

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

IN THE MATTER OF S.L.

DEPENDENT CHILD
ABUSED CHILD

Case No. 2026 CA 0054

Opinion And Judgment Entry

Appeal from the Richland County Court of
Common Pleas, Juvenile Division, Case No. 2024-
DEP-00048

Judgment: Affirmed

Date of Judgment Entry: October 14, 2026

BEFORE: Craig R. Baldwin; Robert G. Montgomery; David M. Gormley, Judges

APPEARANCES: CASSANDRA J. M. MAYER, for Appellant Father; SARAH E.
EXTEN, for Richland County Children Services, for Defendant-Appellee.

Montgomery, J.

{¶1} Appellant-Father, Damien Lake, appeals from the judgment of the Stark County Court of Common Pleas, Juvenile Division, granting the Richland County Children Services' ("Agency") motion for permanent custody of the minor child, SL. For the reasons below, we AFFIRM.

STATEMENT OF THE CASE

{¶2} The child, SL (“SL”), was born on November 13, 2023, at thirty-six weeks, weighing four pounds and fifteen ounces. The biological parents are Jennifer Kittle (“Mother”) and Damien Lake (“Father”). They were not married at the time of SL’s birth. SL was exposed in utero to amphetamines, THC, cocaine, heroin, fentanyl, and methadone. SL has a club foot and was positive for Hepatitis C. Shortly after his birth, the Agency received a referral. He requires ongoing specialized medical treatment and monitoring regarding the Hepatitis C diagnosis and must wear “boots and braces” until age four to correct his club foot. SL has five maternal half-siblings, two of whom are now adults.¹ SL could not be placed with Father at birth because Father was incarcerated at Lorain Correctional Institution - due to parole sanctions for charges including criminal damaging, drug abuse, and driving under suspension - and had resumed serving his thirteen-year sentence on a prior conviction for Felonious Assault, with a three-year gun specification.

{¶3} On March 1, 2024, Children Services filed its initial Complaint alleging SL to be a dependent, neglected, and abused child and requested an initial disposition of temporary custody to fictive kin, Annshalea and Johnny Yelton, with a grant of protective supervision

¹Mother has ultimately lost custody of each of SL’s half-siblings. During that investigation, in January of 2024, mother was indicted and incarcerated at the Richland County Jail attendant to charges of child endangering, aggravated drug possession, and tampering with evidence, to which she later pled guilty and was given three concurrent thirty-six-month sentences to serve at the Ohio Reformatory for Women (ORW), in Marysville, Ohio. Mother’s expected release date is in January 2027. Mother has a fifteen-year history of sustained drug abuse and numerous incarcerations as a result thereof.

Mona Williams is a long-time friend of both mother and father. She has Legal Custody of Chance Kittle, one of SL’s maternal half-siblings, who is now five years old, legally blind, and was born with profound medical issues which have since necessitated a bone marrow transplant. Father has two adult sons who are paternal half-siblings to SL.

to the Agency. Shortly after, due to an undisclosed illness, Ms. Yelton was no longer able to care for SL, and Father and Mother's longtime friend, Mona Williams, did not want to care for SL. As such, on March 22, 2024, the Agency was granted temporary custody. Thereafter, with the agreement of Mother and Father, SL was found to be a dependent and abused child as reflected in a Judgment Entry filed July 15, 2024. SL was placed with a foster family and has remained in that placement throughout these proceedings.

{¶4} On February 24, 2025, the Agency filed its Motion for permanent custody pursuant to R.C. 2151.414(E)(1), (4), and (16) as to both Mother and Father, and (E)(12) as to Mother only. On July 14, 2025, father filed his Motion for Legal Custody to Father, or in the alternative, a Third Party and his Motion for Visitation. On August 11, 2025, and November 3, 2025, a full hearing on the merits took place.

{¶5} The following individuals appeared at the hearing: Mother was able to participate by zoom for a portion of the proceedings held on August 11, 2025, but was not available on November 3, 2025. Mother was represented on both dates by Attorney John O'Donnell; Father was present and represented by Attorney Cassandra Mayer; Attorney Sarah Exten appeared on behalf of the Agency along with Agency Caseworker Michele Stiggle; Attorney Jodie Dees on behalf of the minor child; and CASA/GAL Kathy Emerson, with CASA staff, Jason Kline.

{¶6} In support of its Motion for permanent custody, the Agency presented testimony from the following individuals: (1) Matthew Levitas with Forensic Fluids Laboratories; (2) Dr. Aimee Thomas, Psychologist with Lighthouse Family Center; (3) Shannon Teynor with North Central State College Child Wellness Center; (4) Jagger Elliott, Agency caseworker; (5) Renee Wiseman, Agency caseworker; (6) April Williams, foster

mother; (7) Anthony “Jake” Williams, foster father; (8) Michele Stiggle, ongoing Agency caseworker; and (9) Kathy Emerson, guardian ad litem (“GAL”) with CASA.² On behalf of Father, Attorney Mayer presented testimonial evidence from: (1) Katie Reitler, Father’s counselor; (2) Renee Wiseman; (3) Mona Williams, proposed legal custodian; (4) Ronald Nagel Jr., Father’s roommate/landlord; (5) Jade Dodson; and (6) Father testified on his own behalf.³

{¶7} On November 24, 2025, after considering the testimony and evidence submitted by the parties, the Magistrate filed a Decision granting the Agency’s motion for permanent custody. On December 4, 2025, Father filed Objection to Magistrate's Decision. Father’s objections argued: (1) the magistrate erred in finding that Father continuously and repeatedly failed to remedy the problems that initially caused the child to be placed outside the home, under R.C. 2151.414(E)(1); (2) that subsection (E)(4) was not satisfied because Father did not demonstrate a lack of commitment toward the child by failing to regularly support, visit, or communicate with the child or by other actions showed an unwillingness to provide an adequate permanent home for the child; and (3) that no other factor or factors exist under subsection (E)(16) to support permanent custody to the Agency. Father also argued a violation of R.C. 2151.419 concerning the Agency’s lack of reasonable efforts to reunify SL with Father, and that Mona Williams was improperly excluded as a possible legal custodian. The Court conducted a de novo review of the Magistrate’s Decision and overruled Father’s objections in their entirety.

² Counsel for the parties also agreed to admit Agency exhibits A through D.

³ The Magistrate further admitted into evidence, without objection, the Agency’s exhibit E (GAL Report) and Father’s exhibits 1 and 2a through h.

STATEMENT OF FACTS

{¶8} The record demonstrates the following facts. As stated, SL was positive at birth and, shortly thereafter, the Agency got involved and received temporary custody. Upon Father's release from prison, and after establishing paternity, the court approved the Agency's case plan to address the concerns regarding Father. The case plan set forth objectives and required that Father do the following: participate in a Lighthouse Assessment and follow any and all recommendations therefrom; actively engage in and successfully complete a parenting education program and demonstrate the skills acquired on a consistent basis; obtain and maintain safe and stable housing; obtain and maintain stable and verifiable employment; comply with his terms of post-release control and not act in a manner that could result in further incarceration; provide for the child's basic needs and attend medical appointments when able; have consistent and meaningful communication with the caseworker through announced and unannounced home visits, including the periodic signing of releases of information and providing his caseworker with current contact information for himself and/or his service providers. The approved case plan also provided for weekly supervised visitation between SL and Father for two hours per visit. Father consistently visited with SL and often included Mother in visits using "facetime." Caseworker Elliott supervised the visits.

{¶9} On December 19, 2024, the Court approved a case plan amendment maintaining supervision of the visits, but moving them to Father's home on Mulberry Street, Mansfield, Ohio, and allowing Father's parents to participate in those visits once per month. Father advised the Agency that he had an unwritten land contract with his roommate/landlord, Ronald Nagel, Jr. Father performed handyman work in exchange for

the housing and paid some rent and utilities. Curtis Chaney, Father's relative, also lived in the home and has a felony drug possession conviction.

{¶10} Caseworker Elliott testified he was uncomfortable when supervising visits at Father's home, due to the unknown number and identity of people elsewhere in the home and the strong odor of marijuana in the home. SL's foster parents also complained to the Agency about the marijuana smell on SL and his clothes after visits with Father. Shannon Teynor, Headstart home visitor, also became uncomfortable with attending visits at Father's home due to personal comments made to her by Father. Father was eventually terminated from the Headstart program. Thereafter, the Agency amended Father's case plan again, moving the supervised visits back to the Agency, and Father was required to submit to drug screens, complete a drug and alcohol assessment, and follow all recommendations.

{¶11} Without question, Father did engage in some services and completed some goals/objectives as set forth in his case plan. On July 26, 2024, Father completed his Lighthouse Assessment as required. In her report, dated September 7, 2024, Dr. Aimee Thomas diagnosed Father with a stress and trauma related disorder (PTSD), a personality disorder with narcissistic, paranoid, and antisocial traits, and a cannabis use disorder "in full remission" - although Dr. Thomas noted this diagnosis was negated by Father's defensive approach to that particular testing tool. Dr. Thomas recommended that Father engage in weekly to bi-weekly trauma-informed counseling, complete an "intensive" parenting education program, complete an anger management program, and secure and maintain gainful employment to demonstrate his ability to meet SL's basic needs before "reunification" should be considered.

{¶12} In December 2024, Father began mental health services. At the time of the hearing, Father was participating in anger management and individual counseling with Ms. Reitler. However, Ms. Reitler did not provide alcohol and drug (AoD) counseling for Father. Ms. Reitler testified that Father did not meet the criteria for AoD care after a self-reported assessment was conducted. In other words, Father did not inform Ms. Reitler of his continuous positive drug screens conducted by the Agency. Father also attended many of SL's medical appointments, completed a parenting education program, and continues to engage in parenting education with Fathers Within although that program is not an "intensive" program as recommended by Dr. Thomas.

{¶13} Despite Father's progress toward case plan objectives, Father has not obtained and maintained stable and verifiable employment. Father does not have a driver's license and/or driving privileges due to numerous misdemeanor traffic offenses he's committed since his 2024 release from prison, and for which he still owes court costs/fines and has suspended jail time for several of those offenses.

{¶14} Additionally, the GAL was assigned this matter in March of 2024, and has conducted her own investigation, actively participated in Court proceedings, and filed a final report filed on July 23, 2025. The GAL testified that she believes Mona Williams is now agreeing to be SL's legal custodian out of obligation to Mother and/or Father, rather than due to any bond she has with SL. The GAL acknowledged the bond between SL and Father but does not support custody to Father. The GAL has major concerns regarding Father's current residence, the type of environment SL would be subjected to, Father's refusal to seek an alternate residence despite legitimate concerns, Father's continued drug use, and Father's

lack of stable and verifiable income. At the hearing, she reaffirmed her report. Likewise, Father did not disavow contact with Mother upon her release from incarceration.

{¶15} The trial court noted that Father has continued to place himself in situations that could result in incarceration and/or financial penalties, each of which would cause instability in his life and SL's life. Father has continued to test positive for drugs of abuse even while the Agency's Motion was pending. Most recently, Father tested positive for THC and cocaine on October 24, 2025, during these very proceedings. Father's drug abuse is highly relevant to his ability to protect and parent his child, because of the risk to the child that has already materialized. The trial court further stated:

While incarceration and status as a felon may slow down his ability to obtain stable housing and employment, that fact does not change the child's need for permanency. Mr. Lake's persistent drug use was a significant reason why the child was never placed with him. Under the case plan, he was required to follow all recommendations of his Lighthouse assessment, part of which was to undergo a drug and alcohol assessment and follow all recommendations. While he did undergo such an assessment, he failed to inform the assessor of the results of his recent drug screens, which negated the validity of the assessment. Mr. Lake's failure to disclose his drug use to a counselor shows that he is not committed to change, but to concealing and continuing his drug use. In November 2025, he tested positive for marijuana and cocaine. The Guardian ad Litem found that Mr. Lake was merely "checking the box" to try to obtain custody, rather than accepting his need for change. This dishonesty further casts doubt on his ability to parent his child.

During the time Mr. Lake has been afforded to work his case plan, he has demonstrated that he does not take seriously his obligation to end his drug use. He claims that it is his own business ignoring the risk that drug use poses to a child.

Mr. Lake has also demonstrated issues with paranoia, anxiety, and depression, common symptoms associated with marijuana use. He admitted to purchasing marijuana “on the street.” He is knowingly engaged in illegal marijuana purchase and allegedly unknowingly subjecting himself to cocaine use. The Court is not required to take risks with a child’s well-being by awarding custody to a person who takes risks with his own safety. A reasonable person is aware that purchasing drugs illegally means that there is no knowledge as to what those drugs contain. * * *

The marijuana odor attending the child after returning from visits with Mr. Lake and the illegal manner in which he obtains his marijuana demonstrate that he is not committed to exercising reasonable judgment. The fact that he needed to be told not to expose his son to marijuana use or even the after-effects of the odor, demonstrate poor judgment. If, as he claims, he does not know how cocaine entered his system, that ignorance is just as concerning as if he did know, because it shows that he makes poor decisions without considering his own safety, and a child should never be placed with a person so devoid of good judgment. If father cannot even be trusted to know what he is putting into his own body, the Court cannot take the risk that he would lack such care with his child.

Judgment Entry, April 28, 2026, ¶¶ 11-16.

ASSIGNMENTS OF ERROR

{¶16} “I. THE MAGISTRATE’S DECISION AND THE FINDINGS OF THE COURT ARE CONTRARY TO LAW.”

{¶17} “II. THE MAGISTRATE’S DECISION AND THE FINDINGS OF THE COURT ARE AN ABUSE OF DISCRETION.”

{¶18} “III. THE MAGISTRATE’S DECISION AND THE FINDINGS OF THE COURT ARE AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.”

STANDARD OF REVIEW

{¶19} The “right to raise a child is an ‘essential’ and ‘basic’ civil right.” *In re T.C.*, 2020-Ohio-882, ¶ 35 (5th Dist.); *In re Murray*, 52 Ohio St.3d 155, 157 (1990), quoting *Stanley v. Illinois*, 405 U.S. 645 (1972). A parent has a fundamental liberty interest in the care, custody, and management of his or her child and an essential and basic civil right to raise his or her children. *Murray*, at 156.

{¶20} That right, however, is not absolute. “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 R.M., Jr.*, 2018-Ohio-395, ¶ 23 (5th Dist.) quoting, *In re Cunningham*, 59 Ohio St.2d 100, 106 (1979). When a court determines whether to permanently terminate parental rights, the court must grant the affected parent “every procedural and substantive protection the law allows.” *In re Smith*, 77 Ohio App.3d 1, 16 (6th Dist. 1991).

{¶21} On appeal, “[o]ur role is to determine whether there is relevant, competent and credible evidence upon which the fact finder could base its judgment.” *In re A.R.*, 2026-Ohio-

2577, ¶ 20, citing *In re D.R.*, 2024-Ohio-1819, ¶ 28 (5th Dist.). “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.*, 2023-Ohio-4703, ¶ 8; *In re N.K.*, 2026-Ohio-1087, ¶ 56, quoting *State v. Schiebel*, 55 Ohio St.3d 71, 74 (1990) (other citation omitted). Accordingly, judgments supported by some competent, credible evidence going to all the essential elements of the case will not be reversed as being against the manifest weight of the evidence. *Id.*, citing *C.E. Morris Co. v. Foley Constr.*, 54 Ohio St.2d 279, syllabus (1978); *In re R.M.*, 2013-Ohio-3588, ¶ 55 (4th Dist.); *In re K.H.*, 2008-Ohio-4825, ¶ 43; R.C. 2151.414(B)(1).

{¶22} “Clear and convincing evidence” is “that measure or degree of proof which is more than a mere 'preponderance of the evidence,' but not to the extent of such certainty as is required 'beyond a reasonable doubt' in criminal cases and which will produce 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 (1954), paragraph three of the syllabus.

{¶23} The credibility of witnesses and the weight to be given the evidence are primarily issues for the trier of fact. *In re A.H.*, 2024-Ohio-4694, ¶¶ 30-31 (5th Dist.). “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.” *Seasons Coal Co. v. Cleveland*, 10 Ohio St.3d 77 (1984). Such credibility determinations are “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*, 1997-Ohio-260; *see also*, *In re Christian*, 2004-Ohio-3146 (4th Dist.); *In re C.W.*, 2004-Ohio-

2040 (2d Dist.). Thus, as an appellate court, we must neither weigh the evidence nor judge the credibility of the witnesses. *In re M.K.*, 2023-Ohio-3786, ¶ 26 (5th Dist.).

{¶24} Here, all three assignments of error claim the Magistrate’s decision and trial court’s “findings” are either contrary to law, an abuse of discretion, or against the manifest weight of the evidence. However, the proper standard of review is set forth above and we will review the three assignments of error together. Father asserts several arguments, including that he completed many, if not all, of the case plan objectives and recommendations, that he was not given sufficient time to fully comply due to his incarceration, and that the positive cocaine drug screens from March 2025 through September 2025 were minimal amounts of cocaine. We disagree with Father’s arguments.

APPLICABLE LAW

R.C. 2151.414(B)(1)

{¶25} Pursuant to R.C. 2151.414(B)(1), a juvenile court may grant permanent custody of a child to the agency that moved for permanent custody if the court determines, “by clear and convincing evidence, that it is in the best interest of the child” to do so and that one of the five factors enumerated in R.C. 2151.414(B)(1)(a) through (e) applies. *In re A.W.*, 2024-Ohio-5791, ¶ 15 (5th Dist.). The five enumerated factors are as follows:

- (a) The child is not abandoned or orphaned, has not been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period,
* * * and the child cannot be placed with 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 placing agencies for twelve or more months of a consecutive twenty-two-month period; * * *

(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.

{¶26} Thus, R.C. 2151.414(B)(1) establishes a two-pronged analysis that the trial court must apply when ruling on a motion for permanent custody. *In re T.J.*, 2024-Ohio-110, ¶ 14 (5th Dist.); *In re A.M.*, 2020-Ohio-5102, ¶ 18. First, the court must find by clear and convincing evidence “that one or more of the conditions in R.C. 2151.414(B)(1)(a) through (e) applies.” *Id.* And second, the court must find, by clear and convincing evidence, that the grant of permanent custody is in the best interest of the child. *Id.*

{¶27} Once the court makes the appropriate finding under R.C. 2151.414(B)(1), it must determine whether permanent custody is in the best interest of the child. In determining the best interest of the child, R.C. 2151.414(D) mandates that the trial court 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.

{¶28} The court must consider each factor enumerated in R.C. 2151.414(D), as well as any other relevant factors, and no one factor is given greater weight than the others. *In re Schafer*, 2006-Ohio-5513. A juvenile court does not need to specifically list or discuss each of the best-interest factors to meet the mandate that it “consider” the factors in R.C. 2151.414(D). *A.M.*, at ¶ 42. However, it must appear from the record that the trial court did in fact consider the factors listed as well as any other relevant factor. *Id.* (Holding that although not required, it is preferable for a juvenile court to provide some discussion or analysis of the best-interest factors to aid in appellate review and to increase confidence in its decision).

{¶29} Importantly, the focus of the “best interest” determination is upon the child, not the parent. Indeed, R.C. 2151.414(C) expressly prohibits the court from considering the effect a grant of permanent custody would have upon the parent. *A.W.*, *supra*; *In re Awkal*, 85 Ohio App.3d 309 (8th Dist. 1994). Moreover, a child's best interest is generally served by the child being placed in a permanent situation that fosters growth, stability, and security. *T.C.*, at ¶ 54. Only one of the factors needs to be resolved in favor of permanent custody to find that permanent custody is in the child's best interest. *In re R.M.*, 2024-Ohio-1885, ¶ 60 (8th Dist.).

ANALYSIS

2151.414(B)(1)(a) and R.C. 2151.414(E)(1)

{¶30} In his first assignment of error that the findings are “contrary to law,” Father argues that the trial court’s finding that the minor could not, within a reasonable time, be placed with him or should not be placed with him.⁴ Father’s argument is without merit.

{¶31} Relevant here, under (B)(1)(a), permanent custody may be granted if the child cannot, within a reasonable time, or should not be returned to the Parents. *In re K.J.*, 2025-Ohio-4562 (9th Dist.). However, in making that determination, the court must also consider the sixteen factors listed in R.C. 2151.414(E), as well as any other relevant evidence. *Id.*, ¶ 19. R.C. 2151.414(E) expressly states that if the court makes even one finding under R.C. 2151.414(E)(1)-(16), the court *shall* determine whether the children cannot or should not be placed with the parent. As such, a trial court shall base its decision that a child cannot be placed with a parent within a reasonable time or should not be placed with a parent upon the existence of any one of the R.C. 2151.414(E) factors. *Id.*; see *In re William S.*, 1996-Ohio-182; *In re S.B.*, 2025-Ohio-2685, ¶ 17 (8th Dist.).

{¶32} Relevant here, in conjunction with R.C. 2151.414(B)(1)(a), that a child cannot, within a reasonable time, or should not be placed with a parent, R.C. 2151.414(E)(1) requires that the trial court determine whether, despite reasonable case planning and diligent efforts by the agency, the parent failed to substantially remedy the conditions that caused the children's removal. That section reads, in part:

(E)(1) Following the placement of the child outside the child's home and notwithstanding reasonable case planning and diligent efforts by the agency to

⁴ There is no dispute that SL was not in the Agency’s custody for 12 of the last 22 months.

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.

* * *

{¶33} Under R.C. 2151.414(E)(1), “the court must examine the reasonable case planning and diligent efforts by the agency to assist the parents when considering whether the child cannot and should not be placed with the parent within a reasonable time.” *In re MK*, 2023-Ohio-96, ¶ 49 (5th Dist.). Reasonable efforts mean that the agency must act diligently and provide services appropriate to the family's need to prevent the child's removal or as a predicate to reunification. *In re H.M.K.*, 2013-Ohio-4317, ¶ 95 (3d Dist.), quoting *In re D.A.*, 2012-Ohio-1104, ¶ 30 (6th Dist.); *see also In Re D.D.*, 2023-Ohio-4147, ¶ 23 (10th Dist.). “In determining whether the agency made reasonable efforts [pursuant to R.C. 2151.419(A)(1)] to prevent the removal of the child from the home, the issue is not whether the agency could have done more, but whether it did enough to satisfy the reasonableness standard under the statute. *In re R.L.*, 2022-Ohio-1179, ¶ 31 (5th Dist.), citing, *In re Lewis*, 2003-Ohio-5262 (4th Dist.), ¶ 16.

{¶34} Here, sufficient evidence exists to support the finding that the Agency complied with its duty to exercise reasonable efforts to reunite Father with SL. As set forth above, in 2023, the Agency established a case plan with multiple significant objectives to remedy the conditions that led to SL's removal. The Agency provided Father with a copy of the case plan as well as multiple recommendations for area service providers who could offer the requisite assessments and treatment. The Agency offered random drug and alcohol screens

to Father, attempted and completed home visits, facilitated supervised visitation, and fully explored kinship and relative placements. The Agency consistently monitored Father's progress on case plan services. The record reflects that, on several separate prior occasions, the trial court found that the Agency made reasonable efforts to reunify Father with the children. *See In re N.K.*, 2026-Ohio-1087, ¶ 65 (5th Dist.).⁵

{¶35} It is evident from the record that the trial court fully considered the factual issues raised by Father and that it fully engaged in the analysis required. The trial court very clearly considered Father's participation in the matter, noting that he delayed individual counseling by waiting several months to begin, failed to honestly report his substance use to his counselor, failed to produce clean drug screens, failed to maintain consistent and/or reliable employment, and continued to place himself in situations that could result in incarceration and/or financial penalties, each of which would cause instability in his and SL's lives.

{¶36} Indeed, one of the many stated objectives, and perhaps the most important one, regarded Father's substance abuse. By Father's own admission, he was purchasing marijuana illegally on the street and due to these illegal purchases, may have been exposing himself to cocaine. Tr. p. 544. Father's counselor indicated that no AoD counseling occurred because Father self-reported that he did not need it. Tr., pp.385-86. Father was positive for cocaine from March 2025 through September 2025. Father tested positive for THC and cocaine on October 24, 2025, and in November 2025. Although Father attempts to minimize these positive tests, the fact remains that Father did not take his recovery seriously. As succinctly

⁵ The trial court made six separate findings of reasonable effort prior to the permanent custody hearing on March 13, 2024; March 22, 2024; July 15, 2024; October 10, 2024; January 13, 2025; and March 13, 2025.

stated by the trial court, Father's "failure to disclose his drug use to a counselor shows that he is not committed to change, but to concealing and continuing his drug use. * * * The Guardian ad Litem found that Mr. Lake was merely "checking the box" to try to obtain custody, rather than accepting his need for change." Father's persistent drug use was a significant reason why the child was never placed with him. Regardless of the case plan objectives that Father may have met, SL cannot be placed in an unsafe environment.

{¶37} The evidence demonstrates that Father simply has not implemented sufficient meaningful changes. As stated above, we must neither weigh the evidence nor judge the credibility of the witnesses. An appellate court's role is simply to ensure that sufficient evidence exists to support the trial court's findings. Here, the evidence is more than sufficient to support the trial court's finding under R.C. 2151.414(B)(1)(a) and R.C. 2151.414(E)(1), that despite reasonable case planning and diligent efforts by the agency, Father failed to substantially remedy the conditions that caused SL's removal and SL cannot, within a reasonable time, or should not be placed with Father.⁶

⁶In addition to subsection (E)(1) above, the trial court concluded that clear and convincing evidence exists under R.C. 2151.414(E)(4) and (E)(16). A finding under (E)(4) requires that the court find the children cannot be placed with Mother or Father because they have demonstrated a "lack of commitment" towards the children by failing to regularly support, visit, or communicate with the children when able to do so, or by other actions showing an unwillingness to provide an adequate permanent home for the children.

Subsection (E)(16) allows a court to consider "[a]ny other factor the court considers relevant." Importantly, this factor does not have any requirement that a parent "failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home" like (E)(1), nor the "lack of commitment" or "unwillingness" elements found in (E)(4).

However, on appeal, because sufficient evidence exists under R.C. 2151.414(E)(1) we do not need to address the additional reasons.

R.C. 2151.414(D) - Best Interest Determination

{¶38} As set forth above, in determining best interest, the trial court must consider each factor enumerated in R.C. 2151.414(D), as well as any other relevant factors, and no one factor is given greater weight than the others. *In re Schafer*, 2006-Ohio-5513. Importantly, the focus of the “best interest” determination is upon the child, not the parent. Indeed, R.C. 2151.414(C) expressly prohibits the court from considering the effect a grant of permanent custody would have upon the Parents. *A.W.*, *supra*.

{¶39} “A child's best interests are served when the child is placed in a permanent situation which fosters growth, stability, and security. * * * ‘The 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.’” *MK*, at ¶ 36, citing *In re E.H.*, 2022-Ohio-1682, ¶ 101 (5th Dist.). Thus, if competent, credible evidence exists to support the trial court’s best interest finding, it will be upheld.

{¶40} Father claims that even if he cannot gain custody, because Ms. Williams is willing to care for SL, the Agency’s motion for permanent custody should be denied. However, “the willingness of a relative to care for a child does not alter what the court must consider in determining permanent custody.” *In re B.K.*, 2023-Ohio-1820, ¶ 31 (8th Dist.); *In re P. T., et al.*, 2024-Ohio-5022 (5th Dist.). If permanent custody is in a child's best interest, then a change in legal custody is necessarily not in that child’s best interest. *In re S.C.*, 2018-Ohio-2523, ¶ 58 (8th Dist.); *In re Schaefer*, 2006-Ohio-5513, ¶ 63 (stating that in deciding what is in a child's best interests, R.C. 2151.414 does not make the availability of a relative

placement an all-controlling factor; the statute does not even require the court to weigh that factor more heavily than other factors.). Moreover, Father does not have standing to challenge the ruling regarding Ms. Williams,⁷ and Father's motion for a change of custody did not contain a statement of understanding or an affidavit acknowledging her willingness and/or appropriateness to take legal custody of S.L. as required. *See* R.C. 2151.353(A)(3).

{¶41} Even *assuming* Father's motion properly complied, the record demonstrates that the trial court considered the above best interest factors and properly found that it was in SL's best interest to grant permanent custody to the Agency, despite the availability of a fictive kin placement. Although the trial court noted the bond between SL and Father, finding that SL's relationship and interactions with Father were always positive and Father appears to love SL, Father's actions and continued drug use clearly fail to demonstrate any meaningful change.

{¶42} The evidence establishes that SL was placed in his foster home since he was four months old and has remained there; at the time of the hearing, SL was almost twenty-four months old. SL is very bonded to the foster parents, and they are interested in adopting him. In his foster home, SL has a foster brother, with whom he is closely bonded and who was adopted by the foster parents. The foster parents are aware of SL's special medical needs,

⁷ "A parent has no standing to assert that the court abused its discretion by failing to give [Mona Williams] legal custody; rather, the challenge is limited to whether the court's decision to terminate parental rights was proper." *In re S.G.*, 2016-Ohio-8403, ¶ 52 (3d Dist.), citing *In re Pittman*, 2002-Ohio-2208, ¶ 70 (9th Dist.) (the challenge is limited to whether the court's decision to terminate parental rights was proper); *Accord In re N.M.*, 2018-Ohio-1100, ¶ 23 (8th Dist.). If permanent custody to the Agency is in the child's best interest, legal custody to a relative necessarily is not. *In re S.C.*, 2018-Ohio-2523, ¶ 16 (8th Dist.).

Ms. Williams did not file an appeal challenging the trial court's judgment denying her motion for legal custody and granting permanent custody of the children to the Agency.

his routines, his dietary preferences, and his need for a stable and loving home. SL is currently thriving in his environment. Although he is too young to verbalize his wishes, the court noted SL's continued good health, happiness, and growth in his foster home. The foster parents look forward to providing structure, stability, and protection for SL. SL's need for a legally secure placement cannot reasonably happen without a grant of permanent custody to the Agency. The evidence clearly supports the trial court's determination that permanent custody to the Agency is in SL's best interest.

CONCLUSION

{¶43} Father's first, second, and third assignments of error are overruled. The judgment of the Richland County Court of Common Pleas, Juvenile Division, is affirmed.

{¶44} Costs to Appellant.

By: Montgomery, J.

Baldwin, P.J. and

Gormley, J. concur.