

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY

IN THE MATTER OF THE ADOPTION
OF
C.M.H., A MINOR

:
: C.A. No. 30813
:
: Trial Court Case No. 2025 ADP 00135
:
: (Appeal from Common Pleas Court-
: Probate Division)
:
: **FINAL JUDGMENT ENTRY &**
: **OPINION**

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Pursuant to the opinion of this court rendered on August 21, 2026, the judgment of the trial court is affirmed.

Costs to be paid as stated in App.R. 24.

Pursuant to Ohio App.R. 30(A), the clerk of the court of appeals shall immediately send a copy of the court's ruling to each party and note that action on the docket. Additionally, pursuant to App.R. 27, the clerk of the court of appeals shall send a certified copy of this judgment, which constitutes a mandate, to the clerk of the trial court and note the service on the appellate docket.

For the court,



CHRISTOPHER B. EPLEY, JUDGE

HUFFMAN, J., and HANSEMAN, J., concur.

OPINION
MONTGOMERY C.A. No. 30813

IRENE P. WONG, Attorney for Appellant
JAMES D. MILLER II, Attorney for Appellees T.H. and D.H.

EPLEY, J.

{¶ 1} Mother appeals from the judgment of the Montgomery County Common Pleas Court, Probate Division, finding that her consent was not necessary to proceed with the adoption of her biological son, C.M.H., by his paternal aunt and uncle (“Aunt” and “Uncle”). Mother asserts that the trial court abused its discretion by making this determination, because it erroneously relied on exhibits that were ultimately deemed inadmissible. For the following reasons, the judgment of the trial court is affirmed.

I. Facts and Procedural History

{¶ 2} C.M.H. was born on March 15, 2021. From the time C.M.H. was approximately three months old, he has lived with Aunt and Uncle. They were named C.M.H.’s legal custodians on September 12, 2022. On October 10, 2025, Aunt and Uncle filed a petition to formally adopt C.M.H., and Mother objected. C.M.H.’s biological father, Aunt’s brother, consented to the adoption.

{¶ 3} The trial court held a hearing on March 10, 2026, regarding whether Mother’s consent was necessary to proceed with the adoption process. Aunt and Uncle asserted that Mother’s consent was not necessary, because she had not provided “meaningful and regular maintenance and support of [C.M.H.] as required by law or judicial decree for a period of one year immediately preceding the filing of the adoption petition.” During the hearing, Aunt testified that Mother babysat for C.M.H. periodically when she was not incarcerated or in a drug treatment program. However, Mother did not contribute financially to C.M.H.’s care, nor

did she provide clothes, food, or other necessities. Mother also testified during the hearing and admitted that although she was aware of an order requiring her to pay child support, she had not done so. Additionally, Mother expressed that she had tried to be there for C.M.H. as much as she could, and she acknowledged that Aunt and Uncle had provided C.M.H. with “everything he needs.”

{¶ 4} During the hearing, Aunt and Uncle submitted the following three exhibits: (1) the September 12, 2022 order granting Aunt and Uncle custody of C.M.H., (2) an administrative adjustment order filed on October 23, 2024, and (3) a payment history report from the Montgomery County Child Support Enforcement Agency. Mother objected to the admission of these exhibits on the basis that they were not certified copies. The trial court noted the objection and stated that the exhibits would be admitted, “subject to a little bit of research.”

{¶ 5} The trial court issued its decision on March 13, 2026, finding that the exhibits at issue were inadmissible because they were not certified copies. Notwithstanding that ruling, the trial court found that Mother’s consent to the adoption was not required, because “Mother [had] failed without justifiable cause to provide meaningful and regular maintenance and support as required by law or judicial decree for a period of one year immediately preceding the filing of the adoption petition on October 10, 2025.”

{¶ 6} Mother now appeals, raising one assignment of error.

II. Appellate Review

{¶ 7} In her assignment of error, Mother asserts that the trial court abused its discretion by determining that her consent was not required for the adoption of C.M.H. Mother contends that the trial court based its determination on testimony regarding the exhibits, which were ultimately deemed inadmissible. She further asserts that Aunt and

Uncle failed to prove by clear and convincing evidence that she did not provide meaningful and regular support for C.M.H., without justifiable cause, for the year preceding the filing of the adoption petition.

A. Consideration of Inadmissible Evidence

{¶ 8} Mother first asserts that the trial court's decision was based on inadmissible evidence. Specifically, during the hearing on this matter, Aunt and Uncle's attorney presented copies of the order granting them legal custody of C.M.H., an administrative adjustment order, and a payment history report from the Montgomery County Child Support Enforcement Agency. None of the exhibits, however, were certified copies, as required by Evid.R. 901(A) for authentication and admission as evidence. The trial court stated in its decision that it agreed with Mother that the exhibits were not admissible and that it did not consider them when reaching its final determination.

{¶ 9} When a trial court conducts a bench trial, sitting as the trier of fact, it is presumed that the court has considered only admissible evidence unless the record indicates otherwise. *State v. Adkins*, 2025-Ohio-2833, ¶ 17 (4th Dist.). Therefore, "[i]n a bench trial, the court is presumed to know and follow the law unless the record affirmatively demonstrates to the contrary." (Brackets added in *Adkins*.) *Id.*, quoting *State v. Gilcrease*, 2020-Ohio-487, ¶ 52 (8th Dist.).

{¶ 10} In the present case, not only was there a presumption that the trial court would consider only admissible evidence, but the trial court particularly stated that the exhibits at issue were inadmissible and that it would not consider them. Mother failed to offer any evidence or testimony to undermine the presumption. Moreover, both Mother and Aunt testified regarding the existence of a support order, whether Mother complied with the order, and whether Mother's failure to comply with the order constituted a justifiable cause for

failure to provide support to C.M.H. Therefore, there is nothing in the record before us to suggest that the trial court based its decision on inadmissible evidence.

B. Consent to Adoption Under R.C. 3107.07(A)

{¶ 11} In addition, Mother argues that the trial court abused its discretion when it determined that her consent was not required for Aunt and Uncle to proceed with the adoption of C.M.H. We disagree.

{¶ 12} It has been well established that a parent has a fundamental right to care for and have custody of her child and that those rights are terminated when a child is adopted. *In re F.D.H.*, 2023-Ohio-730, ¶ 6 (2d Dist.). However, R.C. 3107.07(A) provides that consent to adoption is not required of a parent of a minor child “when it is alleged in the adoption petition and the court, after proper service of notice and hearing, finds by clear and convincing evidence that the parent has failed without justifiable cause . . . to provide meaningful and regular maintenance and support of the minor as required by law or judicial decree for a period of one year immediately preceding the filing of the adoption petition.”

{¶ 13} The Supreme Court of Ohio has held that it is within the probate court’s discretion to determine whether a biological parent has provided support for his or her minor child as contemplated by R.C. 3107.07(A), and that judgment will not be disturbed absent an abuse of discretion. *In re Adoption of M.B.*, 2012-Ohio-236, ¶ 21. To constitute an abuse of discretion, a probate court’s action must be arbitrary, unreasonable, or unconscionable. *In re F.D.H.* at ¶ 7.

{¶ 14} As to whether a parent has failed to provide for the support and maintenance of the child, the probate court must use a three-step process. *Id.* at ¶ 21. First, it must determine what the law or judicial decree required of the parent during the year preceding the filing of the adoption petition. *In re Adoption of A.K.*, 2022-Ohio-350, ¶ 14. Next, the court

must decide if the parent met his or her obligation under the law or judicial decree. *Id.* Finally, if the obligation was not met, the court must determine whether there was a justifiable cause for that failure. *Id.*

{¶ 15} There is no dispute that there was a judicial decree in place during the year leading up to the adoption proceedings that required Mother to pay child support for C.M.H. Both Mother's and Aunt's testimony established that element. Further, Mother admitted during her testimony that she had never paid any child support to Aunt and Uncle or provided any other supplies or necessities for C.M.H. and therefore had not met her obligation under the order.

{¶ 16} With respect to whether there was justifiable cause for Mother's failure to comply with the order, she admitted that she had not provided support for C.M.H. because "things got messed up because [she] had a drug problem[,] and "[she] let that kind of take over everything." Although Mother testified that she had been in and out of rehab and jail, she could not specify the exact dates she claims to have been in rehab or incarcerated during the relevant statutory period, nor could she testify with certainty whether it was during the one year preceding the adoption petition. Considering these facts, the trial court reasonably determined that there was no justifiable cause for Mother's failure to provide support to C.M.H. during the relevant statutory time period.

{¶ 17} Mother also asserts that the trial court failed to consider her maintenance and support for the full one-year statutory period. She contends that the order for child support (which was ultimately deemed inadmissible) was filed on October 23, 2024, and the petition for adoption was filed on October 10, 2025—13 days short of one full year. Mother admitted during her testimony, though, that she had never paid any child support or provided any

material support for C.M.H., either during the year preceding the adoption petition or at any other point.

{¶ 18} Accordingly, the record before us demonstrates that the trial court did not abuse its discretion when it determined that Mother's consent was not required for the adoption of C.M.H. Not only did Mother fail to comply with the child support order, but she also admitted that she had never provided financial or material support for C.M.H., even when she was not in jail or drug treatment. Therefore, the trial court's determination was not arbitrary, unreasonable, or unconscionable.

{¶ 19} Mother's assignment of error is overruled.

III. Conclusion

{¶ 20} The judgment of the trial court is affirmed.

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HUFFMAN, J., and HANSEMAN, J., concur.