[Cite as *In re O.S.*, 2026-Ohio-4655.]

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

IN RE:

O.S.,

CASE NO. 6-26-02

ADJUDICATED ABUSED & DEPENDENT CHILD.

OPINION AND JUDGMENT ENTRY

[KIERA B. - APPELLANT]

IN RE:

Za.B.,

CASE NO. 6-26-03

ADJUDICATED ABUSED & DEPENDENT CHILD.

OPINION AND JUDGMENT ENTRY

[KIERA B. - APPELLANT]

IN RE:

Zo.B.,

CASE NO. 6-26-04

ADJUDICATED DEPENDENT CHILD.

OPINION AND JUDGMENT ENTRY

[KIERA B. - APPELLANT]

IN RE:

O.B.,

ADJUDICATED DEPENDENT CHILD.

[KIERA B. - APPELLANT]

CASE NO. 6-26-05

OPINION AND JUDGMENT ENTRY

Appeals from Hardin County Common Pleas Court
Domestic Relations Division
Trial Court Nos. NAD20253020, NAD20253021, NAD20253022 and NAD20253023

Judgments Affirmed

Date of Decision: November 23, 2026

APPEARANCES:

Howard A. Elliott **for Appellant**

McKenzie J. Klingler **for Appellee**

MILLER, J.

{¶1} Mother-appellant, Kiera B. ("Kiera"), appeals the December 19, 2025 final judgment of adjudication of the Hardin County Court of Common Pleas relieving her of

custody of her minor children – O.S., Za.B., Zo.B, and O.B. For the reasons that follow, we affirm.

Facts and Procedural History

{¶2} On August 25, 2025, the Hardin County Department of Job and Family Services ("the Agency") filed complaints in the Hardin County Court of Common Pleas, Domestic Relations Division, alleging that O.S. and Za.B. were abused and dependent children and that Zo.B. and O.B. were dependent children living within the same household where O.S. and Za.B. were abused. The juvenile court conducted a shelter-care hearing on September 3, 2025, found probable cause, and continued the children's placements outside the home. A further hearing concerning Zo.B. and O.B. occurred on September 10, 2025.

{¶3} The complaints arose from events occurring on July 10, 2025. That evening, police located ten-year-old O.S. approximately three miles from her home and observed significant bruising that prompted them to obtain medical attention for her. When police later entered the family home, they estimated that the temperature inside was between 90 and 95 degrees. O.S.'s upstairs bedroom was locked from the outside, the window had been secured with screws to prevent her from leaving, and the room lacked air circulation. The Agency's investigation also concerned the treatment of O.S.'s brother, Za.B. According to testimony from on-scene caseworker, Jenna Lowden ("Lowden") Kiera admitted she locked Za.B. in his upstairs bedroom, which he could not unlock from the inside. When confined there, Za.B. lacked access to a restroom and sometimes relieved

himself in the room. Za.B. also reported being struck with a belt by Kiera and Joseph B. ("Joseph"), Kiera's boyfriend.[1]

{¶4} SANE (sexual assault nurse examiner) nurse Staci Bensley ("Bensley") examined O.S. on July 10, 2025. Bensley observed multiple bruises and testified that O.S. described being struck with a belt, engaging in physical altercations with Kiera and Joseph, being confined in her bedroom, and having food withheld. Bensley further explained that the interview guided evidence collection and safety planning for the children.

{¶5} On July 12, 2025, licensed clinical social worker Stacy Gottke ("Gottke") interviewed O.S. at Nationwide Children's Hospital. Gottke testified that O.S. reported ongoing physical abuse of herself and Za.B., confinement in their bedrooms, and restricted access to food. O.S. also reported that she had been struck in the ribs with a wooden object, hit with a belt, and confined in a hot bedroom without adequate ventilation. Gottke photographed several injuries that she considered concerning for physical abuse and relied on the history of those injuries in reaching her diagnosis.

{¶6} The juvenile court conducted the consolidated adjudicatory hearing over four non-consecutive days on September 30, October 1, November 21, and December 16, 2025. The Agency presented testimony from caseworker Lowden, Sergeant Chad Fenwick, nurse Bensley, social worker Gottke, child-abuse pediatrician Dr. Amber Hussain ("Dr.

[1] Kiera is the mother of all four children. O.S. was born on July 26, 2015. Her father appeared in the trial court proceedings but, is not a party to this appeal. Za.B. was born on April 30, 2018. His father made no appearance in the case despite proper notice by publication. Joseph B. is the father of both Zo.B (born on October 31, 2023) and O.B. (born on May 1, 2025). He appeared in the trial court proceedings but, did not pursue his own appeal.

Hussain"), and the children's maternal grandmother, Julie Waller, together with numerous exhibits. Kiera presented testimony from two Kenton Elementary School professionals and Dr. Nara Cho ("Dr. Cho") and introduced four exhibits without objection.

{¶7} Lowden testified about her investigation of the family home on July 10, 2025. According to Lowden, Kiera and Joseph acknowledged that O.S. was locked in her room, that they occasionally used a belt on the children, and that physical altercations involving O.S. had occurred that day. Lowden also observed O.S.'s bruising and the elevated temperature in her bedroom.

{¶8} Dr. Hussain reviewed O.S.'s history, photographs, and reported injuries. She testified that the location and pattern of the bruising were not typical of accidental or play-related injuries and concluded that O.S.'s injuries were consistent with physical abuse. Dr. Hussain also expressed concern about psychological maltreatment arising from food restriction and exposure to the physical abuse of a sibling.

{¶9} Kiera presented evidence that O.S. had displayed behavioral problems at school, including throwing objects and requiring physical restraint on multiple occasions. Kiera also called Dr. Cho, who testified concerning an examination of O.S. following an earlier suspected-abuse incident in October 2024.

{¶10} After considering the testimony, exhibits, stipulations, and witness credibility, the trial court found that Kiera's and Joseph's conduct created a substantial risk to O.S.'s health and safety and that O.S. had suffered physical injuries inflicted by nonaccidental means or inconsistent with the history provided. The court similarly found

that Za.B.'s confinement and reported physical punishment created a substantial risk of serious physical harm. Based on the children's treatment and the conditions within the home, the court adjudicated O.S. and Za.B. abused and dependent and adjudicated Zo.B. and O.B. as dependent due to living in the same household. The court then proceeded directly to disposition, continued the existing placement orders, ordered implementation of the case plan, modified the drug-screening requirements, and ordered visitation between Kiera and O.S. The adjudicatory and dispositional decisions were journalized on December 19, 2025, and Kiera timely filed notices of appeal on January 20, 2026.

{¶11} She raises three assignments of error.[2]

First Assignment of Error

The trial court committed error by admitting the hearsay statement of the alleged victim herein where the statements in question were taken not for purposes of diagnosis or treatment under Evid.R. 803(4) but were taken for an investigation purpose.

{¶12} In her first assignment of error, Kiera argues that the testimony of Bensley, a SANE nurse, and Gottke, a licensed clinical social worker, regarding statements O.S. made to them were inadmissible hearsay without exception under Evid.R. 803(4). Similarly, Kiera contends Dr. Hussain's testimony regarding her knowledge of O.S. and the diagnosis that was given was similarly based on hearsay without exception.

[2] While the first and second assignment of error focus on statements made by O.S., these assignments apply to all four children as they all resided in the home where the alleged abuse occurred and O.S.'s statements led to the trial court's findings relating to the other children.

Standard of Review

{¶13} "An appellate court reviews decisions involving the admissibility of evidence for an abuse of discretion." *Colum. Gas of Ohio, Inc. v. Bailey*, 2023-Ohio-1245, ¶ 108 (3d Dist. "The term 'abuse of discretion' connotes more than an error of law or judgment; it implies that the court's attitude is unreasonable, arbitrary or unconscionable." *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

Analysis

{¶14} Hearsay is defined as a "statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Evid.R. 801(C). Hearsay is generally not admissible unless an exception applies. Evid.R. 802. Under Evid. R. 803(4), "[s]tatements made for the purposes of medical diagnosis or treatment" are excluded from the hearsay rule "even though the declarant is available as a witness." This exception is premised on the idea that statements made by a patient to a healthcare professional for their own medical diagnosis are particularly reliable and that medical professionals, by virtue of their training and experience, are competent to determine true from false facts when making a diagnosis or providing treatment. *State v. Muttart*, 2007-Ohio-5267, ¶ 39-41.

{¶15} SANE nurses and social workers often perform dual roles when interviewing a victim of abuse in which, on one hand, they are seeking information for the purposes of medical diagnosis, and, on the other hand, are gathering evidence for investigative

purposes. *State v. Bender*, 2020-Ohio-722, ¶ 14 (3d Dist.). "Only those statements made for the purpose of diagnosis and treatment are admissible under Evid.R. 803(4)." *State v. Rose,* 2012-Ohio-5607, ¶ 41 (12th Dist.) *overruled on other grounds, State v. Lee,* 2013-Ohio-3404 (12th Dist.). Thus, in order to establish whether the Evid.R. 803(4) exception applies, it must be determined whether the primary purpose of the statement in question was for medical diagnosis or for investigative purposes. *State v. Arnold*, 2010-Ohio-2742, ¶ 28.

{¶16} We find that the testimonies of Bensley, Gottke, and Dr. Hussain, while they may have included statements that were obtained for both investigative and medical diagnosis and treatment purposes, were admitted by the trial court in order to consider those aspects of the statements that were for the purpose of medical diagnosis or treatment. Indeed, the trial court in response to Bensley's testimony on hearsay grounds made clear that it was permitting the admission of these statements in for the purpose of medical diagnosis and treatment:

> [Trial Court]: Okay. Well, I agree with you that the State took her, but I believe that—say from what I've heard so far that because of the bruises on her body, she was taken for medical treatment, regardless of whether they took her in an ambulance, whether some stranger found her walking on the road and put her in the car, she was taken to the hospital for medical treatment, so I disagree with you there.
>
> (Sept. 30, 2025 Tr., Vol. I, at 46).

{¶17} We acknowledge that during direct examination by the State, Bensley admitted that her interview process includes an investigative component:

> [Bensley]: We go through an interview process. There is certain questions based on timing, when did the events occur, things like that. And then we go through, we call it a narrative, where she tells the whole story, and that story also guides where we do our evidence collection, the photos, if we collect swabs, anything like that. And then we do safety planning, working on where she goes from here.

Id. at 42. However, Bensley also testified regarding statements of fact that are relevant to medical diagnosis and treatment. Namely, she testified, based on O.S.'s statements, how O.S. obtained the multiple bruises, the general timeframe for when the abuse occurred, that Kiera and Joseph abused her in the family home, and that "she was not allowed out" of her room and at times was "not allowed to eat." *Id.* at 53-54.

{¶18} Gottke, a licensed clinical social worker who was qualified at trial as an expert relating to child abuse, testified the following regarding her interview with O.S. at Nationwide Children's Hospital after a nurse preliminarily triaged her for vital concerns:

> [Gottke]: Yeah. She said in the most recent incident of physical abuse, which I believed occurred a couple days before I saw her, she said that she had been hit with a wooden object on one of her like sides of her ribs, and she said she was hit hard enough that she had difficulty breathing. I believe she was also hit with a belt that belonged to mother's boyfriend, and that the mother's boyfriend had also hit her.
>
> She said when she was hit hard enough, that she could not breathe, that that's when she knew she had to, like she had to escape or leave the home.
>
> She also reported witnessing her brother being hit hard enough that it knocked him back.

(Oct. 1, 2025 Tr., Vol. II, at 137-138).

{¶19} Finally, Dr. Hussain, who was qualified at trial as an expert on pediatric abuse, testified that her mindset when evaluating a case is to review the patient's medical record so as "to come to an impression and diagnosis." (Dec. 16, 2025 Tr., Vol IV, at 443). Dr. Hussain never interviewed O.S. directly but found that the transcript of O.S.'s interview raised concerns about psychological maltreatment. *Id.* at 455.

{¶20} "Although narrative accounts may reveal information subsequently used by law enforcement in a criminal prosecution, '[n]arrative accounts can be reasonably pertinent in establishing a potential diagnosis or treatment.'" *State v. Bender*, 2020-Ohio-722, ¶ 16 (3d Dist.), quoting *State v. Warman*, 2017-Ohio-244, ¶ 70 (12th Dist.) (Piper, J., concurring). "Indeed, '[a] description of an abusive encounter has consistently been determined to be within the scope of statements offered for medical treatment or diagnosis.'" *Id.*, quoting *State v. Warman*, 2017-Ohio-244, ¶ 72 (12th Dist.). Furthermore, "the Supreme Court has 'classified information regarding the identity of the perpetrator, the type of abuse alleged . . ., as well as the time frame of the abuse, as statements for diagnosis and treatment because that information allowed the doctor or nurse . . . to identify any trauma or injury sustained during the alleged abuse." *State v. C.C.B.*, 2019-Ohio-3631, ¶ 36 (10th Dist.), quoting *In re C.S.*, 2012-Ohio-2988, ¶ 14 (10th Dist.). We find that in the present case the elements of the testimony regarding O.S.'s statements regarding her abuse included the type of statements that would be made in the pursuit of obtaining a medical diagnosis or treatment for abuse. Further, we are guided by the presumption that a trial

court in a bench trial considers only relevant and admissible evidence and thus must consider the mixed statements only for the purpose which it was admitted into evidence. *In re P.C.*, 2021-Ohio-1238, ¶ 85 (3d Dist.). Therefore, we do not find the trial court abused its discretion when it admitted testimony regarding O.S.'s statements as an Evid.R. 803(4) hearsay exception.

{¶21} Kiera's first assignment of error is overruled.

Second Assignment of Error

The trial court denied the right of confrontation for statements of the alleged victim that were taken for an investigatory purpose making them testimonial statements.

{¶22} Kiera contends in her second assignment of error that her due process rights were violated because the trial court admitted impermissible hearsay statements without affording her the opportunity to cross-examine the declarant. At the outset, because we find in the first assignment of error that the trial court did not err in admitting the hearsay statements under the Evid.R. 803(4) exception, we do not find that the trial court erred by not providing an opportunity for Kiera to cross-examine the child declarant.

{¶23} "Further, with the exception of the right to counsel, Ohio courts have generally not applied criminal constitutional protections to child protection proceedings, which are civil in nature. [Ohio courts] have found the protection afforded by the Confrontation Clause does not apply in dependency, neglect and abuse proceedings in Juvenile Court." *In re R.R.*, 2021-Ohio-2369, ¶ 17 (5th Dist.). The cases Kiera relies on

to argue that her Sixth Amendment due process rights to confrontation were violated are inapplicable to the case at hand. *In re Gault*, 387 U.S. 1 (1967) extended constitutional protections, including the right to confrontation, to *juvenile delinquency* cases. Ohio courts have further recognized these protections because such proceedings expose the juvenile to consequences analogous to criminal prosecution. *See In re C.S.*, 2007-Ohio-4919, ¶ 74. Likewise, *In re R.G.M.*, 2023-Ohio-685, ¶ 5, 24 (5th Dist.) involved a matter in which the children had already been adjudicated dependent, and the challenged evidence was a caseworker's testimony about a psychological evaluation at a later legal-custody hearing when the evaluating psychologist was absent. There, the case concerned procedural due process, meaning whether the procedures afforded a meaningful opportunity to challenge evidence considered in determining legal custody. *Id*. at ¶ 14. It did not concern the Sixth Amendment's Confrontation Clause, which applies "[i]n all *criminal* prosecutions." (Emphasis added.) *Crawford v. Washington*, 541 U.S. 36, 42 (2004).

{¶24} Kiera's second assignment of error is overruled.

Third Assignment of Error

The trial court's decision as to abuse and dependency was against the manifest weight of the evidence, requiring the trial court's decision to be reversed and remanded.

{¶25} In her third assignment of error, Kiera argues that the trial court's finding, that O.S. and Za.B. were both abused and dependent and that Zo.B. and O.B. were dependent, was against the manifest weight of the evidence.

Standard of Review

{¶26} "We will not reverse the judgment of a trial court as being against the manifest weight of the evidence which is supported by some competent, credible evidence." *In re L.S.*, 2020-Ohio-5469, ¶ 12 (3d Dist.). "'Reviewing courts should accord deference to the trial court's decision because the trial court has had the opportunity to observe the witnesses' demeanor, gestures, and voice inflections that cannot be conveyed to us through the written record.'" *In re J.H.*, 2026-Ohio-1333, ¶ 11 (3d Dist.), quoting *In re S.D.*, 2016-Ohio-7057, ¶ 20 (5th Dist.). "A trial court's adjudication of a child as abused or dependent must be supported by clear and convincing evidence." *In re ZA*, 2009-Ohio-996, ¶ 26 (3d Dist.). "Clear and convincing evidence is that measure or degree of proof which is more than a mere 'preponderance of the evidence,' but not to the extent of such certainty as is required 'beyond a reasonable doubt' in criminal cases, and 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. "In determining whether a trial court based its decision upon clear and convincing evidence, 'a reviewing court will examine the record to determine whether the trier of facts had sufficient evidence before it to satisfy the requisite degree of proof.'" *In re Dn.R.*, 2020-Ohio-6794, ¶ 18 (3d Dist.), quoting *State v. Schiebel*, 55 Ohio St.3d 71, 74 (1990).

Analysis

{¶27} At the outset, we note that the State conceded in its brief that the trial court incorrectly found Za.B, Zo.B, and O.B. were dependent children based on R.C. 2151.04(D)(1). We agree with the State, because "for a child to be found dependent under R.C. 2151.04(D), R.C. 2151.04(D)(1) plainly and unambiguously requires that a sibling of the child or any other child who resides in the household be adjudicated abused, neglected, or dependent before the complaint is filed." *In re S.L.*, 2016-Ohio-5000, ¶ 20 (3d Dist.). There was no adjudication that O.S., as a sibling of Za.B, Zo.B, and O.B., was abused, neglected or dependent before the complaint was filed in this case. However, because we find the trial independently found the children to be dependent under R.C. 2151.04(C), we overrule the assignment of error.

{¶28} An abused child includes any child who "[i]s endangered as defined in section 2919.22 of the Revised Code, except that the court need not find that any person has been convicted under that section in order to find that the child is an abused child." R.C. 2151.031(C). As relevant here, R.C. 2919.22 (A) prohibits a parent or person in loco parentis from "creat[ing] a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support." And R.C. 2919.22(B)(3) prohibits any person from "physically restrain[ing] the child in a cruel manner or for a prolonged period, which punishment, discipline, or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child." A dependent child includes any

child "[w]hose condition or environment is such as to warrant the state, in the interests of the child, in assuming the child's guardianship." R.C. 2151.04(C).

{¶29} Kiera's sole substantive argument that the trial court's ruling is against the manifest weight of the evidence is her contention that Zo.B and O.B. were "favorites" of Kiera and Joseph who received "little mention" at the hearing. (Appellant's Brief at 11). Other than this contention, Kiera mainly relies on *In re L.L.*, 2024-Ohio-5219 which sets forth our standard of review but fails to apply the facts of this case. Kiera identifies no finding the trial court made that the evidence failed to support, no witness the court should have discredited, and no conflict in the testimony the court erroneously resolved.

{¶30} In contrast to Kiera's sparse argument, the record shows the adjudicatory hearing on this matter spanned four days during which ten witnesses testified and 41 exhibits were admitted into evidence. The evidence and testimony showed, amongst other things, that O.S. and Za.B. were routinely locked and confined in their rooms during 90-degree weather without ventilation; O.S.'s and Za.B.'s bedroom doors were locked from the outside, and O.S.'s windows were screwed shut; when locked in their rooms, the children had no access to use toilet facilities causing Za.B. to resort to relieving himself in his bedroom; O.S. had a variety of bruises of varying severity across multiple portions of her body; the expert opined that O.S.'s injuries were consistent with physical abuse; O.S. and Za.B. were deprived of food; and Zo.B. and O.B. were living in the same household while this abuse occurred.

{¶31} From this evidence the trial court made detailed, specific findings as to each child, including that Kiera admitted to locking O.S. and Za.B. in their rooms, that their bedroom doors locked from the outside, that Joseph admitted to placing screws in O.S.'s window, that the rooms had no air circulation in 90-degree heat, and that the acts of Kiera and Joseph created a substantial risk to the children's health and safety and constituted cruel and excessive physical restraint. We find this evidence sufficient to establish O.S. and Za.B. were abused under R.C. 2151.031(C) and that all of the children were dependent children under R.C. 2151.04.

{¶32} The trial court had before it competent, credible evidence from which it could form a firm belief that O.S. and Za.B. were abused and that all four children were dependent. Because the trial court's findings are supported by clear and convincing evidence, they are not against the manifest weight of the evidence.

{¶33} Kiera's third assignment of error is overruled.

Conclusion

{¶34} For the foregoing reasons, all of appellant's assignments of error are overruled. Having found no error prejudicial to the mother-appellant in the particulars assigned and argued, the judgment of the Hardin County Court of Common Pleas is affirmed.

Judgment Affirmed

ZIMMERMAN, P.J. and WALDICK, 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.

Mark C. Miller, Judge

William R. Zimmerman, Judge

Juergen A. Waldick, Judge

DATED:
/jlm