[Cite as *In re A.C.*, 2026-Ohio-4531.]

IN THE COURT OF APPEALS

TWELFTH APPELLATE DISTRICT OF OHIO

BUTLER COUNTY

IN RE:	:	
		CASE NOS. CA2025-10-115
A.C., et al.	:	CA2025-10-116
		CA2025-10-117
	:	CA2025-10-119
	:	
		OPINION AND
	:	JUDGMENT ENTRY
		11/16/2026
	:	

APPEAL FROM BUTLER COUNTY COURT OF COMMON PLEAS
JUVENILE DIVISION
Case Nos. JN2023-0032; JN2023-0033; JN2024-0147

Alana Van Gundy, for appellant, Father.

Ethan J. Arenstein, for appellee, Colleen Cabe.

Christopher M. Alexander, for appellant, E. Ellis.

Mark W. Raines, for appellees, William Harrington and Christopher Harrington.

Dawn S. Garrett, guardian ad litem.

O P I N I O N

DONOVAN, J.

{¶ 1} K.C., the children's biological father ("Father") and E. Ellis, a maternal

relative of the children,[1] appeal the decision of the Butler County Court of Common Pleas, Juvenile Division, awarding legal custody of "Kyle" and "Andrew" to Colleen Cabe and legal custody of "Blair" to Christopher and William Harrington.[2] For the reasons detailed below, we affirm the juvenile court's decision.

Facts and Procedural History

Background and Dependency Proceedings

{¶ 2} On February 10, 2023, the Butler County Department of Job and Family Services ("BCDJFS") filed complaints alleging that Kyle and Andrew were dependent children. The complaints arose from concerns about the family's living conditions, including allegations that the parents were living with the children in an unsafe and unsanitary camper. The parents had also been the subject of prior agency involvement based on allegations of physical abuse and marijuana use in the children's presence.

{¶ 3} Although the parents made progress at various points during the proceedings, subsequent concerns continued to impede reunification. During the proceedings, Kyle and Andrew were placed with Colleen Cabe, a nonrelative, and remained in her care throughout the case.

{¶ 4} Blair was born on May 14, 2024. The day after she was born, BCDJFS filed a separate complaint alleging that Blair was a dependent child and obtained temporary custody of her. Blair was placed with Christopher and William Harrington, who, like Cabe, are not related to the child. She remained in their care throughout the proceedings.

1. The record reflects that Ellis is the sister of the children's maternal great-grandmother and is therefore the children's maternal great-great-aunt.

2. "Kyle," "Andrew," and "Blair" are pseudonyms adopted for this opinion for the purposes of privacy and readability. *In re D.P.*, 2022-Ohio-4553, ¶ 1, fn. 1 (12th Dist.).

Competing Motions for Legal Custody

{¶ 5} As the proceedings progressed, several parties sought legal custody of the children. On January 14, 2025, Ellis moved for legal custody of all three children. Cabe subsequently moved for legal custody of Kyle and Andrew, and the Harringtons moved for legal custody of Blair. The juvenile court joined Ellis as a party for purposes of litigating her custody request and scheduled a hearing on the competing motions.

Contested Hearing

{¶ 6} At the hearing, the juvenile court heard testimony from agency personnel, the guardian ad litem ("GAL"), the parties, and the proposed custodians. The evidence addressed the children's relationships with their caregivers and relatives, their adjustment to their respective placements, and their educational, developmental, and emotional needs. In particular, the evidence established that Kyle had significant developmental and behavioral needs requiring ongoing educational and therapeutic services. The court also heard evidence concerning Cabe's efforts to obtain and coordinate those services, Ellis' relationship with the children, her approved home study, and her desire to provide a home for all three children together.

{¶ 7} The GAL recommended awarding legal custody of Kyle and Andrew to Cabe and legal custody of Blair to the Harringtons. The GAL emphasized the children's strong bonds with their respective caregivers, the length of time they had resided in their current homes, and the stability those placements provided.

Magistrate's Decision and Objections

{¶ 8} On July 8, 2025, the magistrate issued a decision denying Ellis' motion for legal custody, awarding legal custody of Kyle and Andrew to Cabe and legal custody of

Blair to the Harringtons. In determining the children's best interests, the magistrate considered their relationships with relatives and caregivers, their adjustment to their respective homes, the stability of their placements, and the GAL's recommendation. The magistrate also denied Ellis' alternative request for companionship time, finding that no motion seeking companionship rights had been filed and that the issue was therefore not properly before the court.

{¶ 9} Ellis and Father filed objections to the magistrate's decision. Following an independent review of the record, the juvenile court overruled the objections and adopted the magistrate's decision in its entirety.

{¶ 10} Ellis and Father now appeal, raising two assignments of error for review.[3]

Appeal

{¶ 11} Assignment of Error No. 1:

> THE TRIAL COURT ERRED WHEN IT FAILED TO DETERMINE THAT GRANTING LEGAL CUSTODY TO APPELLANT ELLEN ELLIS WAS IN THE BEST INTERESTS OF THE MINOR CHILDREN.

{¶ 12} In her first assignment of error, Ellis argues the juvenile court erred by awarding legal custody of Kyle and Andrew to Cabe and legal custody of Blair to the Harringtons rather than to her. Ellis emphasizes that she is an appropriate relative placement, has an approved home study and suitable housing, and is willing to provide a

3. Father did not file a timely appellant's brief. Rather, he submitted a one-sentence "Response Brief" indicating his agreement with the assignments of error raised by Ellis. Pursuant to App.R. 16(A) and Loc.R. 11, an appellant is required to set forth assignments of error and supporting arguments. Because Father's filing contains neither, he has failed to present any independent issues for review. However, because Father expressly joins in the arguments raised by Ellis, and in the interest of resolving the merits of those arguments, we will consider Ellis' assignments of error as they relate to Father's appeal. *Eagle's View Professional Park Condominium Unit Owners Assn., Inc. v. EVPP, L.L.C.*, 2015-Ohio-1929, ¶ 10 (12th Dist.).

home for all three children. She further contends that placing the children with her would preserve their familial relationship and allow the siblings to live together.

Legal Custody

{¶ 13} R.C. 2151.353(A)(3) authorizes a juvenile court, following an adjudication of abuse, neglect, or dependency, to award legal custody to either parent or to another person who timely moves for legal custody. Unlike permanent custody, an award of legal custody does not terminate the parent-child relationship. *In re L.C.*, 2020-Ohio-4629, ¶ 13 (12th Dist.). Rather, parents retain their residual parental rights and responsibilities. *In re A.B.*, 2017-Ohio-5776, ¶ 10 (12th Dist.).

{¶ 14} A juvenile court may award legal custody to a nonparent upon a showing by a preponderance of the evidence that the award is in the child's best interest. *In re C.L.T.*, 2012-Ohio-427, ¶ 10 (12th Dist.). In determining the child's best interest, the court must consider all relevant factors, including the applicable factors set forth in R.C. 3109.04(F). *In re K.B.*, 2013-Ohio-858, ¶ 11 (12th Dist.). These factors include, but are not limited to: (1) the wishes of the child's parents regarding the child's care; (2) the wishes and concerns of the child, as expressed to the juvenile court, (3) the child's interaction and interrelationship with the child's parents, siblings, and any other person who may significantly affect the child's best interest; (4) the child's adjustment to the child's home, school, and community; (5) the mental and physical health of all persons involved; and (6) the parent more likely to honor and facilitate court-approved parenting time rights or visitation and companionship rights. R.C. 3109.04(F)(1)(a) thru (f). *In re L.C.* at ¶ 15.

Standard of Review

{¶ 15} We review a juvenile court's legal custody determination for an abuse of

discretion. *In re S.K.*, 2014-Ohio-563, ¶ 12 (12th Dist.). An abuse of discretion occurs when a court's decision is unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983). We afford the juvenile court's custody determinations the utmost deference given the nature of the proceedings and the impact of the court's decision on the parties. *In re J.M.*, 2009-Ohio-4824, ¶ 17 (12th Dist.).

Analysis

{¶ 16} Ellis argues that the juvenile court should have awarded her legal custody of the children, in part, because she is biologically related to the children. In so doing, she argues that she was an appropriate placement, had an approved home study, and could provide a home for all three children together. However, while a familial relationship is a relevant factor in a best-interest determination, Ohio law does not create a mandatory presumption favoring placement with a relative in a legal-custody proceeding. *In re A.C.*, 2007-Ohio-3350, ¶ 16-17 (12th Dist.); *In re J.C.*, 2024-Ohio-1505, ¶ 35 (5th Dist.). Rather, the juvenile court's paramount concern remains the children's best interest. *Id*. Consequently, the fact that Ellis is related to the children did not require the juvenile court to award her legal custody if the court determined that a different placement better served the children's interests.

{¶ 17} After reviewing the record, we find no abuse of discretion in the juvenile court's decision to award legal custody of Kyle and Andrew to Cabe and legal custody of Blair to the Harringtons. Although Ellis presented evidence supporting her request for custody, the record contains ample evidence supporting the juvenile court's determination that maintaining the children's existing placements was in their best interests.

{¶ 18} The record demonstrates that the juvenile court carefully considered the

competing custody requests and the evidence presented in support of each proposed placement. The court heard testimony concerning the children's current placements, their relationships with caregivers and relatives, their developmental and educational needs, and the advantages and disadvantages of the proposed custodial arrangements. The GAL also recommended awarding legal custody of Kyle and Andrew to Cabe and legal custody of Blair to the Harringtons.

{¶ 19} The evidence established that Kyle and Andrew had lived with Cabe since 2023 and that Blair had lived with the Harringtons since shortly after her birth. By the time of the custody hearing, the children had spent a substantial portion of their lives in those placements and had developed strong emotional bonds with their caregivers. The GAL testified that the children were thriving in their respective homes and did not believe it was in their best interest to disrupt those placements. The juvenile court was entitled to assign significant weight to the stability, continuity, and permanence those placements provided.

{¶ 20} The evidence also demonstrated that Kyle had significant developmental and behavioral needs requiring ongoing educational and therapeutic services. Cabe had actively worked to obtain and coordinate those services and consistently met Kyle's needs. The juvenile court could reasonably conclude that maintaining continuity in Kyle's care served his best interest.

{¶ 21} Ellis, for her part, presented evidence in support of her request. She completed an approved home study, maintained appropriate housing, and expressed a willingness to care for all three children together. The children's parents also supported placement with Ellis. The juvenile court expressly considered these factors, including the benefits associated with relative placement and placing the siblings together. The court

nevertheless determined that the children's need for stability and continuity with caregivers who had consistently met their needs outweighed the benefits of awarding custody to Ellis. The record supports that determination.

{¶ 22} The juvenile court was likewise not required to choose between preserving sibling relationships and maintaining the children's existing placements. The evidence demonstrated that the custodians intended to facilitate continued contact among the siblings and their extended family members. Although the children would reside in separate homes, the juvenile court could reasonably conclude that their sibling and family relationships could be maintained without disrupting the stable placements in which they had been thriving.

{¶ 23} Ellis also argues that the juvenile court placed undue emphasis on her age. At the time of the hearing, Ellis was 70 years old. While her age was discussed during the proceedings, the record does not support the conclusion that the juvenile court treated that consideration as dispositive. Rather, the magistrate's decision reflects consideration of numerous best-interest factors, including the children's existing placements, their emotional bonds with their caregivers, Kyle's developmental needs, the stability of the children's living arrangements, Ellis' involvement in the proceedings, and the GAL's recommendation. In short, there was competent, credible evidence independent of Ellis' age that supports the juvenile court's decision.

{¶ 24} Ultimately, Ellis's arguments ask this court to reweigh the evidence and place greater emphasis on her biological relationship with the children than the juvenile court did. However, issues of witness credibility, the weight to be afforded competing considerations, and the ultimate best-interest determination were matters entrusted to the

juvenile court. Because competent, credible evidence supports the court's decision, we find the juvenile court did not abuse its discretion in resolving the competing custody motions. Accordingly, the juvenile court did not abuse its discretion in determining that awarding legal custody of Kyle and Andrew to Cabe and legal custody of Blair to the Harringtons was in the children's best interests.

{¶ 25} Ellis' first assignment of error is overruled.

{¶ 26} Assignment of Error No. 2:

> THE TRIAL COURT ERRED WHEN IT FAILED TO GRANT [ELLIS'] ORAL MOTION FOR COMPANIONSHIP OR VISITATION RIGHTS WITH ALL THREE MINOR CHILDREN.

{¶ 27} In her second assignment of error, Ellis argues the juvenile court erred by denying her request for companionship time with the children after denying her motion for legal custody.

{¶ 28} Whether to grant companionship or visitation rights rests within the sound discretion of the juvenile court. *Ghanayem v. Ghanayem*, 2020-Ohio-423, ¶ 45 (12th Dist.). Accordingly, we review a juvenile court's decision regarding companionship or visitation rights for an abuse of discretion. *Motes v. Motes*, 2026-Ohio-307, ¶ 27 (12th Dist.).

{¶ 29} Although Ellis argues that R.C. Chapter 2151 does not expressly require a nonparent relative to file a written motion seeking companionship rights, that Chapter does not provide the procedure by which a nonparent relative seeks companionship or visitation rights. Rather, R.C. 3109.051(B)(1) provides the procedure by which certain relatives may seek companionship or visitation rights through the filing of a motion requesting such relief. Specifically, R.C. 3109.051(B)(1)(a) requires that a relative file a

motion seeking companionship or visitation rights before the court may consider granting such relief. *See In re A.M.S.*, 2019-Ohio-3181, ¶ 39 (8th Dist.) (recognizing that R.C. 3109.051[B] contemplates a request for visitation through the filing of a motion).

{¶ 30} Here, Ellis filed a motion for legal custody for all three children and was joined as a party for purposes of litigating that request. She did not, however, file a motion for companionship or visitation rights. Instead, she orally requested companionship time as a form of alternative relief if her legal custody request was denied. The magistrate determined that no motion seeking companionship or visitation rights had been filed and that the issue was therefore not properly before the court. The magistrate also found that the parties had not agreed to expand the legal-custody proceedings to address a separate request for companionship time. The juvenile court overruled Ellis' objections and adopted the magistrate's decision.

{¶ 31} The record supports the juvenile court's determination. The proceedings were litigated as competing legal-custody actions, and the evidence focused on the children's best interests in relation to the competing custody requests. No separate motion for companionship rights was pending, and the issue was not litigated as an independent request for visitation. Although Ellis orally requested companionship time as alternative relief, the juvenile court was not required to treat that request as a substitute for the motion contemplated by R.C. 3109.051(B)(1).

{¶ 32} Moreover, Ellis identifies no authority requiring a juvenile court to establish a companionship schedule sua sponte when a relative has not filed a motion seeking that relief. The juvenile court did not reject the significance of Ellis' relationship with the children. Rather, it concluded that the issue of formal companionship rights had not been

properly presented for adjudication. Under these circumstances, we find no abuse of discretion in the court's decision to decline to establish a companionship schedule.

{¶ 33} Ellis' second assignment of error is overruled.

{¶ 34} Finally, although Father filed a notice of appeal, he has not raised any separate assignments of error or developed any independent appellate arguments. Accordingly, to the extent Father seeks relief on appeal, his appeal is without merit.

{¶ 35} Judgment affirmed.

HENDRICKSON, P.J. and M. POWELL, J., concur.

Donovan, J., retired, of the Second Appellate District, sitting by assignment of the Chief Justice, pursuant to Section 6(C), Article IV of the Ohio Constitution.

JUDGMENT ENTRY

The assignments of error properly before this court having been ruled upon, it is the order of this court that the judgment or final order appealed from be, and the same hereby is, affirmed.

It is further ordered that a mandate be sent to the Butler County Court of Common Pleas, Juvenile Division, for execution upon this judgment and that a certified copy of this Opinion and Judgment Entry shall constitute the mandate pursuant to App.R. 27.

Costs to be taxed in compliance with App.R. 24.

/s/ Robert A. Hendrickson, Presiding Judge

/s/ Mike Powell, Judge

/s/ Mary E. Donovan, Judge