a court makes a finding, by clear and convincing evidence, that one of the R.C. 2151.414(E) factors exists "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." R.C. 2151.414(E). Permanent custody may not be granted unless the trial court finds by clear and convincing evidence that one or more of the factors under R.C. 2151.414(E) exist. *In re William S.*, 75 Ohio St.3d 95, 661 N.E.2d 738 (1996), syllabus. R.C. 2151.414(D) lists relevant factors to be

considered by the court in determining whether an award of permanent custody to a public children services agency is in the best interests of the child.

**{¶ 35}** The Ohio Supreme Court defined the standard of clear and convincing evidence in *Cross v. Ledford,* 161 Ohio St. 469, 120 N.E.2d 118 (1954):

> Clear and convincing evidence is that measure or degree of proof which is more than a mere 'preponderance of the evidence,' but not to the extent of such certainty as is required 'beyond a reasonable doubt' in criminal cases, and which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established. Id. at paragraph three of the syllabus.

**{¶ 36}** The trial court rendered its opinion from the bench on August 29, 2013, and supplemented it with a decision and judgment filed on October 7, 2013. The court found by clear and convincing evidence that two R.C. 2151.414(E) factors existed with respect to mother, factors R.C. 2151.414(E)(1) and (2). The court found the R.C. 2151.414(E)(4) factor existed with respect to the fathers of the children. The court also conducted a best interest factor analysis under R.C. 2151.414(D)(1)(a) through (e) and concluded by clear and convincing evidence that an award of permanent custody of the children to LCCS was in the best interest of the children.

**Manifest Weight of the Evidence**

**{¶ 37}** Under assignment of error No. 1, mother argues that the trial court's judgment awarding permanent custody of the children to LCCS is against the manifest

weight of the evidence. A trial court judgment terminating parental rights will not be overturned on appeal as against the manifest weight of the evidence where there is competent credible evidence in the record under which "the court could have formed a firm belief or conviction that the essential statutory elements for termination of parental rights have been established." *In re Alexis K.*, 160 Ohio App.3d 32, 2005-Ohio-1380, 825 N.E.2d 1148, ¶ 26 (6th Dist.).

**Existence of R.C. 2151.414(E) Factors**

**{¶ 38}** R.C. 2151.414(E)(1) and (2) provide:

> (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 the purpose of changing parental conduct to allow them to resume and maintain parental duties.

(2) Chronic mental illness, chronic emotional illness, mental retardation, physical disability, or chemical dependency of the parent that is so severe that it makes the parent unable to provide an adequate permanent home for the child at the present time and, as anticipated, within one year after the court holds the hearing pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code;

**{¶ 39}** In reaching its judgment, the trial court considered mother's utilization of services provided in the case plan. The court recognized that mother loves her children and had completed a lot of the services provided under the case plan and restarted domestic violence services at Project Genesis. The court also recognized, however, that mother did not complete the parenting program and did not attend PCIT. Although

mother began participation in mental health services, the court noted that she discontinued working with therapist Yenser in April 2013. Mother requested a new therapist but did not engage in mental health therapy afterwards. This is despite the fact that a new therapist was assigned to provide mental health services in April 2013, and additional therapy was scheduled.

**{¶ 40}** Mother argues that she pursued mental health treatment. The state responds that the record demonstrates that mother failed to adequately address her mental health issues, was unwilling to let "down her wall" to be open to treatment, was inconsistent in attendance at counseling, resisted discussion of trauma, and ended mental health sessions early. We agree.

**{¶ 41}** The court also noted that mother was asked to leave the domestic violence program at Project Genesis because of her behavior in group sessions. Even after returning to the group in March 2013, concerns remained concerning her behavior and attendance at Project Genesis. Although mother completed her anger management program in August 2012, the trial court noted there remain concerns with mother controlling her anger.

**{¶ 42}** The record demonstrates continuing anger management concerns by the nature of mother's interaction with treatment group members, service providers, and LCCS staff. As late as May 28, 2013, mother was involved in an incident when she appeared for visitation with the children. She argued back and forth with staff and

bumped a staff member during the course of the incident. Security was called. On June 11, 2013, mother stated that she was going to "smack" her caseworker.

**{¶ 43}** Mother does not dispute that anger management remained a problem but argues that the issue concerned only adults, that the children were not involved. However, one of the reasons the children were removed from the home was physical abuse of the children by mother. The record demonstrates that mother's uncontrolled anger remained a risk to the children. The LCCS caseworker testified at trial that she observed mother on July 13, 2013 (a month before trial), at visitation with her son, Ma.D., then age four:

> A. I went down to visits and * * * [mother] * * * and the children were downstairs about to start their visit, and they were down by the coloring material. And I seen * * * [mother] * * *, I don't think she seen me, but I seen * * * [mother] * * * and she was talking and yelling at * * * [Ma.D.] * * *. Because I guess he wanted something, and I don't know for sure what he wanted.
>
> * * *
>
> Q. What did you observe?
>
> A. She yelled at him and told him I don't care what you want, you're not getting it. She yanked him by his arm. He started crying and then she said you better shut before I punch you.

**{¶ 44}** The trial court also stated it was concerned that despite receiving domestic violence services, six months after the children were placed outside the home a very serious domestic violence incident occurred with Shelman in October 2012. There was conflicting testimony on whether mother followed through with pressing charges against Shelman. The court concluded that mother did not.

**{¶ 45}** Mother suffered a black eye from another violent incident in May 2013. Mother described the incident as a dispute between her aunt and her father.

**{¶ 46}** In our view, there is competent, credible evidence in the record support a firm belief or conviction by the trial court that notwithstanding reasonable case planning and diligent efforts by LCCS to assist mother to remedy the problems that initially caused Mi.D. and Ma.D. to be placed outside the home, and that mother had failed continuously and repeatedly to substantially remedy the conditions causing the children to be placed outside the home. Accordingly, we conclude that the trial court did not err in concluding that the factor set forth in R.C. 2151.414(E)(1) existed with respect to mother.

**{¶ 47}** The trial court also concluded that conditions under R.C. 2151.414(E)(2) also existed in that mother "has a chronic emotional illness that is so severe that it makes her unable to provide an adequate permanent home for the children at the present time, and as anticipated, within one year after the hearing." In reaching this conclusion, the trial court considered mother's inconsistent participation and attendance in attending mental health services over the course of the case and resistance to engage in therapy addressing past trauma. We conclude that there is competent, credible evidence in the

record supporting a firm belief by the trial court that conditions, as set forth in R.C. 2151.414(E)(2), exist in this case.

**{¶ 48}** The trial court's findings by clear and convincing evidence of either condition, R.C. 2151.414(E)(1) or (2), alone is sufficient under the statute to establish that Mi.D. and Ma.D. cannot be placed with mother within a reasonable time or should not be placed with her. R.C. 2151.414(E).

**{¶ 49}** The trial court also considered the existence of R.C. 2151.414(E) factors as to the fathers of Mi.D. and Ma.D. The trial court concluded by clear and convincing evidence that the R.C. 2151.414(E)(4) factor existed as to the fathers. R.C. 2151.414(E)(4) states:

> (4) The parent has demonstrated a lack of commitment toward the child by failing to regularly support, visit, or communicate with the child when able to do so, or by other actions showing an unwillingness to provide an adequate permanent home for the child;

**{¶ 50}** The trial court found that T.M. (the father of Ma.D.) had not visited the boy since April 2013. The court also found that T.M. had not had any contact with the caseworker since May 2013, and has not followed through on his case plan services. The court also found that no one has come forward to establish paternity for Mi.D. These findings are not disputed in this appeal. They are supported by competent, credible evidence in the record of a type sufficient to produce in the mind of the trier of facts a firm belief or conviction of the finding.

**Best Interest of the Children**

**{¶ 51}** After determining, by clear and convincing evidence, that factors under R.C. 2151.414(E) exist, the trial court next found by clear and convincing evidence that an award of permanent custody to LCCS is in the best interest of Mi.D. and Ma.D. In reaching that conclusion, the court considered the best interest factors under R.C. 2151.414(D)(1)(a) through (e).

**{¶ 52}** The court found that mother loves her children and stated that it considered the wishes and desires of the children in reaching judgment. The trial court found that the children have been out of the home and in LCCS custody since March 2012, and that the children are in need of a legally secure permanent placement that cannot be achieved without a grant of permanent custody to LCCS to facilitate an adoption. The court also found that the guardian ad litem for the children has recommended an award of permanent custody of the children to LCCS as being in their best interest and that the children are in need of stability that cannot be provided by either parent.

**{¶ 53}** The court found that LCCS has made reasonable efforts to prevent the continued need for removal of the children from their home and to provide services to the parents, but that such efforts were unsuccessful. The court found that although the services were offered, the conditions that caused the initial removal of the children from the parents' care have not been remedied and the children cannot be returned to either parent within a reasonable period of time. The court also found that LCCS exercised reasonable efforts to finalize a permanency plan for the children by filing and prosecuting

this motion for permanent custody. Finally, the court approved the case plan with the goal of adoption.

**{¶ 54}** We have reviewed the record and conclude that there is competent, credible evidence in the record of the type supporting a firm belief or conviction by the trial court that awarding permanent custody of the children to LCCS is in the best interest of the children.

**{¶ 55}** Mother argues that she made substantial progress on her case plan services and continued to work on the services until the day of trial. Mother contends that the trial court erred in failing to exercise its authority to extend temporary custody within the time limits set in R.C. 2151.353(F) to allow additional time to permit mother to complete case plan services.

**{¶ 56}** LCCS argues that R.C. 2151.415(D)(1) limits temporary extensions of temporary custody to where (1) it is in the best interest of the child, (2) there has been significant progress on the case plan of the child, and (3) there is reasonable cause to believe that the child will be reunified with one of the parents. LCCS states that at the time of trial mother had not successfully completed mental health services, parenting, or domestic violence victim's services and that mother had been afforded more than adequate time to complete her case plan services. Further LCCS argues that the children were removed because of domestic violence and physical abuse and mother had not made the critical changes necessary to be reunified with her children and keep them safe.

**{¶ 57}** We agree. "[A parent] is afforded a reasonable, not an indefinite, period of time to remedy the conditions causing the children's removal." *In re A.B.*, 6th Dist. Lucas No. L-12-1069, 2012-Ohio-4632, ¶ 22, quoting *In re L.M.*, 11th Dist. Ashtabula No. 2010-A-0058, 2011-Ohio-1585, ¶ 50.

**{¶ 58}** We find assignment of error No. 1 not well-taken.

**{¶ 59}** Under the second assignment of error, mother contends that the trial court erred in granting permanent custody to LCCS because the award was not proven by clear and convincing evidence. Mother argues that the trial court's judgment was equivocal and while recognizing mother had made substantial progress expressed doubts that she could complete services in the next few months.

**{¶ 60}** The trial court indicated from the bench that it would have considered continuing temporary custody to allow additional time for services if it "could really believe that mom is going to follow through and finish any of these services, really finish them and work hard to get them done * * *." The court was unwilling to continue temporary services because it did not feel confident that mother would follow through.

**{¶ 61}** In its judgment, the trial court addressed the existence of R.C. 2151.414(E) factors as to each parent and the fact that the grant of permanent custody of the children to LCCS was in best interests of the children under R.C. 2151.414(D)(1). As to both prongs of analysis, the court made findings of fact under the standard of clear and convincing evidence.

**{¶ 62}** We considered these findings under assignment of error No. 1 and concluded that they are supported by competent credible evidence in the record of the type that would create a firm belief or conviction in the trial court of the existence of those findings; that is, that they are supported by clear and convincing evidence in the record. We find assignment of error No. 2 not well-taken.

**{¶ 63}** Justice having been afforded the party complaining, we affirm the judgment of the trial court. We order appellant to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J. _____
JUDGE

Thomas J. Osowik, J. _____
JUDGE

James D. Jensen, J. _____
CONCUR.
JUDGE