

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
HOCKING COUNTY

In re L.B. & O.B.	:	
	:	Case Nos. 25CA12
Adjudicated Dependent Children.	:	25CA13
	:	
	:	<u>DECISION AND JUDGMENT</u>
	:	<u>ENTRY</u>
	:	
	:	RELEASED: 08/10/2026

APPEARANCES:

Benjamin E. Fickel, Logan, Ohio, for appellant.

Jennifer Graham, Hocking County Prosecutor, and Robert N. Abdalla, Hocking County Assistant Prosecutor, Logan, Ohio, for appellee.

Wilkin, J.

{¶1} In this consolidated appeal, appellant, the children’s mother, appeals the judgments of the Hocking County Court of Common Pleas, Juvenile Division, that adjudicated her two children dependent.

{¶2} Appellant raises one assignment of error that asserts that the trial court’s judgment adjudicating the children dependent children is against the manifest weight of the evidence. After our review of the record and the applicable law, we do not find any merit to appellant’s assignment of error. Therefore, we affirm the trial court’s judgment.

FACTS AND PROCEDURAL BACKGROUND

{¶3} On September 2, 2025, South Central Ohio Job and Family Services (“the agency”) filed a complaint that alleged that the children, eight-year-old L.B. and two-year-old O.B., were dependent children within the meaning of R.C. 2151.04(C). The

court subsequently placed the children in the temporary shelter custody of their paternal aunt.

{¶4} On November 25, 2025, the trial court held an adjudicatory hearing. Before the hearing began, appellant expressed her displeasure with the situation and decided to sit outside the courtroom.

{¶5} The agency's first witness, caseworker Kelly Nihiser, stated that, in July 2025, the agency received a referral regarding the family. The referral reported concerns of sexual abuse and substance abuse. Nihiser subsequently met with appellant and the two children. Appellant indicated that her stepfather had sexually abused one or both of the children. The caseworker stated that, despite appellant's suspicion, appellant still allowed the stepfather to babysit the children and spend the night at his house. The caseworker suggested that appellant allow the children to undergo forensic testing, but appellant refused. Appellant accused the nurse examiner, who would have conducted the forensic testing, of being "an imposter" who "was being investigated by the FBI." Appellant further stated that she refused to cooperate with law enforcement officers because the officers activated their body cameras when appellant attempted to speak with them.

{¶6} Nihiser further related an incident during which appellant drove her vehicle while intoxicated and while the children were inside the vehicle. Appellant had been attending her child's birthday party and "was completely intoxicated, falling over, [and] spilling her drink everywhere." Appellant left the party with the children in her car. Someone from the party followed appellant home to ensure that she arrived safely. This person also took care of the children that night so that appellant "could detox from

the alcohol.” Nihiser stated that, although appellant admitted that she drove the vehicle while intoxicated, she also believed that the person who watched her children that night “set her up by buying her the alcohol knowing that she would drink it and get behind the wheel.”

{¶7} Nihiser stated that, during her visits with appellant, appellant appeared receptive to receiving the agency’s help. The caseworker put together a plan for appellant to help address the agency’s concerns. She also contacted a substance abuse treatment provider and arranged a meeting for appellant. Appellant met with the caseworker and the provider and “was 100 percent onboard” with the program. A few days after the meeting, however, appellant called Nihiser and left her “three voicemails on how she contacted the FBI” and claimed that Nihiser does not work for the agency. Appellant additionally stated “[v]ery vulgar things . . . in the voicemails.” Appellant further told Nihiser not to contact her again.

{¶8} Samantha Williams, another caseworker, reviewed the substance abuse treatment program with appellant. According to Williams, appellant agreed to participate in the program. A few days later, however, appellant called and stated that she no longer wanted to work with the program providers. Williams explained that appellant had reported the providers to the CIA and did not believe that the providers would help her. She later heard that appellant was attempting to purchase a recreational vehicle and flee with the children. The agency thus decided to seek temporary custody of the children due to appellant’s erratic behavior and concerns that she might flee with the children.

{¶9} On November 25, 2025, the trial court adjudicated the children dependent. The court observed that appellant had made sexual abuse allegations involving the children, yet she refused to cooperate with any investigation, and she allowed the alleged abuser to continue to be around the children. The court further indicated that appellant had admitted that she had driven her vehicle while intoxicated and while the children were inside the vehicle. The court also stated that appellant has an unresolved substance abuse disorder and displayed erratic behavior that suggests “serious mental health concerns.” The court thus placed the children in a relative’s temporary custody, subject to the agency’s protective supervision. These appeals followed.

ASSIGNMENT OF ERROR

THE TRIAL COURT’S RULING, GRANTING APPELLEE’S COMPLAINT FOR DEPENDENCY, WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶10} In her sole assignment of error, appellant argues that the trial court’s dependency adjudication is against the manifest weight of the evidence. She claims that (1) the trial court did not outline the facts that supported its determination, (2) the allegations of sexual abuse were not confirmed, and (3) her actions did not warrant a finding that the children were dependent.

Standard of Review

{¶11} We review a trial court’s dependency adjudication using the manifest-weight-of-the-evidence standard. See *In re B.J.*, 2022-Ohio-3307, ¶ 40 (4th Dist.), citing *In re W.M.*, 2022-Ohio-1978, ¶ 38 (6th Dist.); *In re A.K.*, 2021-Ohio-4513, ¶ 54 (4th Dist.), citing *In re A.C.*, 2021-Ohio-288, ¶ 22 (5th Dist.); see also *In re K.G.*, 2026-Ohio-1938, ¶ 22 (1st Dist.). When an appellate court reviews whether a trial court’s decision

is against the manifest weight of the evidence, the court“ ‘weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the [finder of fact] clearly lost its way and created such a manifest miscarriage of justice that the [judgment] must be reversed and a new trial ordered.’ ” *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 20, quoting *Tewarson v. Simon*, 141 Ohio App.3d 103, 115 (9th Dist. 2001), quoting *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997), quoting *State v. Martin*, 20 Ohio App.3d 172, 175 (1st Dist.1983); accord *In re Pittman*, 2002-Ohio-2208, ¶¶ 23-24 (9th Dist.). We further observe, however, that issues that relate to the credibility of witnesses and the weight to be given the evidence are primarily for the trier of fact. As the court explained in *Seasons Coal Co. v. Cleveland*, 10 Ohio St.3d 77, 80 (1984), “[t]he underlying rationale of giving deference to the findings of the trial court rests with the knowledge that the trial judge is best able to view the witnesses and observe their demeanor, gestures and voice inflections, and use these observations in weighing the credibility of the proffered testimony.” Moreover, deferring to the trial court on matters of credibility is “crucial in a child custody case, where there may be much evident in the parties’ demeanor and attitude that does *not* translate to the record well.” (Emphasis in original.) *Davis v. Flickinger*, 77 Ohio St.3d 415, 419 (1997); accord *In re Christian*, 2004-Ohio-3146, ¶ 7 (4th Dist.).

{¶12} The question that an appellate court must resolve when reviewing an abuse, neglect, or dependency adjudication under the manifest-weight-of-the-evidence standard is “whether the juvenile court’s findings . . . were supported by clear and convincing evidence.” *In re K.H.*, 2008-Ohio-4825, ¶ 43; accord R.C. 2151.35(A)(1) (at

an adjudicatory hearing, the court must determine, by clear and convincing evidence, whether the child is abused, neglected, or dependent). “Clear and convincing evidence” is:

the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the allegations sought to be established. It is intermediate, being more than a mere preponderance, but not to the extent of such certainty as required beyond a reasonable doubt as in criminal cases. It does not mean clear and unequivocal.

In re Estate of Haynes, 25 Ohio St.3d 101, 103-04 (1986). 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.” *State v. Schiebel*, 55 Ohio St.3d 71, 74 (1990); accord *In re Holcomb*, 18 Ohio St.3d 361, 368 (1985), citing *Cross v. Ledford*, 161 Ohio St. 469 (1954) (“Once the clear and convincing standard has been met to the satisfaction of the [trial] court, the reviewing court must examine the record and determine if the trier of fact had sufficient evidence before it to satisfy this burden of proof.”); *In re Adoption of Lay*, 25 Ohio St.3d 41, 42-43 (1986). Cf. *In re Adoption of Masa*, 23 Ohio St.3d 163, 165 (1986) (whether a fact has been “proven by clear and convincing evidence in a particular case is a determination for the [trial] court and will not be disturbed on appeal unless such determination is against the manifest weight of the evidence”).

{¶13} Thus, if a children services agency presented competent and credible evidence upon which the trier of fact reasonably could have formed a firm belief that the child at issue is abused, neglected, or dependent, the court’s decision is not against the manifest weight of the evidence. *B.J.*, 2022-Ohio-3307, at ¶ 44 (4th Dist.), citing *In re*

B.S., 2020-Ohio-6775, ¶ 62 (6th Dist.) (applying manifest-weight-of-the-evidence standard in abuse, neglect, and dependency context). A reviewing court should find a trial court's abuse, neglect, or dependency decision against the manifest weight of the evidence only in the " 'exceptional case in which the evidence weighs heavily against the [decision].' " *Thompkins*, 78 Ohio St.3d at 387, quoting *Martin*, 20 Ohio App.3d at 175; accord *State v. Lindsey*, 87 Ohio St.3d 479, 483 (2000).

Dependent Child

{¶14} R.C. 2151.04(C) defines a dependent child as a 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." A finding of dependency under R.C. 2151.04(C) focuses on the child's condition and environment and not on any fault of the parents. *In re A.K.*, 2021-Ohio-4513, ¶ 54 (4th Dist.), citing *In re Bishop*, 36 Ohio App.3d 123, 124 (5th Dist. 1987). However, a court may consider a parent's conduct if it affects the child's condition or environment. *In re Burrell*, 58 Ohio St.2d 37, 39 (1979); accord *In re D.W.*, 2007-Ohio-2552, ¶ 20 (4th Dist.).

{¶15} A trial court need not find that a child has suffered "actual harm" in order to adjudicate the child dependent. *In re Y.R.*, 2021-Ohio-1858, ¶ 60 (12th Dist.). Instead, circumstances that suggest a child's condition or environment poses "a legitimate risk of harm may suffice to support a dependency adjudication under R.C. 2151.04(C)." *In re S Children*, 2018-Ohio-2961, ¶ 36 (1st Dist.), citing *In re M.E.G.*, 2007-Ohio-4308, ¶ 62 (10th Dist.) (upholding children's dependency adjudication when the father had sexually abused their sibling); accord *In re C.T.*, 2018-Ohio-3823, ¶ 61 (6th Dist.) (concluding that evidence supported dependency finding when the mother's drug use, failure to

address substance abuse, and overdose created an environment that was inappropriate for child.).

{¶16} We additionally note that courts must “liberally” interpret and construe R.C. 2151.04(C) to comport with the overall purpose of R.C. Chapter 2151:

To provide for the care, protection, and mental and physical development of children subject to Chapter 2151. of the Revised Code, whenever possible, in a family environment, separating the child from the child's parents only when necessary for the child's welfare or in the interests of public safety[.]

R.C. 2151.01(A); *accord In re L.H.*, 2019-Ohio-2383, ¶ 41 (12th Dist.) (“R.C. 2151.04(C) is to be broadly applied to protect the health, safety, and welfare of children”).

{¶17} In the case at bar, we do not agree with appellant that the trial court's dependency adjudication is against the manifest weight of the evidence. The evidence presented at the hearing established that appellant has unresolved mental health and substance abuse issues. Appellant accused the agency caseworkers of being imposters and supposedly reported her concerns to the FBI and CIA. Appellant's erratic behaviors raise concerns for the children's well-being if left in her care. *See In re A.C.*, 2025-Ohio-3135, ¶ 18 (9th Dist.) (a parent's “ongoing erratic conduct in the presence of the children in response to her irrational beliefs that people were spying on the family and poisoning them” supported dependency adjudication). Appellant additionally admitted that she had driven her vehicle while intoxicated and while the children were in the vehicle. Furthermore, she claimed that the children had been sexually abused, but she refused to cooperate when law enforcement officers attempted to investigate and continued to allow the children to associate with the alleged abuser.

{¶18} The foregoing circumstances suggest that the children's condition or environment poses a legitimate risk of harm. The evidence thus amply demonstrates that the children's condition or environment was such as to warrant the state, in the interests of the child, in assuming their guardianship. Consequently, the trial court's dependency adjudication is not against the manifest weight of the evidence.

{¶19} Moreover, we do not agree with appellant that the trial court failed to specify the facts that supported its dependency adjudication. The trial court's decision cites multiple factors, which we recounted above, that led it to conclude that the children were dependent.

{¶20} In addition, even if the sexual abuse allegations were not confirmed, as appellant asserts, appellant still made those allegations and refused to cooperate with any investigation. She also continued to allow the children to be around the alleged abuser. If appellant believed that her children had been sexually abused, her conduct in allowing the children to continue to be around the alleged abuser shows that she did not take steps that may have protected them from that abuse. Thus, her contention that the dependency adjudication is against the manifest weight of the evidence due to the lack of confirmed sexual abuse is without merit.

{¶21} Accordingly, based upon the foregoing reasons, we overrule appellant's sole assignment of error.

CONCLUSION

{¶22} Having overruled appellant's sole assignment of error, we affirm the trial court's judgments.

JUDGMENTS AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENTS ARE AFFIRMED and that appellant shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Hocking County Common Pleas Court, Juvenile Division, to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Smith, P.J. and Abele, J.: Concur in Judgment and Opinion.

For the Court,

BY: _____
Kristy S. Wilkin, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 22, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.