[Cite as *In re C.H.*, 2026-Ohio-81.]

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

IN RE C.H., JR. AND A.C.,	:	Case No. 25CA4146 25CA4147
ADJUDICATED NEGLECTED/ CHILDREN.	:	DECISION AND JUDGMENT ENTRY

APPEARANCES:

Richard D. Hixson, Zanesville, Ohio, for appellant C.C.[1]

Alana Van Gundy, Bellbrook, Ohio, for appellant A.H.[2]

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
DATE JOURNALIZED:1-2-26
ABELE, J.

{¶1} This is a consolidated appeal from a Scioto County Common Pleas Court, Juvenile Division, judgment that granted Scioto County Children Services, appellee herein, permanent custody of two children: (1) five-year-old C.H., Jr.; and (2) two-year-old A.C.

{¶2} In Case Number 25CA4146, the children's father, C.C.,

[1] Different counsel represented C.C. during the trial court proceedings.

[2] Different counsel represented A.H. during the trial court proceedings.

raises the following assignments of error for review:

FIRST ASSIGNMENT OF ERROR:

"THE TRIAL COURT ERRED AND VIOLATED APPELLANT'S DUE PROCESS RIGHTS BY DENYING APPELLANT'S MOTION TO APPEAR REMOTELY AFTER RECEIVING INFORMATION THAT FATHER WOULD BE UNABLE TO ATTEND THE MARCH 19TH, 2025 PERMANENT CUSTODY HEARING IN PERSON."

SECOND ASSIGNMENT OF ERROR:

"THE TRIAL COURT ERRED AND ABUSED ITS DISCRETION IN FINDING BY CLEAR AND CONVINCING EVIDENCE THAT IT WOULD BE IN THE BEST INTERESTS OF THE MINOR CHILDREN TO PERMANENTLY TERMINATE THE PARENTAL RIGHTS OF THEIR PARENTS AND PLACE THEM IN THE PERMANENT CUSTODY OF THE AGENCY."

{¶3} In Case Number 25CA4147, the children's mother, A.H., raises the following assignments of error for review:

FIRST ASSIGNMENT OF ERROR:

"THE JUVENILE COURT ERRED IN FINDING THAT PERMANENT CUSTODY WAS IN THE BEST INTEREST OF THE CHILD, WHEN THAT FINDING WAS NOT SUPPORTED BY SUFFICIENT EVIDENCE AND WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE."

SECOND ASSIGNMENT OF ERROR:

"THE COURT ERRED WHEN IT CONSIDERED THE REPORT AND RECOMMENDATION OF THE GUARDIAN AD LITEM, WHEN THE GUARDIAN AD LITEM DID NOT MEET THE CHILDREN, OBSERVE [THE MOTHER] WITH THE CHILDREN, AND ONLY REVIEWED THE AGENCY RECORDS–BUT RECOMMENDED PERMANENT CUSTODY TO THE AGENCY. THEREFORE, THE COURT ERRED BY RELYING ON ANY RECOMMENDATION OR REPORT FROM THE GAL."

{¶4} On April 28, 2023, appellee filed a complaint that

alleged that the two children were neglected and dependent children and requested temporary custody of the children. At the time, C.H., Jr. was three years old and A.C. four months old.

{¶5} An affidavit attached to the complaint asserted that in March 2023 appellee received a report that expressed concerns that the two children may be neglected. The referral indicated that the family had a history of homelessness and that A.C. was not gaining weight.

{¶6} Shortly thereafter, a Scioto County caseworker located the father. He stated that the family recently had moved in with the mother's parents. The father reported that he had applied for government housing, food stamps, and special nutritional benefits available for women, infants, and children. The caseworker noted that the home did not have heat, except for two space heaters.

{¶7} The mother appeared while the caseworker was speaking with the father, and she stated that she and the children would stay with a friend until the heat returned to working order.

{¶8} On April 11, 2023, the caseworker visited the family. At that time, the mother provided several dates when A.C. had medical appointments.

{¶9} The next day, the caseworker learned that the parents had missed medical appointments. The caseworker also found that

the parents had provided conflicting information regarding A.C.'s formula intake.

{¶10} At the end of April 2023, the caseworker received another report that the parents had failed to take A.C. to a medical appointment and had missed two other medical appointments. Soon after, the agency filed the complaint that alleged the children were neglected and dependent. The agency also sought temporary emergency custody of the children, which the trial court granted. Later, the trial court adjudicated the children neglected and dependent and placed the children in appellee's temporary custody.

{¶11} On June 28, 2024, appellee filed a motion to modify the disposition to permanent custody. Appellee alleged that the children had been in its temporary custody for 12 or more months of a consecutive 22-month period and that placing the children in its permanent custody is in their best interest.

{¶12} The trial court scheduled a permanent custody hearing for September 23, 2024. Shortly before that date, the father filed a motion to appear remotely. The trial court denied the father's motion to appear remotely, but continued the hearing until January 2025. The court later continued the January hearing date and set a new hearing for March 12, 2025.

{¶13} The day before the March hearing, the father filed a motion that asked the court to allow him to appear remotely.

The court granted the father's request.

{¶14} Before the hearing began, the mother's attorney asked the court to continue the hearing. She stated that she had been unable to contact the mother and that she was uncertain whether the mother knew about the hearing.

{¶15} Appellee's counsel, however, objected to continuing the hearing. Counsel pointed out that the court previously had continued the matter more than once and that almost two years had elapsed since the children's initial removal from the home. The trial court denied the mother's motion to continue and proceeded with the hearing.

{¶16} At the hearing, the family's caseworker testified that appellee developed a case plan for the family that required the parents to complete mental health assessments, parenting classes, and drug and alcohol assessments. The case plan further required the parents to remain employed and to obtain appropriate housing for the children.

{¶17} The mother completed a mental health assessment in July 2024, after appellee filed its permanent custody motion. She has not, however, been receiving any mental health treatment, despite it being recommended. The mother also completed parenting classes, but she does not have independent housing.

{¶18} Additionally, the father reported that he completed a mental health evaluation, but appellee did not receive any documentation to verify that he had undergone an evaluation. The father did complete parenting classes.

{¶19} After appellee became involved with the family, the parents separated. The father moved to the Columbus area and later moved to Alabama. When the caseworker attempted to coordinate a home study for the father's Alabama home, the caseworker learned that the father had moved to Kentucky. However, the caseworker has not been able to confirm the father's housing status due to the various moves.

{¶20} Appellee also scheduled weekly supervised visits between the mother and the children. In 2024, the mother attended 19 of 45 available visits. During her visits, the mother "really struggled with caring for both children at the same time."

{¶21} In 2024, appellee offered the father 45 weekly visits with the children. He, however, attended three of those available visits. He last visited the children in December 2024, shortly before Christmas.

{¶22} The evidence reveals that A.C. requires extensive medical care. A.C. was born with one kidney, and her kidney does not function at full capacity. She weighed five pounds at birth and had several follow-up appointments after her hospital

discharge. The parents did not, however, attend all of those appointments.

{¶23} A.C.'s kidney function has now stabilized, but if it decreases, she will need a kidney transplant. She also had surgery to correct hip dysplasia. This surgery required the child to remain in a body cast for six weeks and a soft cast for an additional six weeks. The child currently receives physical and occupational therapy to help strengthen her legs and to help her stand and walk. The child requires regular medical care.

{¶24} C.H. "was relatively non-verbal" when he entered appellee's temporary custody. He also had "two wandering eyes." Since his removal from the parents' custody, C.H. has received medical treatment for both conditions and "is doing much, much better now." The caseworker stated that, given the children's medical needs, providing them with a stable home environment is "critical."

{¶25} Appellee did consider kinship placements, but the parents indicated that they have no family members "willing or able to . . . provide kinship care for the children."

{¶26} After the mother's attorney cross-examined the caseworker, the court continued the hearing until March 19, 2025. The day before the hearing was scheduled to resume, the court observed that the previous day the father's counsel filed a request to allow the father to appear remotely. The court

denied the request and explained that it had advised the father that appearing remotely "was not an option" and that the father would need to "appear here in person." The court stated that, during the first day of the hearing a week earlier, the father had been "in a hotel room" and "was speaking out, or something, during the testimony." The court further indicated that another person had been present in the hotel room with the father and that the father appeared to be conversing with this person during testimony. The court also stated that the father had been "walking around the room vaping . . . and drinking some sort, some [of] substance." The court noted that it had asked the bailiff to mute the father, and, when the court unmuted the father, he responded "with a rather vulgar expletive at the court." The court stated that based on the foregoing circumstances, it had instructed the father that he would need to attend the next hearing in person.

{¶27} The father's counsel stated that he had believed that the father planned to attend the hearing in person and did not discover that the father did not plan to attend in person until the evening before the date of the hearing. The father's counsel thus asked the court to continue the hearing. The court, however, denied the father's request. The court observed that the hearing originally had been scheduled for September 2024 and had been continued to give the father time to prepare

to attend the hearing in person rather than remotely. The court thus proceeded with the hearing.

{¶28} After the parties finished questioning the family's caseworker, the mother testified. She stated that for the past month, she has lived with her grandmother. The mother explained that before she moved in with her grandmother, she had lived with a family friend. The mother agreed that a stable home is necessary for her children, but stated that she obtained stable housing by moving in with her grandmother. She further agreed that moving her children "from place to place" would not be "healthy" given their medical needs.

{¶29} The children's guardian ad litem (GAL) also testified. She stated that she reviewed the children's medical records and appellee's records. Her review indicated that A.C. requires constant care, "daily" or "hourly even." She recommended that the court place the children in appellee's permanent custody.

{¶30} On cross-examination, the GAL admitted that she did not contact the parents and did not visit the children in the foster home. She explained, however, that before she filed her September 2024 report, she contacted the foster parent and reviewed appellee's records. The GAL agreed that she based her recommendation solely upon the testimony presented at the hearing and a review of the written records. The trial court asked the GAL to explain her qualifications. She stated that

she has been an attorney for 23 years and served as a GAL for 7 years.

{¶31} On July 9, 2025, the trial court awarded appellee permanent custody of the children. The court found that the children had been in appellee's temporary custody for 12 or more months of a consecutive 22-month period and that placing them in appellee's permanent custody is in their best interest.

{¶32} The trial court considered the children's interactions and interrelationships and observed that the mother attended only 19 of 45 visits offered to her during 2024. The court stated that forming or maintaining a bond thus would be difficult given that the mother had spent "such a minimal amount of time with the children." The court found that the "father's relationship with the children is basically non-existent." The court stated that the father attended three visits with the children during 2024. The court noted that no one offered testimony regarding the children's relationship with the foster parents.

{¶33} With respect to the children's wishes, the trial court concluded that they are too young to express their wishes directly. The court stated that it "reviewed and considered" the GAL's report and recommendation.

{¶34} Regarding the children's custodial history, the trial court noted that they had been in appellee's continuous

temporary custody since their April 28, 2023 removal. The court also found that the children need a legally secure permanent placement and that they cannot achieve this type of placement without granting appellee permanent custody. The court pointed out that the father "has done very little to regain custody of his children" and has not complied with the case plan. The court recognized that the mother has attempted to comply with the case plan in some respects, but she has not maintained appropriate housing for the children. The court noted that the children had been in appellee's temporary custody for nearly two years, yet the mother still had "not managed to obtain independent housing."

{¶35} The trial court further observed that the youngest child, A.C., "remains medically fragile" and her medical needs make the child's need for a legally secure permanent placement even more imperative. The court noted that the child has "specialized medical appointments and therapy that she must attend" and that the child depends upon responsible adults to ensure that she receives that care. The court stated that the children were removed from the parents' custody due to the mother's failure to ensure that the child received proper care. On the other hand, the "foster parents are successfully managing the children's medical needs." The court indicated that the children are placed together in the same foster home and "have

made remarkable improvements developmentally during this placement." The court observed that even the children's mother testified that she did not believe that moving the children from the current foster home "would be healthy."

{¶36} Consequently, the court placed the children in appellee's permanent custody. This appeal followed.

I

{¶37} In his first assignment of error, the father asserts that the trial court deprived him of due process by denying his request to appear remotely.

A

{¶38} "Permanent termination of parental rights has been described as 'the family law equivalent of the death penalty in a criminal case.'" *In re Hayes*, 79 Ohio St.3d 46, 48 (1997), quoting *In re Smith*, 77 Ohio App.3d 1, 16 (6th Dist. 1991). Courts must, therefore, afford parents facing the permanent termination of parental rights "'every procedural and substantive protection the law allows.'" *Id.*, quoting *Smith* at 16; accord *In re B.C.*, 2014-Ohio-4558, ¶ 19. Thus, "'state intervention to terminate [a parent-child] relationship . . . must be accomplished by procedures meeting the requisites of the Due Process Clause.'" *Lehr v. Robertson*, 463 U.S. 248, 258 (1983), quoting *Santosky v. Kramer*, 455 U.S. 745, 752 (1982).

{¶39} "'[D]ue process' has never been, and perhaps can never be, precisely defined." *Lassiter v. Dept. of Social Services of Durham Cty., N.C.*, 452 U.S. 18, 24 (1981). Instead, due process is "a flexible concept that varies depending on the importance attached to the interest at stake and the particular circumstances under which the deprivation may occur." *State v. Aalim*, 2017-Ohio-2956, ¶ 22, citing *Walters v. Natl. Assn. of Radiation Survivors*, 473 U.S. 305, 320 (1985). "Applying the Due Process Clause is therefore an uncertain enterprise which must discover what 'fundamental fairness' consists of in a particular situation by first considering any relevant precedents and then by assessing the several interests that are at stake." *Lassiter*, 452 U.S. at 24–25. "The fundamental requirement[s] of due process [are notice and] the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976), quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965); *B.C.*, 2014-Ohio-4558, at ¶ 17.

{¶40} Courts that evaluate the due process rights of a parent to be present at a permanent custody hearing generally apply the balancing test set forth in *Mathews v. Eldridge*. *See, e.g., B.C.*, 2014-Ohio-4558, at ¶ 18; *In re Elliot*, 1993 WL 268846, *4 (4th Dist. June 25, 1993). The *Mathews* test requires a court to evaluate three factors: (1) "the private interest

that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335.

{¶41} In the case sub judice, with respect to the first factor, the permanent custody hearing will affect a significant private interest. The father's "interest in the care, custody, and control of [his children] 'is perhaps the oldest of the fundamental liberty interests.'" *B.C.*, 2014-Ohio-4558, at ¶ 19, quoting *Troxel v. Granville*, 530 U.S. 57, 65 (2000). This interest in the care, custody and management of a child "does not evaporate" simply because the parent has not been a "model" parent or "lost temporary custody of their child to the state." *Elliot*, 1993 WL 268846, at *4 (4th Dist.), citing *Santosky*, 455 U.S. at 753. The father's interest is not the only consideration, however. Rather, we also must consider the children's private interests. *B.C.*, 2014-Ohio-4558, at ¶ 20.

{¶42} In the context of a permanent custody motion, the child's best interest is the "paramount consideration[]." *In re M.D.*, 38 Ohio St.3d 149, 153 (1988); *In re Cunningham*, 59 Ohio St.2d 100, 105 (1979) ("the 'best interests' of the child are

the primary consideration in questions of possession or custody of children"). Thus, parents' private interests in the care, custody, and control "are subordinate to the child's interest." *B.C.*, 2014-Ohio-4558, at ¶ 20.

{¶43} A child's private interest initially "mirrors" a parent's interest in that both have "a substantial interest in preserving the natural family unit." *Id.* When, however, "remaining in the natural family unit would be harmful to [the child], [the child's] interest changes. [The child's] private interest then becomes a permanent placement in a stable, secure, and nurturing home without undue delay." *Id.*, citing *In re Adoption of Zschach*, 75 Ohio St.3d 648, 651 (1996). 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.'" *Id.*, quoting *Lehman v. Lycoming Cty. Children's Servs. Agency*, 458 U.S. 502, 513-514 (1982).

{¶44} In the case at bar, we recognize that the father has a significant private interest in maintaining care, custody, and control over his children. The children, however, have stronger interests: (1) removing the prolonged uncertainty surrounding the parents' ability to provide them with a permanent home; and (2) being placed in a stable, secure, and nurturing home without

undue delay.

{¶45} Second, the risk of an erroneous deprivation of the father's fundamental liberty interest in the care, custody, and management of his children by holding the second day of the permanent custody hearing in his absence appears low. The trial court's decision reflects that (1) the father appeared remotely for the first hearing, (2) the father's counsel fully participated in that hearing, and (3) at the second hearing, the father's counsel represented the father's interest. *See generally In re H.S.*, 2013-Ohio-2155, ¶ 10 (12th Dist.); *In re C.M.*, 2007-Ohio-3999, ¶ 24 (9th Dist.); *In re Maciulewicz*, 2002-Ohio-4820, ¶ 18 (11th Dist.) (all recognizing that a parent's counsel's participation in a hearing reduces the likelihood of erroneous deprivation).

{¶46} Next, we must consider the state's interest. "Two state interests are at stake in a permanent custody proceeding — a parens patriae interest in preserving and promoting the welfare of the child and a fiscal and administrative interest in reducing the cost and burden of such proceedings." *Elliott*, 1993 WL 268846, at *5 (4th Dist.); *accord B.C.*, 2014-Ohio-4558, at ¶ 23 (stating that the two state interests are "minimizing fiscal and administrative costs" and "promoting the welfare of the child"). "In a permanent custody proceeding, the state's parens patriae interest 'is served by procedures that promote an

accurate determination of whether the natural parents can and will provide a normal home.'" *Elliott* at *5, quoting *Santosky*, 455 U.S. at 767.

{¶47} Permitting a parent to attend a permanent custody hearing is "the optimal arrangement" to secure an accurate determination of whether the parent can and will provide a safe and stable home. *Id.* However, "[a] trial court possesses discretion to proceed with a permanent custody hearing in a parent's absence." *In re A.C.H.*, 2011-Ohio-5595, ¶ 46 (4th Dist.), citing *In re S.G.*, 2010-Ohio-2641, ¶ 22 (2d Dist.); *accord In re E.C.*, 2013-Ohio-617, ¶ 14 (6th Dist.), citing *State ex rel. Vanderlaan v. Pollex*, 96 Ohio App.3d 235, 236 (6th Dist. 1994). In *A.C.H.*, for example, we determined that the trial court did not deprive the parent of his due process rights by holding the permanent custody hearing in his absence when "[c]ounsel meaningfully represented appellant at the hearing, a complete record was made, and appellant . . . failed to show what testimony or evidence he would have offered that would have changed the outcome of the case." *Id.* at ¶ 46.

{¶48} In the case sub judice, we observe that counsel meaningfully represented the father at the second hearing, a complete record was made, and the father failed to show that he would have offered any additional testimony or evidence at the second hearing that would have changed the outcome of the case.

Consequently, in view of the foregoing, we do not believe that the trial court deprived the father of his due process right to a fundamentally fair permanent custody hearing.

B

{¶49} The father also contends that the trial court should have continued the hearing to allow him to attend.

{¶50} "The determination whether to grant a continuance is entrusted to the broad discretion of the trial court." *State v. Conway*, 2006-Ohio-791, ¶ 147, citing *State v. Unger*, 67 Ohio St.2d 65 (1981), syllabus. Consequently, "'[a]n appellate court must not reverse the denial of a continuance unless there has been an abuse of discretion.'" *State v. Jones*, 91 Ohio St.3d 335, 342 (2001), quoting *Unger*, 67 Ohio St.2d at 67. "'[A]buse of discretion [means] an 'unreasonable, arbitrary, or unconscionable use of discretion, or . . . a view or action that no conscientious judge could honestly have taken.'" *State v. Kirkland*, 2014-Ohio-1966, ¶ 67, quoting *State v. Brady*, 2008-Ohio-4493, ¶ 23. "An abuse of discretion includes a situation in which a trial court did not engage in a '"sound reasoning process."'" *State v. Darmond*, 2013-Ohio-966, ¶ 34, quoting *State v. Morris*, 2012-Ohio-2407, ¶ 14, quoting *AAAA Ents., Inc. v. River Place Community Urban Redevelopment Corp.*, 50 Ohio St.3d 157, 161 (1990). The abuse-of-discretion standard is deferential and does not permit an appellate court to simply

substitute its judgment for that of the trial court. *Darmond* at ¶ 34.

{¶51} The Ohio Supreme Court has adopted a balancing approach that recognizes "all the competing considerations" to determine whether a trial court's denial of a motion to continue constitutes an abuse of discretion. *Unger*, 67 Ohio St.2d at 67. In exercising its discretion, a trial court should "[w]eigh[] against any potential prejudice to a defendant . . . concerns such as a court's right to control its own docket and the public's interest in the prompt and efficient dispatch of justice." *Id.* A court also should consider: (1) the length of the delay requested; (2) whether other continuances have been requested and received; (3) the inconvenience to litigants, witnesses, opposing counsel and the court; (4) whether the requested delay is for legitimate reasons or whether it is dilatory, purposeful, or contrived; (5) whether the defendant contributed to the circumstance that gives rise to the request for a continuance; and (6) other relevant factors, depending on the unique circumstances of the case. *Id.*; *Conway*, 2006-Ohio-791, at ¶ 147; *State v. Jordan*, 2004-Ohio-783, ¶ 45.

{¶52} "'There are no mechanical tests for deciding when a denial of a continuance is so arbitrary as to violate due process. The answer must be found in the circumstances present in every case, particularly in the reasons presented to the

trial judge at the time the request is denied.'" *Unger*, 67 Ohio St.2d at 67, quoting *Ungar v. Sarafite*, 376 U.S. 575, 589 (1964); *State v. Broom*, 40 Ohio St.3d 277, 288 (1988) ("Obviously, not every denial of a continuance constitutes a denial of due process."). Furthermore, "[o]n review we must look at the facts of each case and the [appellant] must show how he was prejudiced by the denial of the continuance before there can be a finding of prejudicial error." *Broom*, 40 Ohio St.3d at 288. Additionally, with respect to the continuance of juvenile court hearings, Juv.R. 23 provides that "[c]ontinuances shall be granted only when imperative to secure fair treatment for the parties."

{¶53} In the case before us, nothing suggests that the trial court abused its discretion by overruling the father's request to continue the March 19, 2025 permanent custody hearing. At the time of that hearing, the trial court already had continued the hearing once to accommodate the father's request to appear remotely. Additionally, the court stated that it had informed the father that he would need to attend the March 19, 2025 hearing in person, not remotely. The court could have reasonably concluded that the father contributed to the circumstances that gave rise to his continuance request. Consequently, we do not agree with the father that the court abused its discretion by overruling his motion to continue the

March 19, 2025 permanent custody hearing.

{¶54} We further observe that the father has not asserted how continuing the hearing to accommodate his in-person attendance would have altered the outcome of the proceeding. He has not referred to any testimony or evidence that he might have presented to suggest that, despite his failure to visit the children more than three times during 2024, the trial court would have rejected appellee's request for permanent custody of the children. Thus, even if the trial court erred by overruling the father's motion to continue the hearing, the father cannot establish prejudicial error. As the court explained in *Broom*, 40 Ohio St.3d at 288, reversal is not warranted unless the litigant demonstrates that the failure to continue a matter prejudiced the litigant.

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

II

{¶56} The father's second assignment of error and the mother's first assignment of error raise similar issues. In his second assignment of error, the father contends that the trial court's judgment placing the children in appellee's permanent custody is against the manifest weight of the evidence. In her first assignment of error, the mother asserts that sufficient evidence does not support the trial court's permanent custody

judgment and that its judgment is against the manifest weight of the evidence. For ease of discussion, we have combined our review of the two assignments of error.

A

{¶57} 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).

{¶58} 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.

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.).

{¶59} 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").

{¶60} 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.'").

{¶61} 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").

{¶62} A reviewing court also may reverse a trial court's permanent custody judgment if the record does not contain sufficient evidence to support it. *See Z.C.*, 2023-Ohio-4703, at ¶ 1. When reviewing the sufficiency of the evidence, our inquiry focuses primarily upon the adequacy of the evidence; that is, whether "the evidence is legally sufficient to support the [judgment] as a matter of law." *See Thompkins*, 78 Ohio St.3d at 386.

B

{¶63} As we observed above, "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.'" *B.C.*, 2014-Ohio-4558, at ¶ 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.

{¶64} 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.

{¶65} Before a court may award a children services agency permanent custody of a child, R.C. 2151.414(A)(1) requires the court to hold a hearing. The primary purpose of the hearing is to allow the court to determine whether the child's best interests would be served by permanently terminating the parental relationship and by awarding permanent custody to the agency. *Id.* Additionally, when considering whether to grant a children services agency permanent custody, a trial court should consider the underlying purposes of R.C. Chapter 2151: "to care for and protect children, 'whenever possible, in a family

environment, separating the child from the child's parents only when necessary for the child's welfare or in the interests of public safety.'" *In re C.F.*, 2007-Ohio-1104, ¶ 29, quoting R.C. 2151.01(A).

C

{¶66} 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 in the case sub judice, "[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).

{¶67} In the case at bar, the trial court found that the children had been in appellee's temporary custody for more than 12 months of a consecutive 22-month period. Neither parent challenges this finding on appeal. Instead, the parents agree that the children have been in appellee's temporary custody for 12 or more months of a consecutive 22-month period. We therefore do not address this factor. The parents do not agree, however, that placing the children in appellee's permanent custody is in their best interest.

D

{¶68} 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.

{¶69} 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. *In re K.M.S.*, 2017-Ohio-142, ¶ 24 (3d Dist.); *In re A.C.*, 2014-Ohio-4918, ¶ 46 (9th 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).

1

{¶70} In the case at bar, the father contends that the record does not contain adequate evidence regarding the children's interaction and interrelationship with the foster-care providers and that, without this evidence, the trial court could not have determined that placing the children in appellee's permanent custody was in their best interest. The father further asserts that the trial court should have accorded little weight to the GAL's recommendation due to the GAL's admission that she did not observe the children interact with the parents or with the foster parents.

{¶71} We do not agree with the father's arguments. Even though appellee did not present a witness who testified at the hearing about the children's interaction and interrelationship

with the foster parents, appellee did present evidence that the children are doing well in the foster placement and have improved since being removed from the parents' custody. The agency caseworker stated that the children's medical and other needs are being met. Thus, although appellee did not present testimony from one of the foster providers, the record still contains some evidence that the children are doing well in the foster placement and have benefitted from the interactions and interrelationships that the foster placement provides.

{¶72} In contrast, when the children were in the parents' custody, the parents were not meeting the children's basic needs. The trial court considered the children's interaction and interrelationship with the father and found it to be essentially nonexistent. Moreover, the court observed that the mother attended less than half of her allotted visits. Additionally, during those visits, she struggled to properly supervise both children. Given all of the above, the court could have reasonably decided that the nature of the children's interaction and interrelationship with the parents compared with the foster parents weighed in favor of granting appellee permanent custody of the children.

{¶73} The father also contends that the trial court should have given little weight to the GAL's recommendation. At the hearing, the mother's counsel questioned the GAL regarding the

extent of her investigation, but the father's counsel did not ask the GAL any questions or otherwise object to the court's consideration of her recommendation. Under these circumstances, we believe that the father forfeited the right to argue on appeal that the court should have given little weight to the GAL's recommendation. *See In re C.W.*, 2025-Ohio-282, ¶ 38 (10th Dist.) (failure to object to the GAL's report and testimony "forfeited all but plain error"); *In re S.W.*, 2023-Ohio-793, ¶ 41 (4th Dist.) (failure to "object to any purported inadequacies in the GAL's report during the trial court proceedings" forfeited all but plain error).

{¶74} We also observe that, as the trier of fact, the trial court's role is "to assign weight to the guardian ad litem's testimony and recommendation." *C.W.*, 2025-Ohio-282, at ¶ 46 (10th Dist.). "[T]he trial court has discretion to consider the report of a guardian ad litem even where the guardian ad litem does not fully comply with Sup.R. 48." *Id.*; *see In re K.A.*, 2021-Ohio-1773, ¶ 47 (5th Dist.) ("the trial court, as the trier of fact, is permitted to assign weight to the GAL's testimony and recommendation and to consider it in the context of all the evidence before the court").

{¶75} In the case sub judice, we do not find anything in the record to suggest that the trial court erred by considering the GAL's recommendation. The court asked the GAL about her

qualifications and was well-aware of the nature of the GAL's investigation. We further note that the court's judgment entry stated that it "reviewed and considered" the GAL's report and recommendation, but the court did not reveal the weight it accorded to the GAL's report and recommendation. Without knowing how the court weighed the GAL's recommendation, we cannot agree with the father's assertion that the trial court should have afforded little weight to the GAL's recommendation. The court may have afforded it little weight, yet determined that placing the children in appellee's permanent custody is in their best interest.

{¶76} Consequently, we disagree with the father that the trial court's permanent custody judgment is against the manifest weight of the evidence.

2

{¶77} The mother contends that appellee did not present any evidence to suggest that she could not parent the children or that the children have a bond with the foster parents. She further asserts that the children have been in three foster homes, which she claims "is no more stable than [her] housing." The mother also asserts that she "was able to clearly articulate both children's medical and special needs and regularly read their medical charts to try to understand how to take care of the children." The mother faults appellee for failing to give

her an opportunity to care for the children during extended visits or home visits. In sum, the mother argues that appellee failed to present clear and convincing evidence that she "could not appropriately parent her] children."

{¶78} We disagree with the mother that appellee failed to present evidence that she could not appropriately parent her children.[3] The evidence shows that the mother attended less than half of her allotted visits with the children, and during those visits, struggled to properly supervise both children. Furthermore, when the children were removed from the mother's care, she had not been taking A.C. to all of her medical appointments. Given A.C.'s serious medical issues, the mother's failure to ensure that the child's medical needs were being met is disturbing.

{¶79} Moreover, the mother's lack of commitment to attending all of the visits available to her suggests that she might have a similar lack of commitment to ensuring that A.C. would attend all of her medical appointments, if the court were to return the child to her custody. The trial court reasonably could have concluded that the mother's lack of commitment to visiting the children indicated that the mother similarly would lack a commitment to ensuring that the children received proper medical

[3] We note that the mother does not connect her argument to the best interest factors. We review her argument accordingly.

care.

{¶80} We further observe that the mother did not appear for the first day of the permanent custody hearing. Her failure to appear for this life-altering hearing could have caused the court even greater concern regarding the mother's commitment to providing for the children's medical needs, if it decided to return the children to her custody.

{¶81} Additionally, the mother lacked independent housing. The children's caseworker testified that maintaining stable housing for the children was "critical," especially given A.C.'s status as medically fragile child.

{¶82} Even though appellee did not present any evidence regarding a bond between the children and the foster parents, the GAL's report indicated that the children are bonded with each other and are "doing very well" in the foster placement. The testimony presented at the hearing further shows that the children are doing well in the current foster placement.

{¶83} Given all of the above, we believe that the trial court reasonably could have determined that placing the children in appellee's permanent custody would serve their best interest. Consequently, we do not agree with the mother that the court's permanent custody judgment is against the manifest weight of the evidence.

{¶84} Our conclusion that the trial court's judgment is not

against the manifest weight of the evidence also disposes of the mother's assertion that the record does not contain sufficient evidence to support the trial court's judgment. *See In re C.N.*, 2015-Ohio-2546, ¶ 9 (10th Dist.) ("though sufficiency and manifest weight are different legal concepts, a finding that a judgment is supported by the manifest weight of the evidence necessarily includes a finding that sufficient evidence supports the judgment"); *see also State v. McKinney*, 2024-Ohio-4642, ¶ 63 (4th Dist.) ("a determination that the weight of the evidence supports a conviction also is dispositive of an insufficient-evidence claim"). We therefore disagree with the mother's argument that the record fails to contain sufficient evidence to support the trial court's best interest determination.

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

III.

{¶86} In her second assignment of error, the mother asserts that the trial court erred by relying upon the GAL's report and recommendation. She contends that the GAL failed to comply with the requirements contained in Sup.R. 48.03(D) and that this failure rendered the GAL's report and recommendation unreliable. The mother asserts that the GAL failed to "meet the children, talk to the parents, observe the Children with [the mother], see

the children at the foster home(s), and only reviewed the Agency's record."

{¶87} We first point out that, at the permanent custody hearing, the mother's counsel asked the GAL about her investigation. The mother did not, however, assert that the trial court should not consider the GAL's report and recommendation. Thus, like the father, the mother failed to preserve the error for appellate review. *See, e.g., Independence v. Office of the Cuyahoga Cty. Executive*, 2014-Ohio-4650, ¶ 30 ("an appellant generally may not raise an argument on appeal that the appellant has not raised in the lower courts").

{¶88} Appellate courts may, however, in certain circumstances, consider a forfeited argument using a plain-error analysis. *See Risner v. Ohio Dept. of Nat. Resources, Ohio Div. of Wildlife*, 2015-Ohio-3731, ¶ 27 (reviewing court has discretion to consider forfeited constitutional challenges); *State v. Pyles*, 2015-Ohio-5594, ¶ 82 (7th Dist.), quoting *State v. Jones*, 2008-Ohio-1541, ¶ 65 (7th Dist.) (the plain-error doctrine "'is a wholly discretionary doctrine'"); *see also Rosales-Mireles v. United States*, 585 U.S. 129, 135 (2018) (court has discretion whether to recognize plain error).

{¶89} For the plain-error doctrine to apply, the party

claiming error must establish (1) that "'an error, i.e., a deviation from a legal rule" occurred, (2) that the error was "'an "obvious" defect in the trial proceedings,'" and (3) that this obvious error affected substantial rights, i.e., the error "'must have affected the outcome of the trial.'" *State v. Rogers*, 2015-Ohio-2459, ¶ 22, quoting *State v. Barnes*, 94 Ohio St.3d 21, 27 (2002); *Schade v. Carnegie Body Co.*, 70 Ohio St.2d 207, 209 (1982) ("A 'plain error' is obvious and prejudicial although neither objected to nor affirmatively waived which, if permitted, would have a material adverse affect on the character and public confidence in judicial proceedings.").

{¶90} The plain-error doctrine is not, however, readily invoked in civil cases. Instead, an appellate court "must proceed with the utmost caution" when applying the plain-error doctrine in civil cases. *Goldfuss v. Davidson*, 79 Ohio St.3d 116, 121 (1997). The Ohio Supreme Court has set a "very high standard" for invoking the plain-error doctrine in a civil case. *Perez v. Falls Financial, Inc.*, 87 Ohio St.3d 371, 375 (2000). Thus, "the doctrine is sharply limited to the *extremely rare* case involving *exceptional* circumstances where error, to which no objection was made at the trial court, seriously affects the basic fairness, integrity, or public reputation of the judicial process, thereby challenging the legitimacy of the underlying judicial process itself." (Emphasis in original.) *Goldfuss*, 79

Ohio St.3d at 122-23; *accord Jones v. Cleveland Clinic Found.*, 2020-Ohio-3780, ¶ 24; *Gable v. Gates Mills*, 2004-Ohio-5719, ¶ 43. Moreover, appellate courts "'should be hesitant to decide [forfeited errors] for the reason that justice is far better served when it has the benefit of briefing, arguing, and lower court consideration before making a final determination.'" *Risner*, 2015-Ohio-3731, at ¶ 28, quoting *Sizemore v. Smith*, 6 Ohio St.3d 330, 332, fn. 2 (1983); *accord Mark v. Mellott Mfg. Co., Inc.*, 106 Ohio App.3d 571, 589 (4th Dist. 1995) ("Litigants must not be permitted to hold their arguments in reserve for appeal, thus evading the trial court process."). Additionally, courts "should never" apply the plain-error doctrine "to reverse a civil judgment . . . to allow litigation of issues which could easily have been raised and determined in the initial trial." *Goldfuss*, 79 Ohio St.3d at 122.

{¶91} In the case sub judice, the mother did not object to the GAL's alleged noncompliance with Sup.R. 48.03(D) at a time when the trial court could have corrected any error. Therefore, the mother forfeited the right to raise the issue on appeal. *See In re E.A.G.*, 2024-Ohio-315, ¶ 80 (4th Dist.). Furthermore, any error that arguably may have occurred did not affect the outcome of the proceedings in the case at bar.

{¶92} A GAL's primary duty in a permanent custody proceeding

is "to protect the interest of the child." R.C. 2151.281(B)(1); *accord In re C.B.*, 2011-Ohio-2899, ¶ 14 (a GAL's "purpose is to protect the interest of the child"). The GAL must "perform whatever functions are necessary to protect the best interest of the child, including, but not limited to, investigation, mediation, monitoring court proceedings, and monitoring the services" that the agency provided the child, "and shall file any motions and other court papers that are in the best interest of the child." R.C. 2151.281(I). If the GAL fails "to faithfully discharge the guardian ad litem's duties," the court "shall discharge the guardian ad litem and appoint another guardian ad litem." R.C. 2151.281(D).

{¶93} Additionally, Sup.R. 48.03(D) contains a nonexhaustive listing of a GAL's duties:

> (1) Become informed about the facts of the case and contact all relevant persons;
>
> (2) Observe the child with each parent, foster parent, guardian or physical custodian;
>
> (3) Interview the child, if age and developmentally appropriate, where no parent, foster parent, guardian, or physical custodian is present;
>
> (4) Visit the child at the residence or proposed residence of the child in accordance with any standards established by the court;
>
> (5) Ascertain the wishes and concerns of the child;
>
> (6) Interview the parties, foster parents, guardians, physical custodian, and other significant individuals who may have relevant knowledge regarding the issues of the case. The guardian ad litem may require each individual to be interviewed without the presence of others. Upon request of the individual, the attorney for the individual may be present.
>
> (7) Interview relevant school personnel, medical

> and mental health providers, child protective services workers, and court personnel and obtain copies of relevant records;
>
> (8) Review pleadings and other relevant court documents in the case;
>
> (9) Obtain and review relevant criminal, civil, educational, mental health, medical, and administrative records pertaining to the child and, if appropriate, the family of the child or other parties in the case;
>
> (10) Request that the court order psychological evaluations, mental health substance abuse assessments, or other evaluations or tests of the parties as the guardian ad litem deems necessary or helpful to the court;
>
> (11) Review any necessary information and interview other persons as necessary to make an informed recommendation regarding the best interest of the child.

{¶94} In the case at bar, even if some of the mother's assertions arguably are correct, this court, along with other Ohio appellate courts, has refused to recognize purported Sup.R. 48.03(D) violations as reversible error. *See, e.g., In re A.A.*, 2024-Ohio-224, ¶ 50 (10th Dist.); *In re S.W.*, 2023-Ohio-793, ¶ 45 (4th Dist.). Therefore, even if the GAL failed to comply with some of the duties listed in Sup.R. 48.03(D), the failure to comply with this superintendence rule does not constitute reversible error.

{¶95} Additionally, even if the trial court should not have considered the GAL's report, the caseworker's testimony otherwise provides ample evidence to support the trial court's judgment. Consequently, the mother cannot establish that this case is one of the extremely rare cases "involving *exceptional* circumstances where error, to which no objection was made at the

trial court, seriously affects the basic fairness, integrity, or public reputation of the judicial process, thereby challenging the legitimacy of the underlying judicial process itself." (Emphasis in original.) *Goldfuss*, 79 Ohio St.3d at 122.

{¶96} 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 be affirmed and the father and the mother equally divide the costs herein taxed.

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 that mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Smith, P.J. & Hess, J.: Concur in Judgment & Opinion

For the Court

BY:_____
Peter B. Abele, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.