

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

In the Matter of:	:	
[I.T.,	:	Nos. 25AP-396 and 25AP-455
S.T. et al.,	:	(C.P.C. No. 22JU-7612)
	:	(REGULAR CALENDAR)
Appellants].	:	
In the Matter of:	:	
[D.T.,	:	No. 25AP-456
A.T.,	:	(C.P.C. No. 22JU-7618)
	:	(REGULAR CALENDAR)
Appellant].	:	

D E C I S I O N

Rendered on August 27, 2026

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

On brief: *William T. Cramer*, for appellant, S.T.

On brief: *John T. Ryerson*, for appellant, A.T.

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

JAMISON, J.

{¶ 1} Appellant, A.T., mother of I.T. and D.T., appeals the decision of the Franklin County Court of Common Pleas, Division of Domestic Relations and Juvenile Branch, granting permanent custody of I.T. and D.T. to Franklin County Children Services (“FCCS”), a public children services agency. S.T., father of I.T., only appeals the decision as it pertains to I.T. For the reasons below, we affirm.

I. FACTS AND PROCEDURAL HISTORY

{¶ 2} I.T. was born July 19, 2009. D.T. was born February 22, 2012. A.T. is the mother of both children. S.T. is the father of I.T. There is no father listed on D.T.'s birth certificate. When this case initially came in, the alleged father was Juan Smith or John Doe. Juan Smith's whereabouts were never determined. He was never involved in this case. At a preliminary hearing, A.T., under oath, stated that Michael Hogan was the father. Michael Hogan was never involved in this case because he was deceased.

{¶ 3} On July 31, 2022, FCCS filed complaints alleging that the children were neglected and dependent. The factual allegations in the complaints were essentially identical. The family had history with FCCS since 2002. At the time of the complaints, services were being provided to the family through Permanent Family Solutions Network ("PFSN"), also referred to as Buckeye Ranch. In January 2022, the family's caseworker was contacted by the children's maternal uncle stating that he and his girlfriend were caring for I.T. and D.T. They cared for them since February 2021. He indicated that the children's school told him they would be unenrolled because he and his girlfriend did not have custody of the children.

{¶ 4} After the report, the PFSN caseworker attempted a visit with A.T., but she refused to speak to the caseworker. A.T. reportedly cussed the caseworker out when she was asked to take a drug screen. The children reported that they did not want to be placed with their mother because she would "sell them for drugs," and she did not appropriately care for them. (July 31, 2022 Compl. at 1.) A.T. was currently living with her mother who was bedridden and could not protect the children. The locations of S.T., as well as D.T.'s father, were unknown.

{¶ 5} On May 16, 2022, the caseworker contacted the uncle's girlfriend, but she reported that she and the uncle were broken up. She indicated that the children were still with the uncle and were safe. When contacted, the uncle reported the children were living with A.T. and their maternal grandmother. The uncle and his now ex-girlfriend agreed to keep the children so that FCCS could file for emergency custody. The children were placed into foster care and on May 19, 2022, the trial court granted FCCS a temporary order of custody. At the time of the filing of the complaint, A.T. did not complete case-plan objectives and refused to engage with the caseworker. FCCS had concerns for A.T.'s substance abuse and her ability to care for the children. It was noted that A.T. had two

other children that were not in her custody. The complaint requested the children be placed in FCCS's temporary custody.

{¶ 6} Following a hearing on August 5, 2022, a magistrate awarded FCCS temporary custody of the children. The trial court also found that FCCS made reasonable efforts to prevent the children's removal/continued removal from the home. A.T. did not attend the hearing but was represented by counsel.

{¶ 7} Emma Mirles-Jones was appointed as the children's guardian ad litem ("GAL").

{¶ 8} A hearing was held to address FCCS's complaint on September 27, 2022. A.T. did not appear for the hearing. The magistrate found that the children were neglected and dependent as alleged and committed them to the temporary custody of FCCS.

{¶ 9} On May 10, 2023, FCCS filed a motion for its first extension of temporary custody of the children. In its motion, it was alleged that A.T. did not cooperate with the caseworker, did not complete drug screens or an alcohol/drug assessment, did not visit with the children, and was currently homeless. That motion was granted.

{¶ 10} On October 3, 2023, FCCS filed a motion for permanent custody of I.T. The GAL filed a report recommending that the trial court grant permanent custody to FCCS. It was noted that the last contact with A.T. was in December 2022. I.T. wished to return to live with his uncle, but he knew his uncle could not take custody of him. I.T. provided the GAL with some details about his father in the hopes of tracking down paternal relatives. However, he did not want to be separated from D.T. An attorney was appointed to represent I.T. S.T. became involved with the agency in October of 2023 and visits between him and I.T. began.

{¶ 11} FCCS filed a motion for permanent custody of D.T. in April 2024. An attorney was appointed to represent D.T.

{¶ 12} In August 2024, S.T. filed a motion to enforce the court's visitation order. In that motion, he alleged that he was being denied visitation, usually because I.T. did not want to visit with him. That motion was denied.

{¶ 13} On December 19, 2024, the GAL filed a final report recommending that FCCS's motions for permanent custody of the children be granted. It was noted that I.T. wished to stay at his current foster home.

{¶ 14} FCCS's motions for permanent custody came to be heard on December 19, 2024. A.T. did not appear for this hearing and was not in contact with her attorney.

{¶ 15} S.T. testified that A.T. had custody of I.T. when he was born. S.T. and A.T. lived together for a short period of time after I.T. was born, but their relationship ended sometime in 2010. S.T. and A.T. never had a formal custody agreement, but I.T. continued to live with A.T. S.T. later claimed in his testimony that he raised I.T. from his birth until he was two years old. S.T. alleged that he could not visit I.T. because his attorney told him he could not be around A.T. This stemmed from a misdemeanor criminal case filed against him. However, S.T. also testified that he saw I.T. every other weekend. He would receive occasional phone calls from I.T. At one point, I.T. spent a summer with S.T. I.T. was allegedly having fun, but A.T. came and took him away from S.T. S.T. recalled that being sometime in 2021.

{¶ 16} Visits between S.T. and I.T. resumed in October 2023 when he learned I.T. was in FCCS's custody. He was scheduled to receive one visit per week. S.T. denied that he canceled eight visits. He testified that he canceled two visits. S.T. testified that he lived in Upper Arlington at his girlfriend's residence. They moved there in September 2024 and his name was on the lease. He worked part time at Al's Delicious Popcorn and received social security. S.T. testified that he was not offered family counseling by FCCS to facilitate reunification. He claimed that he received no contact from Dublin City Schools about I.T. He denied that he was provided I.T.'s full football schedule. He claimed he was not provided I.T.'s basketball schedule. He claimed that he made efforts to obtain these schedules, but for various reasons, he was unsuccessful. He attended one football game. He attempted to attend another football game, but he claimed that I.T. lied to him about the time of the game.

{¶ 17} FCCS called Kristen Ruppen as a witness. She testified that she was a caseworker at PFSN. Ruppen was the caseworker for I.T. and D.T. She was assigned to be their caseworker in February 2024. Ruppen testified that the children came into FCCS's custody on May 18, 2022. D.T. was briefly in her maternal aunt's temporary custody from July to November 2023. Outside of that, both children were in FCCS's custody the entire time.

{¶ 18} A case plan was adopted by the court in this matter. A.T. was required to complete an alcohol or drug assessment and follow recommendations; complete random

drug screens; complete a mental health assessment and follow recommendations; complete a parenting assessment and follow recommendations; find stable housing and employment; gain the ability to provide for the basic needs of the children; meet with her caseworker; and sign releases of information. A.T. completed one drug screen in July 2024. She told the caseworker that she earned income from cleaning houses, but she never provided verification to the caseworker. Despite Ruppen providing referrals and making regular attempts to contact A.T., she made no other progress on her case plan. In fact, Ruppen had not heard from A.T. since July 2024. As for visitation, A.T. had no contact with I.T. during the life of this case. As for D.T., A.T. never visited her, but over the phone “provoked” D.T. to abscond from her group home. (Dec. 19, 2024 Tr. at 58.) Approximately a week later, it was discovered that A.T. was hiding D.T. at her grandmother’s home. A.T. went 90 consecutive days without contact with both children. It should also be noted that A.T. had four other children of which she did not have custody.

{¶ 19} The case plan required S.T. to complete a parenting assessment and follow any recommendations; complete a mental health assessment and follow any recommendations; engage with the Board of Developmental Disabilities (“BDD”); meet with his caseworker; and sign releases of information. S.T. had a few visits with Ruppen but missed one scheduled visit. He signed releases of information. He completed a parenting assessment. He did not complete a mental health assessment. S.T. claimed he already took a mental health assessment “a while ago” and was not recommended for services. (Dec. 19, 2024 Tr. at 56.) Ruppen testified that FCCS needed a more current assessment. S.T. was not linked with the BDD. FCCS was waiting for S.T. to obtain a mental health assessment before referring him to BDD. Ruppen visited S.T.’s residence and did not have concerns for his housing.

{¶ 20} S.T.’s visits with I.T. began in October of 2023. Between May 2022 and October 2023, S.T. had no contact with I.T. S.T.’s visits were scheduled for one hour once per week. The visits occurred at Buckeye Ranch and sometimes had to be adjusted for I.T.’s school and sports schedules. Ruppen testified that she observed parts of the visits and I.T. had positive interactions with S.T. Ruppen characterized S.T.’s visitation as “pretty inconsistent.” (Dec. 19, 2024 Tr. at 60.) She estimated that he cancelled seven or eight visits. Beginning in the summer of 2024, I.T. began cancelling visits with S.T. I.T.’s reasons for cancelling his visits were that “the Judge knows how he feels,” and at one visit, S.T.

smelled like marijuana. (Tr. at 69.) Ruppen encouraged I.T. to visit and communicate with S.T. I.T.'s counseling was scheduled for the same day and at the same place as his scheduled visits in the hopes that it would encourage him not to cancel the visitations.

{¶ 21} Ruppen provided S.T. with I.T.'s football schedule so that S.T. could attend the games. The foster parents wrote the schedule down and Ruppen would text S.T. every week the time of the game, even though it was the same time every week. I.T. also provided S.T. with dates of some of his basketball games. S.T. attended only one football game and no basketball games.

{¶ 22} Ruppen opined that D.T. "doesn't really have a relationship with her mother." (Tr. at 64.) She does have a strong bond with I.T. She also had a relationship with her maternal grandmother. D.T. was placed at a group home in Dayton. D.T. had an Individualized Education Plan ("IEP") in school and received counseling services. At the time of the hearing, D.T. was acting out frequently and accrued a lot of delinquency charges. At a certain point, she did express a desire to live with A.T. However, D.T. changed her mind after she ran away from her group home and stayed with A.T. D.T. indicated she witnessed A.T. using drugs and A.T. supplied her with marijuana.

{¶ 23} I.T. did not have a bond with his mother. He used to have a strong bond with D.T., but at the time of the hearing he was upset because of some of the poor choices D.T. made. He had regular visits with his maternal aunt and sometimes his maternal grandmother. I.T. was in foster care and he consistently remained in the same placement. He had a strong bond with his foster parents. He was comfortable with them and opened up to them. The foster parents were very involved in his education and sports. I.T. had a learning disability and an IEP in school. The foster parents worked with him for hours every night on his academics. The foster parents were a prospective foster-to-adopt home. The foster parents encouraged I.T. to visit and maintain a relationship with S.T. I.T. enjoyed his current school and was involved in a lot of extracurricular activities there. If S.T. was awarded custody, I.T. had to change schools.

{¶ 24} FCCS performed a kinship placement search for both children and no individuals came forward. The relatives that Ruppen did speak to were unable to care for the children. Ruppen opined that both children were in need of a legally secure placement. She testified that FCCS recommended that the trial court grant the motion for permanent custody.

{¶ 25} The GAL called five witnesses. She called the foster parents. She also called John Bernans, I.T.'s basketball coach; Julie Green, I.T.'s intervention specialist; and Stacey Wilhelm, I.T.'s seventh-grade track coach and eighth-grade social studies teacher. The foster parents testified that I.T. lived with them since May 2022. D.T. initially resided there but was placed elsewhere in January 2023 due to some behaviors. When the children were first placed with the foster parents, they were malnourished and only had the clothes on their backs. I.T. was very behind in both reading and writing. The foster parents spent a couple hours every night working with I.T. on his homework and studying for tests. I.T. made significant progress academically and was consistently on the honor roll in Dublin City Schools.

{¶ 26} I.T. also made significant progress socially and emotionally. He was more confident, had a strong group of friends, and participated in numerous extracurricular activities. I.T. was bonded with the foster parents' extended family, attending vacations and other family gatherings. He had great relationships with the other children in the family. Additionally, I.T. had a significant bond with the foster father. They did everything together that fathers and sons do.

{¶ 27} As for I.T.'s visitation with S.T., the foster parents estimated that S.T.'s attendance rate for the initial visits with I.T. was approximately 50 to 60 percent. In the summer of 2024, I.T. started cancelling visits. The foster parents encouraged I.T. to attend the visits. When the foster parents observed I.T. interact with S.T., the two seemed more like acquaintances or extended family members, as opposed to father and son. Ultimately, the foster parents testified that they were prepared to provide I.T. with a long-term, stable home, which may include adoption.

{¶ 28} The three staff members from Dublin City Schools all generally testified to the growth and progress they observed in I.T. I.T. had a great work ethic and over time became much more confident. All of the hard work he put in and the opportunities for extracurricular activities he was presented seemed to make him very happy. Socially, I.T. was popular and his interactions with others were more mature. Academically, he began to advocate for himself and was more comfortable in the classroom. He made significant progress in his writing ability. At a certain point, he was even confident enough to take tests without the assistance of his intervention specialist. Finally, all three witnesses testified that I.T.'s foster parents were very supportive.

{¶ 29} The GAL testified that she was the GAL for I.T. and D.T. since 2017. She was also the GAL for another one of A.T.'s children. The agency received permanent custody of that child. I.T. was previously found to be dependent and placed in the temporary custody of Sharon Thompson with court ordered protective supervision ("COPS") to FCCS. He was eventually returned to A.T. with COPS. In 2011, he was found to be dependent again and placed into FCCS's temporary custody. He was eventually returned to A.T.'s custody. A.T. was in jail when this case first opened, but she never engaged with the GAL after her release. The GAL was never able to observe I.T.'s visits with S.T. due to scheduling issues. Beginning in the summer of 2024, I.T. did not want to visit with S.T. D.T. seemed to be bonded with A.T. but her wishes kept changing. At the time of the hearing, she did not want to be placed with anybody. I.T. wished to stay and live with his foster family. He was very happy at his current school. He felt cared for. He was adamant that he did not want to live with S.T. The GAL opined that the two children were in need of a legally secure and permanent placement and that it was in the children's best interests for the motions for permanent custody to be granted.

{¶ 30} On the final day of trial, A.T. was incarcerated in Franklin County. On her behalf, counsel moved for a continuance so that she could testify. The trial court set an additional date for A.T. to testify and informed counsel that she was to inform the court whether or not that hearing was necessary. A review of the record reveals that the additional hearing date did not go forward.

{¶ 31} On May 6, 2025, the trial court issued a decision and judgment entry granting FCCS's motions for permanent custody as to both children. The court found that FCCS made reasonable efforts to prevent or eliminate the need for removal of the children from their home and to return the children to their parents. The children were in the temporary custody of FCCS for 12 or more months of a consecutive 22-month period, and they could not be placed with either of the parents within a reasonable time. Furthermore, the children were abandoned. The court also found that A.T. had children adjudicated, abused, neglected, or dependent on three separate occasions. Finally, the court found that permanent custody to FCCS was in the children's best interests.

{¶ 32} It is from that decision that A.T. and S.T. now appeal.

II. ASSIGNMENTS OF ERROR

{¶ 33} S.T. assigns the following as trial court errors:

[1.] The agency failed to make reasonable and diligent efforts to reunify the family because it repeatedly cancelled visitation solely at the request of the child.

[2.] The weight of the evidence does not support a finding that permanent custody was in the best interest of the child because the agency repeatedly cancelled visitation, thereby making it impossible to accurately determine best interest.

{¶ 34} A.T. assigns the following as trial court error:

The Trial Court committed plain error in failing to hold a scheduled hearing for Appellant Mother A.T. to appear and testify before the Court.

III. STANDARD OF REVIEW

{¶ 35} R.C. 2151.419(A)(1) requires children’s services agencies to make “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 children’s services agency has the burden of proving reasonable efforts. *In re V.W.*, 2022-Ohio-2487, ¶ 42-43 (10th Dist.). A trial court’s finding that the agency made reasonable efforts is reviewed for an abuse of discretion. *In re P.C.*, 2021-Ohio-1238, ¶ 42 (3d Dist.). An abuse of discretion exists when the trial court has an unreasonable, arbitrary, or unconscionable attitude in reaching its decision. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

{¶ 36} A trial court’s permanent custody determination will not be reversed absent a finding that it was against the manifest weight of the evidence. *In re M.M.*, 2024-Ohio-1488, ¶ 55 (10th Dist.). As with all challenges to the manifest weight of the evidence, an “appellate court must weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether, in resolving conflicts in the evidence, the finder of fact clearly lost its way and created such a manifest miscarriage of justice that the judgment must be reversed and a new trial ordered.” (Internal quotation marks deleted and citation omitted.) *In re K.M.*, 2024-Ohio-2137, ¶ 34 (10th Dist.).

{¶ 37} On appellate review, “[p]ermanent custody motions supported by some competent, credible evidence going to all the essential elements of the case will not be reversed . . . as against the manifest weight of the evidence.” *In re Brown*, 2004-Ohio-3314, ¶ 11 (10th Dist.). Further, in determining whether a judgment is against the manifest weight of the evidence, the reviewing court is guided by the presumption that the findings of the

trial court are correct. The underlying rationale of giving deference to the findings of the trial court rests with the understanding that the trial judge is best able to view the witnesses and observe their demeanor, gestures, and voice inflections, and use these observations in weighing the credibility of the proffered testimony. *In re S.R.*, 2006-Ohio-4983, ¶ 38 (10th Dist.). “In proceedings involving the custody and welfare of children the power of the trial court to exercise discretion is peculiarly important. The knowledge obtained through contact with and observation of the parties and through independent investigation cannot be conveyed to a reviewing court by printed record.” (Internal quotation marks deleted and citations omitted.) *In re A.H.*, 2021-Ohio-1040, ¶ 30 (10th Dist.).

{¶ 38} Per Juv.R. 23, “[c]ontinuances shall be granted only when imperative to secure fair treatment for the parties.” A decision to grant or deny a request for a continuance is entrusted to the broad, sound discretion of the trial court. *State v. Ungar*, 67 Ohio St.2d 65, 67 (1981). An appellate court must not reverse a denial of a continuance unless the trial court abused its discretion. *Id.* As previously stated, an abuse of discretion exists when the trial court has an unreasonable, arbitrary, or unconscionable attitude in reaching its decision. *Blakemore*, 5 Ohio St.3d at 219. “In determining whether the trial court abused its discretion we weigh the potential prejudice to the movant against the trial court’s right to control its own docket and the public’s interest in the prompt and efficient dispatch of justice.” *In re M.K.*, 2010-Ohio-2194, ¶ 14 (10th Dist.).

{¶ 39} “There are no mechanical tests for deciding when a denial of a continuance is so arbitrary as to violate due process. The answer must be found in the circumstances present in every case, particularly in the reasons presented to the trial judge at the time the request is denied.” *In re J.B.*, 2009-Ohio-3083, ¶ 26 (10th Dist.), quoting *Ungar v. Sarafite*, 376 U.S. 575, 589 (1964). In evaluating a request for a continuance, a court considers: (1) the length of the requested delay; (2) whether there have been previous continuances; (3) the inconvenience to the parties involved; (4) whether the request is for a legitimate reason; (5) whether the requester contributed to the need for a continuance; and (6) any other relevant factors. *In re C.W.*, 2025-Ohio-282, ¶ 50 (10th Dist.).

IV. LEGAL ANALYSIS

{¶ 40} In his first assignment of error, S.T. alleges that the trial court erred in finding that FCCS made reasonable and diligent efforts to reunify the family. More specifically, S.T. contends that FCCS’s repeated cancellations of visits between him and I.T.

demonstrate that FCCS failed to make reasonable efforts to eliminate I.T.'s continued removal from the home or make it possible for I.T. to be placed safely in S.T.'s home. FCCS responds that the trial court's finding that S.T. abandoned I.T. removed the need for it to prove that it made reasonable efforts to reunify. In the alternative, FCCS alleges that the record reflects that it did make reasonable efforts in this matter.

{¶ 41} This court has previously held that where both parents abandoned a child, "FCCS was under no duty to make reasonable efforts to reunify the family and was not required to prove reasonable efforts to reunify the family at the hearing on its motion for permanent custody." *In re A.E.*, 2008-Ohio-1375, ¶ 17 (10th Dist.); *see also* R.C. 2151.419(A)(2)(d). Under such circumstances, a juvenile court is not required to find that an agency made reasonable efforts towards reunification. *Id.* Here, the trial court found that I.T. was abandoned by both parents. That finding is not being challenged on appeal. As such, FCCS was not required to prove reasonable efforts, nor was the court obligated to make a reasonable-efforts finding.

{¶ 42} Nevertheless, the trial court made a finding that FCCS made reasonable efforts to reunify I.T. with his parents. This finding was supported by the record. S.T.'s lack of a reasonable-efforts argument rests entirely on the cancellations of visits between he and I.T. However, this court has previously held that reasonable efforts were made even when FCCS cancelled visits at the child's behest. *In re N.M.*, 2021-Ohio-2080, ¶ 62 (10th Dist.). Where the record reflects that the agency encouraged the child to attend visitations, reasonable efforts are present even though the agency's actions proved unsuccessful. *Id.* at ¶ 60-62; *see also In re D.C.*, 2009-Ohio-2145, ¶ 22-29 (10th Dist.). Here, the record reflects that I.T. was encouraged to visit S.T. by both the caseworker and his foster parents. The caseworker even scheduled I.T.'s counseling sessions for the same location of the visits, right before the visits, in the hope that the counselor would be able to convince I.T. to attend the visitations. In short, I.T. received encouragement from several individuals to attend visits with his father. The fact that the efforts of FCCS and others were unsuccessful is not fatal to a finding that reasonable efforts were made.

{¶ 43} Based on the foregoing, the trial court was not required to make a reasonable-efforts finding, and even if it was, the record reflects that FCCS did make reasonable efforts to reunify I.T. with his parents. S.T.'s first assignment of error is overruled.

{¶ 44} In his second assignment of error, S.T. contends that the trial court's finding that permanent custody was in I.T.'s best interest was against the manifest weight of the evidence. More specifically, S.T. alleges that it was impossible to determine what was in I.T.'s best interest because of the repeated visitation cancellations. Pursuant to R.C. 2151.414(D)(1), in determining the best interest of the child, a trial court shall consider all relevant factors, including, but not limited to: the child's interaction and interrelationship with persons who may significantly affect the child; the wishes of the child; the child's custodial history; the child's need for a legally secure placement; and whether any of the R.C. 2151.414(E)(7) through (11) factors apply. No single best-interest factor is dispositive. *In re N.W.*, 2008-Ohio-297, ¶ 19 (10th Dist.). To the contrary, the best-interest inquiry is a balancing test with no one factor given more weight than any other. *Id.*; see also *In re G.T.*, 2023-Ohio-3649, ¶ 107 (10th Dist.).

{¶ 45} Regarding I.T.'s interactions and interrelationships with persons who may significantly affect him, the record is replete with evidence that he is significantly bonded with his foster parents. The foster parents spend hours every night working with him on his school work. They attend all of his sporting events. They even volunteered to help the track team on which I.T. participated. I.T. is bonded to the foster parents' extended family, going on vacations and having positive relationships with the other children. The testimony at trial clearly established that I.T. made significant progress physically, socially, emotionally, and academically in the foster parents' home. In short, the record reflects that I.T. was integrated into his foster family. Although I.T. does have a strong bond with his maternal aunt and grandmother, the foster parents testified that they would continue to facilitate those relationships if the permanent custody motion was granted.

{¶ 46} As for his biological parents, A.T. had no contact with I.T. throughout the entirety of the case. S.T. only began visiting I.T. in October 2023, after FCCS filed its motion for permanent custody. After a brief period of excitement, I.T. began taking exception to S.T. cancelling visits and failing to attend his sporting events. By the end of this case, I.T. regularly cancelled visits with S.T. because he no longer wanted to attend them. Finally, it is worth noting that I.T. has a strong friend group at his current school, as well as a strong support system of teachers, intervention specialists, and coaches. If the trial court awarded custody to S.T., I.T. would be required to change schools. Furthermore, the foster parents testified that they would allow contact between I.T. and S.T. if that was what I.T. wanted,

even if the permanent custody motion was granted. In sum, this factor weighs in favor of permanent custody being in I.T.'s best interest.

{¶ 47} I.T. made his wishes abundantly clear. He wanted to stay with the foster parents. He did not want to be placed with his S.T. He went so far as to say he would run away if he were placed there. As for his custodial history, I.T. was adjudicated dependent and/or neglected on three separate occasions during his life. From his birth, he spent time in the care of his maternal aunt, maternal grandmother, A.T., and FCCS. According to S.T., I.T. occasionally spent summers and weekends in his care, but S.T. was never I.T.'s legal custodian. In fact, the record reflects that there were long periods of time during which S.T. had no contact with I.T., including from May 2022 until October 2023 in the instant matter. It is undisputed that I.T. was in FCCS's custody for 12 consecutive months out of a 22-month period. In fact, at the time of the final hearing in this matter, I.T. was in the custody of FCCS and placed with the foster parents for nearly three years. It follows that I.T.'s wishes and custodial history weigh in favor of permanent custody being in his best interest.

{¶ 48} The record also establishes that I.T. was in need of a legally secure placement. As previously mentioned, throughout his young life, I.T. rarely knew a safe and stable home, bouncing around between family members and in and out of FCCS custody. When he initially came to the foster parents, I.T. was malnourished, significantly behind academically, lacked confidence, and wore only the clothes on his back. By the time of the permanent custody trial, the record reflects that I.T. was a healthy, confident, and popular teenager. He had a large group of friends. He participated in numerous sports and other extracurricular activities. He was consistently on the honor roll. He was happy in both school and with his foster family. In just over two years, the tremendous progress that I.T. made demonstrates how important it is for him to remain in a safe, stable, and supportive environment.

{¶ 49} Moreover, the only way to achieve a legally secure placement for I.T. was through permanent custody. Indeed, A.T. completely abdicated her role as a parent. She did not have contact with I.T. throughout this case. As for S.T., he never was I.T.'s legal custodian and awarding him custody would require I.T. to switch schools, uprooting his life yet again. While much has been made about I.T. cancelling visits, S.T. ignores what precipitated those regular cancellations. The record reflects that S.T. cancelled several visits, showed up to one visit smelling of marijuana, and only attended one of I.T.'s sporting

events. While S.T. made excuses about cancelling visits, failing to attend I.T.'s games, and failing to establish a relationship with I.T. over the years, the trial court did not find those excuses credible or compelling, nor do we. It follows that this factor also weighs in favor of permanent custody being in I.T.'s best interest.

{¶ 50} Finally, the record reflects that R.C. 2151.414(E)(10), the parent has abandoned the child, applies to both parents. Furthermore, the factor contained in R.C. 2151.414(E)(11) applies to A.T. That factor involves a parent who has had parental rights terminated with respect to a sibling of the child in question. The record reflects that A.T.'s parental rights of a sibling of I.T. were previously terminated.

{¶ 51} In sum, each statutory factor weighs in favor of permanent custody being in I.T.'s best interest. Moreover, there was competent, credible evidence supporting the trial court's decision. I.T. was significantly bonded with his foster parents and desired to remain there. At the time of the final hearing, he was in FCCS custody for nearly three years. In the time that he resided with the foster parents, he made significant progress in all facets of his life. Based on his custodial history and recent growth, the record was clear that I.T. required a legally secure placement and the only way to achieve that was permanent custody. S.T.'s argument regarding cancelled visitations was without merit. S.T. did not enter the picture until October 2023, when I.T. was 14 years old. Even after that, his visitations were inconsistent due to cancellations on both sides. Moreover, given the significant amount of evidence weighing in favor of permanent custody, it is extremely unlikely that the additional visitations would have changed the outcome of the trial. As for S.T.'s contention that he completed a significant portion of his case plan, case plan compliance is not dispositive of a best-interest analysis. *In re. M.W.*, 2020-Ohio-5199, ¶ 57 (10th Dist.). Based on the foregoing, S.T.'s second assignment of error is overruled.

{¶ 52} In her sole assignment of error, A.T. contends that the trial court plainly erred in failing to hold a scheduled hearing so that A.T. could testify. Essentially, A.T. is arguing that the trial court erred in failing to grant a continuance to secure her testimony. As previously stated, a trial court's decision to grant or deny a continuance is reviewed for an abuse of discretion. *Ungar*, 67 Ohio St.2d at 67. As such, we will review the trial court's decision regarding A.T.'s request for a continuance for an abuse of discretion, as opposed to plain error.

{¶ 53} At the outset, it is worth noting that A.T. was incarcerated at the time of the final hearing. The trial court scheduled an additional date for A.T.'s testimony, but it was counsel's responsibility to inform the court that the date was necessary. There is nothing in the record to indicate that A.T. was still incarcerated at the time of the scheduled hearing for her testimony, that counsel informed the court that the hearing was necessary, or that A.T. still wanted to testify. In short, there is nothing in the record to indicate that the trial court failed to honor a request for A.T. to testify. Although parents have a right to be present at a permanent custody hearing, that right is not absolute. *In re O.P.*, 2025-Ohio-238, ¶ 30 (10th Dist.). Moreover, it is well-settled that a parent's due process rights are not implicated where he or she is represented by counsel, a record of the hearing is made, and any testimony the parent wishes to present could be presented by deposition. *Id.* Here, A.T. was represented by counsel at the hearing and a full record was made. Additionally, she had the opportunity to testify at the previous two hearing dates, but she failed to appear. She could have also testified via deposition.

{¶ 54} Considering the factors courts use to evaluate continuance requests, the record reflects that the trial court did not abuse its discretion in proceeding in the manner that it did. Although the length of the requested delay was short and there were no prior continuances, there were two prior hearing dates at which A.T. failed to appear. The inconvenience to the parties was significant. At the time of the request for a continuance, almost all of the evidence was submitted. Indeed, all that remained was cross-examination of the GAL. Moreover, this matter involved the permanent custody of two children who were in FCCS custody for nearly three years and were in need of a legally secure placement. Although requesting a continuance to secure a parent's testimony is certainly a legitimate reason, the record reveals doubt that A.T.'s continuance request was sincere. There was some evidence that in a prior permanent custody proceeding, A.T. sought a continuance so that she could testify, only for her to subsequently fail to appear. The record also reflects that A.T. was solely responsible for the need for a continuance. She failed to appear at the first two permanent custody hearings. She was incarcerated at the time of the final custody hearing. In fact, the record reflects that A.T. failed to appear for the vast majority of hearings throughout the pendency of this matter.

{¶ 55} Finally, "[t]his court has affirmed the denial of a continuance in a permanent custody case where the parent makes no showing that granting the continuance likely

would have changed the outcome of the case.” *In re J.J.*, 2022-Ohio-907, ¶ 24 (10th Dist.); *see also In re K.J.*, 2018-Ohio-471, ¶ 22-23 (10th Dist.); *In re B.G.W.*, 2008-Ohio-3693, ¶ 27 (10th Dist.). A.T. has made no such showing here. A.T. made no progress on her case plan. A.T. had no contact with I.T. and minimal contact with D.T. throughout the pendency of this case. In fact, the only contact she had with D.T. was when she encouraged her to run away from her placement and then hid D.T. at the maternal grandmother’s house. On appeal, A.T. fails to point to anything she could testify to that would change the outcome of this case.

{¶ 56} Based on the foregoing, the trial court did not abuse its discretion in failing to grant a continuance to secure A.T.’s testimony. Accordingly, A.T.’s sole assignment of error is overruled.

V. CONCLUSION

{¶ 57} Having overruled A.T.’s sole assignment of error and S.T.’s two assignments of error, the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations and Juvenile Branch, is affirmed.

Judgment affirmed.

MENTEL and DINGUS, JJ., concur.
