[Cite as *In re Adoption of H.L.M.M.*, 2026-Ohio-4460.]

IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
LOGAN COUNTY

IN RE: THE ADOPTION OF:

H.L.M.M.

[MELINDA M. - APPELLANT]

CASE NO. 8-26-13

OPINION AND JUDGMENT ENTRY

Appeal from Logan County Common Pleas Court
Family Division
Trial Court No. 22 AD 18

Judgment Affirmed

Date of Decision: November 9, 2026

APPEARANCES:

***Alison Boggs* for Appellant**

***Barbara A. Luke* for Appellees**

ZIMMERMAN, P.J.

{¶1} Biological mother-appellant, Melinda M. ("Melinda"), appeals the June 8, 2026 decision of the Logan County Court of Common Pleas, Family Division, determining that her consent is not required for the petitioners-appellees, Anna M. and Jason M. (collectively, "the petitioners"), to adopt H.L.M.M. For the reasons that follow, we affirm.

{¶2} On July 25, 2022, the petitioners filed a petition to adopt H.L.M.M., born in 2015.[1] In their petition, they asserted that the consent of the biological parents—Melinda and Christopher V. ("Christopher")—was not required because both had failed without justifiable cause to maintain contact with, or to provide for the maintenance and support of, H.L.M.M. for the one-year period preceding the petition. Following an initial hearing, the trial court issued a judgment entry on October 31, 2022 finding that neither Melinda's nor Christopher's consent was necessary.

{¶3} Subsequently, both biological parents sought relief from that judgment, alleging a failure of proper service.[2] On April 26, 2024, the trial court granted Christopher's Civ.R. 60(B) motion. Melinda's motion remained pending at the time of the subsequent consent hearing.

[1] Anna M. is the biological grandmother of H.L.M.M.

[2] In support of her Civ.R. 60(B) motion, Melinda attached an affidavit from her biological father, Terry Ferguson ("Ferguson"). In the affidavit, Ferguson claimed that the petitioners knew his address, had previously visited his home, and yet never asked him for Melinda's contact information or whereabouts. However, this affidavit was never introduced or admitted into evidence during the subsequent consent hearing.

{¶4} The matter proceeded to a consent hearing before a magistrate on May 6, 2024. On October 11, 2024, the magistrate issued a decision determining that Christopher's consent was not required because he lacked justifiable cause for his failure to contact or support H.L.M.M. However, regarding Melinda, the magistrate recommended that her motion for relief from judgment be granted and that the adoption petition be dismissed. In particular, the magistrate determined that, while Melinda failed to have more than de minimis contact or provide support in the requisite year with H.L.M.M., the petitioners failed to prove that she lacked justifiable cause for those failures. Specifically, the magistrate cited significant issues regarding the petitioners' efforts to serve Melinda and their alleged interference with her ability to communicate with H.L.M.M.

{¶5} On October 25, 2024, the petitioners filed their objections to the magistrate's decision. Christopher and Melinda filed memoranda in opposition to the objections on November 6 and November 8, 2024, respectively. Though the petitioners requested a transcript of the consent hearing on October 17, 2024, the record reflects that the transcript was not filed with the trial court until July 14, 2025.

{¶6} On July 16, 2025, the trial court issued an entry sustaining the petitioners' objections. Despite the transcript having been filed, the trial court's entry stated that the "objecting party elected not to obtain the transcript" and that the court undertook its review accordingly. Specifically, the trial court assessed that the magistrate improperly considered testimony from Ferguson, who did not testify,

considered matters outside the relevant one-year lookback period, and placed undue weight on service issues rather than the statutory elements of contact and support. After independently reviewing the record, the trial court determined that Melinda's consent was not required. Additionally, the trial court concluded that Melinda's motion for relief from judgment was moot, reasoning that she had been afforded due process by participating in the consent hearing with counsel.

{¶7} Melinda appealed from that entry and, on February 17, 2026, this court reversed the trial court's judgment and remanded the matter to the trial court to clarify the status of the transcript and determine whether it had been considered in its factual findings.

{¶8} On May 12, 2026, the trial court issued an entry stating that the language in its previous July 16, 2025 entry regarding the lack of a transcript was a scrivener's error resulting from an unmodified template. The trial court clarified that the transcript had been provided and independently reviewed prior to rendering its decision. The trial court then reissued essentially the same substantive judgment.

{¶9} Melinda filed her notice of appeal on June 8, 2026.[3] She raises two assignments of error for our review, which we will address together.

First Assignment of Error

> **The trial court erred and abused its discretion when it reversed the magistrate's decision and found that Appellant's consent was not required for the adoption of H.L.M.M., because the**

[3] Christopher did not file a notice of appeal.

magistrate was in the best position to evaluate the credibility of the witnesses and apply it to the evidence.

Second Assignment of Error

The trial court erred when it considered Appellee's objections when they failed to provide the transcript of the magistrate's hearing, which required the court to accept the factual findings as determined by the magistrate.

{¶10} In her assignments of error, Melinda argues that the trial court abused its discretion by rejecting the magistrate's decision and determining that her consent was not required for the adoption of H.L.M.M. Specifically, Melinda argues that, because the petitioners failed to timely file the transcript, the trial court lacked the authority to reweigh the facts and wrongfully rejected the magistrate's credibility determinations regarding the petitioners' interference.

Standard of Review

{¶11} "'The standard of review generally applied when reviewing a court's adoption of a magistrate's decision is abuse of discretion.'" *Elson v. Plokhooy*, 2011-Ohio-3009, ¶ 27 (3d Dist.), quoting *DeFrank-Jenne v. Pruitt*, 2009 Ohio 1438, ¶ 8 (11th Dist.). An abuse of discretion suggests the trial court's decision is unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

Analysis

{¶12} Civ.R. 53(D)(4)(d) requires the trial court to rule on timely objections by conducting an independent review of the objected matters to verify that the

magistrate properly determined the facts and correctly applied the law. *Mackenbach v. Mackenbach*, 2012-Ohio-311, ¶ 8 (3d Dist.). "Pursuant to Civ.R. 53(D)(4)(b), the trial court's review of a magistrate's decision is de novo." *Id.* "While a trial court is required to independently review the record and make its own factual and legal findings, the trial court may rely upon the magistrate's credibility determinations when it reviews the magistrate's decision." *Id.*

{¶13} "After completing its de novo review the trial court may adopt, reject, or modify the magistrate's decision." *Id.* "A trial court's failure to conduct an independent review in accordance with Civ.R. 53 is an abuse of its discretion." *Id. See also Ashtabula Metro. Hous. Auth. v. Alexander*, 2023-Ohio-4607, ¶ 22 (11th Dist.) ("A failure to conduct an independent review pursuant to Civ.R. 53(D)(4)(d) renders the 'trial court's adoption of the magistrate's decision . . . defective as a matter of law.'"), quoting *Haverdick v. Haverdick*, 2010-Ohio-6256, ¶ 16 (11th Dist.).

{¶14} To facilitate this review, under Civ.R. 53(D)(3)(b)(iii), any objection to a magistrate's factual finding must be supported by a transcript of all the evidence relevant to that finding. The objecting party must file this transcript within 30 days of filing their objections, unless the trial court extends the deadline in writing for good cause. *See, e.g.*, *Bayview Loan Servicing, L.L.C. v. Likely*, 2017-Ohio-7693, ¶ 10 (9th Dist.). "'The duty to provide a transcript or affidavit to the trial court rests

with the person objecting to the magistrate's decision.'" *Id.* at ¶ 12, quoting *Swartz v. Swartz*, 2011-Ohio-6685, ¶ 8 (9th Dist.).

{¶15} "'[W]ithout the aid of a transcript,' a trial court cannot conduct an independent review of documentation and testimony." *Ashtabula Metro. Hous. Auth.* at ¶ 22, quoting *Haverdick* at ¶ 16. "'When a party fails to file a transcript of the evidence presented at the magistrate's hearing, the trial court, when ruling on the objections, is required to accept the magistrate's findings of fact and to review only the magistrate's conclusions of law based on those factual findings.'" *Meros v. Protec Auto Body & Restoration LLC*, 2023-Ohio-3020, ¶ 8 (11th Dist.), quoting *Estate of Stepien v. Robinson*, 2013-Ohio-4306, ¶ 28 (11th Dist.).

{¶16} On appeal, Melinda argues that, because the transcript was filed nearly eight months late, the trial court was precluded from considering it when ruling on the petitioners' objections absent a formal motion demonstrating excusable neglect under Civ.R. 6(B). While Civ.R. 6(B) provides the mechanism for a party to formally request a deadline extension, the absence of such a motion does not extinguish a trial court's broad, inherent discretion to sua sponte consider an untimely transcript under Civ.R. 53. Indeed, "nothing in Civ.R. 53 prohibits or otherwise limits the trial court's ability to sua sponte consider an untimely filed transcript . . . ." *Ramsey v. Ramsey*, 2014-Ohio-1921, ¶ 23 (10th Dist.), citing *Tewalt v. Peacock*, 2011-Ohio-1726, ¶ 26 (3d Dist.) ("There is nothing in Civ.R. 53, which prohibits or otherwise limits the trial court's ability to sua sponte obtain and consider

the transcript or alternative technology."). Instead, "[t]he trial court has broad discretion in considering objections and transcripts filed outside the time limits set forth in Civ.R. 53 . . . ." *Ramsey* at ¶ 23. *See also Bayview Loan Servicing* at ¶ 9 (stating that "a trial court's decision regarding whether to consider untimely filed transcripts when ruling on objections to a magistrate's decision is reviewed for an abuse of discretion").

{¶17} Even though the petitioners did not timely file the transcript of the proceedings, the record reflects that the transcript was placed before the trial court prior to its judgment ruling on the petitioners' objections. *See Q.W. v. A.T.*, 2016-Ohio-5019, ¶ 36 (10th Dist.). Furthermore, there is no evidence in the record that Melinda objected to the petitioners' untimely filing of the transcript in the trial court. Consequently, the trial court properly exercised its discretion in deciding to consider the untimely transcript when ruling on the petitioners' objections. *Accord id.*

{¶18} Having determined that the trial court properly considered the transcript of the consent hearing, we turn to Melinda's argument that the trial court abused its discretion by rejecting the magistrate's decision and determining that her consent was not required for the adoption of H.L.M.M. Here, Melinda contends that the trial court's determination that she lacked justifiable cause is against the manifest weight of the evidence because the court improperly rejected the magistrate's credibility assessments, discarded factual inferences drawn from the

Ferguson evidence, and rigidly excluded evidence outside the one-year lookback period.

{¶19} "[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, consent to an adoption is not required of

> [a] parent of a minor, 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 have more than de minimis contact with the minor or 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.

R.C. 3107.07(A).

{¶20} The Ohio Supreme Court established a two-step analysis for trial courts to apply under R.C. 3107.07(A) when determining if parental consent is required. *In re Adoption of M.T.R.*, 2022-Ohio-2473, ¶ 22 (5th Dist.); *In re Adoption of M.B.*, 2012-Ohio-236, ¶ 30. In the first step, the trial court must determine whether the petitioner proved, by clear and convincing evidence, that the natural parent failed to have more than de minimis contact with the child or failed to provide for the child's maintenance and support. *In re Adoption of M.T.R.* at ¶ 23, citing *In re Adoption of M.B.* at ¶ 23. "Clear and convincing evidence is evidence that is

sufficient to 'produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.'" *In re Adoption of B.R.R.*, 2024-Ohio-478, ¶ 45 (7th Dist.), quoting *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus. "'A trial court has discretion to make these determinations and in connection with the first step of the analysis, an appellate court applies an abuse-of-discretion standard when reviewing a probate court decision.'" *In re Adoption of M.T.R.* at ¶ 23, quoting *In re Adoption of M.B.* at ¶ 25.

{¶21} If the trial court finds a failure to contact or support, it proceeds to the second step, where the petitioner must prove by clear and convincing evidence that the failure was without justifiable cause. *Id.* at ¶ 24. The determination of whether justifiable cause exists for that failure is reviewed under the manifest weight of the evidence standard. *In re Adoption of M.B.* at ¶ 30. *See also In re Z.C.*, 2023-Ohio-4703, ¶ 14-16 (addressing the manifest-weight standard of review). "'Judgments supported by some competent, credible evidence going to all the essential elements of the case will not be reversed by a reviewing court as being against the manifest weight of the evidence.'" *In re Adopt. of H.M.M.*, 2025-Ohio-2403, ¶ 21 (7th Dist.), quoting *C.E. Morris Co. v. Foley Constr. Co.*, 54 Ohio St.2d 279 (1978), syllabus. Under a manifest weight standard of review, we may not substitute our judgment for that of the trial court, as the trier of fact determines the weight and credibility of the evidence. *In re Adoption of M.T.R.* at ¶ 24.

{¶22} "The term 'justifiable cause' is not defined in R.C. 3107.07." *In re Adoption of O.K.M.*, 2021-Ohio-2330, ¶ 15 (2d Dist.). "However, it has been defined as meaning '[c]apable of being legally or morally justified; excusable; defensible.'" *Id.*, quoting *In re Adoption of B.I.*, 2017-Ohio-9116, ¶ 10 (1st Dist.). "The Ohio Supreme Court has 'refused to adopt a "precise and inflexible meaning" for "justifiable cause," but instead has concluded 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."'" *Id.*, quoting *In re Adoption of D.D.G.*, 2018-Ohio-35, ¶ 5 (2d Dist.,) quoting *In re Adoption of W.K.S.*, 2014-Ohio-3847, ¶ 22 (2d Dist.). "The Supreme Court has further held that an important consideration regarding justifiable cause is the parent's willingness and ability to support or contact a child." *Id.*

{¶23} "'Ohio courts have held that justification of a parent's failure to communicate with his or her child is shown when there has been "significant interference" with a parent's communication with a child or "significant discouragement" of such communication.'" *In re Adoption of H.M.M.* at ¶ 21, quoting *In re Kr.E.*, 2006-Ohio-4815, ¶ 21 (9th Dist.). "Where substantial efforts of the child's custodian have deprived a parent of the opportunity to enjoy a meaningful relationship with the child, the law should not further reward the custodian's discordant efforts in a nonconsensual-adoption proceeding." *In re M.R.W.*, 2023-Ohio-4705, ¶ 19 (3d Dist.). Although the justifiable-cause inquiry

centers on the statutory one-year window, the trial court retains the discretion to examine circumstances outside that timeframe if the broader historical context assists the court in understanding the parent's failure. *See id.*

{¶24} In its decision, the magistrate determined that, while Melinda failed to provide support or maintain more than de minimis contact, the petitioners failed to prove by clear and convincing evidence that she lacked justifiable cause for these failures. Citing the petitioners' "less than forthcoming" conduct regarding service of the initial petition, the magistrate reasoned that they likely restricted Melinda's access to H.L.M.M. (Doc. No. 138). Additionally, in reaching this conclusion regarding justifiable cause, the magistrate relied on factual inferences drawn from Ferguson and considered the broader context of the parties' relationship outside the strict one-year statutory lookback period. Based on these inferences and the totality of those circumstances, the magistrate determined that the petitioners failed to meet their burden to bypass Melinda's consent.

{¶25} Following the petitioners' objections and this court's subsequent remand, the trial court issued its entry independently reviewing the magistrate's decision. The trial court ultimately concluded that the petitioners met their burden of proving that Melinda's consent was not necessary for the adoption of H.L.M.M. In particular, the trial court determined that the magistrate improperly relied on Ferguson's testimony and considered matters outside the statutory lookback period.

{¶26} In contrast to the magistrate's findings, the trial court specifically determined that Melinda's self-serving claims regarding interference—namely, that the petitioners blocked her from contacting H.L.M.M., restricted her access to their whereabouts, and prohibited family members from sharing their contact information—were uncorroborated and not credible. The trial court similarly found that Melinda's self-serving claims that she attempted to provide financial support to lacked credibility.

{¶27} In its independent review, the trial court found that, while Melinda had de minimis contact with H.L.M.M. within the one-year lookback period, that contact was random, sporadic, and lacked any intent to foster a relationship with the H.L.M.M. Furthermore, the trial court determined that any support Melinda offered was not intended to provide for H.L.M.M.'s basic needs; even if such support was "well received" by the petitioners, it remained merely de minimis as it related to the child's actual care and maintenance.

{¶28} Finally, the trial court concluded that the petitioners' actions were reasonable under the circumstances. Specifically, it reasoned that, tasked with protecting and providing for H.L.M.M.'s best interests, the petitioners' conduct was justified given the evidence of domestic violence, drug abuse, and Melinda's own lack of contact. Accordingly, the trial court resolved that the petitioners proved by clear and convincing evidence that Melinda failed to provide more than de minimis contact or support without justifiable cause.

{¶29} On appeal, Melinda contends that the trial court abused its discretion by rejecting the magistrate's decision, essentially challenging the trial court's exercise of its independent fact-finding authority. She argues that the trial court erred by overturning the magistrate's credibility determinations, asserting that the magistrate, having observed the testimony firsthand, was in the best position to evaluate witness credibility and correctly determine that the petitioners' interference constituted justifiable cause. Melinda further contests the trial court's conclusion that the magistrate improperly relied on testimony from Ferguson, a witness who did not testify. She asserts that the trial court mischaracterized the magistrate's factual inferences as an evidentiary error, arguing they were actually reasonable conclusions drawn from the admitted evidence. Finally, Melinda challenges the trial court's conclusion that the magistrate improperly considered events outside the one-year lookback period, contending that the trial court's rigid exclusion of this historical context ignored the totality of the circumstances necessary to understand why she was unable to contact H.L.M.M. during the relevant year.

{¶30} Based on our review of the record, we conclude that the trial court did not abuse its discretion by rejecting the magistrate's decision and by determining that Melinda's consent was not required for the adoption of H.L.M.M. Specifically, the trial court's determination that the petitioners proved by clear and convincing evidence that Melinda's failure to have more than de minimis contact with or provide maintenance and support for H.L.M.M. during the one-year period

preceding the filing of the adoption petition was without justifiable cause is not against the manifest weight of the evidence.

{¶31} When reviewing a magistrate's decision, a trial court possesses the inherent authority to independently review the record and make its own factual and credibility determinations. *Sowry v. Todd*, 2023-Ohio-1162, ¶ 19 (2d Dist.). That is, "[a]lthough the trial court may appropriately give weight to the magistrate's assessment of witness credibility in view of the magistrate's firsthand exposure to the evidence, the trial court must still independently assess the evidence and reach its own conclusions." *Sweeney v. Sweeney*, 2006-Ohio-6988, ¶ 15 (10th Dist.). In other words, a trial court conducting a de novo review upon objections is not required to defer to a magistrate's credibility assessments and must independently agree with the magistrate's factual findings before adopting them. *Hart v. Spenceley*, 2013-Ohio-653, ¶ 15 (12th Dist.).

{¶32} Once the trial court assumes this role as the ultimate fact finder, it is free to believe all, part, or none of the testimony of each witness appearing before the trial court. *In re L.A.*, 2018-Ohio-3219, ¶ 14 (3d Dist.). The authority to resolve conflicting testimony and assess witness credibility belongs solely to the finder of fact, and a mere disagreement over these determinations is insufficient for an appellate court to substitute its judgment. *Id.* If the evidence is susceptible to more than one construction, a reviewing court must give it the interpretation that is consistent with the trial court's judgment. *Id.*

{¶33} Here, the trial court acted within its independent fact-finding authority when it rejected the magistrate's credibility determinations. Indeed, as the ultimate fact-finder, the trial court was entitled to conclude that Melinda's self-serving claims regarding interference were uncorroborated and not credible. *See In re Adoption of B.G.F.*, 2018-Ohio-5063, ¶ 42 (3d Dist.) (finding no error in the trial court's conclusion that the biological parent lacked justifiable cause where the record indicated that the trial court chose not to believe that parent's testimony). Because the trial court is in the best position to weigh the evidence and assess witness demeanor, we will not disrupt its credibility determinations.

{¶34} This same principle of independent review disposes of Melinda's arguments concerning Ferguson and the statutory one-year lookback period. In its decision, the magistrate relied on evidence outside the hearing record regarding Ferguson—a non-testifying witness—to supply a factual bridge between the petitioners' service efforts and a finding of justifiable cause. Based on the unadmitted Ferguson evidence, the magistrate essentially inferred that the petitioners knew how to reach Melinda through him and were interfering with Melinda's contact with H.L.M.M. However, a finding built on nonexistent testimony or extra-record evidence cannot sustain a magistrate's decision. *See Salisbury v. Smouse*, 2005-Ohio-5733, ¶ 24 (4th Dist.). Thus, the trial court was fully within its independent review authority to identify the unadmitted Ferguson evidence, remove it from the analysis, and consider whether the petitioners satisfied

their burden of proving whether Melinda's consent was required based solely on the evidence actually admitted at the hearing. *See In re Woodburn*, 2002 Ohio App. LEXIS 1, *6 (9th Dist. Jan. 2, 2002); *Markel v. Markel*, 2004-Ohio-3437, ¶ 25 (5th Dist.) (noting that, if a magistrate has improperly determined the factual issues, "then the trial court must substitute its judgment for that of the magistrate").

{¶35} Furthermore, the trial court properly exercised its independent review authority when it declined to extend its analysis beyond the one-year statutory timeframe. While a court may consider broader historical context to determine if a parent was significantly discouraged from communicating, the decision to employ an extended lookback rests within the sound discretion of the trial court. *See, e.g.*, *In re Adoption of S.T.B.*, 2024-Ohio-2031, ¶ 21 (3d Dist.).

{¶36} In sum, once the trial court made its own credibility assessments and considered the properly admitted evidence against the statutory time window, it found that the petitioners' conduct was reasonable and justified under the circumstances. The petitioners' testimony at the hearing supports the trial court's findings—specifically, their testimony that they did not block Melinda's number or restrict her access, coupled with the undisputed evidence of the parents' history of domestic violence and drug abuse. Because the trial court was free to believe the petitioners' testimony over Melinda's, and because its determination is supported by competent, credible evidence in the record, we will not substitute our judgment

for the trial court's assessment of the evidence, its credibility determinations, or its ultimate factual findings. *See In re L.A.*, 2018-Ohio-3219, at ¶ 16 (3d Dist.).

{¶37} Consequently, the trial court's justifiable cause determination is not against the manifest weight of the evidence. As a result, the trial court did not abuse its discretion by rejecting the magistrate's decision.

{¶38} Melinda's assignments of error are overruled.

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

Judgment Affirmed

MILLER and WILLAMOWSKI, 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

Mark C. Miller, Judge

John R. Willamowski, Judge

DATED:
/hls