

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

IN RE: M. B. and R. B.

C. A. No. 24781

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE Nos. DN 7-12-1175
 DN 7-12-1176

DECISION AND JOURNAL ENTRY

Dated: October 14, 2009

WHITMORE, Judge.

{¶1} Appellant, Tristan Rentas (“Mother”), appeals from a judgment of the Summit County Court of Common Pleas, Juvenile Division, that terminated her parental rights to her two minor children and placed them in the permanent custody of Summit County Children Services Board (“CSB”). This Court affirms.

I

{¶2} Mother is the natural mother of M.B., born May 13, 2005, and R.B., born October 22, 2007. The father of the children is not a party to this appeal. On December 18, 2007, CSB filed complaints alleging that the children were neglected and dependent due to the deplorable living conditions of their home. The children were not living with Mother at the time, but were residing in the home of Mother’s friends. M.B. had been living there without Mother for more than one year and R.B. had been there since shortly after her birth. Neither parent had been providing care for the children, nor had they been providing any type of support. Mother had

five older children who also were residing outside of her custody, but none of those children is at issue in this appeal.

{¶3} The case plan goals for Mother focused on resolving her long-term substance abuse, her pattern of failing to assume responsibility for her children, and her lack of independent housing. During the following year, however, Mother failed to address any of her parenting problems.

{¶4} CSB eventually moved for permanent custody of M.B. and R.B. At the hearing, Mother stipulated that she had failed to remedy the conditions that had caused her children to be placed outside the home. The trial court also found that permanent custody was in the best interest of the children. Consequently, the trial court terminated parental rights and placed M.B. and R.B. in the permanent custody of CSB.

{¶5} Mother appealed from the trial court's judgment. In lieu of a merit brief, her appellate counsel filed a brief in accordance with *Anders v. California* (1967), 386 U.S. 738, in which she asserted that there were no meritorious issues to raise on Mother's behalf and that an appeal would be frivolous. Counsel moved the Court to accept the *Anders* Brief in lieu of a merit brief and to permit her to withdraw from the case.

II

Possible Issue for Review

“THE TRIAL COURT ERRED IN FINDING THAT A GRANT OF PERMANENT CUSTODY IN THE BEST INTEREST OF M.B. AND R.B. WAS SUPPORTED BY CLEAR AND CONVINCING EVIDENCE.”

{¶6} In her appellate brief, Mother's counsel has presented one potential issue for review but has concluded that there is no merit to it. After a thorough review of the evidence before the trial court, this Court agrees.

{¶7} Before a juvenile court can terminate parental rights and award to a proper moving agency permanent custody of a child, it must find clear and convincing evidence of both prongs of the permanent custody test: (1) that the child is abandoned, orphaned, has been in the temporary custody of the agency for at least 12 months of the prior 22 months, or that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent, based on an analysis under R.C. 2151.414(E); and (2) the grant of permanent custody to the agency is in the best interest of the child, based on an analysis under R.C. 2151.414(D). See R.C. 2151.414(B)(1) and 2151.414(B)(2); see, also, *In re William S.* (1996), 75 Ohio St.3d 95, 99.

{¶8} Based on a stipulation by Mother, the trial court found that the first prong of the permanent custody test was satisfied because Mother had failed to remedy the conditions that had caused the children to be placed outside the home. See R.C. 2151.414(E)(1). Thus, the only arguable challenge would be to the trial court's finding on the best interest prong of the test.

{¶9} When determining whether a grant of permanent custody is in the children's best interests, the juvenile court must consider all the relevant factors, including those enumerated in R.C. 2151.414(D): the interaction and interrelationships of the children, the wishes of the children, the custodial history of the children, and the children's need for permanence in their lives. See *In re S.N.*, 9th Dist. No. 23571, 2007-Ohio-2196, at ¶27.

{¶10} Mother's interaction with these children has been minimal, even before CSB filed this case. When this case began, M.B. was only two years old and R.B. was just an infant. Although they were Mother's sixth and seventh children, Mother had left all of her children in the care of others and assumed little or no responsibility for their care or support. At the commencement of this case, Mother was not living with or caring for any of her seven children.

M.B. and R.B. had been living in the home of Mother's friends for most of their young lives and Mother apparently had minimal interaction with them. Mother had done nothing to provide for their care except to leave them with friends in a home that had little food and was filthy and infested with bugs.

{¶11} During the pendency of this case, Mother's attendance at visitation was sporadic. She was taken off the visitation schedule more than once due to her repeated failures to attend. At the time of the permanent custody hearing, she had not seen either child in more than two months.

{¶12} Due to their limited involvement with their parents or their older half-siblings, M.B. and R.B. had not developed a bond with either of their parents or any of their older half-siblings. The children had been placed in the same foster home for more than one year. They were doing well there and the foster parents were addressing the medical needs of R.B., which had been neglected prior to the commencement of this case.

{¶13} The guardian ad litem spoke on behalf of the children, who were ages eighteen months and four years at the time of the hearing. She opined that permanent custody was in their best interests, emphasizing Mother's continued failure to be involved with her children or to address any of the goals of the case plan.

{¶14} The custodial history of M.B. and R.B., as explained already, had been spent outside of their mother's custody. Mother had never cared for these two children or provided any financial support for them.

{¶15} These two young children were in need of a legally secure permanent placement. The trial court found that there were no relatives who were able to care for them and concluded

that a permanent placement could only be achieved through a grant of permanent custody to CSB.

{¶16} Although the maternal grandmother had requested legal custody of both children, the trial court found that she could not provide them with a suitable long-term home. M.B. and R.B. were placed with the grandmother at the beginning of this case, but they were removed shortly afterward at the request of the grandmother. The grandmother, who had custody of two of her own minor children as well as three of Mother's other children, was overwhelmed by having two additional young children in her home. After their removal from her home, the grandmother visited M.B. and R.B. only three times during the following year. The trial court reasonably concluded that she could not provide a suitable permanent placement for these children.

{¶17} The trial court had ample evidence to support its conclusion that permanent custody was in the best interest of these children. The possible issue for review presented by Mother's counsel lacks merit. Moreover, this Court has carefully reviewed the entire record and concludes that the evidence clearly and convincingly supports the judgment of the trial court. There do not appear to be any issues which support a reversal of the judgment of the trial court.

III

{¶18} Mother's appeal is without merit and wholly frivolous under *Anders v. California* (1967), 386 U.S. 738. The request by Mother's attorney for permission to withdraw is granted. The judgment of the Summit County Court of Common Pleas, Juvenile Division, is affirmed.

Judgment affirmed.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

BETH WHITMORE
FOR THE COURT

CARR, P. J.
BELFANCE, J.
CONCUR

APPEARANCES:

PAMELA A. HAWKINS, Attorney at Law, for Appellant.

SHERRI BEVAN WALSH, Prosecuting Attorney, and RICHARD S. KASAY, Assistant Prosecuting Attorney, for Appellee.

JOSEPH KERNAN, Attorney at Law, for GAL.