

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

IN RE: W.C. :
: Case Nos. 26CA1244
: 26CA1247
:
: DECISION AND JUDGMENT ENTRY
:

APPEARANCES:

Brian T. Goldberg, Cincinnati, Ohio, for A.C.¹

Alana Van Gundy, Bellbrook, Ohio, for B.C.²

Ariana Bowles Norris, Assistant Adams County Prosecuting
Attorney, West Union, Ohio, for appellee.

CIVIL APPEAL FROM COMMON PLEAS COURT, JUVENILE DIVISION
DATE JOURNALIZED: 8-26-26
ABELE, J.

{¶1} This is a consolidated appeal from an Adams County
Common Pleas Court, Juvenile Division, judgment that granted
Adams County Children Services Board, appellee herein, permanent
custody of nine-month-old W.C.

{¶2} Appellant, A.C., the child's biological mother, assigns
the following errors for review:

FIRST ASSIGNMENT OF ERROR:

"THE TRIAL COURT ERRED IN ITS APPLICATION OF

¹ Different counsel represented A.C. during the trial court proceedings.

² Different counsel represented B.C. during the trial court proceedings.

R.C. 2151.414(E) (11)."

SECOND ASSIGNMENT OF ERROR:

"REASONABLE EFFORTS WERE NOT MADE BY THE AGENCY TO REUNIFY W.C. WITH HER MOTHER."

THIRD ASSIGNMENT OF ERROR:

"THE AWARD OF PERMANENT CUSTODY TO THE AGENCY WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE."

{¶3} Appellant, B.C., the child's biological father, assigns the following errors for review:

FIRST ASSIGNMENT OF ERROR:

"THE COURT ERRED WHEN IT FOUND THAT FATHER DID NOT PROVIDE CLEAR AND CONVINCING EVIDENCE THAT HE COULD PROVIDE A LEGALLY SECURE PERMANENT PLACEMENT AND ADEQUATE CARE FOR THE HEALTH, WELFARE, AND SAFETY OF W.C."

SECOND ASSIGNMENT OF ERROR:

"THE JUVENILE COURT ERRED IN FINDING THAT PERMANENT CUSTODY WAS IN THE BEST INTEREST OF W.C., WHEN THAT FINDING WAS CONTRARY TO THE EVIDENCE."

{¶4} The child's mother and father have lost custody of a total of seven children. The mother lost custody of five children, and the father lost custody of two children.

{¶5} In May 2025, the mother gave birth to W.C. Shortly after the child's birth, agency caseworkers found the mother at a doctor's appointment with the newborn child and the maternal grandmother. When the mother noticed the agency caseworkers' presence, the mother fled with the child. The caseworkers

contacted law enforcement officers for assistance locating the mother and the child.

{¶6} Adams County Sheriff's Deputy Sergeant Lisa Phillips located the mother's vehicle. As soon as the deputy exited her vehicle, the mother began to scream that she did not want anyone to take her baby. After about 30 minutes, law enforcement officers were able to secure the baby and gave her to the agency caseworkers.

{¶7} Appellee subsequently filed a complaint that alleged that the child to be a dependent child. The complaint averred that appellee received a report that the newborn child had not gained weight, even though the mother reported that she had been feeding the child every four hours. The complaint further alleged that an agency caseworker attempted to meet the mother at one of the child's doctor appointments, but once the mother realized that the caseworker was present, she fled. The complaint also stated that appellee had received permanent custody of five of the mother's other children and two of the father's other children. Appellee requested temporary custody of the child.

{¶8} Appellee later filed an amended complaint that asked the court to place the child in its permanent custody.

{¶9} The trial court subsequently adjudicated the child a dependent child.

{¶10} On November 19, 2025, the magistrate held a hearing to consider appellee's request for permanent custody. Caseworker Michael Tomlin testified that appellee has been involved with the mother and her children since 2017, after the birth of the mother's second child. Tomlin stated that between 2017 and 2023, appellee had removed the children from the home multiple times, and, in June 2023, appellee obtained permanent custody of W.C.'s five siblings.

{¶11} Tomlin indicated that, when the mother gave birth to W.C., appellee became involved upon learning that (1) the newborn was not gaining weight, and (2) the parents had missed some scheduled medical appointments. Tomlin stated that since the child's removal, she has remained in the same foster home.

{¶12} Tomlin testified that the parents' case plan required them to engage in mental health counseling, complete a parenting course, manage their resources, and maintain appropriate housing. Tomlin reported that although the parents have been complying with the case plan requirements, he did not believe that the mother had changed her behavior since the other children were removed. Tomlin stated that the mother "will do her case plan and check her boxes off, but it's like it keeps repeating itself."

{¶13} Tomlin indicated that appellee decided to seek permanent custody of the newborn child because the mother lost

custody of her five other children, and the father lost custody of two of his other children. He further observed that the mother and the father had been involved with each other since 2023, when they lost custody of a combined seven children.

{¶14} Denise Sowards, a case aide who observed visits between the parents and the child, testified that the parents are "very attentive" to the child, and she could "tell that they love their child."

{¶15} The mother testified and stated that she believes that she has changed since 2023, when she lost custody of W.C.'s five siblings. She believes that she and her current husband, the child's father, can provide a legally secure permanent placement for the child.

{¶16} The mother explained that she had missed one of the child's medical appointments due to a miscommunication. She stated that she thought that the child's next appointment had been scheduled for a Wednesday, but the doctor's office called her on Tuesday to inform her that she had missed an appointment. The mother advised the caller that she had believed that the appointment was scheduled for Wednesday. The mother ended up taking the child to the doctor on Wednesday and then scheduled another follow-up appointment for Friday.

{¶17} The mother indicated that, when she arrived for the Friday appointment, she observed the agency caseworkers at the

doctor's office. The mother stated that, given her history with the agency, seeing the caseworkers caused her to panic, so she left the doctor's office.

{¶18} The mother did not deny that she had been irate with the law enforcement officers who located her after she left the doctor's office. She excused her behavior by claiming that it resulted from (1) being "one week postpartum" and (2) the officers' conduct in "trying to rip [her] baby away from [her]."

{¶19} On cross-examination, the mother stated that the father is not the same as the other men she had in her life when she previously lost custody of her five children. She agreed that the father lost custody of his two children, but she claimed that she did not know why he lost custody of the child, other than what the father told her.

{¶20} The mother denied that the father had ever been physically violent with her and stated that she was unaware that the father "has admitted in court on record that he's been physically violent with his other significant others." The mother stated that she believed that the father has changed since that time and explained that "[p]eople do crazy things when they're upset."

{¶21} The child's guardian ad litem (GAL) testified that he did not believe that placing the child in appellee's permanent custody was in the child's best interest. The GAL instead

recommended that the trial court either deny appellee's request for permanent custody or give the parents more time to prove that they could provide appropriate care for the child.

{¶22} The GAL recognized that the parents have been together for about four years, which included the time when they lost custody of a combined seven children. He found the circumstances concerning, but he placed more weight on the parents' conduct in the recent past, not in "the distant past."

{¶23} The GAL stated that, since he became involved with the family in May 2025, the parents have "worked very hard to get [the child] back" and have displayed "good teamwork." He believed that the parents are able to provide the child with a legally secure permanent placement. The GAL predicted that the parents have "a very good chance they'll continue to do well together."

{¶24} The trial court inquired further into the basis for the GAL's recommendation and related its belief that the GAL had relied upon a "flawed" interpretation of the applicable standard, given the parents' previous parental rights terminations. The court suggested that the GAL had placed the burden on appellee to prove that the child could not be placed with the parents, while the applicable statutory provision, R.C. 2151.414(E)(11), placed the burden on the parents to prove, by clear and convincing evidence, that they could provide the child

with a legally secure permanent placement. The GAL agreed that he may have misunderstood the burden shifting, but he still believed that the parents had met their burden to establish that they could provide the child with a legally secure permanent placement.

{¶25} The trial court also asked the GAL about the child's placement with the foster family. The GAL stated that the child "appeared happy" with the foster parents.

{¶26} The trial court additionally pointed out that it need not experiment with the child's welfare, yet the GAL appeared to express a desire that the court give the parents a chance because the GAL thinks that the parents will "be okay." The GAL stated that if he "had any qualms about [the parents] not taking their case plan seriously," then his "recommendation would be totally different." The GAL thought that the parents have "done everything the agency has asked them to do." The court again indicated that it believed that the GAL was not applying the correct standard.

{¶27} The GAL stated that the child's foster parents are "great people," but he believed that, generally, "children should be with their biological parents if at all possible." He then explained his personal experience with adopting children and stated that, in light of his personal experience, "even

imperfect biological parents do better raising children than maybe ideal adoptive parents.”

{¶28} The trial court subsequently granted appellee permanent custody of the child. The court concluded that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent and that placing the child in appellee’s permanent custody is in her best interest. This appeal followed.

I

{¶29} For ease of discussion, we have combined our review of the mother’s first and third assignments of error and the father’s two assignments of error.

{¶30} In her first assignment of error, the mother asserts that the trial court erred by determining that R.C. 2151.414(E)(11) demonstrated that the child could not be placed with either parent within a reasonable time or should not be placed with either parent. She contends that she presented clear and convincing evidence that, despite having her parental rights with respect to five other children involuntarily terminated, she could provide a legally secure permanent placement and adequate care for the health, welfare, and safety of her newborn child. The mother states that she complied with the case plan, had an appropriate home for the child, and maintained adequate employment. She faults the trial court for

focusing too much on her past history rather than considering her current circumstances and the improvements that she has made since the previous terminations.

{¶31} In his first assignment of error, the father similarly challenges the trial court's finding that he failed to present clear and convincing evidence that he could provide a legally secure permanent placement and adequate care for the health, welfare, and safety of the child. He argues that the evidence shows that he complied with the case plan by maintaining stable income and appropriate housing, completing parenting classes, engaging in mental health counseling, and attending all visits with the child. The father further points out that the GAL testified that the parents could provide the child with a legally secure permanent placement.

{¶32} In her third assignment of error, the mother asserts that the trial court's judgment awarding appellee permanent custody of the child is against the manifest weight of the evidence.

{¶33} In his second assignment of error, the father likewise contends that the trial court's decision to award appellee permanent custody of the child is against the manifest weight of the evidence.

A

{¶34} Generally, a reviewing court will not disturb a trial

court's permanent custody decision unless the decision is against the manifest weight of the evidence. *E.g., In re B.E.*, 2014-Ohio-3178, ¶ 27 (4th Dist.); *In re R.S.*, 2013-Ohio-5569, ¶ 29 (4th Dist.); *accord In re Z.C.*, 2023-Ohio-4703, ¶ 1.

"Weight of the evidence concerns 'the inclination of the greater amount of credible evidence, offered in a trial, to support one side of the issue rather than the other. It indicates clearly to the jury that the party having the burden of proof will be entitled to their verdict, if, on weighing the evidence in their minds, they shall find the greater amount of credible evidence sustains the issue which is to be established before them. Weight is not a question of mathematics, but depends on its effect in inducing belief.'"

Eastley v. Volkman, 2012-Ohio-2179, ¶ 12, quoting *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997), quoting *Black's Law Dictionary* 1594 (6th Ed.1990).

{¶35} When an appellate court reviews whether a trial court's permanent custody 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 [fact finder] clearly lost its way and created such a manifest miscarriage of justice that the [judgment] must be reversed and a new trial ordered."" *Eastley*, 2012-Ohio-2179, at ¶ 20, quoting *Tewarson v. Simon*, 141 Ohio App.3d 103, 115 (9th Dist. 2001), quoting *Thompkins*, 78 Ohio St.3d at 387, 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):

The 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.

{¶36} 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.” *Davis v. Flickinger*, 77 Ohio St.3d 415, 419 (1997); accord *In re Christian*, 2004-Ohio-3146, ¶ 7 (4th Dist.).

{¶37} The question that an appellate court must resolve when reviewing a permanent custody decision 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.

“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); compare *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").

{¶38} 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 permanent custody is warranted, the court's decision is not against the

manifest weight of the evidence. *In re R.M.*, 2013-Ohio-3588, ¶ 62 (4th Dist.); see also *In re R.L.*, 2012-Ohio-6049, ¶ 17 (2d Dist.), quoting *In re A.U.*, 2008-Ohio-187, ¶ 9 (2d Dist.) (“A reviewing court will not overturn a court’s grant of permanent custody to the state as being contrary to the manifest weight of the evidence ‘if the record contains competent, credible evidence by which the court could have formed a firm belief or conviction that the essential statutory elements . . . have been established.’”).

{¶39} Once a reviewing court finishes its examination, the judgment may be reversed only if it appears that the fact finder, when resolving the conflicts in evidence, “‘clearly lost its way and created such a manifest miscarriage of justice that the [judgment] must be reversed and a new trial ordered.’” *Thompkins*, 78 Ohio St.3d at 387, quoting *Martin*, 20 Ohio App.3d at 175. A reviewing court should find a trial court’s permanent custody judgment against the manifest weight of the evidence only in the “‘exceptional case in which the evidence weighs heavily against the [decision].’” *Id.*, quoting *Martin*, 20 Ohio App.3d at 175; see *Black’s* (12th ed. 2024) (the phrase “manifest weight of the evidence” “denotes a deferential standard of review under which a verdict will be reversed or disregarded only if another outcome is obviously correct and the verdict is clearly unsupported by the evidence”).

B

{¶40} Courts must recognize that “parents’ interest in the care, custody, and control of their children ‘is perhaps the oldest of the fundamental liberty interests recognized by th[e United States Supreme] Court.’” *In re B.C.*, 2014-Ohio-4558, ¶ 19, quoting *Troxel v. Granville*, 530 U.S. 57, 65 (2000). Indeed, “the right to raise one’s children is an ‘essential’ and ‘basic’ civil right.” *In re Murray*, 52 Ohio St.3d 155, 157 (1990), quoting *Stanley v. Illinois*, 405 U.S. 645, 651 (1972); accord *In re Hayes*, 79 Ohio St.3d 46, 48 (1997); see *Santosky v. Kramer*, 455 U.S. 745, 753 (1982) (“natural parents have a fundamental right to the care and custody of their children”). Thus, “parents who are ‘suitable’ have a ‘paramount’ right to the custody of their children.” *B.C.* at ¶ 19, quoting *In re Perales*, 52 Ohio St.2d 89, 97 (1977), citing *Clark v. Bayer*, 32 Ohio St. 299, 310 (1877); *Murray*, 52 Ohio St.3d at 157.

{¶41} A parent’s rights, however, are not absolute. *In re D.A.*, 2007-Ohio-1105, ¶ 11. Rather, “‘it is plain that the natural rights of a parent . . . are always subject to the ultimate welfare of the child, which is the polestar or controlling principle to be observed.’” *In re Cunningham*, 59 Ohio St.2d 100, 106 (1979), quoting *In re R.J.C.*, 300 So.2d 54, 58 (Fla. App. 1974). Thus, the State may terminate parental rights when a child’s best interest demands such termination.

D.A. at ¶ 11.

C

{¶42} A children services agency may obtain permanent custody of a child by (1) requesting it in the abuse, neglect, or dependency complaint under R.C. 2151.353, or (2) filing a motion under R.C. 2151.413 after obtaining temporary custody. In this case, appellee sought permanent custody by requesting it in the complaint.

{¶43} R.C. 2151.353(A)(4) allows a court to grant an agency permanent custody at the dispositional stage if the court determines that (1) under R.C. 2151.414(E), the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent, and (2) under R.C. 2151.414(D)(1), permanent commitment is in the child's best interest.

1

{¶44} R.C. 2151.414(E) requires a court that is determining whether a child cannot be placed with either parent within a reasonable period of time, or should not be placed with the parents, to consider all relevant evidence. The statute further specifies that if clear and convincing evidence shows that one or more of the listed conditions exist "as to each of the child's parents, the court shall enter a finding that the child cannot be placed with either parent within a reasonable time or

should not be placed with either parent." As relevant here, R.C. 2151.414(E)(11) requires a court to find that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent if clear and convincing evidence establishes that

[t]he parent has had parental rights involuntarily terminated with respect to a sibling of the child . . . and the parent has failed to provide clear and convincing evidence to prove that, notwithstanding the prior termination, the parent can provide a legally secure permanent placement and adequate care for the health, welfare, and safety of the child.

{¶45} "Although the Ohio Revised Code does not define the term, 'legally secure permanent placement,' this court and others have generally interpreted the phrase to mean a safe, stable, consistent environment where a child's needs will be met." *In re M.B.*, 2016-Ohio-793, ¶ 56 (4th Dist.), citing *In re Dyal*, 2001 WL 925423, *9 (4th Dist. Aug. 9, 2001) ("legally secure permanent placement" means a "stable, safe, and nurturing environment"); see also *In re K.M.*, 2015-Ohio-4682, ¶ 28 (10th Dist.) (legally secure permanent placement requires more than a stable home and income, but also requires an environment that will provide for child's needs); *In re J.H.*, 2013-Ohio-1293, ¶ 95 (11th Dist.) (mother was unable to provide legally secure permanent placement when she lacked physical and emotional stability and father was unable to do so when he lacked grasp of parenting concepts); *In re J.W.*, 2007-Ohio-2007, ¶ 34 (10th

Dist.) (Sadler, J., dissenting) (legally secure permanent placement means "a placement that is stable and consistent"); *Black's* (6th Ed. 1990) (defining "secure" to mean, in part, "not exposed to danger; safe; so strong, stable or firm as to insure safety"); *id.* (defining "permanent" to mean, in part, "[c]ontinuing or enduring in the same state, status, place, or the like without fundamental or marked change, not subject to fluctuation, or alteration, fixed or intended to be fixed; lasting; abiding; stable; not temporary or transient"). Thus, "[a] legally secure permanent placement is more than a house with four walls. Rather, it generally encompasses a stable environment where a child will live in safety with one or more dependable adults who will provide for the child's needs." *M.B.*, 2016-Ohio-793, at ¶ 56 (4th Dist.).

{¶46} In the case at bar, the mother does not dispute that she had her parental rights involuntarily terminated with respect to five of the child's siblings. The father likewise does not dispute that he had his parental rights involuntarily terminated with respect to two of the child's siblings. The parents instead claim that, despite these prior terminations, they presented clear and convincing evidence that they could provide the child with a legally secure permanent placement and adequate care for the child's health, welfare, and safety. We do not agree with the parents.

{¶47} Although the parents may have made some improvements since the most recent involuntary terminations, these improvements do not establish, by clear and convincing evidence, that they can provide the child with a legally secure permanent placement and adequate care for the child's health, welfare, and safety. Shortly after the child's birth, the mother continued to display the same troubling behaviors that resulted in the prior involuntary terminations. The child had a doctor's appointment scheduled, but when the mother arrived and saw the agency representatives were present, she abruptly left the appointment, and law enforcement officers had to track her down. When the officers and caseworkers caught up with the mother, she was belligerent. The court found that the mother continued to display the poor impulse control and decision-making that led to the previous terminations.

{¶48} Furthermore, the agency caseworker did not believe that the mother had markedly improved her behaviors since the prior terminations. The caseworker stated that, even if the mother complied with the case plan requirements, she did not exhibit lasting change but only a desire to check the boxes on the case plan.

{¶49} Additionally, even if the parents engaged in the services that appellee requested of them, case plan compliance does not necessarily demonstrate, by clear and convincing

evidence, that a parent can provide a child with a legally secure permanent placement and adequate care for the child's health, welfare, and safety. See, e.g., *In re W.C.J.*, 2014-Ohio-5841, ¶ 46 (4th Dist.) ("[s]ubstantial compliance with a case plan is not necessarily dispositive on the issue of reunification and does not preclude a grant of permanent custody to a children's services agency."); see also *In re N.L.*, 2015-Ohio-4165, ¶ 35 (9th Dist.) (stating "that substantial compliance with a case plan, in and of itself, does not establish that a grant of permanent custody to an agency is erroneous"). The question in a permanent custody proceeding involving R.C. 2151.414(E)(11) is whether the parent presented clear and convincing evidence that the parent can provide the child with a legally secure permanent placement and adequate care for the child's health, welfare, and safety, not whether the parent has complied with all of the case plan goals.

{¶150} In the case sub judice, the mother presented some evidence that she and the father had obtained a stable home and stable income. The evidence also showed that the parents had completed parenting classes and interacted appropriately with the child. However, this evidence did not require the trial court to form a firm belief that the parents could provide the child with a legally secure permanent placement and adequate care for the child's health, welfare, and safety. Instead, the

record contains evidence that would have allowed the court to question the parents' ability to provide the child with a legally secure permanent placement and adequate care. Appellee presented evidence that the mother minimized the father's conduct that resulted in the previous termination of his parental rights with respect to his two children. When appellee's counsel confronted the mother with the findings from the father's previous children services case, which documented that he had hit the children's mother and that the children were drinking toilet water, the mother stated that she believed the father had changed, even though less than three years had passed since the previous termination. The court noted that the mother had a history of associating with abusive individuals and questioned her protective capacities.

{¶51} The father did not testify or present any evidence to support his claim that, despite the previous terminations, he could provide the child with a legally secure permanent placement and adequate care. Instead, the father points to the caseworker's testimony that he complied with the case plan and to the GAL's testimony that the parents could provide the child with a legally secure permanent placement. The father did not otherwise explain why the court should believe that he no longer would display the type of behavior that resulted in the previous termination of his parental rights.

{¶52} We additionally observe that both the magistrate and the trial court judge were in a far better position than this court to assess the parents' current capabilities, demeanors, and attitudes. Given the court's direct involvement with the parents, we are ill-suited to second-guess the trial court's assessment of the evidence and its determination that the parents had not established, by clear and convincing evidence, that, despite the previous termination of their parental rights with respect to a combined seven children, they could provide the child with a legally secure permanent placement and adequate care for her health, welfare, and safety.

{¶53} Accordingly, based upon the foregoing reasons, we overrule the mother's first assignment of error and the father's first assignment of error.

2

{¶54} The parents next argue that the trial court's decision placing the child in appellee's permanent custody is against the manifest weight of the evidence. As we noted above, a trial court may grant an agency permanent custody of a child as the initial disposition if the court determines that (1) under R.C. 2151.414(E), the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent, and (2) under R.C. 2151.414(D) (1), permanent commitment is in the child's best interest.

{¶55} We determined above that the trial court's finding under R.C. 2151.414(E) is not against the manifest weight of the evidence. The remaining question is whether the trial court's best interest finding is against the manifest weight of the evidence.

{¶56} R.C. 2151.414(D) lists the factors that a trial court considers when determining whether permanent custody will serve a child's best interest. The statute directs a trial court to consider "all relevant factors," as well as specific factors, to determine whether a child's best interest will be served by granting a children services agency permanent custody. The listed factors include: (1) the child's interaction and interrelationship with the child's parents, siblings, relatives, foster parents and out-of-home providers, and any other person who may significantly affect the child; (2) the child's wishes, as expressed directly by the child or through the child's guardian ad litem, with due regard for the child's maturity; (3) the child's custodial history; (4) the child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency; and (5) whether any factors listed under R.C. 2151.414(E) (7) to (11) apply.

{¶57} Courts that must determine whether a grant of permanent custody to a children services agency will promote a

child's best interest must consider "all relevant [best interest] factors," as well as the "five enumerated statutory factors." *C.F.*, 2007-Ohio-1104, at ¶ 57, citing *In re Schaefer*, 2006-Ohio-5513, ¶ 56; accord *In re C.G.*, 2008-Ohio-3773, ¶ 28 (9th Dist.); *In re N.W.*, 2008-Ohio-297, ¶ 19 (10th Dist.).

However, none of the best interest factors is entitled to "greater weight or heightened significance." *C.F.* at ¶ 57.

Instead, the trial court considers the totality of the circumstances when making its best interest determination. See *Schaefer* at ¶ 63-64 (endorsing the trial court's "totality of the circumstances" approach to evaluating the best interest factors); *In re K.M.*, 2017-Ohio-1336, ¶ 51 (4th Dist.), citing *In re K.M.S.*, 2017-Ohio-142, ¶ 24 (3d Dist.). In general, "[a] child's best interest is served by placing the child in a permanent situation that fosters growth, stability, and security." *In re C.B.C.*, 2016-Ohio-916, ¶ 66 (4th Dist.), citing *In re Adoption of Ridenour*, 61 Ohio St.3d 319, 324 (1991). Indeed, "[t]here is little that can be as detrimental to a child's sound development as uncertainty over whether he is to remain in his current "home," under the care of his parents or foster parents, especially when such uncertainty is prolonged.'" *B.C.*, 2014-Ohio-4558, at ¶ 20, quoting *Lehman v. Lycoming Cty. Children's Servs. Agency*, 458 U.S. 502, 513-14 (1982).

{¶58} We further observe that the statutory best interest factors focus upon the child, not the parent. See *id.*

("parental interests are subordinate to the child's interest when determining the appropriate resolution of a petition to terminate parental rights"). Indeed, R.C. 2151.414(C) specifically prohibits a court from "consider[ing] the effect the granting of permanent custody to the agency would have upon any parent of the child."

{¶59} As we explain below, we do not believe that the trial court's best interest determination is against the manifest weight of the evidence.

Child's Interactions and Interrelationships

{¶60} The evidence illustrates that the parents interacted appropriately with the child during their visits. The GAL indicated that he observed a bond between the parents and the child.

{¶61} The caseworker testified that the child is doing well in the foster home and appears bonded with the foster parents. The GAL stated that the foster parents appear to love the child and would like to adopt her.

{¶62} We additionally note that the GAL emphasized the importance of preserving the biological relationship between the child and the parents. We recognize that "[f]amily unity and blood relationship" may be "vital factors" to consider, but

neither is controlling. *In re J.B.*, 2013-Ohio-1704, ¶ 111 (8th Dist.). Indeed, “neglected and dependent children are entitled to stable, secure, nurturing and permanent homes in the near term . . . and their best interest is the pivotal factor in permanency case.” *In re T.S.*, 2009-Ohio-5496, ¶ 35 (8th Dist.). Thus, while biological relationships may be important considerations, they do not control when ascertaining a child’s best interest. *J.B.*, 2013-Ohio-1704, at ¶ 111 (8th Dist.). Consequently, courts are not required to preserve biological relationships when doing so is not in a child’s best interest. *In re A.S.*, 2025-Ohio-681, ¶ 63 (4th Dist.).

Child’s Wishes

{¶63} The child was too young to be able to express her wishes directly. The GAL did not recommend that the court place the child in the agency’s permanent custody.

{¶64} We observe that, although the trial court’s decision states that the GAL recommended that the court place the child in appellee’s permanent custody,³ the GAL actually recommended not placing the child in appellee’s permanent custody. We

³ The trial court stated that the GAL “recommended permanent custody, citing the parents’ prior terminations, minimal case plan progress, unstable housing, inconsistent mental health engagement, and lack of bonding.” In our review of the record, we have been unable to locate a statement in which the GAL recommended that the court place the child in appellee’s permanent custody or stated that the parents had made minimal case plan progress, lacked stable housing, had inconsistent mental health engagement, or lacked bonding. Thus, although the trial court’s factual findings are curious, as we explain *infra*, we do not find the apparently inaccurate factual findings to be prejudicial error.

further note that the magistrate specifically chose not to follow the GAL's recommendation. For the following reasons, we believe that the record contains ample reason to discount the GAL's recommendation regarding the child's best interest.

{¶65} We first point out that the GAL's report contains an analysis of two sets of best interest factors. The first set appears to be based upon factors that a trial court should consider when allocating parental rights under R.C. 3109.04(F)(1). The second set of factors appears to be more focused around the factors listed in R.C. 2151.414(D). Yet, within the GAL's analysis of the R.C. 2151.414(D) factors, the GAL considers "[t]he wishes of the child's parents." R.C. 2151.414(D) does not, however, include the wishes of the child's parents in the best interest analysis. Indeed, the statute focuses upon the child's best interest, not the child's parents' wishes. And notably, the statute explicitly instructs courts not to consider the effect granting permanent custody would have on the child's parents. See R.C. 2151.414(C) ("a court shall not consider the effect the granting of permanent custody to the agency would have upon any parent of the child").

{¶66} The GAL's recitation of the R.C. 2151.414(D) best interest factors also lists "[w]hether the child can be returned to the parents in a reasonable time" and "whether the parents have abandoned the child." These factors are not, however,

contained in R.C. 2151.414(D). Instead, those factors may be relevant under R.C. 2151.414(B) or, as applicable here, R.C. 2151.353(A) (4).

{¶67} Moreover, during the permanent custody hearing, the magistrate thoroughly questioned the GAL to determine the basis for his recommendation. Much of the GAL's testimony focused on the parents' efforts to improve their situation, not on the factors listed in R.C. 2151.414(D). Thus, we do not believe that the GAL's recommendation and testimony shows that the trial court's best interest determination is against the manifest weight of the evidence.

Custodial History

{¶68} Appellee removed the child from the parents' custody shortly after her birth. She has remained in appellee's temporary custody since that time. At the time appellee filed its request for permanent custody, the child had not yet been in appellee's temporary custody for 12 or more months of a consecutive 22-month period.

Legally Secure Permanent Placement

{¶69} In the case at bar, we believe that the evidence presented at the hearing supports the trial court's finding that the child needs a legally secure permanent placement and that she cannot achieve this type of placement without granting appellee permanent custody. The parents may have obtained an

appropriate physical environment for the child, but a legally secure permanent placement requires more than a structure with four walls. Instead, the placement also must provide the child with stability, security, and safety. The trial court determined that the parents' past history in failing to maintain legally secure permanent placements for their other children was a leading indicator that they would not be able to provide the child involved in the case at bar with a legally secure permanent placement.

{¶70} Additionally, even if the parents could provide a legally secure permanent placement for the child, the trial court was not required to conclude that any ability that they had to provide the child with a legally secure permanent placement meant that denying appellee's permanent custody motion would serve the child's best interest. See *Schaefer*, 2006-Ohio-5513, at ¶ 56 (the statute does not give "heightened importance" to R.C. 2151.414(D)(1)(d), and a trial court need not "credit evidence in support of maintaining the parental relationship when evidence supporting termination outweighs it clearly and convincingly").

R.C. 2151.414(E)(7) to (11)

{¶71} R.C. 2151.414(D)(1)(e) requires a trial court to consider whether any of the factors listed in R.C. 2151.414(E)(7) through (11) apply. Those provisions list

parental conduct that may lead a court to conclude that placing a child in a children services agency's permanent custody would be in a child's best interest. The parental conduct listed in R.C. 2151.414(E) (7) through (11) includes situations in which the parent (1) had been convicted of or pleaded guilty to certain criminal offenses against the child, the child's sibling, or another child who lived in the parent's household, (2) withheld medical treatment or food from the child, (3) repeatedly placed the child at substantial risk of harm because of alcohol or drug abuse, (4) abandoned the child, and (5) had parental rights involuntarily terminated with respect to a sibling of the child.

{¶72} In the case sub judice, the trial court found that the parents had parental rights involuntarily terminated with respect to multiple siblings of the child.

{¶73} Based upon all of the foregoing factors, the trial court could have formed a firm belief that placing the children in appellee's permanent custody was in their best interest. While we recognize the mother's concern that the trial court focused too much on her past conduct, as we have noted in prior cases, a parent's past conduct is relevant to determining a child's best interest. *See Matter of C.B.*, 2024-Ohio-1332, ¶ 48 (4th Dist.), citing *In re West*, 4th Dist. Athens No. 05CA4, 2005-Ohio-2977, ¶ 28, citing *In re A.S.*, 12th Dist. Butler Nos.

CA2004-07-182 and CA2004-08-185, 2004-Ohio-6323, ¶ 37 ("Past history is often the best predictor of future conduct. While surely people can change, the facts do not indicate that [the biological parents] have the motivation or ability to follow through and do what is necessary to regain custody of their child."); *In re Vaughn*, 4th Dist. Adams No. 00CA692, 2000 WL 33226177, *7 (Dec. 6, 2000) ("To further the interests of the children, the court must consider any evidence available to it, including a parent's pattern of conduct. Some of the most reliable evidence for the court to consider is the past history of the children and the parents."); *see also In re Brown*, 60 Ohio App.3d 136, 139, 573 N.E.2d 1217 (1st Dist.1989) (stating that the mother's "past parenting history and her ability to comply with prior reunification plans regarding her other children were relevant considerations in the juvenile court's dispositional determination" to award a children services agency permanent custody).

{¶74} We acknowledge that the record does not appear to support some of the trial court's factual findings. We do not believe, however, that any incorrect findings affect our ultimate determination that the trial court's judgment is not against the manifest weight of the evidence. Therefore, any incorrect factual findings constitute harmless error that we must disregard. *See Civ.R. 61* (explaining that court "must

disregard any error or defect in the proceeding" that does not affect a party's substantial rights); *In re A.M.*, 2018-Ohio-2072, ¶ 54 (4th Dist.) (concluding that erroneous factual findings constituted harmless error); see also *Niskanen v. Giant Eagle, Inc.*, 2009-Ohio-3626, ¶ 26, quoting *Smith v. Flesher*, 12 Ohio St.2d 107, 110 (1967) (explaining that "'in order to secure reversal of a judgment,'" a party "'must not only show some error but must also show that that error was prejudicial to him'").

{¶75} We further observe that "'a reviewing court is not authorized to reverse a correct judgment merely because erroneous reasons were assigned as a basis thereof.'" *State ex rel. Peterson v. Miday*, 2024-Ohio-2693, ¶ 14, quoting *State ex rel. Fattlar v. Boyle*, 83 Ohio St.3d 123, 125 (1998); accord *Agricultural Ins. Co. v. Constantine*, 144 Ohio St. 275, 284 (1944) ("it is the definitely established law of this state that where the judgment is correct, a reviewing court is not authorized to reverse such judgment merely because erroneous reasons were assigned as the basis thereof"); *Culp v. Olukoga*, 2013-Ohio-5211, ¶ 62 (4th Dist.). Thus, when a trial court has stated an erroneous basis for its judgment, an appellate court must nevertheless affirm the judgment if it is legally correct on other grounds. *Reynolds v. Budzik*, 134 Ohio App.3d 844, 846, fn. 3 (6th Dist. 1999); *Newcomb v. Dredge*, 105 Ohio App. 417,

424 (2d Dist. 1957) ("It is the duty of the reviewing court to affirm the judgment if it can be supported on any theory, although a different theory from that of the trial court.").

{¶76} Consequently, in the case at bar, even if the trial court used some flawed reasoning to support its determination that permanent custody is in the child's best interest, as we explained above, the court's judgment granting appellee permanent custody nevertheless is legally correct and not subject to reversal.

{¶77} Accordingly, based upon the foregoing reasons, we overrule the mother's third assignment of error and the father's first and second assignments of error.

II

{¶78} In her second assignment of error, the mother contends that the trial court incorrectly found that the agency used reasonable efforts to reunify her with the child. Specifically, the mother asserts that appellee did not afford her adequate time to comply with the case plan.

{¶79} Before a trial court may remove a child from the child's home or continue the removal of a child from the child's home, a children services agency ordinarily must make "reasonable efforts to prevent the removal of the child from the child's home, to eliminate the continued removal of the child from the child's home, or to make it possible for the child to

return safely home.” R.C. 2151.419(A)(1). This reasonable-efforts requirement does not, however, apply in all circumstances. See *In re C.F.*, 2007-Ohio-1104, ¶ 41 (“[b]y its terms, R.C. 2151.419 applies only at hearings held pursuant to R.C. 2151.28, 2151.31(E), 2151.314, 2151.33, or 2151.353”).

{¶80} Additionally, an agency’s duty to make reasonable efforts is subject to exceptions. R.C. 2151.419(A)(2) specifies that the agency need not use reasonable efforts if the parent from whom the child was removed (1) has been convicted of or pleaded guilty to certain criminal offenses, (2) has repeatedly withheld medical treatment or food from the child, (3) has placed the child at substantial risk of harm on more than one occasion because of alcohol or drug abuse, (4) has abandoned the child, or (5) has had parental rights involuntarily terminated with respect to a sibling of the child at issue. See *C.F.*, 2007-Ohio-1104, at ¶ 34 (listing situations in which “the law dispenses with the duty to make reasonable efforts to reunify the family”).

{¶81} In the case at bar, even though the trial court found that appellee used reasonable efforts, R.C. 2151.419(A)(2)(e) relieved appellee of the duty to use reasonable efforts. As we previously indicated, the evidence plainly shows that the mother had her parental rights involuntarily terminated with respect to five children. Consequently, appellee was not required to use

reasonable efforts, and the trial court's finding in this regard is superfluous. See *In re C.E.*, 2025-Ohio-5641, ¶ 50 (4th Dist.); *In re M.M.*, 2014-Ohio-5111, ¶ 38 (4th Dist.); see also *In re G.L.S.*, 2018-Ohio-1606, ¶ 12 (9th Dist.) ("a prior termination of parental rights conclusively establishes grounds for a reasonable efforts bypass and [R.C.] 2151.419(A)(2)(e) provides that the trial court 'shall' excuse the agency from making reasonable efforts"); *In re D.M.*, 2016-Ohio-1450, ¶ 20 (4th Dist.) (a trial court need not find that an agency used reasonable efforts if the child had been abandoned).

{¶82} Accordingly, based upon the foregoing reasons, we overrule the mother's second assignment of error and affirm the trial court's judgment.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS AFFIRMED and that appellants 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 Adams 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.

Hess, J. & Wilkin, J.: Concur in Judgment & Opinion

For the Court

BY: _____
Peter B. Abele, 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.