

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

In the Matter of:	:	
J.K. and M.K.,	:	No. 25AP-419
(J.S.	:	(C.P.C. No. 24JU-1374)
Appellant).	:	(REGULAR CALENDAR)
In the Matter of:	:	
Ja.S.,	:	No. 25AP-420
(J.S.	:	(C.P.C. No. 24JU-1411)
Appellant).	:	(REGULAR CALENDAR)
In the Matter of:	:	
J.J.,	:	No. 25AP-421
(J.S.	:	(C.P.C. No. 24JU-1378)
Appellant).	:	(REGULAR CALENDAR)

D E C I S I O N

Rendered on August 19, 2026

On brief: *Mitchell A. Williams*, Public Defender, and *George M. Schumann*, for appellant J.S.

On brief: *Robert J. McClaren*, for appellee Franklin County Children Services.

APPEALS from the Franklin County Court of Common Pleas,
Division of Domestic Relations, Juvenile Branch

BEATTY BLUNT, J.

{¶ 1} Appellant-mother, J.S., appeals the April 22, 2025 order of the Franklin County Court of Common Pleas, Division of Domestic Relations, Juvenile Branch overruling mother’s objections and supplemental objections, and approving and adopting the June 26, 2024 magistrate’s decision, terminating mother’s parental rights, granting permanent custody of J.K., M.K., and J.J. to appellee Franklin County Children Services (“FCCS”), and granting legal kinship custody of Ja.S. to kinship caregiver L.T.

{¶ 2} This is an appeal from a previous reversal by this court of trial court decisions granting permanent custody of J.K., M.K., and J.J. to FCCS and temporary court commitment of Ja.S to FCCS. *In re Ja.S.*, 2023-Ohio-722 (10th Dist.). FCCS has been litigating this case for over seven years—it originally filed abuse/neglect/dependency complaints for J.K., M.K., and J.J. on April 17, 2019. We set forth the lengthy procedural history of the case in our previous decision, *see id.* at ¶ 1-16, in which we reversed the trial court’s decisions and remanded the case for further proceedings, holding as follows:

[T]he trial court erred and deprived mother of her right to counsel in permanent custody proceedings when it permitted the “withdrawal” of her appointed counsel without determining whether mother was knowingly waiving her right to counsel and when it proceeded to hold hearings and render decisions in the refiled permanent and temporary custody proceedings in mother’s absence and without counsel to represent mother.

Id. at ¶ 26. On remand, FCCS refiled complaints and sought permanent custody arrangements and termination of parental rights in each of the cases, but based on operation of law, the complaints were dismissed and refiled several more times.

The matter was set for trial on April 23, 24 and May 2, 2024. At trial, FCCS requested dismissal of the first and second causes of action being abuse and third cause of action being neglect . . . and [the] parties agreed to proceed uncontested [on each of the actions for] dependency[.]

(Apr. 22, 2025 Decision & Jgmt. Entry at 3.)

{¶ 3} On June 26, 2024, the magistrate issued an order finding the children to be dependent, and granted permanent custody of J.K., M.K., and J.J. to appellee FCCS, and legal kinship custody of Ja.S. to kinship caregiver L.T. J.S. filed objections to the decision,

and following the close of briefing on December 10, 2024, the court took the matter under advisement and ultimately overruled those objections. *Id.* J.S. now appeals and asserts two assignments of error with the trial court’s judgment:

First Assignment of Error: The juvenile court plainly erred at the adjudication hearing when, prior to its acceptance of the appellant-mother’s admission to a finding that the children were dependent as alleged in the juvenile complaints, it failed to personally address the mother and determine that she was making the admission voluntarily with understanding of the nature of the allegations and the consequences of the admission, and failed to personally address the mother and determine that she understood that by entering an admission she was waiving the right to challenge the witnesses and evidence against her, to remain silent, and to introduce evidence at the adjudicatory hearing, in violation of the mother’s rights under the Fourteenth Amendment to the United States Constitution, Article I, Section 16 of the Ohio Constitution, and Juv. R. 29(D).

Second Assignment of Error: In determining that PCC was in the best interest of the children, the juvenile court’s judgment entry fails to demonstrate that the court satisfied its statutory duty to consider the best-interest factors under 2151.414(D)(1)(a)-(e), as required by R.C. 2151.353(A)(4).

{¶ 4} R.C. 2151.04(C) provides that a dependent child is any child “[w]hose condition or environment is such as to warrant the state, in the interests of the child, in assuming the child’s guardianship” R.C. 2151.35(A)(1) provides in relevant part:

[i]f the court at the adjudicatory hearing finds from clear and convincing evidence that the child is . . . [a] dependent child, the court shall proceed, in accordance with division (B) of this section, to hold a dispositional hearing and hear the evidence as to the proper disposition to be made under section 2151.353 of the Revised Code. . . . If the court does not find the child to be . . . [a] dependent . . . child . . . it shall order that the case be dismissed and that the child be discharged from any detention or restriction theretofore ordered.

R.C. 2151.35(A)(1). Pursuant to Juv.R. 29(F), if the allegations in the complaint are not proven at the adjudicatory hearing, the juvenile court must dismiss the complaint, and the party seeking the adjudication bears the burden of establishing the dependency. A trial court’s determination that a child is dependent pursuant to R.C. 2151.04 must be supported

by clear and convincing evidence. Clear and convincing evidence is more than a preponderance of the evidence, but not 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. And where the degree of proof required to sustain an issue is clear and convincing evidence, appellate courts will examine the record to determine whether the trier of facts had sufficient evidence before it to satisfy the requisite degree of proof. *See, e.g., In re K.G.*, 2023-Ohio-2198, ¶ 22 (3d Dist.).

{¶ 5} A trial court's determination in a permanent custody case will not be reversed on appeal unless it is against the manifest weight of the evidence. Judgments are not against the manifest weight of the evidence when all material elements are supported by competent, credible evidence. Accordingly, an appellate court will not overturn a permanent custody order when it is supported by competent, credible evidence. Further, in reviewing a judgment granting permanent custody to FCCS under the manifest weight standard, an appellate court must make every reasonable presumption in favor of the judgment and the trial court's findings of fact. If the evidence is susceptible of more than one construction, the court of appeals must give it that interpretation which is consistent with the verdict and judgment, most favorable to sustaining the juvenile court's verdict and judgment. *See generally In re J.W.*, 2019-Ohio-4775, ¶ 21 (10th Dist.) (Cleaned up; Internal quotation marks deleted and citations omitted.) Parents have a constitutionally protected fundamental interest in the care, custody, and management of their children, but parental rights are not absolute and are always subject to the ultimate welfare of the child. Accordingly, the state may terminate the parental rights of natural parents, but such termination must be in the best interest of the child. *See generally id.* at ¶ 22. (Cleaned up; Internal quotation marks deleted and citations omitted.)

{¶ 6} And in this case, J.S. admitted that the children were dependent and agreed to the dependency finding by the magistrate. Because she did not object to that admission to the trial court, on appeal she argues that the magistrate committed plain error by accepting it. *See* Juv.R. 40(D)(3)(b)(iv) ("Except for a claim of plain error, a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Juv.R. 40(D)(3)(a)(ii), unless the party has objected to that finding or conclusion as required by

Juv.R. 40(D)(3)(b).”). In juvenile child welfare cases, the party claiming error must establish: (1) that an error, i.e., a deviation from a legal rule, occurred; (2) that the error was an “obvious” defect in the trial proceedings; and (3) that this obvious error affected substantial rights, i.e., the error must have affected the outcome of the trial. And “[b]ecause parental rights determinations are difficult to make and appellate courts accord wide latitude to the trial court’s consideration of evidence in these cases, [p]lain error is particularly difficult to establish.” (Internal quotation marks deleted in original.) *In re A.A.*, 2024-Ohio-224, ¶ 42 (10th Dist.). *See also In re D.E.*, 2021-Ohio-524, ¶ 76 (10th Dist.). Juvenile child welfare cases are civil rather than criminal in nature, and civil plain error “involves those extremely rare cases where exceptional circumstances require its application to prevent a manifest miscarriage of justice, and where the error complained of, if left uncorrected, would have a material, adverse effect on the character of, and public confidence in, judicial proceedings.” *In re H.D.D.*, 2012-Ohio-6160, ¶ 71 (10th Dist.), quoting *In re Moore*, 2005-Ohio-747, ¶ 8 (10th Dist.).

{¶ 7} Here, presumably because of the age of the case and the fact that permanent custody had previously been granted in the trial court, FCCS sought direct permanent custody of three of the children and a grant of legal custody to the kinship custodian for the fourth on remand and refile, rather than the more typical procedure of filing motions for permanent dispositions after temporary dispositions have been entered. Both dispositions are authorized under R.C. 2151.353(A):

If a child is adjudicated . . . [a] dependent child, the court may make any of the following orders of disposition:

...

(3) Award legal custody of the child to either parent or to any other person who, prior to the dispositional hearing, files a motion requesting legal custody of the child or is identified as a proposed legal custodian in a complaint or motion filed prior to the dispositional hearing by any party to the proceedings.

...

(4) Commit the child to the permanent custody of a public children services agency or private child placing agency, if the court determines in accordance with division (E) of section 2151.414 of the Revised Code that the child cannot be placed

with one of the child's parents within a reasonable time or should not be placed with either parent and determines in accordance with division (D)(1) of section 2151.414 of the Revised Code that the permanent commitment is in the best interest of the child. If the court grants permanent custody under this division, the court, upon the request of any party, shall file a written opinion setting forth its findings of fact and conclusions of law in relation to the proceeding.

In determining "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." R.C. 2151.414(E).

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.

...

(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;

...

(10) The parent has abandoned the child.

...

(14) The parent for any reason is unwilling to provide food, clothing, shelter, and other basic necessities for the child or to prevent the child from suffering physical, emotional, or sexual abuse or physical, emotional, or mental neglect.

R.C. 2151.414(E). As stated above, in addition to finding that the child “cannot be placed with either parent within a reasonable time or should not be placed with either parent” pursuant to R.C. 2151.414(E), to grant permanent custody to the agency under R.C. 2151.353(A)(4), the court must also determine that a grant of permanent custody is in the best interest of the child. R.C. 2151.414(D)(1)(a) through (e) set forth the relevant factors that the court must consider in determining what is in the best interests of the child, and all of these factors are of equal importance under the statute. *In re Schaefer*, 2006-Ohio-5513, ¶ 56.

(a) The interaction and interrelationship of the child with the child’s parents, siblings, relatives, foster caregivers and out-of-home providers, and any other person who may significantly affect the child;

(b) The wishes of the child, as expressed directly by the child or through the child’s guardian ad litem, with due regard for the maturity of the child;

(c) The custodial history of the child, including whether the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period . . .;

(d) The child’s need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency;

(e) Whether any of the factors in divisions (E)(7) to (11) of this section apply in relation to the parents and child.

R.C. 2151.414(D)(1). As noted above, the factor in R.C. 2151.414(E)(10) states that “[t]he parent has abandoned the child.”

{¶ 8} In her first assigned error, mother contends that the magistrate failed to comply with Juv.R. 29(D) by accepting mother’s admission to the dependency complaints

without giving her full warnings of the rights she was waiving. The colloquy comprises several pages of transcript, recapitulated in relevant part:

MAGISTRATE SCOTT: All right.

All right. Mom, so I'm going to be asking you some questions. And let's see, so, there are a total of three cases before the Court today including [J.J], [J.K.], [M.K.], and [Ja.S.]. . . . And it's the Court's understanding that you wish to proceed uncontested as to all three of those cases and essentially all four of those children as to dependency; is that right?

[J.S.]: Yes.

MAGISTRATE SCOTT: And that's under 2151.04(C). Now do you understand that you've got the right to a trial in all of those cases?

[J.S.]: Yes.

MAGISTRATE SCOTT: Do you understand that by proceeding uncontested as to all of these cases, you'll be giving up your right to a trial as to all of these cases?

[J.S.]: Yes.

MAGISTRATE SCOTT: Okay.

ATTORNEY BURTON: Your Honor, whenever you think appropriate, I'd - -

MAGISTRATE SCOTT: Uh-huh (affirmative response).

ATTORNEY BURTON: - - I would like to put service on the record for the other parties that aren't present today.

MAGISTRATE SCOTT: Fair enough.

ATTORNEY BURTON: Thank you. Sorry about that.

MAGISTRATE SCOTT: No, that's all right. And with regards to - - are - - are - - do you know what an appeal is?

[J.S.]: Yes.

MAGISTRATE SCOTT: Okay. And so, I think you've actually probably been through the appellate process before, right? So,

you've got the right to appeal any of the decisions that the Court ultimately makes in these cases. Do you understand that?

[J.S.]: Yes.

MAGISTRATE SCOTT: But do you understand that by proceeding uncontested, you're waiving a number of your - - your grounds for an appeal. Do you understand that?

[J.S.]: Yes.

MAGISTRATE SCOTT: Okay. And so, it's the Court's understanding that you wish to proceed uncontested in case number 24JU-1378, as to [J.J.]. You wanna (sic) proceed uncontested as the dependency portion of that complaint; is that correct?

[J.S.]: Yes.

ATTORNEY BURTON: That - - that would be count four only, Your Honor.

MAGISTRATE SCOTT: Count four, thank you. And as to 24JU-1374, [J.K.] Et Al., which includes [M.K.], you wish to proceed uncontested as to count three, Dependency, under 2151.04(C); is that correct?

[J.S.]: Yes.

MAGISTRATE SCOTT: And as to 24JU-1411, [Ja.S.], you wish to proceed uncontested as to count one, Dependency, under 2151.04 (C); is that correct?

[J.S.]: Yes.

MAGISTRATE SCOTT: Okay. Thank you.

(Apr. 23, 2024 Tr. at 9-12.) J.S. asserts that this colloquy is plainly erroneous and does not substantially comply with Juv.R. 29(D). The rule provides:

The court may refuse to accept an admission and shall not accept an admission without addressing the party personally and determining both of the following:

(1) The party is making the admission voluntarily with understanding of the nature of the allegations and the consequences of the admission;

(2) The party understands that by entering an admission the party is waiving the right to challenge the witnesses and evidence against the party, to remain silent, and to introduce evidence at the adjudicatory hearing.

The court may hear testimony, review documents, or make further inquiry, as it considers appropriate, or it may proceed directly to the action required by division (F) of this rule.

Juv.R. 29(D). The rule is analogous to Crim.R. 11(C). *See, e.g., In re T.A.*, 2025-Ohio-3079, ¶ 9 (10th Dist.).

{¶ 9} As shown above, the magistrate engaged in a personal colloquy and questioned her as to whether she wished to proceed uncontested, informed her that she had a right to trial and a right to appeal, and J.S. affirmed that she knew those things but wished to go forward with an admission to the dependencies but contest the dispositions. But that colloquy plainly failed to address any of the factors set forth in Juv.R. 29(D)(2) and plainly failed to inquire into the voluntariness of J.S.’s admission. For these reasons, we must conclude that this is the “rare case[s] where exceptional circumstances require . . . application [of the plain error rule] to prevent a manifest miscarriage of justice,” as the totality of the evidence and the record suggest that “the error complained of, if left uncorrected, would have a material, adverse effect on the character of, and public confidence in, judicial proceedings.” *Compare H.D.D.*, 2012-Ohio-6160, at ¶ 71, quoting *Moore*, 2005-Ohio-747, at ¶ 8. We simply cannot say, based on this record, that J.S. was informed as to the legal and practical impacts of her decision to admit to the dependencies, and accordingly, we must sustain her first assignment of error.

{¶ 10} In her second assignment of error, J.S. argues that the “magistrate’s decisions do not cite to and do not mention the best interest factors in R.C. 2151.414(D)(1).” (Reply Brief at 9 et seq.) FCCS argues that “the magistrate’s decision reflected consideration of these factors, even where they were not explicitly mentioned in its holding.” (Brief of Appellee at 21.) But because we have sustained J.S.’s first assignment of error, and because the finding of dependency is a prerequisite to an analysis of the best interest factors in determining a disposition, we find this assignment of error moot.

{¶ 11} For the foregoing reasons, we sustain J.S.’s first assignment of error and overrule her second assignment of error as moot. The judgments of the Franklin County Court of Common Pleas, Division of Domestic Relations, Juvenile Branch finding

dependency and granting permanent custody of J.K., M.K., and J.J. to FCCS and granting legal kinship custody of Ja.S. to L.T. is vacated, and this case is remanded to that court for further proceedings.

*Judgment reversed;
cause remanded.*

MENTEL and LELAND, JJ., concur.
