

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
ALLEN COUNTY**

IN RE ADOPTION OF

CASE NO. 1-25-48

K.F.A .

[JAMIE F. - APPELLANT]

**OPINION AND
JUDGMENT ENTRY**

**Appeal from Allen County Common Pleas Court
Probate Division
Trial Court No. 2023 AD 25**

Judgment Affirmed

Date of Decision: October 5, 2026

APPEARANCES:

***Melissa R. Sherrick* for Appellant**

***Julia A. Cain and Jerry Johnson* for Appellees**

ZIMMERMAN, P.J.

{¶1} Biological mother-appellant, Jamie F. (“Jamie”), appeals the July 29, 2025 judgment entry of the Allen County Court of Common Pleas, Probate Division, determining that her consent was not required for the adoption of her minor child, K.F.A, by appellees-petitioners, Drew A. (“Drew”) and Teshawna A. (“Teshawna”). For the reasons that follow, we affirm.

{¶2} K.F.A. was born in 2015 to Jamie and biological father, Sean M. (“Sean”), who were not married.¹

{¶3} On December 14, 2017, Jamie was indicted in the Allen County Court of Common Pleas on charges of felonious assault and endangering children, both second-degree felonies. K.F.A. was the victim in both charges.

{¶4} On March 22, 2018, under a negotiated-plea agreement, Jamie was convicted of an amended charge of endangering children, a third-degree felony, and sentenced to 24 months in prison.

{¶5} On September 4, 2018, the Allen County Court of Common Pleas, Juvenile Division, placed K.F.A. in the legal custody of Drew and Teshawna.

{¶6} Jamie was released from prison on October 19, 2019.

¹ Sean did not participate in the proceeding below and he is not a party to this appeal.

{¶7} On October 28, 2019, the Allen County Court of Common Pleas issued a domestic violence civil protection order (“CPO”) preventing Jamie from having any contact with K.F.A. The CPO was granted for a period of five years—until October 28, 2024.

{¶8} On January 20, 2021, Jamie filed a motion in the Allen County Court of Common Pleas, Juvenile Division, to modify custody and to establish parenting time with K.F.A. Thereafter, on August 23, 2021, Jamie filed a notice of dismissal without prejudice as to her motion.

{¶9} On June 23, 2021, Jamie filed a motion in the Allen County Court of Common Pleas to modify or terminate the CPO issued on October 28, 2019. Jamie voluntarily dismissed her motion on September 2, 2021.

{¶10} On June 7, 2023, Drew and Teshawna filed a petition for adoption of K.F.A. On June 21, 2023, Drew and Teshawna filed an amended petition. The amended petition asserted that Jamie’s consent was not required because she had failed without justifiable cause to provide more than de minimis contact with the child for a period of at least one year immediately preceding the filing of the adoption petition. The amended petition further asserted that Jamie’s consent was not required because she had failed without justifiable cause to provide for the maintenance and support of the child as required by law or judicial decree for the relevant one-year period.

{¶11} On March 19, 2024, Jamie filed her objection to the adoption petition.

{¶12} On July 7, 2025, the trial court held a hearing to determine whether Jamie’s consent was required for the adoption.

{¶13} On July 29, 2025, the trial court entered its judgment determining that Jamie’s consent to the adoption was not required because she had failed without justifiable cause to provide for the “maintenance and support” or “meaningful and regular maintenance and support” of K.F.A. for the one-year period immediately preceding the filing of the amended petition (from June 21, 2022 through June 21, 2023).

{¶14} On August 28, 2025, Jamie filed her notice of appeal, raising two assignments of error for our review. For ease of discussion, we will address the assignments of error out of order.

Second Assignment of Error

The Trial Court erred when it determined that [Jamie] failed to provide for the “maintenance and support” or has failed to provide for the “meaningful and regular maintenance and support” of the child, without justifiable cause from June 21, 2022 through June 21, 2023.

{¶15} In her second assignment of error, Jamie argues that she had justifiable cause for failing to provide support for the child. Specifically, Jamie argues that the CPO is justifiable cause for not providing support for the child and “no support order was ever sought by [Drew and Teshawna].” (Appellant’s Brief at 12). Therefore, Jamie contends that the trial court’s decision is against the manifest weight of the evidence.

Standard of Review

{¶16} “[T]he right of a natural parent to the care and custody of his children is one of the most precious and fundamental in law.” *In re Adoption of Masa*, 23 Ohio St.3d 163, 165 (1986). “Under most circumstances, both of a minor’s natural parents must provide written consent prior to the adoption of that minor.” *In re Adoption of S.S.*, 2017-Ohio-8956, ¶ 16 (3d Dist.). However, R.C. 3107.07(A) provides that consent to an adoption is not required from 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 [(1)] to provide more than de minimis contact with the minor or [(2)] to provide for the *maintenance and support* of the minor as required by law or judicial decree for a period of at least one year immediately preceding either the filing of the adoption petition or the placement of the minor in the home of the petitioner.

(Emphasis added.) R.C. 3107.07(A) (2015).²

{¶17} Since R.C. 3107.07(A) is written in the disjunctive, the “failure without justifiable cause to provide *either* more than de minimis contact with the

² When Drew and Teshawna filed their amended petition for adoption on June 21, 2023, the 2015 version of R.C. 3107.07(A) was in effect. Effective March 21, 2025, R.C. 3107.07(A) was amended to state that consent to an adoption is not required from 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 [(1)] to have more than de minimis contact with the minor or [(2)] 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.

(Emphasis added.) R.C. 3107.07(A) (2025). In its July 29, 2025 judgment entry, the trial court cited to language from both versions of the statute when it found that Jamie had failed without justifiable cause to provide for the “maintenance and support” or “meaningful and regular maintenance and support” of the child. (Doc. No. 87).

minor *or* maintenance and support for the one-year time period is sufficient to obviate the need for a parent’s consent.” (Emphasis in original.) *In re Adoption of K.C.*, 2014-Ohio-3985, ¶ 21 (3d Dist.).

{¶18} The application of R.C. 3107.07(A) generally involves “a two-step analysis.” *In re Adoption of K.R.S.*, 2020-Ohio-976, ¶ 12 (3d Dist.). First, the court must determine whether the petitioner has proven, by clear and convincing evidence, that the parent failed to have more than de minimis contact with the child or failed to provide for the maintenance and support of the child for the one-year time period. *Id.* at ¶ 13. “Clear and convincing evidence is that measure or degree of proof . . . which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.” *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus.

{¶19} Second, “[i]f the petitioner establishes a failure to engage in more than de minimus contact or to provide maintenance and support, the trial court proceeds to the second step and must determine whether the parent had justifiable cause for this failure.” *In re Adoption of D.C.H.*, 2025-Ohio-5684, ¶ 29 (3d Dist.). “A probate court’s decision on whether justifiable cause exists will not be disturbed on appeal unless the determination is against the manifest weight of the evidence.” *In re Adoption of K.C.* at ¶ 23.

“In determining whether a judgment is against the manifest weight of the evidence, we must review the entire record, weigh the evidence and all reasonable inferences, consider witness credibility and

determine whether, in resolving conflicts in the evidence, the trier of fact clearly lost its way and created such a manifest miscarriage of justice that there must be a reversal of the judgment and an order for a new trial.”

In re Adoption of C.N.A., 2018-Ohio-897, ¶ 9 (3d Dist.), quoting *In re Adoption of N.T.R.*, 2017-Ohio-265, ¶ 11 (10th Dist.).

Analysis

{¶20} There is no dispute in this case that Jamie failed to provide any support for K.F.A. during the applicable one-year time period. On appeal, Jamie argues that the trial court erred by finding that her failure to provide support was without justifiable cause. Specifically, Jamie contends that she had justifiable cause because the CPO was “a barrier” to providing support and Drew and Teshawna never sought a support order. (Appellant’s Brief at 11).

{¶21} The term “justifiable cause” is not defined in R.C. 3107.07(A). The Ohio Supreme Court has “refused to adopt a ‘precise and inflexible meaning’ for ‘justifiable cause,’ but instead has stated that ‘the better-reasoned approach would be to leave to the probate court as finder of fact the question of whether or not justifiable cause exists.’” *In re Adoption of J.M.M.*, 2021-Ohio-775, ¶ 26 (3d Dist.), quoting *In re Adoption of Holcomb*, 18 Ohio St.3d 361, 367 (1985). The Supreme Court reasoned that “[t]he probate court is in the best position to observe the demeanor of the parties, to assess their credibility, and to determine the accuracy of their testimony.” *In re Adoption of Holcomb* at 367.

{¶22} At the hearing held on July 7, 2025, Jamie admitted on cross-examination that she did not provide any items of support for the child from June 21, 2022 through June 21, 2023. In particular, Jamie admitted that she did not provide any cash payments to support the child; did not provide any food for the child; did not provide any clothing for the child; did not provide any childcare payments; and did not provide any direct support of any kind for the benefit of the child. Jamie further admitted that she earned sufficient income during the relevant time period to provide support for the child. From 2021 to December 2024, Jamie was gainfully employed and had a gross income of \$40,756 in 2022, \$42,868 in 2023, and \$50,889 in 2024.

{¶23} With respect to the CPO, Jamie testified that she was served with the ex parte order of protection while in prison and notified that the full hearing would be held on October 28, 2019. Even though Jamie was released from prison on October 19, 2019, she did not attend the full hearing. Jamie testified that she understood the CPO to mean that she was not to have any contact with Teshawna or K.F.A.

{¶24} Jamie further testified that she filed a motion to modify or terminate the CPO, as well as a motion to modify custody and to establish parenting time with K.F.A., in 2021. Jamie stated that she had to dismiss these motions due to committing a parole violation. Jamie explained as follows:

Um, I end[ed] up getting a parole violation. Um, I moved back home with my mom and I didn't tell my Parole Officer and it was my first parole violation and I end[ed] up getting four (4) months for that.

(July 7, 2025 Tr. at 147). Jamie testified that she was sent to a lockdown facility in late July 2021 and was released in November 2021.

{¶25} Jamie admitted on cross-examination that she knew where Drew and Teshawna resided during the applicable one-year time period, but did not send any type of support for the child. Jamie testified that she had cards and gifts for the child, but did not mail them to Drew and Teshawna's residence "because I prefer to give 'em to [K.F.A.] in person[.]" (July 7, 2025 Tr. at 164).

{¶26} After considering the evidence presented by the parties, the trial court found that Jamie had a parental duty to provide support for the child even in the absence of an order regarding child support or the petitioners requesting support for the child. *See* R.C. 3103.03(A) (stating that the "biological . . . parent of a minor child must support the parent's minor child out of the parent's property or by the parent's labor"). The trial court further found that Jamie had the ability to provide support for the child. *See In re Adoption of Masa*, 23 Ohio St.3d at 167 (noting that "ability to pay is a key factor in determining whether there is a justifiable cause for failure to support a child"). As to the CPO, the trial court determined that Jamie could have consulted with an attorney about how to provide support for the child while the CPO was in effect. The trial court stated as follows:

The Court finds that [Jamie] never used the assistance of counsel or any other person to provide “maintenance and support” or “meaningful and regular maintenance and support” of the Child. [Jamie] testified that she purchased various gifts and blankets for the Child, as well as made the Child birthday cards. *See* [Jamie’s] Exhibit F. However, [Jamie] testified that she was never able to provide those items to the Child. The Court finds that [Jamie], although prohibited from having direct contact with the Child, as a protected person, pursuant to the [CPO], could have reached out to the Petitioners to provide maintenance and support of the Child. Further, the Court questions [Jamie’s] credibility and truthfulness with regards to her providing items for the Child. The Court finds that the [CPO] expired on October 28, 2024. *See* Petitioners’ Exhibit #13. However, [Jamie] admitted that she still has not provided any items, gifts, or birthday cards to the Child since the expiration of the [CPO]. The Court finds that if [Jamie] truly wanted the Child to have the items she purchased, and wanted to provide support for the Child, then she could have sent the items, dropped the items off for the Child, or used the assistance of another individual to deliver the items. The Court finds that [Jamie] has failed to do any of those options.

(Doc. No. 87). Thus, the trial court determined that Jamie’s consent to the adoption was not required because she had failed without justifiable cause to provide for the “maintenance and support” or “meaningful and regular maintenance and support” of K.F.A. for the one-year period immediately preceding the filing of the amended petition. (*Id.*).

{¶27} We recognize that the trial court was in the best position to weigh the parties’ testimony, and thus, we defer to the trial court in making credibility determinations. *In re Adoption of Holcomb*, 18 Ohio St.3d at 367 (“The probate court is in the best position to observe the demeanor of the parties, to assess their credibility, and to determine the accuracy of their testimony.”). Moreover, the

record establishes that Jamie did not provide any support for the child from June 21, 2022 through June 21, 2023, even though she earned sufficient income to do so. Despite seeking to modify or terminate the CPO and establish parenting time with the child, Jamie abandoned those efforts after being incarcerated for four months for committing a parole violation.

{¶28} Based on the foregoing, we conclude that the trial court's determination that Jamie was without justifiable cause for her failure to provide for support for K.F.A. during the relevant one-year time period is not against the manifest weight of the evidence.

{¶29} Accordingly, Jamie's second assignment of error is overruled.

First Assignment of Error

The Trial Court erred when it determined that [Jamie's] consent was not required for the adoption of the minor child pursuant to [R.C.] 3107.07(A).

{¶30} In her first assignment of error, Jamie argues that she had justifiable cause for having no contact with the child because the CPO was in place during the entirety of the one-year lookback period.

{¶31} Notably, the trial court did not make any findings regarding Jamie's lack of contact with the child from June 21, 2022 through June 21, 2023. *See* R.C. 3107.07(A) (stating that a parent's failure without justifiable cause to provide *either* support for the child *or* contact with the child during the relevant time period is sufficient to obviate the need for the parent's consent to adoption).

{¶32} We need not address Jamie’s first assignment of error because it is rendered moot by our disposition of her second assignment of error. *See* App.R. 12(1)(c).

{¶33} Having found no error prejudicial in the particulars assigned and argued, we affirm the judgment of the trial court.

Judgment Affirmed

WILLAMOWSKI and WALDICK, J.J., concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this Court, the assignments of error are overruled and it is the judgment and order of this Court that the judgment of the trial court is affirmed with costs assessed to Appellant for which judgment is hereby rendered. The cause is hereby remanded to the trial court for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this Court's judgment entry and opinion to the trial court as the mandate prescribed by App.R. 27; and serve a copy of this Court's judgment entry and opinion on each party to the proceedings and note the date of service in the docket. *See* App.R. 30.

William R. Zimmerman, Judge

John R. Willamowski, Judge

Juergen A. Waldick, Judge

DATED:
/hls