

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

IN THE MATTER OF:

K.N.

Case No. 2026 CA 00096

Opinion And Judgment Entry

Appeal from the Stark County Court of
Common Pleas, Juvenile Division, Case
No. 2026JCV00117

Judgment: Affirmed

Date of Judgment Entry:
September 24, 2026

BEFORE: William B. Hoffman, Robert G. Montgomery, and Kevin W. Popham, Judges

APPEARANCES: James B. Phillips, for Appellee SCJFS; Aaron Kovalchik, for Appellant-Father

OPINION

Popham, J.,

{¶1} Father appeals the April 17, 2026, judgment entry of the Stark County Court of Common Pleas, Juvenile Division, terminating his parental rights and granting permanent custody of K.N., Jr. to Stark County Job and Family Services (“SCJFS”). For the reasons below, we affirm.

Facts & Procedural History

{¶2} C.S. is the mother (“Mother”) of K.N., Jr. who was born on January 30, 2026. K.N. is the father (“Father”) of K.N., Jr.

{¶3} SCJFS initially became involved with Mother in 2017 when her four children were removed from her care due to concerns regarding substance abuse, poor home conditions, mental health issues, and domestic violence. Her four children were adjudicated dependent. Mother did not successfully complete case plan services, and the children were placed in the legal custody of relatives in 2019.

{¶4} On January 25, 2018, Mother gave birth to her fifth child. SCJFS filed a dependency complaint regarding the child but initially left the child in Mother's care under the protective supervision of SCJFS. The child was removed from Mother's care after Mother appeared at a Goodwill Parenting class while under the influence of alcohol. Mother's fifth child was placed in the legal custody of the child's parental grandparents in 2019.

{¶5} Mother gave birth to her sixth child in 2024. Father is the biological father of that child. The child was placed in the temporary custody of SCJFS due to Mother's history of drug use, alcohol abuse, and mental health issues. Both parents were provided case plan services but failed to successfully complete them. In August 2025, the child was placed in the permanent custody of SCJFS. Neither parent appeared at the permanent custody hearing.

{¶6} On January 30, 2026, Mother gave birth to K.N., Jr., who was born extremely prematurely and weighed only 1.6 pounds at birth. At the time of K.N., Jr.'s birth, Mother tested positive for marijuana; the child exhibited some signs of possible withdrawal; and Mother and Father were living in the home of individuals Mother met at work. Mother has prior convictions for OVI and disorderly conduct, admitted to ongoing marijuana use, and admitted that she had not completed any case plan services since the prior case closed in August of 2025.

{¶7} The present case began when SCJFS filed a permanent custody complaint on February 6, 2026. The complaint detailed the agency’s prior history with Mother and Father, and alleged that Mother and Father have a history of domestic violence against each other. Despite these concerns, Mother stated that Father is her “soulmate,” and that she would not leave him. Mother appeared at the hospital with marks and bruising around her neck. The complaint also detailed Father’s history of drug use, including methamphetamines, cocaine, and marijuana. At the time the complaint was filed, Father had an active warrant for his arrest for a probation violation and was listed as an “ISP absconder” - Father was on probation for vehicular homicide.

{¶8} On February 9, 2026, a shelter care hearing was held, at which both Mother and Father appeared and stipulated to probable cause. The trial court granted emergency temporary custody to SCJFS and set the matter for a pretrial on March 4, 2026. In a judgment entry following the hearing, the magistrate found that reasonable efforts had been made to prevent the need for placement and/or make it possible for K.N., Jr. to return home.

{¶9} On March 4, 2026, a pretrial was held and the case was set for an adjudicatory hearing and permanent custody trial. The magistrate ordered that Father be transported from the Stark County Jail to attend the trial.

{¶10} On April 15, 2026, the trial court held an adjudicatory hearing.

{¶11} At the hearing, SCJFS assessment worker Raelynn Hall testified regarding Mother’s involvement with the agency since 2017, including concerns regarding substance abuse, poor home conditions, mental health issues, and domestic violence. In 2017, four of Mother’s children were found to be dependent and were placed into custody of relatives after Mother failed to successfully complete case plan services. In 2018, Mother’s fifth child was

found to be dependent, and legal custody of that child was given to relatives after Mother failed to complete case plan services. Hall testified that, in 2024, Mother and Father had a child together (child number six). That child was adjudicated dependent and was placed into the permanent custody of SCJFS after neither parent completed case plan services and neither parent appeared for the permanent custody hearing.

{¶12} Hall further testified that K.N., Jr. was born extremely prematurely, weighing only 1.6 pounds at birth. Mother tested positive for marijuana when K.N., Jr. was born and admitted that she used marijuana and received no prenatal care. Mother reported that she was attending BrightView Health for substance abuse and drug treatment but continued to test positive for drugs. Mother reported to Hall that she and Father were living with customers that she met while working at Family Dollar. Mother also reported to Hall that she had been told to stay away from Father because of domestic violence concerns. However, Mother was unable to do so because Father “is her soulmate.” Mother further reported to Hall that she had not engaged in any case plan services since the previous case ended in August of 2025.

{¶13} Hall further testified that, at the time of K.N., Jr.’s birth, Father was on probation and listed as an “absconder.” At the time of the hearing, Father was incarcerated at the Stark County Jail. Hall identified several concerns regarding Father, including his drug use of methamphetamine, cocaine, and marijuana; alcohol abuse; and inability to successfully complete his probation stemming from a vehicular homicide conviction.

{¶14} Hall visited the home where Mother and Father were living. The home was very cluttered and contained several cats. Hall observed several piles of cat feces in the living area, and the home had a strong odor of urine. Hall does not believe the home is fit for a child. Mother and Father lived in the basement of the home. Hall was unable to view the basement

during her visit because police were in the basement searching for and arresting Father due to his outstanding warrant.

{¶15} Hall testified that, at the time the complaint was filed, neither Mother nor Father could provide safe care for the child. Hall also testified to Exhibits A and B - Exhibit A was a certified copy of the judgment entry granting permanent custody of K.N. Jr.'s sibling to SCJFS in August of 2025, and Exhibit B was a certified copy of Father's criminal conviction.

{¶16} Based upon Hall's testimony, the trial court found that K.N., Jr. is a dependent child. The trial court immediately proceeded to the dispositional/permanent custody hearing.

{¶17} Emily Smith ("Smith") is the ongoing caseworker for K.N., Jr. She was also the caseworker for the child's sibling (child number six), for whom SCJFS was granted permanent custody in 2025, and was, therefore, familiar with both Mother and Father. Smith testified regarding the previous case, in which both Mother and Father initially participated in case plan services - they were active in visiting the child and began their assessments. However, in approximately April or May of 2025, both parents stopped attending all appointments, stopped visiting the child, and stopped participating in services. Smith testified that they simply disappeared.

{¶18} Smith testified that K.N., Jr. is currently in the Akron Children's Hospital NICU (Neonatal Intensive Care Unit). He weighs three pounds but is still hooked to many machines. Smith stated that once he gains weight, he will require heart surgery. She anticipates that he will be in the hospital for approximately six months.

{¶19} Smith testified to several concerns with Father, including substance abuse, his inability to comply with services required by both probation and the agency, and his inability

to successfully complete probation. Smith visited Father in jail. Father told Smith that he is scheduled to be released from jail on May 28, 2026, and that he was being unsuccessfully discharged from probation. Smith does not believe Father can safely parent K.N., Jr. now, or when he is released. Similarly, she does not believe the risks to the child posed by Father have been reduced.

{¶20} In the previous case, Mother did not complete her case plan services. Smith testified that Mother's actions with respect to her other children demonstrated a pattern: Mother would initially participate in services and then stop participating altogether.

{¶21} When asked why the agency filed a permanent custody complaint with the goal of permanent custody rather than seeking reunification, Smith testified that the agency does not want to delay permanency for the child, particularly given his complex medical issues. Smith also noted that neither Mother nor Father has custody of any of their previous children, and that the parents have demonstrated a pattern of failing to complete case plan services. For example, although Father completed a program at Silver Maple Recovery for drug addiction, Father later tested positive for both methamphetamines and amphetamines.

{¶22} Smith also testified during the best interest portion of the trial that Father has not seen the K.N., Jr. since the child's birth because Father has been in jail. Thus, there is no bond between Father and the child. The adoptive parents of K.N., Jr.'s sister are willing to be foster and/or adoptive parents for K.N., Jr. They have been visiting him at the hospital. The foster mother is a nurse, and K.N., Jr.'s sibling is doing very well in their care.

{¶23} When asked why the agency could not give the parents additional time to work on their case plans and extend temporary custody for six months, Smith testified that she does not believe the parents can alleviate existing concerns within a six-month period. Smith

believes the parents will need far more than six months to complete even a portion of their case plans. Smith believes that the parents' historical pattern of initially participating in services and then disappearing and failing to complete their case plans was not in the best interest of a child with medically complex needs.

{¶24} Smith believes permanent custody to SCJFS is in the best interest of the child because it will allow the child to have a permanency plan in place when he is discharged from the hospital. Smith testified that K.N., Jr., will require daily medical care due to his complex medical issues, and she does not believe either Mother or Father can provide a safe environment, of being a safe parent, or of meeting the child's medical needs. Smith believes that in order for the child's needs to be met, permanent custody should be granted to SCJFS.

{¶25} The Guardian ad Litem ("GAL") also testified at the best interest portion of the hearing. The GAL had no contact with either parent. The GAL stated that he would like to see the parents have an opportunity to work on a case plan, because he believes all parents should be given an opportunity to rectify past mistakes. The GAL testified that the only situation in which he believes the agency should be granted permanent custody via a complaint is when a parent is incarcerated for a long period of time.

{¶26} Mother testified that she wants another chance and will follow a case plan. Mother has nine children under the age of 18, none of whom are in her custody. Mother admitted that she used marijuana during her pregnancy with K.N., Jr. and continues to use marijuana.

{¶27} Father testified that he will be released from the Stark County Jail at the end of May 2026. He was arrested on February 9, 2026, for a probation violation stemming from a vehicular homicide conviction in 2020. Father stated that he completed the Silver Maple

Recovery Program, as well as the STAR Program (an inpatient treatment program) as part of his probation. Father was supposed to enter Wilson Hall in November of 2025 but failed to do so, resulting in the issuance of a warrant for his arrest. Father testified that he did not go to Wilson Hall because he was caring for Mother during her pregnancy.

{¶28} Father did not successfully complete his probation. Rather, his probation was terminated, and he was sentenced to ninety days in jail. When asked why he did not complete any case plan services in the previous case, Father testified that he was on probation and was working and did not have time to complete case plan services.

{¶29} Father has eight children. He does not have custody of any of the children but testified that he remains in contact with several of them. Father is planning on living with Mother in the basement where they previously lived when he is released from jail. He and Mother would like to buy a house. Father would like the opportunity to complete case plan services and wants to visit his child. He believes he will be successful in working his case plan in this case.

{¶30} On April 15, 2026, the trial court issued a judgment entry finding K.N., Jr. to be a dependent child.

{¶31} The trial court issued a judgment entry on April 17, 2026, containing detailed findings of fact and conclusions of law. The trial court made the following findings: Mother and Father each had parental rights involuntarily terminated as to a sibling of K.N., Jr., in Case Number 2024JCV00963 and failed to present clear and convincing evidence that, notwithstanding the prior termination, he or she could provide a legally secure placement and adequately care for the health, safety, and welfare of the child pursuant to R.C. 2151.414(E)(11); Father abandoned K.N., Jr.; by clear and convincing evidence, K.N., Jr.,

cannot be placed with either parent within a reasonable time, nor should he be placed with his parents; and it was in the best interest for the child to be placed in the permanent custody of SCJFS. The court also found that any harm caused by terminating parental rights was outweighed by the benefits of permanency.

{¶32} Father appeals the April 17, 2026, judgment entry of the Stark County Court of Common Pleas, Juvenile Division, and assigns the following as error:

{¶33} “I. The judgment of the trial court that the best interests of the minor child would be served by the granting of permanent custody was not proven by clear and convincing evidence.”

Permanent Custody

{¶34} “[T]he right to raise [a child] 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 (1972). An award of permanent custody must be based on clear and convincing evidence. R.C. 2151.414(B)(1).

{¶35} Clear and convincing evidence is that evidence “which will produce in the mind of the trier of facts a firm belief or conviction as to the allegations sought to be established.” *Cross v. Ledford*, 161 Ohio St. 469, 477 (1954). “Where the degree of proof required to sustain an issue 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.” *Id.* If some competent and credible evidence going to all the essential elements of the case supports the trial court’s judgment, an appellate court must affirm the judgment and not substitute its judgment for that of the trial court. *C.E. Morris Co. v. Foley Constr. Co.*, 54 Ohio St.2d 279 (1978).

{¶36} Issues relating to the credibility of witnesses and the weight to be given to the evidence are primarily for the trier of fact. *Seasons Coal Co., Inc., v. Cleveland*, 10 Ohio St.3d 77 (1984). 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).

{¶37} In this case, SCJFS filed a complaint seeking permanent custody. R.C. 2151.353(A)(4) allows a children services agency to seek a disposition of permanent custody of a child when the agency files a complaint alleging that a child is dependent, without first offering case plan services or a path to reunification. *In re Baby Girl Baxter*, 17 Ohio St.3d 229, 234 (1985). Pursuant to R.C. 2151.353(A)(4), when a trial court adjudicates a child dependent, the court can only grant permanent custody to an agency if the court makes a two-prong determination: (1) at least one factor in R.C. 2151.414(E) is present, indicating that the child cannot or should not be placed with a parent within a reasonable time; and (2) the factors in R.C. 2151.414(D)(1) show that granting permanent custody of the child to the agency is in the child’s best interest.

{¶38} Here, the trial court made a finding pursuant to R.C. 2151.414(E)(11), specifically finding that Father had parental rights involuntarily terminated as to a sibling of K.N., Jr., and failed to present clear and convincing evidence that, notwithstanding the prior termination, he can provide a legally secure placement and adequate care for the health, welfare, and safety of the child. R.C. 2151.414(E)(11). SCJFS admitted into evidence certified records from the 2024 case involving K.N., Jr.’s full sibling. These records demonstrate that the juvenile court involuntarily terminated Father’s parental rights. Therefore, SCJFS

presented clear and convincing evidence that Father had parental rights terminated to a sibling of K.N., Jr.

{¶39} The burden then shifted to Father to present clear and convincing evidence that, despite the previous involuntary termination, he can provide a legally secure placement and adequate care for the health, welfare, and safety of K.N., Jr. R.C. 2151.414(E)(11). The trial court found that Father did not meet that burden. Father does not challenge or dispute that finding.

Manifest Weight

{¶40} In his assignment of error, Father argues the trial court's decision was against the manifest weight of the evidence. The standard of review for manifest weight in a civil case is identical to the standard in a criminal case: a reviewing court is to examine the entire record, weigh the evidence and all reasonable inferences, consider the credibility of witnesses and determine "whether in resolving conflicts in the evidence, the jury [or finder of fact] clearly lost its way and created such a manifest miscarriage of justice that the conviction [or decision] must be reversed and a new trial ordered." *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997).

{¶41} Because the finder of fact is in the best position to weigh the credibility of the witnesses and observe their demeanor, a reviewing court will always be mindful of the presumption in favor of the trial court's factual findings. *Eastley v. Volkman*, 2012-Ohio-2179.

I.

{¶42} Father argues that the trial court's determination that granting permanent custody to SCJFS was in K.N., Jr.'s best interest was against the manifest weight of the evidence. Father contends that the child can have a legally secure placement without the granting of permanent custody because the child must remain in the NICU for several more

months. Further, Father contends that bonding and case plan services could have taken place during that time.

{¶43} We have frequently noted, “[t]he discretion which 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.” *In re Mauzy Children*, 2000 WL 1700073, * 3 (5th Dist. November 13, 2000), citing *In re Awkal*, 95 Ohio App.3d 309, 316 (8th Dist. 1994).

{¶44} In determining the best interest of the child at a permanent custody hearing, R.C. 2151.414(D) mandates the trial court must consider all relevant factors, including, but not limited to the following: (1) the interaction and interrelationship of the child 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 wishes of the child as expressed directly by the child or through the child’s guardian ad litem, with due regard for the maturity of the child; (3) the custodial history of the child; (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; and (5) whether any of the factors in divisions (E)(7) to (11) of this section apply in relation to the parents and child.

{¶45} Accordingly, a trial court’s finding that a parent has lost parental rights to another child applies to both prongs of the permanent custody analysis as to (1) whether a child cannot or should not be placed with a parent (R.C. 2151.414(E)(11)) and (2) whether permanent custody is in the child’s best interest (R.C. 2151.414(D)(1)(e)).

{¶46} The trial court must consider all the elements in R.C. 2151.414(D), as well as other relevant factors. There is not one element that is given greater weight than the others pursuant to the statute. *In re Schaefer*, 2006-Ohio-5513. The *Schaefer* Court made it clear that a trial court's statutory duty, when determining whether it is in the best interest of a child to grant permanent custody to an agency, does not include finding by clear and convincing evidence that no suitable relative was available for placement. *Id.* R.C. 2151.414 "requires the court to find the best option for the child ... The statute does not make the availability of a placement that would not require a termination of parental rights an all-controlling factor. The statute does not even require the court to weigh that factor more heavily than others." *Id.* at ¶ 64.

{¶47} The focus on the "best interest" determination is upon the child, not the parent, as R.C. 2151.414(C) specifically prohibits the court from considering the effect a grant of permanent custody would have upon the parents. *In re Awkal*, 95 Ohio App.3d 309, 316 (8th Dist. 1994).

{¶48} Here, clear and convincing evidence supports the trial court's best-interest determination. Smith testified that there is no bond between Father and K.N., Jr., due to Father's incarceration since shortly after the child's birth. Smith stated that the foster parents visit K.N., Jr. in the hospital and they are the same foster parents who have custody of K.N., Jr.'s full sibling. Smith believes it is in the best interest of the child for permanent custody to be granted to SCJFS.

{¶49} As to Father's argument that he should have time to work a case plan while the child is in the NICU, Smith specifically testified that she did not believe this was in the child's best interest given the child's medically complex needs and the heightened need for

permanency for a child who is going to need daily medical care. She also testified that there is no indication that Father could successfully complete a case plan such that he can provide an adequate, safe, and stable environment or reduce the risk he posts to K.N., Jr. Smith based her opinion on several factors: Father participated in several drug-treatment programs as required by his probation but subsequently relapsed; Father absconded from probation and is being unsuccessfully discharged from probation; Father did not successfully complete the case plan in the recent prior case; and Father's parental rights were involuntarily terminated as to K.N., Jr.'s full sibling in August of 2025.

{¶50} Father confirmed through his own testimony that he completed several drug-treatment programs but subsequently relapsed. He also acknowledged that he did not successfully complete his case plan in the prior case. Additionally, Father testified that, upon his release from jail, he intends to return with Mother to the home that Hall described as unsafe for a child.

{¶51} We find the trial court properly considered and weighed the factors in R.C. 2151.414(D) and the trial court's conclusion that the granting of permanent custody to SCJFS is in the best interest of the child is supported by competent and credible evidence. Further, the trial court did not lose its way and create a manifest miscarriage of justice such that the decision must be reversed and a new trial ordered. Father's first assignment of error is overruled.

{¶52} Based on the foregoing, Father's assignment of error is overruled.

{¶53} For the reasons stated in our Opinion, the April 17, 2026, judgment entry of the Stark County Court of Common Court, Juvenile Division, is affirmed.

{¶54} Costs to Appellant-Father.

By: Popham, J.

Hoffman, P.J. and

Montgomery, J., concur