

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
STARK COUNTY, OHIO

IN THE MATTER OF: J.A.
(DOB: 3-3-20)

(Stacy H., Appellant)

Case No. 2026 CA 00092

IN THE MATTER OF: L.B.
(DOB: 11-24-15)

(Stacy H., Appellant)

Case No. 2026 CA 00093

Opinion & Judgment Entry

Appeal from the Court of Common Pleas
of Stark County, Family Court Division,
Case Nos. 2024 JCV 01266 and 2024 JCV
01268

Judgment: Affirmed

Date of Judgment: September 22, 2026

BEFORE: William B. Hoffman, Kevin W. Popham, and David M. Gormley, Judges

APPEARANCES: Richard D. Hixson, Zanesville, Ohio, for Appellant Stacy H. (the children’s mother); Brandon J. Waltenbaugh, Canton, Ohio, for Appellee Stark County Job & Family Services

Gormley, J.

{¶1} The mother of two minor children challenges the judgment of the Stark County Family Court awarding permanent custody of those children — J.A. and L.B. — to Stark County Job & Family Services (the “Agency”). Mother argues that the trial court erred when it found that permanent custody was in the best interest of the children. Because we see no error in the trial court’s ruling, we affirm.

The Key Facts

The Initial Removal of the Children

{¶2} The Agency’s interaction with the family for this case began in October 2024 after Mother reported to police that she had been repeatedly raped by a roommate while she and the children were sleeping in the same room. L.B., who was then eight years old, also shared with her mother and then with an Agency caseworker that the same roommate — a registered sex offender — had been sexually abusing L.B. herself for some time.

{¶3} The Agency’s investigation of these concerns indicated that Mother struggled with mental-health concerns, had been drinking excessively, had a history of illegal-drug use, and had been involved in some violent personal relationships that had at times created an unsafe environment for the children. The Agency also documented some concerns about truancy by L.B. as well as parental discipline by Mother that may have resulted in physical marks on the children. L.B. was behind in school due to repeated absences, while J.A. — then four years old — had health issues that limited his ability to communicate.

{¶4} The Agency opted to file a neglect and dependency complaint in the trial court, and that court granted emergency temporary custody of the children to the Agency in October 2024. That temporary-custody status remained in place through the start of the permanent-custody hearing in March 2026.

Mother’s Participation in Case-Plan Services

{¶5} After receiving temporary custody of the children, the Agency developed a case plan with Mother to address the Agency’s concerns. The plan called for Mother to undergo a parenting evaluation and then follow through with any recommendations. During the evaluation process, Mother told the evaluator that she had struggled with her mental health for years due to childhood abuse at the hands of her father. She disclosed, too, that she drank alcohol to excess and struggled to set boundaries for herself and her

children. The evaluator recommended that Mother participate in twice-monthly individual counseling, take any medications in prescribed amounts, participate in parenting-skills classes, and attend two 12-step meetings every week. The evaluator also felt that reunification should not be considered until Mother had achieved nine months of sobriety.

{¶6} Mother was unable to follow through with the case-plan recommendations. Over the course of a year, Mother tested positive for cocaine six times. After that sixth positive test, Mother began avoiding Agency staff and started missing some scheduled visits with the two children. Mother also stopped taking her mental-health medications and entered into a new abusive relationship with a different partner. She also failed to attend the recommended parenting classes.

{¶7} In the months before the March 2026 permanent-custody hearing, Mother's visits with the children were few. From mid-September 2025 until late-December of that year, more than 90 days elapsed between Mother's visits with the children. After a visit with the children two days before Christmas 2025, she again waited more than 90 days before her next contact with them.

The Permanent-Custody Hearing

{¶8} On March 24, 2026 — a date more than 12 months after the temporary removal of the children — the permanent-custody hearing began. At the conclusion of that hearing, the trial court found, based on testimony from the Agency's caseworkers, from the children's guardian ad litem, and from both parents of the two children, that Mother was unable to provide a safe and appropriate home for the children. Both the guardian ad litem and the Agency's assigned caseworker recommended that the trial court grant permanent custody to the Agency because foster care would best serve the children's

interest. Also, one of the children’s foster parents testified at the hearing, and that testimony indicated that the children had made strides developmentally and emotionally and had done well of late with their education, physical health, and extracurricular participation. After evaluating all of the evidence, the trial court awarded permanent custody of J.A. and L.B. to the Agency. Mother now appeals.

The Trial Court Did Not Err When It Terminated Mother’s Parental Rights

{¶9} In her only assignment of error, Mother challenges the trial court’s conclusion that permanent custody was in the children’s best interest.

{¶10} The Supreme Court of Ohio has explained that the appropriate appellate standard of review of a trial court’s permanent-custody decision is the manifest-weight standard or a sufficiency-of-the-evidence standard (or both), depending on the nature of the arguments presented by the parties. *In re Z.C.*, 2023-Ohio-4703, ¶ 11.

{¶11} For manifest-weight review, an appellate court must “weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine 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.” *Id.* at ¶ 14. Our review of a sufficiency-of-the-evidence challenge, on the other hand, “is generally limited to considering whether sufficient credible evidence exists to support the juvenile court’s determination.” *In re D.P.*, 2020-Ohio-6663, ¶ 13 (12th Dist.).

{¶12} A trial court may, according to R.C. 2151.414(B)(1), “grant permanent custody of a child to a movant if the court determines . . . by clear and convincing evidence, that it is in the best interest of the child to grant permanent custody of the child to the agency” and that any one of the five factors enumerated in R.C. 2151.414(B)(1)(a) through

(e) applies. R.C. 2151.414(B), therefore, “establishes a two-pronged analysis.” *In re K.H.*, 2025-Ohio-21, ¶ 30 (5th Dist.). “In practice, the trial court will usually determine whether one of the . . . circumstances delineated in R.C. 2151.414(B)(1)(a) through [(e)] is present before proceeding to a determination regarding the best interest of the child.” *Id.*

{¶13} Clear and convincing evidence is evidence that “will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.” *In re Z.C.*, 2023-Ohio-4703, at ¶ 7, quoting *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus. “Where the proof required must be clear and convincing, 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.” *In re Z.C.* at ¶ 8, quoting *State v. Schiebel*, 55 Ohio St.3d 71, 74 (1990).

A. The Trial Court’s Five-Factor Findings Are Supported by Clear and Convincing Evidence

{¶14} R.C. 2151.414(B)(1) lists five scenarios that can serve as a prerequisite for a trial court’s consideration of a permanent-custody request. “As long as one of these factors is present, then the first prong of the test is satisfied.” *In re A.S.*, 2024-Ohio-2099, ¶ 36 (5th Dist.).

{¶15} The trial court here found that at least two of those five factors were established: (1) Mother had abandoned the children (R.C. 2151.414(B)(1)(b)), and (2) the children had been in the Agency’s temporary custody for more than 12 months during a consecutive 22-month period (R.C. 2151.414(B)(1)(d)).

{¶16} Mother concedes in her appellate brief that the trial court correctly determined under R.C. 2151.414(B)(1)(d) that the two children, as of the January 2026 filing date of the Agency’s motion for permanent custody, had been in the Agency’s

temporary custody for more than 12 months during a consecutive 22-month period, and her brief does not challenge the trial court's other (B)(1) finding.

{¶17} The record does in fact demonstrate that the two children were placed in the Agency's temporary custody in October 2024 and remained there through January 2026 when the Agency filed the permanent-custody motion. (The children were still in the Agency's temporary custody when the permanent-custody hearing began in March 2026.) Mother acknowledges that the 12-of-22-months factor would be dispositive in the children's cases even had the trial court erred in assessing any of the other four factors. *See In re C.P.*, 2025-Ohio-5705, ¶ 9 (5th Dist.).

{¶18} In any event, the record amply supports the trial court's finding on the abandonment factor under R.C. 2151.414(B)(1)(d) too. Mother did not visit the children for more than 90 days between September and December 2025 and then again between December 2025 and the permanent-custody hearing in March 2026. Under R.C. 2151.011(C), a child is "presumed abandoned when the parents of the child have failed to visit or maintain contact with the child for more than ninety days."

{¶19} In short, the trial court found that the Agency proved the existence of at least one of the five R.C. 2151.414(B) factors, and that trial-court finding was not against the manifest weight of the evidence. We move next to the permanent-custody test's second prong.

B. A Grant of Permanent Custody Is in the Children's Best Interest

{¶20} In determining whether granting permanent custody of a child to an agency is in that child's best interest, a trial court must consider all relevant factors, including, but not limited to, the ones listed in R.C. 2151.414(D)(1). Those statutory factors include (1) the child's interactions and relationships with the child's family members and persons

who may significantly affect the child, (2) the wishes of the child (with due regard to the maturity of the child), (3) the custodial history of the child, and (4) the child’s need for a legally secure placement and whether that type of placement can be achieved without a grant of permanent custody to the agency. R.C. 2151.414(D)(1)(e) also directs a court to consider whether any of the factors delineated in R.C. 2151.414(E)(7) through (11) are applicable, including whether the parent has abandoned the child.

{¶21} While the trial court must consider all of the factors in R.C. 2151.414(D)(1), the court must also consider any other evidence available to it when deciding whether permanent custody is in a child’s best interest. *In re Schaefer*, 2006-Ohio-5513, ¶ 56 (“The court must consider all of the elements in R.C. 2151.414(D) as well as other relevant factors”); *In re Stephens*, 2002-Ohio-3057, at ¶ 27 (7th Dist.) (“To further the interests of the children, the court must consider any evidence available to it” when “determining whether permanent custody is in the children’s best interests”).

{¶22} R.C. 2151.414(D)(1) does not require a trial court to make specific findings on each factor listed in that provision, and the statute likewise does not require the court to include in its judgment entry a written discussion of each factor. *In re A.M.*, 2020-Ohio-5102, ¶ 31, 33 (“Consideration [of the factors] is all the statute requires”).

{¶23} “A child’s best interests are served” when the child is placed in a permanent situation that “fosters growth, stability, and security.” *In re M.K.*, 2023-Ohio-3786, ¶ 36 (5th Dist.). “The discretion” that the juvenile court enjoys in determining whether an order of permanent custody is in the best interest of a child “should be accorded the utmost respect, given the nature of the proceeding and the impact the court’s determination will have on the lives of the parties concerned.” *Id.*, quoting *In re E.H.*, 2022-Ohio-1682, ¶ 101 (5th Dist.).

{¶24} In this case, clear and convincing evidence supported the trial court's conclusion that granting permanent custody to the agency would serve the children's best interest. For starters, the children are bonded to each other. The trial court kept the children's relationship intact by placing them in the same foster home. In that home, they have also bonded with their foster parents while receiving critical services for their health and education.

{¶25} The custodial history also supports granting permanent custody to the Agency. As mentioned above, the children had been in the Agency's temporary custody for more than 12 months of the 22-month period preceding the Agency's filing of the permanent-custody motion. The trial court also heard testimony that Mother had gone two separate 90-day periods without visiting her children: September 16, 2025 through December 23, 2025, followed by December 23, 2025 through the March 24, 2026 starting date of the permanent-custody hearing. No evidence in the record suggests that mother attempted to contact the children during either of those lengthy periods. Under R.C. 2151.011(C), that lack of contact by Mother supports the view that she abandoned her children.

{¶26} Finally, the trial court's grant of permanent custody appears likely to provide the children with their best opportunity for a legally secure and permanent placement. A "legally secure [and] permanent placement" has generally been understood by courts to mean "a safe, stable, [and] consistent environment where a child's needs will be met." *In re M.B.*, 2016-Ohio-793, ¶ 56 (4th Dist.). While in Mother's custody, the children lacked necessary medical care, faced possible physical and sexual abuse, and interacted with numerous individuals who were abusing alcohol and drugs. Mother failed multiple times to rectify these dangers and instead evidently continued to use cocaine,

lapsed in her treatment plan for her own mental health, and skipped her parenting classes. The trial court's view that Mother was not prepared to provide a safe and stable environment where the children's needs would be addressed is not against the manifest weight of the evidence.

{¶27} The children's foster home has provided some needed stability and has supported their developmental and emotional growth. An individualized education plan is in place for the older child, both of them are receiving some previously overlooked medical and dental treatment, and both are participating in extracurricular activities and social gatherings. The foster mother testified at the hearing that she remains "deeply committed to providing consistency, care, and encouragement necessary to support" both children.

{¶28} No alternative housing options were available at the time of the permanent-custody hearing. Though the possibility of a placement with L.B.'s father had not been explored by the Agency because that prospect had arisen just before the March 2026 hearing, R.C. 2151.414(D) indicates that the availability of a placement that would not require a termination of parental rights is not an "all-controlling factor," and certainly a trial court is not required to "weigh that factor more heavily than others." *In re H.D.*, 2025-Ohio-2440, ¶ 44 (5th Dist.).

{¶29} In sum, the evidence in the record supports the trial court's view that a grant of permanent custody to the Agency is in the children's best interest.

{¶30} In her argument here, Mother points to what she describes as a bond with her children as well as some progress that she has made on her case-plan goals. Yet while she surely does feel an emotional connection to the children and may be making headway in addressing some of the Agency's initial concerns, those factors alone do not outweigh

the evidence suggesting that the children faced some peril— and likely would continue to face similar risks — while in her care. The trial judge rightly considered Mother’s months-long history of substance-use struggles, her missed opportunities for parenting classes and child visits, her shortcomings in managing her own mental health, the risks posed by her choices in relationships, the past shortcomings in the older child’s school attendance, and some overlooked health needs that were not addressed until the children were in foster care.

{¶31} The best-interest factors weigh in favor of the trial court’s decision to grant permanent custody of J.A. and L.B. to the Agency. Because both prongs of the permanent-custody test were met in this case, Mother’s assignment of error is overruled.

{¶32} For the reasons explained above, the judgment of the Family Court Division of the Court of Common Pleas of Stark County is affirmed. Costs in each case are to be paid by appellant Stacy H.

By: Gormley, J.;
Hoffman, P.J. and
Popham, J. concur.