

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

February 25, 2026

[Cite as *02/25/2026 Case Announcements #2, 2026-Ohio-617.*]

APPEALS NOT ACCEPTED FOR REVIEW

2025-1560. In re A.B.

Miami App. No. 2025-CA-24, **2025-Ohio-4771**. Appellant’s request for oral argument denied.

DeWine, J., would deny the request as moot.

Fischer, J., dissents, with an opinion joined by Brunner, J.

FISCHER, J., joined by BRUNNER, J., dissenting.

{¶ 1} In this jurisdictional appeal from a dependency action, a pro se mother raises important constitutional issues related to her fundamental rights as a parent and to due process. Mother argues that an indigent parent such as herself is entitled to appointed counsel and to transcripts at the State’s expense in a dependency action in which mother seeks to modify a disposition of legal custody.

{¶ 2} Mother’s child, A.B., was born in August 2013. In February 2021, Miami County Children’s Services (“MCCS”) filed a dependency complaint regarding A.B in the Miami County Common Pleas Court, Juvenile Division. The juvenile court adjudicated A.B. dependent in May 2021. In January 2022, MCCS filed a motion to award legal custody to the maternal grandparents. The juvenile court granted MCCS’s motion and awarded legal custody of A.B. to her maternal grandparents under R.C. 2151.353(A)(3). Mother did not file objections to the magistrate’s decision and did not appeal the juvenile court’s decision.

{¶ 3} In September 2024, however, mother filed a pro se motion in the juvenile court entitled a “Motion to Terminate an Order of Disposition.” In December 2024, mother requested

transcripts of the underlying dependency matter at the State's expense, with an estimated deposit cost of \$1,237.50. The trial court denied mother's request for transcripts because mother had a motion for custody pending, which the trial court termed a "civil matter." Mother also sought a continuance to retain counsel.

{¶ 4} Mother's custody motion eventually proceeded to trial with mother unrepresented. In February 2025, the magistrate entered a decision denying mother's custody motion. Mother filed objections to the magistrate's decision, and the juvenile court overruled mother's objections in April 2025, stating that because mother had failed to file a transcript, its review was limited to the magistrate's conclusions of law. The trial court found no error in the magistrate's decision.

{¶ 5} In May 2025, mother appealed to the Second District Court of Appeals. One of mother's assignments of error pertained to the juvenile court's denial of her request for transcripts. Mother also filed with that court a motion for the requested transcripts, but the Second District overruled mother's request, reasoning that an appellate court cannot consider for the first time transcripts not filed in the trial court.

{¶ 6} In September 2025, mother filed a motion requesting appointed counsel for purposes of her appeal. The Second District also overruled mother's request for counsel, citing R.C. 2151.352 (stating that an indigent person is not entitled to appointed counsel in R.C. 2151.23(A)(2) civil matters). Mother filed a motion for reconsideration of the appellate court's denial of her motion for appointed counsel, and the appellate court again denied mother's motion, reasoning, "Absent state involvement and the permanent, involuntary termination of parental rights, appellant does not have a constitutional right to appointed counsel for this appeal." No. 2025-CA-24 (2d Dist. Oct. 15, 2025).

{¶ 7} The Second District overruled mother's objections partly because of her failure to make the transcript of the hearing held before the magistrate part of the appellate record. 2025-Ohio-4771, ¶ 37 (2d Dist.) The Second District also determined that mother was not entitled to a transcript at the State's expense. *Id.* at ¶ 35.

{¶ 8} Mother filed this discretionary appeal pro se. She argues that her case presents constitutional issues concerning fundamental parental rights and due process, including her right to counsel and to transcripts at the State's expense.

{¶ 9} R.C. 2151.352 provides that an indigent parent has a right to appointed counsel at all stages of proceedings brought under R.C. Ch. 2151, except where the juvenile court exercises

jurisdiction in certain circumstances, including under R.C. 2151.23(A)(2). R.C. 2151.23(A)(2) gives the juvenile court exclusive original jurisdiction over child custody matters outside of domestic-relations cases.

{¶ 10} In denying mother’s request for appointed counsel, the Second District reasoned that mother’s custody motion fell within the R.C. 2151.23(A)(2) exception to the State’s obligation to provide counsel, and therefore even if indigent, mother had no right to counsel under R.C. 2151.352. But mother argues that R.C. 2151.23(A)(2) does not apply to custody motions in dependency cases, which she claims arise under R.C. 2151.353.

{¶ 11} R.C. 2151.353(F)(2) provides that “any party, other than any parent whose parental rights with respect to the child have been terminated . . . may at any time request the court to modify or terminate any order of disposition issued pursuant to [R.C. 2151.353(A)]. . . . The court shall hold a hearing upon the motion as if the hearing were the original dispositional hearing and shall give all parties to the action and the guardian ad litem notice of the hearing pursuant to the Juvenile Rules.” R.C. 2151.352 does not identify cases brought under R.C. 2151.353 as among those for whom appointment of counsel for indigent parties is denied.

{¶ 12} Importantly, mother’s argument that R.C. 2151.23(A)(2) does not apply to custody motions in dependency cases arising under R.C. 2151.353 is supported by at least one appellate court case: *In re S.L.*, 2019-Ohio-815, ¶ 45 (6th Dist.). In *In re S.L.*, legal custody of the father’s child had been awarded to the mother’s friends following a dependency adjudication. Father did not appeal the legal-custody determination; however, father later filed motions for a communication order and to change parenting time. *Id.* at ¶ 15, 17. The Sixth District Court of Appeals concluded that father’s motions sought to modify the trial court’s dispositional order issued under R.C. 2151.353(A)(3), and therefore father’s motions arose under R.C. 2151.353(F)(2), which entitled father to appointed counsel in accordance with R.C. 2151.352. *Id.* at ¶ 45. The Sixth District specifically disagreed with the trial court’s characterization of the proceedings as “a civil matter between two private parties” under R.C. 2151.23(A)(2), determining that R.C. 2151.23(A)(2) does not apply to custody proceedings in which a court has made a finding of abuse, dependency, or neglect. *Id.* at ¶ 43.

{¶ 13} The Sixth District’s holding in *In re S.L.*, which recognized the father’s right to appointed counsel for his custody-modification motions, seems at odds with the decision of the

Second District in this case, which denied mother's repeated requests for appointed counsel in her appeal from the denial of her custody-modification motion.

{¶ 14} Mother's argument that she is entitled to transcripts at the State's expense for this dependency matter also raises an interesting and unsettled due-process issue. The juvenile court below denied mother's request for transcripts at the State's expense, as did the Second District. Other appellate courts have struggled with whether indigent parents have a right to transcripts at the State's expense in dependency actions that do not involve the termination of parental rights. *See In re A.P.*, 2014-Ohio-5244, ¶ 9 (10th Dist.) (considering in a dependency action "whether the United States Constitution and/or Ohio Constitution require the State to pay for and provide a transcript to an indigent parent when, in an action instituted by the State, a magistrate recommends granting legal custody of a child to someone other than a parent[,]” and adding, “Unfortunately, no federal or Ohio court has addressed this precise issue.”); *see also In re E.J.*, 2015-Ohio-731, ¶ 18 (12th Dist.) (holding in a dependency action that an indigent mother did not have a constitutional right to a transcript of a dispositional hearing at the State's expense, because mother's parental rights were not terminated, but noting that “it may have been better practice in this case to allow [m]other to obtain a transcript at the state's expense”).

{¶ 15} Given the important constitutional issues raised in mother's appeal regarding whether an indigent parent who seeks to modify a disposition of legal custody in a dependency action is entitled to appointed counsel and to transcripts at the State's expense, and given the concerns of the appellate courts, this court should take the opportunity to consider and to clarify these issues. Therefore, I would accept jurisdiction over mother's appeal and consider whether to appoint her counsel for purposes of the appeal. Because the majority decides otherwise, I respectfully dissent.
