

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

In the Matter of:	:	
C[t].M.,	:	No. 25AP-342
	:	(C.P.C. No. 19JU-14234)
[B.Y., Mother,	:	
	:	(REGULAR CALENDAR)
Appellant].	:	
	:	
In the Matter of:	:	
J.Y.,	:	No. 25AP-343
	:	(C.P.C. No. 19JU-14235)
[B.Y., Mother,	:	
	:	(REGULAR CALENDAR)
Appellant].	:	
	:	
In the Matter of:	:	
M.M.,	:	No. 25AP-344
	:	(C.P.C. No. 19JU-14196)
[B.Y., Mother,	:	
	:	(REGULAR CALENDAR)
Appellant].	:	
	:	

D E C I S I O N

Rendered on August 20, 2026

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

On brief: *John T. Ryerson*, for appellant, B.Y.

On brief: *Furniss & Stewart Law, LLC*, and *Demeter Swift*, for Co.M.

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

MENTEL, J.

{¶ 1} Appellant, B.Y., mother, appeals from an April 9, 2025 decision and judgment entry of the Franklin County Court of Common Pleas, Division of Domestic Relations and Juvenile Branch, terminating her parental rights and granting permanent

custody of the minor children to appellee, Franklin County Children Services (“FCCS”). Co.M., father, filed a brief in this matter on December 9, 2025. For the reasons that follow, we affirm.

I. FACTS AND PROCEDURAL HISTORY

{¶ 2} There are three minor children at issue in this case: J.Y. (d.o.b. August 27, 2014); Ct.M. (d.o.b. October 17, 2015); and M.M. (d.o.b. November 12, 2019) (collectively referred to as “children”).

{¶ 3} On December 12, 2019, FCCS filed complaints alleging the children were dependent minors pursuant to R.C. 2151.04(C). The complaint concerning M.M. also alleged that she was abused, pursuant to R.C. 2151.031(C) and (D), and neglected, pursuant to R.C. 2151.03(A)(2). The abuse and neglect claims were based on allegations that B.Y. tested positive for illegal substances at the time of M.M.’s birth.

{¶ 4} On or about December 17, 2019, FCCS was granted temporary orders of custody (“TOC”) of the children. As journalized on March 31, 2020, the juvenile court approved and adopted case plans for the parents. Per the juvenile court’s April 3, 2020 entry, J. Y., Ct.M., and M.M. were adjudicated dependent under R.C. 2151.04(C). M.M. was also adjudicated abused under R.C. 2151.031(C). FCCS was granted temporary court custody (“TCC”) at that time.

{¶ 5} After multiple extensions of TCC, FCCS filed motions for permanent custody of the children on October 13 and 14, 2021. A trial in this matter commenced on April 30, 2024.¹ The following evidence was adduced at trial.

{¶ 6} Co.M. testified that he is the father of the three children in this case. (Apr. 30, 2024 Tr. at 15-16.) The children have been in foster care since they were removed from his home in December 2019. (Tr. at 16-17.) According to Co.M., the case was initially opened when M.M. was born with oxycodone in her system. (Tr. at 18.) B.Y. and Co.M. had a romantic relationship but have since separated. (Tr. at 21.)

{¶ 7} On July 21, 2020, Co.M. was indicted on charges of abduction, a felony of the third degree; felonious assault, a felony of the second degree; and domestic violence, a felony of the fourth degree. (Tr. at 26.) Co.M. ultimately pleaded guilty to abduction and served 18 months of community control with 6 months of jail-time credit. (Tr. at 27-29.)

¹ The trial took place on April 30, 2024; August 12, 13, and 14, 2024; September 9 and 10, 2024; September 17, 2024; October 1, 2024; and March 31, 2025.

During this period of incarceration, Co.M. called B.Y. during visits with the children. (Tr. at 28.) Co.M. met with a caseworker to discuss the case plan while he was incarcerated. (Tr. at 22.) Co.M. also received a copy of the case plan when he was released. (Tr. at 23.) Co.M. acknowledged that a stay away order with B.Y. was put in place through Recovery Court. (Tr. at 35.) Co.M. was subsequently incarcerated for a probation violation. (Tr. at 36.) In November 2022, Co.M. was unsuccessfully terminated from probation after a second probation violation for failure to submit to drug screens, failure to report, and failure to comply with treatment. (Tr. at 38.)

{¶ 8} Co.M. lives in a five-bedroom residence with a roommate. (Tr. at 40-41.) While Co.M. has a regular visitation schedule, he acknowledged that visits were temporarily cancelled when he missed multiple visits. (Tr. at 50.) Co.M. is not aware of any special needs or medical diagnoses for the children. (Tr. at 51.)

{¶ 9} Co.M. completed an AOD assessment in June 2021. (Tr. at 52.) The AOD assessment was included in the case plan because Co.M. tested positive for marijuana and opiates. (Tr. at 53.) Co.M. acknowledged that he used Percocet without a prescription a week before trial. (Tr. at 53.) Co.M. conceded that he has not complied with the case plan for drug and alcohol treatment or regularly participated in drug screens. (Tr. at 54-55.) Co.M. has only completed four drug screens, all of which were positive, during the life of the case. (Tr. at 55.) Co.M. was advised that missed drug screens would be considered “positive” results. (Aug. 12, 2024 Tr. at 22.) During Co.M.’s October testimony, he indicated that he was employed working 20-30 hours per week. Co.M. believes it would be in the children’s best interest to return to B.Y. and is willing to pay child support. (Oct. 1, 2024 Tr. at 117-118.)

{¶ 10} B.Y. is the mother of J.Y., Ct.M., and M.M. (Tr. at 47.) B.Y. also has a fourth child, S.M., that is not at issue in this matter. (Tr. at 49.) B.Y. acknowledged that she was addicted to Percocet during the birth of M.M. (Tr. at 54.) FCCS got into contact with B.Y. at the hospital and worked out a safety plan. (Sept. 17, 2024 Tr. at 97.) When B.Y. failed to comply with the safety plan, the children were removed from her care in December 2019. (Aug. 12, 2024 Tr. at 53.)

{¶ 11} B.Y. was required under the case plan to complete an AOD assessment and follow any recommendations, complete parenting classes, link with Help Me Grow, sign all releases, and obtain independent housing. (Sept. 17, 2024 Tr. at 99.) B.Y. completed her AOD assessment and linked with Help Me Grow. (Aug. 12, 2024 Tr. at 57, 59.) In July

2020, B.Y. engaged with services and treatment through the Ohio Department of Health (“ODH”). (Tr. at 66.) Because of the COVID-19 pandemic, the assigned classes were over Zoom. (Tr. at 60.) In February 2021, B.Y. relapsed after her mother passed away. (Tr. at 66-67.) B.Y. described taking Percocet without a prescription on a daily basis for “several months.” (Tr. at 67.) ODH ultimately unsuccessfully terminated B.Y. from its program due to noncompliance. (Tr. at 68.) After attempting another AOD program, B.Y. engaged with Franklin County Recovery Court in 2022. (Tr. at 69-71.) B.Y. became linked with Ohio Guidestone and engaged in its outpatient program. (Tr. at 75.)

{¶ 12} In March 2023, B.Y. entered into a residential treatment program after another relapse. (Tr. at 77.) B.Y. explained that she has a “chemical imbalance . . . that causes [her] to not be able to control [her]self when it comes to that.” (Tr. at 79.) B.Y. recalled that the inpatient program lasted for four months. (Tr. at 84.) When B.Y. completed the inpatient program, she entered a sober living facility. (Oct. 1, 2024 Tr. at 6, 9.) B.Y. ultimately left the sober living facility and returned to her prior residence and employment. (Tr. at 9.) In October 2023, B.Y. began working with the Basecamp Recovery Center’s (“Basecamp”) outpatient program. (Aug. 12, 2024 Tr. at 89.)

{¶ 13} In March 2024, B.Y. completed a full year of sobriety and decided to stop taking Suboxone. (Tr. at 17.) B.Y. worked with her treatment team to reduce her prescribed intake of Suboxone over several weeks. (Tr. at 18.) B.Y. acknowledged that she missed several drug screens, and did not call with an excuse, from January to April 2024. (Aug. 12, 2024 Tr. at 103.) B.Y. relapsed again in July. (Tr. at 91.) B.Y. conceded that she used Percocet without a prescription three weeks before her testimony and missed several drug screens during the months of June and July. (Tr. at 64.) B.Y. explained that her second relapse was the result of a miscarriage. (Tr. at 21.) B.Y. resumed her prescribed Suboxone treatment plan after her July relapse. (Oct. 1, 2024 Tr. at 23.) B.Y. acknowledged that “after four years of working with the Agency and with various services, [she was] unable to utilize coping skills that [she] had been learning . . . for that time period.” (Tr. at 107.) B.Y. received an eviction notice when she sent her rent to an incorrect P.O. Box. (Aug. 12, 2024 Tr. at 108.) B.Y. ultimately agreed to vacate the property to avoid an eviction on her record. (Tr. at 108.) B.Y. completed a parenting course through the ODH. (Tr. at 116.) While B.Y. was allowed therapeutic supervised visits (“TSV”), those were temporarily suspended in July after her relapse and loss of housing. (Oct. 1, 2024 Tr. at 38.)

{¶ 14} B.Y. and Co.M. had a long-term relationship that concluded at the end of 2022. (Tr. at 56.) According to B.Y., she requested a stay away order for Co.M. as he was “not helping with his side of the treatment plan, and I didn’t want it to affect me.” (Tr. at 56.) B.Y. believes that Co.M. would never hurt the children. (Tr. at 58.) According to B.Y., Co.M. was charged with abduction because “[h]e removed [her] from one part of the porch to the street.” (Tr. at 102.) B.Y. recalled that Co.M. “drag[ged]” her during the altercation. (Tr. at 102.) Co.M. is also alleged to have “beat[] up” S.M. (Tr. at 102.) B.Y. takes medication for bipolar depression and ADHD. (Tr. at 65, 69.) B.Y. is also diagnosed with dyslexia. (Tr. at 71.)

{¶ 15} Annamerinda Eaton is the Franklin County Family Recovery Court Coordinator. Since May 2022, Eaton has worked with B.Y. through Recovery Court based on concerns with alcohol and drugs. (Aug. 13, 2024 Tr. at 7, 9, 11.) While B.Y. initially complied with her intensive outpatient programming (“IOP”) recommendation, due to her continued drug use and missed drug screens, there was a recommendation for residential treatment. (Tr. at 13.) In March 2023, B.Y. entered a residential treatment program. (Tr. at 14.) B.Y. completed the residential treatment program then entered transitional living through Medina. (Tr. at 14.) B.Y. moved back into her apartment and engaged in IOP through Basecamp. (Tr. at 15.) In February 2024, B.Y. went down to an outpatient level of care. (Tr. at 16.) In July 2024, B.Y.’s level increased based on “missed appointments, missed screens, [and] positive screens[.]” (Tr. at 16.) B.Y. was allowed TSV with her children from December 2023 until they were suspended in July 2024. (Tr. at 18.)

{¶ 16} According to Eaton, B.Y.’s drug screens were “sporadic” at the start of Recovery Court testing positive typically for THC and opiates. (Tr. at 22.) After completing inpatient treatment, B.Y.’s screens were negative for over a year until she tested positive for Percocet on March 25, 2024. (Tr. at 23.) Since that time, B.Y. has been “inconsistent with screening.” (Tr. at 24.) B.Y. missed several drug screens in June and July 2024. (Tr. at 23, 25.) From July 2024 to her August 13, 2024 testimony, B.Y. completed four drug screens, three were positive for “oxy,” and one was pending at the time of Eaton’s August testimony. (Tr. at 36.) Eaton acknowledged that prior to B.Y.’s recent relapse, she was close to completing phase five of Recovery Court. (Tr. at 39.) B.Y. has maintained employment at a restaurant in the North Market. (Tr. at 43.) While B.Y. lost her apartment in July, she has found new housing and provided a signed lease. (Tr. at 52.)

{¶ 17} Evangeline Baron is the guardian ad litem (“GAL”) in this matter. (Tr. at 63.) The children have been in the same foster placement since December 2019. (Tr. at 68.) According to Baron, the foster home is a potentially adoptive home for the children. (Tr. at 70.) M.M. is the youngest child and has a “very strong connection” with the foster father. (Tr. at 71.) J.Y. is also connected with the foster family. While the foster mother works, Baron has interacted with her on occasion. (Tr. at 71.) Baron described Ct.M. as comfortable in the home. (Tr. at 72.) All the children have remarked that they can talk to the foster father about any problems. (Tr. at 71.) The children have also gone on vacation with the foster parents and feel safe in the home. (Tr. at 72.) During visitation, the children are excited to see B.Y. (Tr. at 75.) B.Y. is “very attentive” and great with conflict resolution. (Tr. at 75.) The children are also excited to see Co.M. (Tr. at 75.) Baron noted that Co.M. often brings dinner but does not plan activities. (Tr. at 76.) Ct.M. and J.Y. are in counseling at this time. Baron has spoken to the children’s teachers, who note the children have adjusted well. (Tr. at 77.)

{¶ 18} Baron recommended that the juvenile court grant FCCS’s motion for permanent custody. (Tr. at 78.) While Baron acknowledged B.Y.’s efforts at sobriety, she emphasized that the children need stability. (Tr. at 79.) The foster parents have discussed continuing some contact with B.Y. if the motion for permanent custody is granted. (Aug. 14, 2024 Tr. at 9.) Baron believes the children are bonded and remaining together would be in their best interests. (Tr. at 11, 13.)

{¶ 19} Somalia Andrews has been the assigned caseworker in this matter since 2023. (Tr. at 22.) Andrews reviewed the prior caseworker’s summary and discussed the current case plan with B.Y. (Tr. at 22-23.) Andrews explained that while Co.M. is the alleged father of the children, he is not identified on any of the birth certificates, and FCCS only has “a putative father registry for [M.M.]” (Tr. at 26.) While B.Y. has never named any other potential fathers, paternity was not established. (Tr. at 26.) M.M. was removed from the home when she tested positive for oxycodone at birth. (Tr. at 26.) The children have remained in FCCS’s custody since December 2019. (Tr. at 27.) The children were in the care of the foster family without disruption during that time. (Tr. at 27-28.) Andrews recalled that no family members have provided suitable kinship placement or filed a motion for custody. (Tr. at 31.) In 2020, the juvenile court gave FCCS TCC and a case plan was established with the goal of reunification. (Tr. at 32.)

{¶ 20} According to Andrews, Co.M. has not followed through with referrals or consistently provided drug screens. (Tr. at 51.) Co.M. has only completed three drug screens, all of which were positive for opiates. (Tr. at 51.) Co.M. has had inconsistent housing but has provided a current address. While Andrews visited the residence, she was not able to tour the inside of the home. (Tr. at 66.) According to Andrews, Co.M. has failed to provide proof of stable housing and income that would make her comfortable with reunification. (Tr. at 70.)

{¶ 21} B.Y. completed multiple AOD assessments during the life of the case. (Tr. at 36.) In 2021, the ODH unsuccessfully terminated B.Y. from its program due to noncompliance. (Tr. at 38.) While B.Y. was doing well with Recovery Court and Ohio Guidestone programs, she has regressed at points due to her various relapses. (Tr. at 42.) Prior to B.Y.'s 2024 relapse, she was consistently providing drug screens. However, B.Y. did not complete any drug screens, outside two occasions, in June or July 2024. (Tr. at 61.) While the missed screens in June were excused, the screens in July were not. (Tr. at 62.) B.Y.'s drug screens at that time were positive for Suboxone and opiates. (Tr. at 64.) While B.Y. took Suboxone pursuant to her treatment plan, the opiates were not a prescribed medication. Andrews did acknowledge that the levels have decreased during the last three tests. (Tr. at 64.)²

{¶ 22} Tiffany Jones is the caseworker supervisor for FCCS. (Sept. 10, 2024 Tr. at 10.) According to Jones, both parents provided hair follicle tests on August 14, 2024. (Tr. at 12.) Co.M. tested positive for cocaine and oxycodone. (Tr. at 12.) B.Y. tested positive for marijuana and oxycodone. (Tr. at 14.) Both parents were also asked to provide urine tests. While Co.M. could not produce a sample for the test, B.Y. was able to provide a sample and tested positive for Suboxone pursuant to her treatment plan. (Tr. at 15, 18.)

{¶ 23} According to Andrews, B.Y. had an issue with sending her rent payment to the incorrect address and was asked to leave her prior residence. (Tr. at 72.) B.Y. has since found new housing and has provided a signed lease. (Tr. at 72.) In July 2020, B.Y. completed the required parenting classes with the ODH. (Tr. at 66.) B.Y. has also given proof of income and has consistently provided paystubs upon request. (Tr. at 70.)

² The parties reconvened on September 9, 2024. The matter was continued as the caseworker was unexpectedly ill that morning. (Sept. 9, 2024 Tr. at 3, 7.)

{¶ 24} At the time of Andrews' September 17, 2024 testimony, B.Y. had supervised visitation of the children twice a week. (Sept. 17, 2024 Tr. at 8.) Co.M. was scheduled for visitation once a week. (Tr. at 8.) According to Andrews, "from the few visits that [she had] seen with the children and their parents, they are bonded with their parents. It's very apparent that [the] parents love the kids and the kids love their parents. So, I've never witnessed anything hazardous or unsafe or concerning." (Tr. at 10.) Andrews recalled that the parents appropriately supervise and discipline the children when necessary. (Tr. at 11-12.)

{¶ 25} Andrews has visited the children in the foster placement at least once a month. (Tr. at 13.) According to Andrews, M.M. is very bonded with the foster father as he is the stay-at-home parent. (Tr. at 14.) Andrews noted that there is an appropriate bond between the foster parents and older children as well. (Tr. at 14.) When Andrews asked the foster parents whether they would be willing to help maintain a bond between the children and their biological parents, they "reassured [her] that they want to do that." (Tr. at 15.) While B.Y. was having TSV in her home, those visits were cancelled due to her housing situation. (Tr. at 17.) Andrews noted that B.Y.'s new residence was toured by her supervisor and was deemed appropriate. (Tr. at 19.) B.Y. completed her AOD assessment and pursued treatment recommendations. (Tr. at 30.) B.Y. has obtained stable housing and discussed a plan if the children were returned. (Tr. at 32.) B.Y. has also signed all releases of information as required. (Tr. at 32.) Andrews has verified B.Y.'s employment at the Italian restaurant. (Tr. at 35.)

{¶ 26} Andrews has continued AOD concerns regarding B.Y. (Tr. at 21.) Prior to B.Y.'s 2024 relapse, she had stopped taking her prescription for Suboxone. (Tr. at 26.) According to Andrews, B.Y.'s one year of sobriety was on March 13, 2024. B.Y. then relapsed later that month on March 25, 2024. Andrews recalled that in "March [2024,] [B.Y.] had a positive screen, April [she] had a positive screen, and in July [she] had a positive screen." (Tr. at 90.) Andrews has concerns regarding B.Y. maintaining a realistic schedule with the children and "not letting stress get in the way that will induce a potential relapse." (Tr. at 44.) There is also a concern that B.Y. could relapse and not tell FCCS. (Tr. at 74.) Andrews maintained her recommendation for the juvenile court to grant the motion for permanent custody. (Tr. at 76.)

{¶ 27} Baron provided additional testimony on October 1, 2024. Baron discussed the case with the prior GAL, Pam Makowski, and has reviewed all relevant documents and

filings. (Oct. 1, 2024 Tr. at 124-126.) The older children are currently in counseling after concerns with “some behavior issues.” (Tr. at 129.) While Ct.M. had an IEP, it is no longer in place. (Tr. at 129.) According to Baron, J.Y. and Ct.M. understand the proceedings and concept of permanency and adoption. (Tr. at 132.) Baron reported that J.Y. wishes to stay with the foster parents. While J.Y. loves B.Y., he wants to remain in his current placement. (Tr. at 132.) J.Y. has had some anxiety about the case and has sought comfort from the foster parents. (Tr. at 132.) Baron reports that Ct.M. has consistently wanted to return to B.Y. in some form. (Tr. at 133.) However, Andrews reported that “[Ct.M.] also said to me, my mom still has to get her stuff together. That’s her exact wording.” (Tr. at 52.) Baron described a very strong bond between M.M. and the foster father. (Tr. at 135.) According to Baron, there is a bond between the foster parents and all the children. The children will reach out to the foster parents if there is ever a problem. (Tr. at 134.) “They are very comfortable in the home.” (Tr. at 134.)

{¶ 28} Baron believes that B.Y.’s home is appropriate. (Tr. at 137.) Baron noted that the children are always excited to visit with B.Y. (Tr. at 137.) Co.M. also has a strong bond with the children. (Tr. at 138.) The older children used to get angry when Co.M. would miss a visit, but over the last few missed visits, “it’s kind of just expected.” (Tr. at 139.) Baron has concerns with reunification with Co.M. based on the missed drug screens, inconsistent attendance at visitation, and unstable housing. (Tr. at 139.) Baron’s concern with B.Y. is the potential for a relapse. (Tr. at 140.) There is also some apprehension about continued contact between B.Y. and Co.M. Baron noted the foster father saw Co.M. leaving B.Y.’s residence before a TSV. (Tr. at 141.) While Baron emphasized that B.Y. loves her children, “[she] just can’t sustain sobriety.” (Tr. at 83.)

{¶ 29} Baron believes that the children are thriving in their foster placement. Baron explained that the stability and consistency in the home has helped them succeed. (Tr. at 143.) Baron does not think that B.Y. can provide stability at this time as her last relapse was over an “extended period of time and there were several weeks of missed screens before she came forward.” (Tr. at 143-144.) Baron believes that the foster family will continue communication with B.Y. and Co.M. as long as it is safe. (Tr. at 144.)

{¶ 30} On December 17, 2024, the State of Ohio filed a motion for contempt for failure to comply with the juvenile court’s prior order as B.Y. failed to appear for seven random drug screens from November 15 through December 10, 2024. (Dec. 17, 2024 State of Ohio’s Mot. for Contempt.) On December 18, 2024, Court Appointed Special Advocates

(“CASA”), the GAL, filed a motion for consideration of additional evidence in FCCS’s motion for permanent custody. On December 19, 2024, FCCS filed a motion to reopen the trial, pursuant to Civ.R. 59(A), and to admit additional testimony.

{¶ 31} On February 20, 2025, B.Y. entered an admission to an amended motion for contempt. Per the March 12, 2025 decision, the magistrate accepted B.Y.’s admission to the amended motion for contempt. (Mar. 12, 2025 Mag.’s Decision.) On March 26, 2025, the magistrate reaffirmed B.Y. was found guilty of contempt for failure to comply with the court’s prior order, and her participation in Recovery Court was terminated for lack of cooperation. (Apr. 18, 2025 Mag.’s Decision.) On March 31, 2025, the juvenile court heard additional testimony in this matter. The following evidence was adduced during the final day of trial.

{¶ 32} Damian Tanks is the therapist for B.Y. at Southeast Healthcare. (Mar. 31, 2025 Tr. at 13.) According to Tanks, B.Y. has not been compliant with her treatment plan as she has “missed quite a few individual sessions with me and group” in March. (Tr. at 17-18.) Tanks believes that relapse is an ongoing concern for B.Y. (Tr. at 20.)

{¶ 33} Eaton testified that B.Y. was unsuccessfully terminated from Recovery Court on March 26, 2025. (Tr. at 35, 38.) According to Eaton, B.Y. had not been compliant since that last court date in October 2024, as she had “[m]issed urine screens, not attend[ed] treatment, not follow[ed] through with the recommendations of treatment, [and] missed visitations.” (Tr. at 35.) From November 15, 2024 to March 26, 2025, B.Y. was “on and off” with drug screens. (Tr. at 36.) B.Y. was subject to a purge order based on her lack of compliance. Eaton noted that B.Y. failed to comply with the order as she “missed visitation, she missed urine screens, and she was not compliant with her treatment with Southeast.” (Tr. at 39-40.) According to Eaton, B.Y. stated that “she wanted to be done with Recovery Court because she could not remain compliant.” (Tr. at 42.) In addition to missed drug screens, B.Y. had several positive drug screens. (Tr. at 45.) Eaton recalled that B.Y. completed her last drug screen before termination of Recovery Court on March 17, 2025. (Tr. at 44.) The drug screen was positive for “benzodiazepines, her [S]uboxone, THC, and cocaine.” (Tr. at 44.)

{¶ 34} B.Y. testified that her oldest child, S.M., is currently “AWOL.” (Aug. 12, 2024 Tr. at 47-48.) According to B.Y., S.M. relapsed and will occasionally call to “let[] [her] know that she’s alive and then she hangs up.” (Tr. at 55-56.) While B.Y. had not worked since December 2024, she was scheduled to restart her employment at the Italian restaurant the

following week. (Tr. at 48-49.) B.Y. initially missed several drug screens because she lost her phone and broke her foot. (Tr. at 57-58.) B.Y., however, acknowledged that she relapsed in December 2024. (Tr. at 59.) B.Y. regularly missed drug screens from January through March 2025. (Tr. at 59-60.) B.Y. acknowledged that she was unsuccessfully terminated from Recovery Court. (Tr. at 63.)

{¶ 35} Since October 2024, B.Y. has missed screens, provided positive screens, and failed to engage with treatment. (Tr. at 94.) Regarding any updates for the children, when Baron asked Ct.M. if she wanted to return to B.Y., Ct.M. “doesn’t say one way or the other, but she doesn’t answer in the affirmative the way she used to.” (Tr. at 99.)

{¶ 36} Andrews recalled that B.Y. started having four home visits per week in November 2024. (Tr. at 119.) Visitation was expanded “to start the process of reunification.” (Tr. at 119.) After an overnight visit, Andrews became concerned that Co.M. attended the home visits. (Tr. at 120.) In December 2024, B.Y. stopped working and missed five or six drug screens. (Tr. at 121.) Based on B.Y.’s lack of compliance, FCCS reduced the home visits during that time. (Tr. at 122.) According to Andrews, B.Y. has only completed eight drug screens in 2025. (Tr. at 130.)

{¶ 37} On April 9, 2025, the juvenile court awarded FCCS permanent custody of the children and divested B.Y., Co.M., and John Doe of any and all parental rights, privileges, and obligations.

{¶ 38} B.Y. filed a timely appeal in this matter.³

II. ASSIGNMENTS OF ERROR

{¶ 39} B.Y. submits the following assignment of error:

The Court Below Erred in Granting Permanent Custody, for the Decision and Judgment Entry was Against the Manifest Weight of the Evidence, as Appellant Mother Had Substantially Completed Reunification Case Plan, and No Evidence was Presented Showing an Adverse Effect upon the Children Resulting from Appellant Mother’s Drug Use.

{¶ 40} Co.M. submits the following assignments of error:

[1.] The Trial Court erred in ruling that FCCS made reasonable efforts to prevent the continued removal of the children from B.Y.’s care.

[2.] The Trial Court erred in ruling that the termination of parental rights was in the best interests of C[t].M., J.Y., and M.M.

³ As set forth below, Co.M. failed to file a notice of appeal.

III. LEGAL ANALYSIS

A. Co.M.'s Assignments of Error

{¶ 41} As a preliminary matter, we must address whether Co.M. has filed a timely appeal. Pursuant to App.R. 4(A)(1), a party seeking to appeal from a final order must file a notice of appeal within 30 days of the entry. Failure to comply with App.R. 4 in a timely manner results in the appellate court lacking jurisdiction to consider the appeal. *See, e.g., In re H.S.*, 2017-Ohio-457, ¶ 28 (4th Dist.).

{¶ 42} The record reveals that Co.M. filed a brief with this court on December 9, 2025. Co.M., however, failed to file a notice of appeal in any of the three cases. Because Co.M. failed to file a notice of appeal within 30 days of the April 9, 2025 decision and judgment entry, we are deprived of jurisdiction to consider his assignments of error.

B. B.Y.'s Sole Assignment of Error

{¶ 43} The Due Process Clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 16, of the Ohio Constitution protects an individual's right to parent one's child. *In re L.M.*, 2023-Ohio-4326, ¶ 41 (10th Dist.), citing *In re T.N.*, 2022-Ohio-2784, ¶ 45 (10th Dist.), citing *In re H.S.*, 2022-Ohio-506, ¶ 47 (10th Dist.), citing *In re L.W.*, 2018-Ohio-2099, ¶ 6 (10th Dist.). Ohio courts have held that it is an essential and basic civil right of a parent to raise their child. *In re B.H.*, 2023-Ohio-3491, ¶ 22 (10th Dist.), citing *In re Hayes*, 79 Ohio St.3d 46, 48 (1997); *In re Murray*, 52 Ohio St.3d 155, 157 (1990). As termination of parental rights “ ‘has been described as “the family law equivalent of the death penalty in a criminal case,” ’ ” parents are afforded every procedural and substantive protection allowed under the law. *In re A.S.*, 2026-Ohio-1292, ¶ 27 (10th Dist.), quoting *In re Hayes* at 48, quoting *In re Smith*, 77 Ohio App.3d 1, 16 (6th Dist. 1991).

{¶ 44} The right of a parent to raise their child, however, is not absolute. *In re A.S.* at ¶ 27, citing *In re Cunningham*, 59 Ohio St.2d 100, 106 (1979); *see also In re K.M.*, 2024-Ohio-2137, ¶ 31 (10th Dist.). “In certain circumstances, therefore, the state may terminate the parental rights of natural parents when such termination is in the best interest of the child.” *In re K.R.*, 2023-Ohio-359, ¶ 11 (10th Dist.), citing *In re H.D.*, 2014-Ohio-228, ¶ 10 (10th Dist.). (Further citations omitted.)

{¶ 45} Termination of parental rights is governed by R.C. 2151.414. *In re K.M.* at ¶ 32. As set forth in R.C. 2151.414(B)(1), a juvenile court may grant permanent custody of a child to a children's services agency if the court determines, by clear and convincing evidence, that (1) any one of the circumstances set forth in R.C. 2151.414(B)(1)(a) through

(e) are applicable, and (2) it is in the best interest of the child to grant the agency’s motion for permanent custody. *In re A.S.* at ¶ 28, citing *In re Z.C.*, 2023-Ohio-4703, ¶ 7. “ ‘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.’ ” *In re L.B.*, 2020-Ohio-3045, ¶ 24 (10th Dist.), quoting *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus.

{¶ 46} Concerning the first prong, R.C. 2151.414(B)(1)(a) through (e) sets out the following circumstances:

- (a) The child is not abandoned or orphaned, has not 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, or has not 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 if, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state, and 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.
- (b) The child is abandoned.
- (c) The child is orphaned, and there are no relatives of the child who are able to take permanent custody.
- (d) 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 . . .
- (e) The child or another child in the custody of the parent or parents from whose custody the child has been removed has been adjudicated an abused, neglected, or dependent child on three separate occasions by any court in this state or another state.

{¶ 47} If the juvenile court finds that any of the above factors are applicable, the court then must examine R.C. 2151.414(D)(1) to determine whether granting permanent custody is in the best interest of the child. When considering whether granting a motion for permanent custody is in the child’s best interest, the juvenile court must consider all relevant factors, including, but not limited to, the following:

- (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.⁴

R.C. 2151.414(D)(1)(a) through (e).

{¶ 48} While a juvenile court is not required to specifically examine each R.C. 2151.414(D)(1) factor, it must make some indication on the record that all the factors were considered. *In re L.M.*, 2023-Ohio-4326, at ¶ 45, citing *In re T.W.*, 2020-Ohio-4712, ¶ 12 (10th Dist.), citing *In re C.C.*, 2005-Ohio-5163, ¶ 53 (10th Dist.). Under the R.C. 2151.414(D)(1) statutory analysis, no single factor warrants more weight than the other factors. *Id.*, citing *In re Schaefer*, 2006-Ohio-5513, ¶ 56.

⁴ R.C. 2151.414(E)(7) through (11) provide additional factors such as:

(7) The parent has been convicted of or pleaded guilty to one of the [enumerated criminal offenses].

(8) The parent has repeatedly withheld medical treatment or food from the child when the parent has the means to provide the treatment or food, and, in the case of withheld medical treatment, the parent withheld it for a purpose other than to treat the physical or mental illness or defect of the child by spiritual means through prayer alone in accordance with the tenets of a recognized religious body.

(9) The parent has placed the child at substantial risk of harm two or more times due to alcohol or drug abuse and has rejected treatment two or more times or refused to participate in further treatment two or more times after a case plan issued pursuant to section 2151.412 of the Revised Code requiring treatment of the parent was journalized as part of a dispositional order issued with respect to the child or an order was issued by any other court requiring treatment of the parent.

(10) The parent has abandoned the child.

(11) The parent has had parental rights involuntarily terminated with respect to a sibling of the child pursuant to this section or section 2151.353 or 2151.415 of the Revised Code, or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to those sections, and the parent has failed to provide clear and convincing evidence to prove that, notwithstanding the prior termination, the parent can provide a legally secure permanent placement and adequate care for the health, welfare, and safety of the child.

{¶ 49} A juvenile court’s determination in a permanent custody matter will not be reversed by a reviewing court unless the court finds the decision was against the manifest weight of the evidence. *In re R.M.A.L.O.*, 2023-Ohio-3695, ¶ 40 (10th Dist.), citing *In re Andy-Jones*, 2004-Ohio-3312, ¶ 28 (10th Dist.). “ ‘Weight of the evidence concerns “the inclination of the greater amount of credible evidence, offered in a trial, to support one side of the issue rather than the other. . . . Weight is not a question of mathematics, but depends on [the evidence’s] effect in inducing belief.” ’ ” (Emphasis deleted.) *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 12, quoting *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997), quoting *Black’s Law Dictionary* (6th Ed. 1990). “A juvenile court’s grant of permanent custody is not against the manifest weight of the evidence when all material elements are supported by competent, credible evidence.” *L.M.* at ¶ 46, citing *In re J.J.*, 2022-Ohio-907, ¶ 18 (10th Dist.), citing *In re J.T.*, 2012-Ohio-2818, ¶ 9 (10th Dist.).

1. R.C. 2151.414(B)(1)(a) through (e)

{¶ 50} In its April 9, 2025 decision, the juvenile court found that FCCS demonstrated R.C. 2151.414(B)(1)(d) as there was clear and convincing evidence that “[a]ll three children have been in the custody of the agency since the granting of the TOC in December 2019 and TCC on March 11, 2020 and have remained continuously in their care since that time.” (Apr. 9, 2025 Decision & Jgmt. Entry at 12.) The juvenile court, in the alternative, also found that R.C. 2151.414(B)(1)(a) was met as the children could not be placed with either of their parents within a reasonable time. *Id.* at 11.

{¶ 51} While B.Y. has conceded that the children have “been in the temporary custody of one or more public children services agencies for twelve or more months of a consecutive twenty-two month period,” see B.Y.’s brief at 12, she argues that the juvenile court erred when it found that FCCS had demonstrated R.C. 2151.414(E)(1) and (2). (B.Y.’s Brief at 13, 18.) Ohio courts have consistently found that a juvenile court’s “findings under R.C. 2151.414(B)(1)(a) and R.C. 2151.414(B)(1)(d) are alternative findings, [and] each is independently sufficient to use as a basis to grant the Agency’s motion for permanent custody.” (Brackets in original.) (Internal quotation marks deleted and citations omitted.) *In re M.Y.*, 2026-Ohio-1892, ¶ 72 (6th Dist.). As the first part of the permanent custody test is satisfied where one or more of the conditions provided in R.C. 2151.414(B)(1)(a) through (e) are applicable, the juvenile court’s undisputed finding under R.C. 2151.414(B)(1)(d) establishes the first requirement of the statute. *In re N.W.*, 2008-Ohio-297, ¶ 10 (10th Dist.); see also *In re M.Y.* at ¶ 72, citing *In re L.G.*, 2024-Ohio-4554,

¶ 44 (6th Dist.). Here, we agree with the juvenile court that FCCS demonstrated R.C. 2151.414(B)(1)(d) as the children have been in the continuous custody of the agency since December 2019. Because we agree with the juvenile court that R.C. 2151.414(B)(1)(d) was satisfied, we need not address the juvenile court’s alternative findings under R.C. 2151.414(B)(1)(a). *In re E.R.*, 2025-Ohio-1512, ¶ 23 (10th Dist.), citing *In re M.W.*, 2011-Ohio-6392, ¶ 36 (10th Dist.) (“because FCCS met the ‘12 of 22’ requirement set forth in R.C. 2151.414(B)(1)(d), it was not necessary for the trial court to make further findings regarding whether the minor child cannot be placed with either parent within a reasonable time or should not be placed with either parent”). While B.Y. is challenging the juvenile court’s R.C. 2151.414(E)(1) and (2) findings, those are only relevant to the juvenile court’s alternative finding under R.C. 2151.414(B)(1)(a). *In re M.Y.* at ¶ 73; *see also In re A.S.*, 2026-Ohio-288, ¶ 3 (2d Dist.) (finding that because the child had been in “temporary custody for 12 or more months out of a consecutive 22-month period, we need not determine whether the record contains admissible evidence that would have supported a finding under R.C. 2151.414(E)”). As such, we decline to address any arguments specific to the trial court’s findings under R.C. 2151.414(E), and we will focus our analysis on whether there was competent, credible evidence that the grant of permanent custody was in the best interest of the children. *State v. Gideon*, 2020-Ohio-5635, ¶ 26 (“an assignment of error is moot when an appellant presents issues that are no longer live as a result of some other decision rendered by the appellate court”). Any general arguments regarding compliance with the case plan will be examined below within the context of the R.C. 2151.414(D)(1) best interest factors.

2. Best Interest Analysis (R.C. 2151.414(D)(1)(a) through (e))⁵

a. Children’s Interactions and Relationships (R.C. 2151.414(D)(1)(a))⁶

{¶ 52} As set forth in R.C. 2151.414(D)(1)(a), the first factor in determining whether permanent custody is in the children’s best interest requires the court to examine the children’s interactions and relationships with the parents, siblings, foster caregivers, and others.

⁵ The juvenile court also found that John Doe abandoned his children satisfying R.C. 2151.414(B)(1)(b).

⁶ The juvenile court refers to the best interest factors as R.C. 2151.414(D)(1) through (5). (*See* Apr. 9, 2025 Decision & Jgmt. Entry at 17-19.) While the cited statutory language is accurate, the correct statutory provisions at issue are R.C. 2151.414(D)(1)(a) through (d).

{¶ 53} The children have been in the same foster placement since December 2019. M.M. is the youngest child and is very bonded with the foster father, who is the stay-at-home parent. Andrews noted that there is an appropriate bond between the foster parents and older children as well. J.Y. is bonded both with the foster parents and B.Y. Baron described Ct.M. as comfortable in the foster home. While Baron believes that Ct.M. is more bonded with B.Y. than the foster parents, there is still a bond between the foster parents and all the children. The children will reach out to the foster parents if there is ever a problem. The family has gone on vacations together, such as camping and Disneyworld.

{¶ 54} During visitations, the children are excited to see B.Y. “They run up to her. They hug her.” (Aug. 13, 2024 Tr. at 75.) During the visits, B.Y. asks the children about their activities and plays games with them. According to Andrews, the children and B.Y. are very bonded. Andrews recalled that B.Y. supervises and disciplines the children appropriately when necessary.

{¶ 55} Baron believes the children are bonded and remaining together would be in their best interests. According to Baron, the foster home is a potentially adoptive home for the children. Baron believes the foster parents will continue to facilitate interaction between the children and B.Y. Andrews explained that no family members have provided suitable kinship placement or filed a motion for custody.

b. Children’s Wishes (R.C. 2151.414(D)(1)(b))

{¶ 56} The second factor to consider is the custodial wishes of the children. According to Baron, J.Y. and Ct.M. understand the proceedings and concept of permanency and adoption. While J.Y. loves B.Y., he wants to remain in his current placement. J.Y. has had some anxiety about the case and has sought comfort from the foster parents. Baron reported that Ct.M. has consistently wanted to return to B.Y. However, on the last day of trial, Baron noted that Ct.M. has now refused to discuss her wishes any further. Ct.M. “doesn’t say one way or the other, but she doesn’t answer in the affirmative the way she used to.” (Mar. 31, 2025 Tr. at 99.) M.M. is too young to understand the proceedings and concept of permanency and adoption, but there is an established bond between M.M. and the foster parents as it is the only home she has ever known.

c. Custodial History (R.C. 2151.414(D)(1)(c))

{¶ 57} The third factor in determining the children’s best interest is examining the children’s custodial history. As acknowledged by B.Y., the children were removed from her care in December 2019. The juvenile court underscored the length of this case writing that

“[t]hese children have been out of their parents’ care for over **five** years.” (Emphasis in original.) (Apr. 9, 2025 Decision & Jgmt. Entry at 18.) As set forth previously, the children have been in the continuous care of the foster parents since their removal. The children have thrived and the foster family is a potentially adoptive home.

{¶ 58} This factor favors FCCS.

d. The Children’s Need for a Legally Secure Permanent Placement (R.C. 2151.414(D)(1)(d))

{¶ 59} The fourth factor considers the children’s need for legally secure placement and whether the type of placement can be achieved without granting permanent custody to FCCS.

{¶ 60} Here, it is evident the children are in need of legally secure permanent placement. The record reveals that no family members can provide suitable kinship placement or filed a motion for custody. The foster parents are “very interested” in adopting the children. (Sept. 17, 2024 Tr. at 14-15.) According to Baron, the foster parents are also willing to maintain communication with B.Y. as long as it is safe. J.Y. and Ct.M. are in counseling at this time. Baron has spoken to the children’s teachers, who note the children are adjusting well to their school. J.Y. and Ct.M. are diagnosed with ADHD and require daily medication. There are also recent reports that M.M. has had some outbursts at school.

{¶ 61} B.Y.’s arguments have focused on compliance with the case plan. Under the case plan, B.Y. was required to complete an AOD assessment and follow recommendations; complete random drug screens; complete a parenting course; obtain stable housing; sign releases; and link with Help Me Grow and follow recommendations.

{¶ 62} According to Andrews, B.Y. has completed multiple AOD assessments. While B.Y. utilized Basecamp as her AOD provider for much of the case, she has since switched to Southeast. B.Y. linked with Help Me Grow and completed the requisite parenting classes. B.Y. has obtained stable housing and has discussed a plan for if the children are returned. B.Y. has also signed all releases of information as required. Andrews has verified B.Y.’s employment at the Italian restaurant since the case commenced. While B.Y. stopped working at the end of December 2024, she testified that she was set to resume her employment the week after trial.

{¶ 63} The most important aspect of B.Y.’s case plan, and largest barrier to reunification, has been sobriety. Throughout the life of this case, however, B.Y. has failed to consistently comply with drug screens and maintain sobriety.

{¶ 64} B.Y. acknowledged that she was addicted to Percocet when M.M. was born. When B.Y. completed her AOD assessment, she was recommended to complete IOP classes. Beginning in February 2021, B.Y. relapsed after her mother died. B.Y. described taking Percocet without a prescription on a daily basis for “several months.” (Aug. 12, 2024 Tr. at 67.) In 2021, ODH unsuccessfully terminated B.Y. from its program due to noncompliance. B.Y. later received treatment through Ohio Guidestone, which involved IOP classes and counseling. In March 2023, B.Y. engaged in inpatient treatment after another relapse. B.Y. completed the inpatient program and entered a sober living facility. B.Y. left the sober living facility and returned to her prior residence and employment.

{¶ 65} In early March 2024, B.Y. completed a full year of sobriety. B.Y., however, tested positive for Percocet on March 25, 2024. B.Y. explained that she “just got overwhelmed, and stressed at the moment. And instead of using my coping skills and mechanisms, . . . I relapsed.” (Oct. 1, 2024 Tr. at 20.) Andrews recalled that in “March [2024,] [B.Y.] had a positive screen, April [she] had a positive screen, and in July [she] had a positive screen.” (Sept. 17, 2024 Tr. at 90.) According to Eaton, B.Y. missed several screens in June and July 2024. B.Y. acknowledged that she has tended to avoid drug screens during a relapse. In July 2024, B.Y.’s outpatient level of care increased based on “missed appointments, missed screens, [and] positive screens.” (Aug. 13, 2024 Tr. at 16.) Eaton testified that B.Y. was not as forthcoming about her relapse in 2024. “[S]he was embarrassed [and] felt like her world was coming down around her.” (Tr. at 30.) At trial, Andrews noted her continued concerns regarding B.Y.’s AOD issues. While “she has been trying, there is still that lingering feeling because she did relapse in July, which is a concern for anyone[.]” (Sept. 17, 2024 Tr. at 21.)

{¶ 66} B.Y. began work with Recovery Court in 2022. While B.Y. reached phase five of Recovery Court, she regressed due to multiple relapses. On March 26, 2025, the magistrate reaffirmed B.Y. was found guilty of contempt for failure to comply with the court’s prior order and her participation in Recovery Court was terminated for lack of cooperation. (Apr. 18, 2025 Mag.’s Decision.) Eaton testified that B.Y. was unsuccessfully terminated from Recovery Court based on “[m]issed urine screens, not attend[ed] treatment, not follow[ed] through with the recommendations of treatment, [and] missed

visitations.” (Mar. 31, 2025 Tr. at 35.) While B.Y. was subject to a purge order based on her lack of compliance, she failed to comply with the order as she “missed visitation, she missed urine screens, and she was not compliant with her treatment with Southeast.” (Tr. at 39-40.) According to Eaton, B.Y. stated that “she wanted to be done with Recovery Court because she could not remain compliant.” (Tr. at 42.) In addition to missed drug screens, Eaton testified that B.Y. had several positive drug screens in the winter of 2025. B.Y.’s last drug screen on March 17, 2025 was positive for “benzodiazepines, her [S]uboxone, THC, and cocaine.” (Tr. at 44.) While B.Y. attributed several missed drug screens to the loss of her phone and breaking her foot, she acknowledged that she had relapsed in December 2024. When asked what caused the most recent relapse, B.Y. responded, “Honestly, I cannot tell you. It’s like I woke up a different person.” (Tr. at 69.) B.Y. does plan to continue with Southeast for treatment. (Tr. at 76.)

{¶ 67} B.Y. contends that she has complied with most of the case plan and there is no evidence that her drug addiction has had an adverse effect on the children. We find this argument unavailing. “[A] legally secure permanent placement is more than a house with four walls. Rather, it generally encompasses a stable environment where a child will live in safety with one or more dependable adults who will provide for the child’s needs.” (Internal quotation marks deleted and citations omitted.) *In re E.B.*, 2017-Ohio-2672, ¶ 32 (10th Dist.). The children have been removed from B.Y.’s care since 2019. Because the children have been in foster placement since that time, they have been largely shielded from the adverse effects of B.Y.’s multiple relapses. While B.Y. has worked to maintain sobriety, the foster parents have been able to provide a stable home for the children. Baron addressed this exact point in her testimony. While Baron acknowledged B.Y.’s efforts to stay clean, she emphasized that the children need stability. (Tr. at 79.) “[I]f we have demonstrated over four years that we can’t maintain [sobriety], it’s - - it’s a risk. Safety risk.” (Oct. 1, 2024 Tr. at 140.) Based on the above considerations, this factor also favors FCCS as the children need legally secure permanent placement.

e. Whether Any of the Factors in Divisions R.C. 2151.414 (E)(7) to (E)(11) Apply in Relation to the Parent and Child (R.C. 2151.414(D)(1)(e))

{¶ 68} Finally, we look at whether any of the factors provided in divisions R.C. 2151.414(E)(7) to (E)(11) are applicable. Upon review, we agree with the juvenile court that none of the factors pertain to B.Y.

f. Other Considerations and Arguments

{¶ 69} The parents have contended that the juvenile court erred by finding that FCCS made reasonable efforts to prevent the removal of the children from B.Y.'s care. R.C. 2151.419(A)(1) provides that, at certain hearings, the juvenile court shall determine whether a public children services agency “has made reasonable efforts to prevent the removal of the child from the child’s home, to eliminate the continued removal of the child from the child’s home, or to make it possible for the child to return safely home.” The statute applies to “adjudicatory, emergency, detention, and temporary-disposition hearings, and dispositional hearings for abused, neglected, or dependent children, all of which occur prior to a decision transferring permanent custody to the state.” *In re C.F.*, 2007-Ohio-1104, ¶ 4. “Because [R.C. 2151.419(A)(1)] makes no reference to a hearing on a permanent custody motion, it does not apply to motions for permanent custody brought pursuant to R.C. 2151.413, or to hearings held on such motions pursuant to R.C. 2151.414.” (Internal quotation marks deleted and citations omitted.) *In re E.B.*, 2025-Ohio-1999, ¶ 38 (10th Dist.). However, if the agency has not established that reasonable efforts were made prior to the hearing on the motion for permanent custody, it must demonstrate such efforts at that time. *Id.*; *In re N.M.*, 2021-Ohio-2080, ¶ 58 (10th Dist.) (“[T]he issue of whether the agency made reasonable efforts at reunification only arises at the hearing on a motion for permanent custody if the agency has not established that reasonable efforts were made prior to the hearing.”). This court has found that reasonable effort findings made by the juvenile court in prior hearings complies with the reasonable efforts finding requirement in a juvenile case. *In re K.L.*, 2013-Ohio-3499, ¶ 40 (10th Dist.). Here, as reflected in its November 17 and December 7, 2021 findings of fact and conclusions of law, the juvenile court made the requisite reasonable efforts findings.

{¶ 70} While not required, the juvenile court reiterated that it had “previously determined that throughout this case and further finds herein that FCCS made reasonable efforts to prevent or eliminate the need for removal of these children from their own home and to return these children to the care of their Mother and/or Father.” (Apr. 9, 2025 Decision & Jgmt. Entry at 3.) Any challenge to this finding has no merit as we cannot reverse a judgment based on an alleged error in a finding that the juvenile court never had to make in the first instance. *In re E.R.* 2025-Ohio-1512, at ¶ 29 (10th Dist.), citing *In re Bil.I.*, 2023-Ohio-434, ¶ 30 (10th Dist.). (Further citation omitted.) As the parents could

have objected or appealed the prior reasonable efforts findings at the time they were made, they cannot challenge those findings now on appeal. *Id.*

g. Conclusion of Best Interest Analysis

{¶ 71} In the case sub judice, the juvenile court properly reviewed and weighed the evidence regarding all the factors relevant to determining whether a grant of permanent custody to FCCS was in the children’s best interest. “The ‘overriding concern’ in any child custody case is to reach a disposition that is in the child’s best interests.” *In re B.B.*, 2021-Ohio-2299, ¶ 69 (10th Dist.), quoting *In re Hitchcock*, 120 Ohio App.3d 88, 102 (8th Dist. 1996). After a careful review of the evidence and testimony presented at the hearing, there was competent, credible evidence to support the juvenile court’s conclusion that terminating B.Y.’s parental rights was in the children’s best interest. It is apparent that B.Y. loves her children. However, the children are in need of permanent placement and cannot wait any longer for B.Y. to comply with her case plan. Thus, we cannot find that the juvenile court’s determination was against the manifest weight of the evidence.

{¶ 72} It is worth emphasizing that B.Y.’s efforts at sobriety, while unsuccessful at this time, are laudable. Recovery is not linear. Despite B.Y.’s continued struggle to remain sober, her love for the children has never been in doubt. Regardless of the outcome of this case, it is our hope that B.Y. can continue to work through her addiction and return to the path of recovery that she worked so hard to blaze.

{¶ 73} For the above reasons, B.Y.’s sole assignment of error is overruled.

IV. CONCLUSION

{¶ 74} Having overruled B.Y.’s sole assignment of error, we affirm the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations and Juvenile Branch, as to the termination of her parental rights and permanently divesting her of any and all parental rights, privileges, and obligations.

Judgment affirmed.

BOGGS, P.J., and EDELSTEIN, J., concur.
