

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

IN RE: R.W. : Case No. 26CA4180
:
Adjudicated Dependent : DECISION & JUDGMENT ENTRY
Child. :

APPEARANCES:

Richard D. Hixson, Zanesville, Ohio, for appellant.¹

Shane A. Tieman, Scioto County Prosecuting Attorney, and
Elisabeth M. Howard, Assistant Scioto County Prosecuting
Attorney, Portsmouth, Ohio, for appellee.

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

{¶1} This is an appeal from a Scioto County Common Pleas
Court, Juvenile Division, judgment that granted Scioto County
Children Services, appellee herein, permanent custody of a four-
year-old child, R.W.

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

FIRST ASSIGNMENT OF ERROR:

"THE TRIAL COURT ERRED WHEN IT FOUND THAT
THE MINOR CHILD COULD NOT BE PLACED WITH
MOTHER WITHIN A REASONABLE TIME AND SHOULD
NOT BE SO PLACED."

¹ Different counsel represented appellant during the trial court proceedings.

SECOND ASSIGNMENT OF ERROR:

"THE TRIAL COURT ERRED WHEN IT FOUND THAT PERMANENT CUSTODY WAS IN THE BEST INTERESTS OF THE MINOR CHILD."

{¶3} In June 2024, appellee filed a complaint that alleged the child to be a dependent child and requested temporary custody. Appellee also sought an emergency order placing the child in its temporary custody, which the trial court granted.

{¶4} On September 23, 2024, the trial court adjudicated the child a dependent child. The court later placed the child in appellee's temporary custody.

{¶5} On February 5, 2025, appellee filed a motion to modify the disposition to permanent custody.

{¶6} The trial court later held a hearing to consider appellee's permanent custody motion. After considering the evidence presented at the hearing, the court granted the agency permanent custody of the child. The court determined that (1) the child cannot be placed with either parent within a reasonable time or should not be placed with either parent, and (2) placing the child in appellee's permanent custody is in his best interest.

{¶7} The trial court found that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent for the following reasons: (1) the child's father abandoned the child within the meaning of R.C.

2151.414(E) (10); and (2) both parents previously had their parental rights involuntarily terminated with respect to a sibling of the child, and neither parent proved by clear and convincing evidence that they could provide the child with a legally secure permanent placement and adequate care for the health, welfare, and safety of the child. The court noted that appellant "has a long history of involvement with children services agencies" and has lost her parental rights to four of the child's siblings. The court further found that appellant has not consistently taken her medications meant to control her mental health and that she suffered from suicidal ideations. The court further observed that appellant lives with a person who did not comply with the background check needed for any home visits to be approved. The court thus found that appellant failed to prove by clear and convincing evidence that she could provide the child with a legally secure permanent placement and adequate care for the health, welfare, and safety of the child.

{¶8} The trial court next considered the child's best interest. The court evaluated the child's interactions and interrelationships with others and found that the child shares a bond with appellant and with the foster parents.

{¶9} With respect to the child's wishes, the trial court noted that the child is too young to express his wishes directly. The court thus considered the guardian ad litem's

recommendation. The guardian ad litem reported that the child appeared to be happy in the foster home and recommended that the court place the child in appellee's permanent custody.

{¶10} The trial court also reviewed the child's custodial history. The court noted that the child initially had been removed from appellant's custody in 2021, shortly after his birth, because the child tested positive for drugs. While the 2021 case was pending, appellant complied with the case plan, and, in August 2023, the court returned the child to appellant's custody. Less than one year later, appellee again sought temporary custody of the child due to concerns regarding appellant's substance use and mental health struggles. The child has remained in appellee's temporary custody since June 2024.

{¶11} The trial court next evaluated the child's need for a legally secure permanent placement and whether the child could achieve that type of placement without granting appellee permanent custody. The court determined that appellant has a repeated pattern of instability, as evidenced by the previous parental rights terminations with respect to four other children and her mental health struggles. The court recognized that appellant had been working to overcome some of her challenges, but the court found her pattern of instability to be a more significant indicator of her inability to provide the child with

a legally secure permanent placement.

{¶12} The trial court additionally considered whether any of the factors listed in R.C. 2151.414(E) (7) to (11) applied and observed that it had found that R.C. 2151.414(E) (10) and (11) applied.

{¶13} After considering all of the best interest factors, the trial court concluded that placing the child in appellee's permanent custody would serve his best interest. The court thus granted appellee permanent custody of the child and terminated appellant's parental rights. This appeal followed.

{¶14} For ease of discussion, we have combined our review of appellant's first and second assignments of error.

{¶15} In her first assignment of error, appellant asserts that the trial court erred by determining that R.C. 2151.414(E) (11) demonstrated that the child could not be placed with her within a reasonable time or should not be placed with her. She contends that she presented clear and convincing evidence that, despite having her parental rights with respect to four other children involuntarily terminated, she could provide a legally secure permanent placement and adequate care for the health, welfare, and safety of the child. Appellant states that she has an appropriate home for the child, is employed, has maintained sobriety, and has stabilized her mental health.

{¶16} In her second assignment of error, appellant asserts that the trial court erred by concluding that placing the child in appellee's permanent custody would be in the child's best interest.

A

{¶17} 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).

{¶18} 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.

{¶19} 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.).

{¶20} 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").

{¶21} 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.'").

{¶22} 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

{¶23} 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*, 530 U.S. at 65. 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.

{¶24} 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

{¶25} 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 filing a motion under R.C. 2151.413. When an agency files a permanent custody motion under R.C. 2151.413, R.C. 2151.414 applies. R.C. 2151.414(A) .

1

{¶26} R.C. 2151.414(B) (1) permits a trial court to grant permanent custody of a child to a children services agency if the court determines, by clear and convincing evidence, that the child's best interest would be served by the award of permanent custody and that, as relevant here, the child "is not abandoned or orphaned, has not been in the temporary custody of one or more public children services agencies . . . for twelve or more

months of a consecutive twenty-two-month period, . . . and the child cannot be placed with either of the child's parents within a reasonable time or should not be placed with the child's parents." R.C. 2151.414(B)(1)(a).

{¶27} 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.

{¶28} "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.).

{¶29} In the case at bar, appellant does not dispute that she had her parental rights involuntarily terminated with respect to four of the child's siblings. Appellant instead claims that, despite these prior terminations, she 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.

{¶30} The evidence presented at the permanent custody hearing established that, as recently as one month before the hearing, appellant had suicidal ideations. The agency caseworker testified that appellant did not consistently take the medications needed to stabilize her mental health, which resulted in "manic behaviors." She thus questioned appellant's ability to adequately stabilize her mental health. Furthermore, although appellant had obtained a physically appropriate home environment, appellee was unable to conduct a background check on appellant's live-in partner due to his lack of cooperation.

{¶31} Additionally, even if appellant engaged in the services that appellee requested of her, 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 some or all of the case plan goals.

{¶32} We also recognize that appellant testified at the permanent custody hearing, and some of her testimony conflicted with the caseworker’s testimony. The trial court, however, as the finder of fact, was entitled to disbelieve appellant’s testimony and was in a far better position than this court to assess appellant’s capabilities, credibility, demeanor, and attitude. Given the court’s direct involvement with appellant, we are ill-suited to second-guess the trial court’s assessment of the evidence and its determination that appellant had not established, by clear and convincing evidence, that, despite the

previous involuntary termination of her parental rights with respect to four children, she could provide the child with a legally secure permanent placement and adequate care for her health, welfare, and safety.

{¶33} In sum, appellant's evidence did not require the trial court to form a firm belief that appellant 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 appellant's ability to provide the child with a legally secure permanent placement and adequate care for the child's health, welfare, and safety. Thus, we do not agree with appellant that the trial court erred by concluding that R.C. 2151.414(E) (11) established that the child could not be placed with her within a reasonable time or should not be placed with her.

2

{¶34} Appellant next argues that the trial court's determination that placing the child in appellee's permanent custody would serve the child's best interest is against the manifest weight of the evidence.

{¶35} 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.

{¶36} 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." *In re C.F.*, 2007-Ohio-1104, ¶ 57. Instead, the trial court considers the

totality of the circumstances when making its best interest determination. See *Schaefer* at ¶ 63-64 (endorsing a “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).

{¶37} 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.”

{¶38} 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

{¶39} The evidence illustrates that appellant interacted appropriately with the child during their visits. The evidence further shows that the child shares a bond with appellant and with the foster parents. The child has been doing well in the foster parents' home, and the foster parents plan to adopt the child if the court grants appellee permanent custody.

Child's Wishes

{¶40} The child was too young to be able to express his wishes directly. The guardian ad litem recommended that the trial court place the child in appellee's permanent custody. See *C.F.*, 2007-Ohio-1104, at ¶ 55 (R.C. 2151.414 "unambiguously gives the trial court the choice of considering the child's wishes directly from the child or through the guardian ad litem"); *In re S.M.*, 2014-Ohio-2961, ¶ 32 (4th Dist.) (recognizing that R.C. 2151.414 permits juvenile courts to consider a child's wishes as the child directly expresses or through the guardian ad litem).

Custodial History

{¶41} The child has spent the majority of his young life in

appellee's temporary custody. Appellee first removed the child from appellant's custody in 2021, shortly after his birth. He remained in appellee's temporary custody for around two years, and he was returned to appellant's custody in 2023. Less than one year later, appellee again removed the child from appellant's custody, and he has remained in appellee's temporary custody—and with the same foster family—since that time. The agency caseworker stated that the nearly four-year-old child has lived with the foster family for “three years, one month, and twenty-eight days.” Thus, the child has spent the majority of his life in appellee's temporary custody and with the foster family.

Legally Secure Permanent Placement

{¶42} In the case at bar, as we explained in our discussion of appellant's first assignment of error, 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 he cannot achieve this type of placement without granting appellee permanent custody. Appellant 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 appellant's mental health struggles

and past history in failing to maintain legally secure permanent placements for her other children were compelling indicators that she would not be able to provide the child involved in the case at bar with a legally secure permanent placement.

{¶43} Additionally, even if appellant could provide a legally secure permanent placement for the child, the trial court was not required to conclude that any ability that she 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)

{¶44} 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.

{¶45} In the case sub judice, as we previously discussed, the trial court found that R.C. 2151.414(E)(11) applied.

{¶46} Based upon all of the foregoing factors, the trial court could have formed a firm belief that placing the child in appellee's permanent custody was in his best interest.

{¶47} Accordingly, based upon the foregoing reasons, we overrule appellant'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 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 Scioto 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. & 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.