

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

IN RE: A.R.(1) & A.R.(2)

Case Nos. 2026 CA 0056
2026 CA 0057

Opinion And Judgment Entry

Appeal from the Richland County Court of
Common Pleas, Juvenile Division, Case
Nos. 2024 DEP 00215, & 2024 DEP 00216

Judgment: Affirmed

Date of Judgment Entry: October 9, 2026

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

APPEARANCES: Sarah E. Exten, for Appellee - RCCS; Wesley A. Johnson, for-
Appellant-Mother

OPINION

Popham, J.,

{¶1} Mother appeals the May 5, 2026, judgment entry of the Richland County Court of Common Pleas, Juvenile Division, terminating her parental rights and granting permanent custody of A.R.(1) and A.R.(2) to Richland County Children Services (“RCCS”). For the reasons below, we affirm.

Facts & Procedural History

{¶2} E.M. is the mother (“Mother”) of A.R.(1), who was born on March 24, 2022, and A.R.(2), who was born on February 2, 2023. T.R. is the Father of both A.R.(1) and A.R.(2).

{¶3} On November 14, 2024, RCCS filed a complaint alleging that both A.R.(1) and A.R.(2) were dependent and neglected.

{¶4} The complaint alleged, in part, as follows: A.R.(1) and A.R.(2)’s younger brother was born prematurely and Mother tested positive for THC at his birth; the care of A.R.(1) and A.R.(2)’s older brother was largely relegated to maternal grandmother and maternal aunt, both of whom have significant child-welfare histories; their older brother was not attending school despite being of school age; neither A.R.(1) nor A.R.(2) had received medical care beyond their initial well-child visits after birth; and Father has issues with methamphetamine and THC.

{¶5} On November 20, 2024, the magistrate held an adjudicatory hearing. Mother attended the hearing, but Father did not because he was incarcerated in Crawford County Jail. On December 9, 2024, another adjudicatory hearing was held, at which Mother appeared and stipulated to a finding of dependency. Father again did not appear. RCCS withdrew its allegations of neglect. Accordingly, in a judgment entry dated December 17, 2024, the trial court found A.R.(1) and A.R.(2) to be dependent children.

{¶6} On January 23, 2025, the magistrate held a dispositional hearing. The court granted temporary custody of A.R.(1) and A.R.(2) to RCCS. The court conducted review hearings on April 17, 2025, and November 12, 2025, and pretrials on December 9, 2025, and January 14, 2026.

{¶7} On November 5, 2025, RCCS moved for permanent custody of A.R.(1) and A.R.(2). Mother appeared for the permanent custody hearing on April 8, 2026. Father did not appear, and RCCS believed he had moved to Alabama.

{¶8} Heavyn Long (“Long”), the ongoing RCCS caseworker assigned to A.R.(1) and A.R.(2)’s cases, testified that the concerns leading to their removal from the home included Mother’s substance abuse, her failure to enroll her older son in school, and her failure to take their younger brother to necessary medical appointments.

{¶9} Long stated that Mother’s case plan required her to complete a mental health assessment and follow all recommendations, complete an alcohol and drug assessment and follow all recommendations, submit to random drug screens, and participate in a parenting program. Long testified that Mother was not in compliance with any portion of her case plan.

{¶10} In February 2025, Mother enrolled in an online parenting program. However, as of December 2025, she had completed only 90% of the program. Because Mother was living in Crawford County at the time, Long referred her to a different parenting program, Catalyst. Because Catalyst was not located in Richland County, Long told Mother she would have to call to schedule an appointment. Long had no information indicating that Mother ever contacted Catalyst.

{¶11} Mother did not complete a mental health assessment or an alcohol and drug assessment. Mother was scheduled to undergo a psychological evaluation at Lighthouse Family Center on March 24, 2025, but she forgot about the appointment. Mother was instructed to call Lighthouse to reschedule, but she never did so.

{¶12} Mother tested positive for THC. Long stated that it was difficult for her to reach Mother, and, consequently, the last time Mother submitted to a drug screen was September

17, 2025. Long testified that she attempted to contact Mother through multiple phone calls and text messages, and by going to several addresses where Mother had lived. Long stated that, throughout the case, Mother lived with friends or family and frequently moved because she lacked stable housing.

{¶13} Initially, Mother had visits with A.R.(1) and A.R.(2) twice a week – Wednesday and Friday. However, Mother failed to appear for Friday visits, so her visits were reduced to once per week. Long testified that Mother also cancelled many Wednesday visits. Long stated there were issues during the visits. Mother would spend her time holding her younger son but paid little to no attention to either A.R.(1) or A.R.(2). Long testified that Mother frequently used inappropriate language at the visits and brought inappropriate snacks. Further, even though she knew that A.R.(1) and A.R.(2) were being toilet-trained, Mother refused to take them to the bathroom during one visit.

{¶14} A.R.(1) and A.R.(2) were initially placed together in a foster home separate from their brothers. However, the children are now all together in one foster home. Long testified that A.R.(1) and A.R.(2) are doing well. They are receiving appropriate medical care and are very bonded to the foster parents, especially the foster mother. Both are also bonded to extended family and their siblings. Long testified that A.R.(1) and A.R.(2) need stability, structure, and permanency, and that Mother is not capable of providing that structure. Long testified granting permanent custody to RCCS is in the best interest of A.R.(1) and A.R.(2).

{¶15} The foster mother testified that A.R.(1) required significant dental work and that A.R.(2) had eye surgery and may require a second eye surgery. However, both children are doing well and attending all required appointments.

{¶16} The Guardian ad Litem, Tricia Lewis, testified that she recommends granting permanent custody to RCCS. Lewis stated that A.R.(1) and A.R.(2) are attached to each other and very attached to their foster parents. She further testified that the children have responded very well to structure and stability.

{¶17} Lewis attempted to contact Mother, but Mother did not respond to her messages. Lewis confirmed with Mother at court hearings that Mother has Lewis's contact information. Despite this, Mother never contacted Lewis.

{¶18} At the April 2026 hearing, Mother testified that she is currently staying at a friend's house and working as a dancer. Mother denied using inappropriate language during visits and testified that she brought appropriate snacks. Mother acknowledged that she did not complete her case plan services. However, she stated that she did not do so because Father was severely abusive and controlling. She testified that she did not take the children to medical appointments because she does not have a driver's license or a vehicle.

{¶19} Mother stated that, even though Father went to jail shortly after the children were removed from the home, she did not get a job at that time because "[she] was not worrying about it at the moment." Mother testified that Father would not let her complete a mental health assessment, an alcohol and drug assessment, or any other assessment. When asked why she did not complete any case plan services while Father was in jail, Mother testified that she had severe postpartum depression. However, she did not seek any medical or mental health treatment.

{¶20} On May 5, 2026, the trial court issued a judgment entry containing detailed findings of fact and conclusions of law as follows: Mother failed to substantially remedy the conditions causing A.R.(1) and A.R.(2) to be placed outside the home pursuant to R.C.

2151.414(E)(1); Mother demonstrated a lack of commitment toward A.R.(1) and A.R.(2) by showing an unwillingness to provide an adequate permanent home for A.R.(1) and A.R.(2) due to Mother's continued abuse of illegal substances, economic instability, and lack of stable housing; and A.R.(1) and A.R.(2) were in the temporary custody of the agency for twelve or more months of a consecutive twenty-two-month period. Finally, after considering the factors set forth in R.C. 2151.414(D)(1), the court concluded that granting permanent custody of A.R.(1) and A.R.(2) to RCCS was in the children's best interest.

{¶21} Mother appeals the May 5, 2026, judgment entry of the Richland County Court of Common Pleas, Juvenile Division, and assigns the following as error:

{¶22} "I. The trial court erred and abused its discretion by terminating Mother's parental rights and granting permanent custody of the child[ren] to Richland County Children Services (RCCS)."

I.

Permanent Custody

{¶23} "[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).

{¶24} Clear and convincing evidence is that evidence "which will provide in the mind of the trier of facts a firm belief or conviction as to the facts 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).

{¶25} 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).

{¶26} R.C. 2151.414 sets forth guidelines a trial court must follow when deciding a motion for permanent custody. R.C. 2151.414(A)(1) mandates the trial court schedule a hearing and provide notice of the filing of a motion for permanent custody of a child by a public children services agency.

{¶27} Following the hearing, R.C. 2151.414(B) authorizes the court to grant permanent custody of the child to the public or private agency if the court determines, by clear and convincing evidence, it is in the best interest of the child to grant permanent custody to the agency, and that any of the following apply: (a) the child is not abandoned or orphaned, has not been in the temporary custody of the children services agencies for twelve or more months of a consecutive twenty-two month period, and the child cannot be placed either of the child's parents within a reasonable time or should not be placed with the child's parents; (b) the child is abandoned; (c) the child is orphaned and there are no relatives of the child who are able to take permanent custody; (d) the child has been in the temporary custody of one or more public children services agencies or private child placement agencies for twelve or more months of a consecutive twenty-two month period; or (e) the child or another child in the

custody of the parent or parents from whose custody the child has been removed has been adjudicated an abused, neglected, or dependent child on three separate occasions by any court in this state or another state.

{¶28} Therefore, R.C. 2151.414(B) establishes a two-pronged analysis the trial court must apply when ruling on a motion for permanent custody. In practice, a 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. In this case, as to Mother, the trial court made a finding pursuant to R.C. 2151.414(B)(1)(a) (reasonable time) and R.C. 2151.414(B)(1)(d) (temporary custody by the agency for twelve or more months of a consecutive twenty-two-month period).

Manifest Weight

{¶29} 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 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).

{¶30} 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.

Twelve out of Twenty-Two Months

{¶31} The trial court determined, pursuant to R.C. 2151.414(B)(1)(d) and R.C. 2151.413(D)(1), that A.R.(1) and A.R.(2) had been in the temporary custody of the agency

for a period of time in excess of twelve of the prior twenty-two consecutive months. R.C. 2151.413(D)(1) provides that, “a child shall be considered to have entered the temporary custody of an agency on the earlier of the date the child is adjudicated pursuant to section 2151.28 of the Revised Code or the date that is sixty days after the removal of the child from the home.” Here, Long testified that A.R.(1) and A.R.(2) were adjudicated dependent via a judgment entry on December 17, 2024, and remained continuously in the temporary custody of the agency through the April 8, 2026, hearing, a period of approximately sixteen months. Accordingly, the trial court’s “twelve-of-twenty-two-month” determination was not against the manifest weight of the evidence.

{¶32} As findings under R.C. 2151.414(B)(1)(a), R.C. 2151.414(B)(1)(b), and R.C. 2151.414(B)(1)(d) are alternative findings, each is independently sufficient to use as a basis to grant the motion for permanent custody. *In re Dalton*, 2007-Ohio-5805, ¶ 88 (5th Dist.). As such, the “twelve-of-twenty-two-month” finding alone in conjunction with a best interest finding is sufficient to support the grant of permanent custody. *In re Calhoun*, 2008-Ohio-5458, ¶ 45 (5th Dist.). Because Mother has not challenged the twelve-of-twenty-two-month finding, we would not need to address the merits of her claim with regards to the trial court’s determination under 2151.414(B)(1)(a) (reasonable time). However, as detailed below, even if we consider Mother’s argument, we find the trial court did not commit error in its determination under R.C. 2151.414(B)(1)(a).

Reasonable Time

{¶33} Mother argues the trial court’s determination that A.R.(1) and A.R.(2) could not or should not be placed with her within a reasonable time is against the manifest weight of the evidence. We disagree.

{¶34} Pursuant to R.C. 2151.414(E), the trial court must consider all relevant evidence before determining the child cannot be placed with either parent within a reasonable time or should not be placed with either parent. The statute also specifically provides that if the trial court determines, by clear and convincing evidence, at a hearing that one or more of the factors listed in (1)-(15) exist, the court shall enter a finding that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent. The existence of one factor alone will support a finding that the child cannot be placed with the parent within a reasonable time. *See In re William S.*, 75 Ohio St.3d 95 (1996). Here, the trial judge relied on two of these factors: R.C. 2151.414(E)(1) and R.C. 2151.414(E)(4).

R.C. 2151.414(E)(1) – Failure to Remedy

{¶35} R.C. 2151.414(E)(1) applies when “notwithstanding reasonable case planning and diligent efforts by the agency to assist the parents to remedy the problems that initially caused the child to be placed outside the home, the parent has failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child’s home.” In making this determination, “the court shall consider parental utilization of medical, psychiatric, psychological, and other social rehabilitative services and material resources that were made available to the parents for the purpose of changing parental conduct to allow them to resume and maintain parental duties.” *Id.*

{¶36} Mother contends the trial court’s “failure-to-remedy” findings are against the manifest weight of the evidence and that the trial court unfairly discounted her testimony. We disagree.

{¶37} We find clear and convincing evidence in the record supporting the trial court’s determination that R.C. 2151.414(E)(1) applies. Mother failed to substantially remedy the

conditions that caused A.R.(1) and A.R.(2) to be placed in the custody of RCCS, and she remained unable to provide an adequate permanent home for A.R.(1) and A.R.(2). RCCS provided Mother with a case plan outlining the steps necessary for reunification. However, Mother failed to complete the majority of her case-plan requirements. Specifically, she failed to address her substance-abuse and mental-health concerns, obtain stable employment, and provide stable housing.

{¶38} Mother argues that Father's abuse prevented her from completing any case plan services. However, Father went to jail shortly after the children were removed from the home. Despite Father's incarceration, Mother failed to complete any assessments or otherwise work on her case plan. Mother also testified that depression prevented her from completing her case plan services. However, she failed to obtain medical or mental health assistance and continued to use THC throughout the case. Mother's actions demonstrate her continued inability to provide an adequate permanent home for A.R.(1) and A.R.(2).

{¶39} We find clear and convincing evidence was presented to the trial court that A.R.(1) and A.R.(2) could not be placed with Mother within a reasonable period time because Mother failed to remedy the conditions that led to the removal of the children and was unable to provide a permanent home for them.

R.C. 2151.414(E)(4) – Lack of Commitment

{¶40} R.C. 2151.414(E)(4) provides another basis for concluding that a child cannot be placed with a parent within a reasonable amount of time or should not be placed with a parent. Under this statutory provision, the trial court found that Mother demonstrated a lack of commitment toward A.R.(1) and A.R.(2) by failing to regularly support, visit, or

communicate with them when able to do so, or by engaging in other actions demonstrating an unwillingness to provide an adequate permanent home.

{¶41} The trial court's finding of Mother's lack of commitment was based upon her continued drug use, lack of income, and lack of stable housing.

{¶42} Long testified that Mother briefly participated in an online parenting class, but failed to complete it. Mother never attempted to complete any of the required assessments. Her visits were reduced from twice weekly to once weekly because she regularly failed to attend, or she cancelled at the last minute. Mother did not have stable housing and moved from place to place, including living with family members who had a lengthy history with RCCS. Mother did not obtain employment until recently, when she began working as a dancer.

{¶43} Therefore, the trial court's finding under R.C. 2151.414(E)(4) is not against the manifest weight of the evidence.

Best Interest

{¶44} Mother also contends the trial court's determination that the best interest of the children would be served by granting permanent custody to RCCS was against the manifest weight of the evidence. We disagree.

{¶45} 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 the child should be accorded the utmost respect, given the nature of the proceeding and the impact that 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).

{¶46} 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.

{¶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* at 316.

{¶48} Long testified that granting permanent custody to RCCS is in the best interest of A.R.(1) and A.R.(2). Similarly, Lewis testified that permanent custody to RCCS is in their best interest. A.R.(1) and A.R.(2) joined their brothers in their current foster home in January 2025. Since that time, both children have become very attached and bonded to the foster family and to each other. Both seek out the foster mother for comfort and enjoy spending time with the foster parents' biological children. The foster parents have obtained appropriate medical care for both children, including significant dental care for A.R.(1) and eye surgery for A.R.(2).

{¶49} 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 RCCS

is in the best interest of the children 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.

{¶50} We find the trial court did not commit error in finding that granting permanent custody to RCCS is in the best interest of A.R.(1) and A.R.(2).

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

{¶52} For the reasons stated in our Opinion, the judgment of the Richland County Court of Common Pleas, Juvenile Division, is affirmed.

{¶53} Costs to Mother.

By: Popham, J.

Hoffman, P.J. and

Montgomery, J., concur