

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

IN RE: L.K. nka L.W.,	:	
	:	
An Adjudicated Dependent	:	Case Nos. 26CA2
Child.	:	26CA4
	:	
	:	<u>DECISION AND JUDGMENT</u>
	:	<u>ENTRY</u>
	:	

APPEARANCES:

Richard D. Hixson, Zanesville, Ohio, for appellant D.W., the father.

Pat Story, Middleport, Ohio, for appellant R.K., the mother.

Lynne R. Nothstine, Circleville, Ohio, for appellee.

Smith, P.J.

{¶1} Appellants, the child’s biological parents, separately appeal the trial court’s judgment that placed their child in the permanent custody of Pickaway County Job and Family Services (“the agency”). We sua sponte consolidated the two cases for purposes of decision.

{¶2} The father raises one assignment of error and asserts that the evidence does not support the trial court’s conclusion that placing the child in the agency’s permanent custody would serve her best interest.

{¶3} The mother raises three assignments of error. In her first assignment of error, the mother argues that the trial court erred by failing to find that she could provide the child with a legally secure permanent placement and adequate care for the child despite a prior termination of her parental rights with respect to a sibling of the child. In her second assignment of error, the mother contends that the trial court failed to consider the evidence that she substantially improved her life and thus made the changes needed to provide the child with a legally secure permanent placement. In her third assignment of error, the mother asserts that the “trial court committed multiple, cumulative errors” that deprived her of a fair hearing.

{¶4} Upon review, we do not find any merit to appellants’ assignments of error. Accordingly, we overrule appellants’ assignments of error and affirm the trial court’s judgment.

FACTS

{¶5} Shortly after the child’s December 16, 2022 birth, the agency received a call from the hospital. The hospital reported that medical personnel had been unable to reach the mother and that the child needed surgery as soon as possible. The agency subsequently obtained temporary custody of the child.

{¶6} The child remained in the hospital until January 17, 2023. After the child’s release from the hospital, the agency placed the child in a foster home.

{¶7} As the case neared the two-year mark, the agency did not believe that the child could be returned with the mother. The agency thus dismissed the initial complaint and filed a new complaint that alleged the child was an abused, neglected, “and/or” dependent child.¹ The complaint asserted that, since the child’s birth, the mother had made progress, except she did not consistently attend the child’s medical appointments. The complaint stated that, once the mother demonstrated her ability to provide for the child’s medical needs, “reunification [would be] a real possibility.” The agency thus asked the court to allow the child to remain in its temporary custody.

{¶8} The trial court subsequently adjudicated the child a dependent child and placed her in the agency’s temporary custody.

{¶9} A few months later, the agency filed a motion for permanent custody. At the hearing, the child’s primary care physician, Dr. Leslee Rice, explained that the child was born with a cleft palate, retrognathia, and micrognathia, which required multiple surgeries and palate expanders. Dr. Rice testified that the child’s medical conditions required referrals to speech, physical, and occupational therapy providers.

¹ This court previously observed that an agency need not dismiss and refile an abuse, neglect, or dependency complaint due solely to the expiration of the statutory time period for a temporary custody order. *See In re K.Z.*, 2020-Ohio-1013, ¶ 8, fn. 1 (4th Dist.); *accord State ex rel. Mowen v. Mowen*, 2008-Ohio-4759, ¶ 14-15. Furthermore, this dismiss-and-refile process deprives a reviewing court of the record of proceedings in the previous case.

{¶10} Dr. Rice stated that she has observed the foster mother with the child and described the foster mother as “[v]ery caring.” The doctor indicated that the child requires “a lot of direct care,” and she would have concerns if the child was removed from the foster parents’ care.

{¶11} The family’s caseworker testified as follows. The agency developed a case plan for the parents that required them to obtain an alcohol and drug assessment, follow treatment recommendations, maintain sobriety, and obtain stable housing and income. The mother later engaged in treatment and appeared to be making progress. By November 2024, the mother had made sufficient progress to allow the child to have weekend visits with the mother.

{¶12} In January 2025, the mother became pregnant with another child and experienced morning sickness. The pregnancy also affected the mother’s ability to care for the child at issue. As a result, the mother stopped having overnight visits with the child. The caseworker expressed concerns about the mother’s ability to handle the demands of caring for a newborn and providing for the special needs of her two-year-old child.

{¶13} At the time of the permanent custody hearing, the mother had demonstrated progress with her case plan. She had remained sober and employed. She also had started attending some of the child’s medical appointments.

Additionally, the mother's three older children (ages 15, 12, and 10) had been returned to her custody, and she maintained custody of her newborn child.

{¶14} Despite the mother's progress, the caseworker believed that removing the child from the foster home—the only home that she had known for the past three years—would be detrimental. The caseworker thus believed that placing the child in its permanent custody would be in the child's best interest.

{¶15} The child's foster mother testified as follows. The child has been in her care since the child was two months of age. The child appears well-adjusted to the foster home and refers to the foster parents as "Mommy" and "Dada." The foster parents plan to adopt the child if the court grants the agency permanent custody of the child.

{¶16} When the child started having overnight visits with the mother, the child "developed some really severe self-harming behaviors," such as "head-banging to the point of bruising," "pulling her hair out," "biting her hand or arm," grabbing her forearm and twisting it, and "smacking herself in the face with both hands." The foster mother contacted the child's doctor about the behaviors and obtained a padded helmet for the child. Once the child discontinued overnight visits with the mother, the child stopped banging her head, but some of the other behaviors persisted to a lesser degree.

{¶17} The foster mother has not observed the mother demonstrate an ability to provide consistency and structure for the child. When the child was sick with a stomach illness, the mother asked the foster mother to pick up the child in the middle of the night. Additionally, the foster mother had concerns that the mother did not feed the child appropriately because the child often appeared hungry after visits with the mother.

{¶18} The child's guardian ad litem (GAL) in the initial case, Jennifer Reader, testified that the mother did not visit the child until the child was approximately eight months of age. Before that time, the mother had been in jail or seeking treatment for her drug addiction.

{¶19} Reader observed the child with the foster parents and stated that the foster parents "are very attentive" to the child's needs and that the child considers the foster parents to be her parents.

{¶20} As the initial case was nearing the two-year mark, Reader did not believe that the child should be returned to the mother "due to the lack of bond with the child" and the mother's failure to attend the child's medical appointments. Reader did not think that the mother had established "enough of a bond to recommend returning the child."

{¶21} The child's current GAL, Cindy Ramey, testified and recommended that the trial court place the child in the agency's permanent custody. She stated

that the child had been in the foster home for almost three years and considered the foster parents to be her parents.

{¶22} Ramey indicated that the mother had difficulty engaging with the child. She explained that when she visited the child in the mother's home the mother's oldest child provided care for the child. Ramey stated that during those visits the mother remained "on the sofa" and did not have any contact with the child. Ramey believed that the mother loves the child, but she did not know whether the child would be safe in the mother's custody.

{¶23} The mother testified that she would be able to provide appropriate care for the child's needs if the court returned the child to her custody. The mother stated that she shares a bond with the child, and she believes that the child is bonded with the other children in her home. She agreed, however, that her bond with the child is not "as strong as" the foster mother's bond.

{¶24} The mother explained that in November 2023, the agency encouraged her to attend the child's medical appointments, but she did not start attending medical appointments until June or July 2025. The mother indicated that she did not attend medical appointments sooner because "it made [her] uncomfortable" and "hurt[] her feelings" to see the child appear to be more familiar with the foster mother.

{¶25} After hearing the evidence presented at the hearing, the trial court granted the agency permanent custody of the child. The trial court found that the child had been in the agency's temporary custody for 12 or more months of a consecutive 22-month period and that placing the child in the agency's permanent custody would serve her best interest.

{¶26} Regarding the child's interactions and interrelationships, the court stated that the foster parents are bonded with the child and have filled the parental role since the child's release from the hospital.

{¶27} The court found that the mother's relationship with the child, on the other hand, was "tenuous." The court observed that the mother was not present for the first eight months of the child's life and concluded that the mother had not established an appropriate parental relationship with the child. The court noted that one of the mother's older children provided care for the child during visits and further pointed out that the mother did not attend the child's medical appointments. The court determined that the mother had not demonstrated an interest in meeting the child's needs or the ability to manage and prioritize those needs. The court stated that it had "not seen any appreciable progress" in the mother's relationship with the child during the nearly three years of agency involvement.

{¶28} The court also considered the child's wishes and determined that the child was too young to express her wishes directly. The court observed, however,

that the child's GALs testified that placing the child in the agency's permanent custody would be in her best interest.

{¶29} The court next considered the child's custodial history and found that she had been in the agency's temporary custody for 12 or more months of a consecutive 22-month period.

{¶30} The court additionally found that the child needs a legally secure permanent placement and that she cannot achieve this type of placement without granting the agency permanent custody. The court recognized that the mother had made improvements in her life. The court found, however, that the mother had not developed a bond with the child or "provided consistent, extended care for [the child]." The court stated that the mother had "not advocated for the child's needs and development" and determined that her relationship with the child had been "inconsistent and unstable." The court concluded that placing the child in the agency's permanent custody was "the only way to foster [the child]'s growth, stability, and security."

{¶31} With respect to the factors listed in R.C. 2151.414(E)(7) to (11), the court found that the parents previously had their parental rights terminated with respect to one of the child's siblings, and they did not present clear and convincing evidence that, despite the previous termination, they could provide a legally secure permanent placement and adequate care for the child's health, welfare, and safety.

{¶32} Accordingly, the trial court granted the agency permanent custody of the child. This appeal followed.

ASSIGNMENTS OF ERROR

Case Number 26CA2

{¶33} The father raises one assignment of error:

- I. THE TRIAL COURT ERRED WHEN IT FOUND THAT PERMANENT CUSTODY IS IN THE BEST INTERESTS OF THE MINOR CHILD.

Case Number 26CA4

{¶34} The mother raises three assignments of error:

- I. THE PICKAWAY COUNTY JUVENILE COURT (HEREINAFTER “TRIAL COURT”) ERRED BY FINDING THAT [R.K.], THE MOTHER, FAILED TO PROVIDE CLEAR AND CONVINCING EVIDENCE THAT SHE CAN PROVIDE [A] LEGALLY SECURE PERMANENT PLACEMENT AND ADEQUATE CARE FOR THE HEALTH, WEALTH [SIC] AND SAFETY FOR [THE CHILD], DESPITE THE PRIOR TERMINATION OF PARENTAL RIGHTS OF A SIBLING.
- II. THE TRIAL COURT ERRED BY IGNORING CLEAR AND CONVINCING EVIDENCE THAT [R.K.], THE MOTHER, HAS SUBSTANTIALLY IMPROVED HER PARENTING SKILLS AND BEHAVIOR OVER THE COURSE OF THE TEMPORARY CUSTODY OF [THE CHILD]. [THE MOTHER] HAS MADE CHANGES NECESSARY TO PROVIDE A LEGALLY SAFE AND SECURE PLACEMENT AT THE TIME OF THE HEARING ON PERMANENT CUSTODY.

III. [THE MOTHER] WAS DENIED A FAIR HEARING BECAUSE [THE] TRIAL COURT COMMITTED MULTIPLE, CUMULATIVE ERRORS—FAILURE TO REQUIRE MOST OF THE WITNESSES BE SWORN IN BEFORE THEIR TESTIMONY—THAT DENIED HER A FAIR TRIAL.

THE FATHER’S ASSIGNMENT OF ERROR I AND THE MOTHER’S ASSIGNMENTS OF ERROR I AND II

{¶35} For ease of discussion, we have combined our review of the father’s sole assignment of error and the mother’s first and second assignments of error.

{¶36} In his sole assignment of error, the father argues that the trial court erred by determining that placing the child in the agency’s permanent custody would serve her best interest. More specifically, the father challenges the trial court’s determination that the child could not attain a legally secure permanent placement without granting the agency permanent custody. The father contends that the evidence shows that the mother can provide the child with a legally secure permanent placement.

{¶37} In her first assignment of error, the mother asserts that the trial court erred by determining that she could not provide the child with a legally secure permanent placement and adequate care for the health, welfare, and safety of the child, despite a prior parental rights termination.

{¶38} In her second assignment of error, the mother argues that the trial court’s judgment is against the weight of the evidence because the trial court failed

to consider her present circumstances and the improvements that she has made since the child's initial removal.

Standard of Review

{¶39} A reviewing court generally 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 X.P.*, 2026-Ohio-1222, ¶ 62 (4th Dist.); *see In re Z.C.*, 2023-Ohio-4703, ¶ 1. 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 [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.’ ” *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997), quoting *State v. Martin*, 20 Ohio App.3d 172, 175 (1st Dist. 1983); *e.g., Eastley v. Volkman*, 2012-Ohio-2179, ¶ 20. A reviewing court should find a trial court's decision against the manifest weight of the evidence only in the “ ‘exceptional case in which the evidence weighs heavily against the [decision].’ ” *Id.*, quoting *Martin* at 175; *see Black's Law Dictionary* (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”).

{¶40} 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). “[I]f the 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, then the court’s decision is not against the manifest weight of the evidence.” *R.M.*, 2013-Ohio-3588, at ¶ 55 (4th Dist.).

{¶41} We further observe that reviewing courts ordinarily defer to the trier of fact’s findings, given that the fact finder sits in the best position “to view the

witnesses and observe their demeanor, gestures and voice inflections, and use these observations in weighing the credibility of the proffered testimony.” *Seasons Coal Co. v. Cleveland*, 10 Ohio St.3d 77, 80 (1984); accord *State v. Reillo*, 2026-Ohio-2701, ¶ 38 (“when conducting a manifest-weight review, appellate courts must defer to the fact-finder’s witness-credibility determinations”). 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.).

Permanent Custody Framework

{¶42} R.C. 2151.414(B)(1) specifies that a trial court may grant a children services agency permanent custody of a child if the court finds, by clear and convincing evidence, that (1) the child’s best interest would be served by the award of permanent custody, and (2) as relevant here, “[t]he child has 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 . . .” R.C. 2151.414(B)(1)(d).

{¶43} In the case at bar, neither parent disputes that the child has been in the agency’s temporary custody for 12 or more months of a consecutive 22-month period. We therefore do not address this factor.

Best Interest

{¶44} If a trial court finds the existence of one of the R.C. 2151.414(B)(1) conditions, before the court may grant the agency permanent custody of a child, the court also must conclude that placing the child in the agency's permanent custody is in the child's best interest. *See* R.C. 2151.414(B)(1).

{¶45} R.C. 2151.414(D)(1) requires a trial court to consider all relevant, 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 specific 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.

{¶46} Determining whether granting permanent custody to a children services agency will promote a child's best interest involves a balancing of "all relevant [best interest] factors," as well as the "five enumerated statutory factors." *In re C.F.*, 2007-Ohio-1104, ¶ 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 requires a court to give it “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).

{¶47} 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.’ ” *X.P.*, 2026-Ohio-1222, at ¶ 78 (4th Dist.), quoting R.C. 2151.414(C).

Legally Secure Permanent Placement

{¶48} In the case at bar, the father disputes the trial court’s finding that the child could not obtain a legally secure permanent placement without granting the agency permanent custody. He contends that the mother could have provided the child with a legally secure permanent placement. He thus asserts that placing the child in the agency’s permanent custody was not necessary.

{¶49} The mother challenges the trial court’s finding under R.C. 2151.414(E)(11) that she failed to present clear and convincing evidence that she could provide a legally secure permanent placement for the child and adequate care for the child’s health, welfare, and safety despite having her parental rights with respect to her fourth child involuntarily terminated.

{¶50} “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) (a “legally secure permanent placement” means a “stable, safe, and nurturing environment”); *see also In re K.M.*, 2015-Ohio-4682, ¶ 28 (10th Dist.) (a legally secure permanent placement requires more

than a stable home and income; it also requires an environment that will provide for a child's needs). 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.).

{¶51} Contrary to the parents' arguments, the evidence presented at the hearing supports the trial court's finding that the mother cannot provide the child with a legally secure permanent placement due to her lack of engagement with the child and her inability to provide for the child's needs. The mother did not start attending the child's medical appointments until the middle of 2025, when the child was around two and a half years of age. The mother had difficulties caring for the child when the child was sick, and the mother either canceled the visits or asked to return the child to the foster home. Additionally, when the mother had visits with the child, she appeared to leave the caretaking function to her oldest child. The trial court thus reasonably could have determined that the mother could not provide the child with a legally secure permanent placement.

{¶52} Additionally, even if the mother could provide a legally secure permanent placement for the child, the trial court was not required to conclude that any ability that the mother had to provide the child with a legally secure permanent placement meant that denying the agency'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"); *accord X.P.*, 2026-Ohio-1222, at ¶ 90 (4th Dist.).

{¶53} Furthermore, the parents' focus on one particular best interest factor is contrary to the statute, which requires a trial court to consider "all relevant factors," R.C. 2151.414(D)(1), not one factor in isolation. *See In re J.C.*, 2023-Ohio-3299, ¶ 29 (4th Dist.) (rejecting parent's argument that the court should consider one factor in isolation as contrary to the totality-of-the-circumstances approach). Thus, even if we agreed with the parents that the evidence fails to support the trial court's finding that the mother could not provide the child with a legally secure permanent placement, the trial court still may have concluded that the remaining factors weighed in favor of granting the agency permanent custody of the child.

{¶54} The parents have not raised any other specific arguments regarding the trial court's best interest determination. As we have recognized in previous cases, when a parent does not present an analysis of the best interest factors, we ordinarily will not create that analysis for the parent. *See J.C.*, 2023-Ohio-3299, at ¶ 33 (4th Dist.); *In re B.P.*, 2021-Ohio-3148, ¶ 56 (4th Dist.); *In re B.M.*, 2020-

Ohio-1376, ¶ 37 (4th Dist.). Indeed, an appellant, not an appellate court, has the duty “ ‘to construct the legal arguments necessary to support the appellant’s assignments of error.’ ” *Cook v. Ohio Dept. of Job & Family Servs.*, 2015-Ohio-4966, ¶ 40 (10th Dist.), quoting *Bond v. Canal Winchester*, 2008-Ohio-945, ¶ 16 (10th Dist.); accord *State v. Clark*, 2025-Ohio-4410, ¶ 23 (appellate courts will not “cobble together an argument for an appellant”); *State v. Quarterman*, 2014-Ohio-4034, ¶ 19 (stating that an appellate court is “not obligated to search the record or formulate legal arguments on behalf of the parties”); *In re Application of Columbus S. Power Co.*, 2011-Ohio-2638, ¶ 19 (appellate courts should not “develop a party’s arguments”).

{¶55} Thus, because the parents have not presented an argument regarding the remaining best interest factors, we will not create the argument for them. Instead, we simply note that the record contains ample clear and convincing evidence to support the trial court’s best interest determination. As the trial court recognized, the child, who was a newborn child when she first entered the agency’s temporary custody, spent more than two years living with the same foster family. At the time of the November 2025 permanent custody hearing, the child had been in appellee’s temporary custody for nearly three years. Additionally, the child’s GAL testified that placing the child in the agency’s permanent custody would be in her best interest. See *C.F.*, 2007-Ohio-1104, at ¶ 56 (observing that “[t]he trial

court has discretion to accept the testimony of the guardian ad litem on the child's wishes"). Moreover, the child has developed a bond with the foster family, and the trial court rationally could have determined that uprooting the child from the foster home—the only home that she has known—would not be in the child's best interest.

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

The Mother's Current Circumstances

{¶57} In her second assignment of error, the mother argues that the trial court's judgment is against the manifest weight of the evidence because the court failed to consider her current circumstances and the improvements that she has made since the child's initial removal. The mother contends that the trial court placed undue emphasis on her conduct during the early months of the case rather than considering her present circumstances.

{¶58} We do not agree with the mother's assertion. As we have noted in previous cases, a "parent's efforts to improve the parent's situation, or to comply with a case plan, may be relevant, but not necessarily conclusive, factors when a court evaluates a child's best interest." *In re M.G.*, 2025-Ohio-4566, ¶ 27 (4th Dist.); *e.g.*, *In re Ca.S.*, 2021-Ohio-3874, ¶ 39-40 (4th Dist.); *In re S.C.*, 2015-Ohio-2280, ¶ 40 (8th Dist.). Indeed, because the trial court's primary focus in a

permanent custody proceeding is the child's best interest, a parent's improvement efforts or case plan compliance are not dispositive and do not prevent a trial court from awarding permanent custody to a children services agency. *See W.C.J.*, 2014-Ohio-5841, at ¶ 46 (4th Dist.). Thus, a parent's improvement efforts or case plan compliance will not preclude a trial court from awarding permanent custody to an agency when doing so is in the child's best interest. *See In re S.M.*, 2023-Ohio-2686, ¶ 44 (4th Dist.).

{¶59} Therefore, even if the mother substantially improved her situation or complied with the case plan requirements, her improvements do not mean that the trial court had an obligation to place the child in her custody. Rather, the trial court's obligation was to make a decision that would be in the child's best interests. Thus, we do not believe that the mother has established that the trial court's judgment is against the manifest weight of the evidence.

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

THE MOTHER'S ASSIGNMENT OF ERROR III

{¶61} In her third assignment of error, the mother argues that the "trial court committed multiple, cumulative errors that denied her a fair trial." She asserts that the trial court erred by failing to administer proper oaths to seven of the eight

witnesses who testified at the permanent custody hearing. The mother recognizes that she did not object, but she asserts that “she was deprived of a fundamental right without effective due process.”

{¶62} The doctrine of cumulative error states that “a *conviction* will be reversed when the cumulative effect of errors in a trial deprives a defendant of a fair trial even though each of the numerous instances of trial-court error does not individually constitute cause for reversal.” (Emphasis added.) *State v. Powell*, 2012-Ohio-2577, ¶ 223; *accord State v. McAlpin*, 2022-Ohio-1567, ¶ 257. “Before we consider whether ‘cumulative errors’ are present, we must first find that the trial court committed multiple errors.” *State v. Smith*, 2016-Ohio-5062, ¶ 106 (4th Dist.), citing *State v. Harrington*, 2006-Ohio-4388, ¶ 57 (4th Dist.).

{¶63} In the case at bar, we initially observe that the mother does not cite any authority to support the proposition that the cumulative error doctrine applies in permanent custody cases. Moreover, even if the doctrine applies to permanent custody cases, the mother has not shown that the cumulative effect of the alleged errors deprived her of a fair hearing.

{¶64} Although a trial court errs by allowing unsworn testimony to be admitted in evidence, a party waives the error if the party fails to timely object to the unsworn testimony. *See Stores Realty Co. v. City of Cleveland, Bd. of Bldg. Standards & Bldg. Appeals*, 41 Ohio St.2d 41, 42 (1975). Thus, “the rule is well-

established that a party may not, upon appeal, raise a claim that the oath of a witness was omitted or defective, unless objection thereto was raised at trial. If no objection was raised, the error is considered to be waived.” *Id.* at 43; *see also In re R.M.*, 2024-Ohio-1885, ¶ 32 (8th Dist.) (the failure to object to a witness’s unsworn statements forfeits the error).

{¶65} Additionally, a claim of cumulative error is foreclosed “when the errors were not objected to and no plain error is found.” *McAlpin*, 2022-Ohio-1567, at ¶ 256; *see also State v. Humphreys*, 2026-Ohio-373, ¶ 149 (2d Dist.) (“the cumulative error doctrine does not apply to ‘unobjected-to errors’ that fail to meet the plain error standard”); *In re D.E.*, 2025-Ohio-654, ¶ 21 (8th Dist.), citing *McAlpin*, 2022-Ohio-1567, at ¶ 256 (“a claim of cumulative error is foreclosed when the errors were not objected to and no plain error is found”). Accordingly, “[u]nlike preserved errors that might be harmless alone but prejudicial in the aggregate, unobjected-to errors that do not meet the plain-error standard ‘cannot become prejudicial by sheer weight of numbers.’ ” *McAlpin*, 2022-Ohio-1567, at ¶ 259, quoting *State v. Hill*, 75 Ohio St.3d 195, 212 (1996).

{¶66} In general, an unobjected-to error meets the plain-error standard if the error was an obvious error that affected the outcome of the proceedings. *E.g.*, *State v. Khalif*, 2026-Ohio-2689, ¶ 25 (listing the elements needed to establish plain error in a criminal case).

{¶67} In the case before us, the mother did not object to any witness testimony on the basis that the court failed to administer a proper oath. She therefore waived any error that may have occurred.

{¶68} Moreover, even if multiple, obvious errors occurred, the mother has not established that these multiple errors affected the outcome of the proceedings. She therefore cannot establish that the alleged errors satisfy the plain-error standard. Consequently, the mother has not demonstrated that the cumulative effect of any unsworn testimony deprived her of a fair hearing. *See State v. Davis*, 2017-Ohio-8873, ¶ 19 (8th Dist.) (a defendant was not entitled to a new hearing due to unsworn testimony because the defendant did not object to the unsworn testimony and failed to show that the outcome of the proceeding would have been different but for the error); *State v. Loudermilk*, 2017-Ohio-7378, ¶ 15 (1st Dist.) (a defendant could not establish prejudicial error when he failed to show that the failure to administer an oath to a witness resulted in untruthful testimony); *see also In re G.W.*, 2020-Ohio-3355, ¶ 21 (1st Dist.) (“the mere failure to have a witness sworn is error that may be waived, and thus, unsworn testimony is competent evidence where the opposing counsel neither requests that the witness be sworn nor makes a timely objection to the testimony”).

{¶69} Accordingly, based upon the foregoing reasons, we overrule the mother’s third assignment of error.

CONCLUSION

{¶70} Having found no merit to any of the parents' assignments of error, we 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 Pickaway 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. and Wilkin, J., concur in Judgment and Opinion.

For the Court,

Jason P. Smith
Presiding 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.