[Cite as *In re D.L.*, 2026-Ohio-4357.]

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

IN RE: D.L.

Case No. 2026CA00153

Opinion and Judgment Entry

Appeal from the Court of Common Pleas, Juvenile Division, Case No. 2024JCV00780

Judgment: Affirmed

Date of Judgment Entry: November 3, 2026

BEFORE: Andrew J. King; Craig R. Baldwin; David M. Gormley, Judges

APPEARANCES: D. COLEMAN BOND, for Appellant-Father; BRANDON WALTENBAUGH, for Appellee-Stark County JFS.

King, J.

{¶ 1} Appellant Father appeals the June 25, 2026 decision of the Stark County Juvenile Court terminating his parental rights and granting permanent custody of the child, D.L. to appellee, Stark County Department of Job and Family Services ("SCJFS"). We affirm the trial court.

Facts and Procedural History

{¶ 2} On July 18, 2024, SCJFS filed a complaint for the temporary custody of D.L. born October 24, 2023, alleging neglect and dependency. The initial concerns centered on historical concerns with family involvement with child protective services in Ohio and Kentucky. Mother of D.L. has previously lost custody of two children in Kentucky. In 2023 concerns were raised here in Ohio when Mother gave birth to a child without completing case

plans in prior cases, Mother's mental health and substance abuse concerns and Father's extensive criminal history including offenses of violence related to his substance abuse.

{¶ 3} A shelter care hearing took place on July 19, 2024. The trial court placed D.L. in Mother's custody with protective supervision by SCJFS.

{¶ 4} An adjudicatory hearing was held on August 7, 2024. Mother and Father stipulated the status of dependency and the allegations of neglect were dismissed. The matter was continued to establish Father's paternity.

{¶ 5} On September 6, 2024, SCJFS filed an ex-parte motion for temporary custody of D.L. because the child had suffered a skull fracture and a broken femur while in Mother, Father's, and a third party's care. The trial court granted the motion and held an emergency shelter care hearing on September 9, 2024. D.L. was continued in the temporary custody of SCJFS.

{¶ 6} Father was deemed D.L's biological Father on October 8, 2024.

{¶ 7} Case reviews were held at regular intervals through January 8, 2026. On October 28, 2025, SCJFS filed a motion requesting permanent custody of D.L. The Guardian ad Litem filed a final report on April 3, 2026.

{¶ 8} A trial on SCJFS's motion for permanent custody was held on April 13, 2026 and June 5, 2026. By decision filed June 25, 2026, the trial court terminated the parental rights of both Mother and Father and granted permanent custody of D.L. to SCJFS.

{¶ 9} Father filed an appeal and the matter is now before this court for consideration. He raises one assignment of error as follows:

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{¶ 10} "THE TRIAL COURT ERRED IN FINDING THAT PERMANENT CUSODY WAS IN THE BEST INTEREST OF THE MINOR CHILD AS IT WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE AND NOT SUPPORTED BY CLEAR AND CONVINCING EVIDENCE."

{¶ 11} In his sole assignment of error, Father argues the trial court's permanent custody finding is not supported by clear and convincing evidence and is against the manifest weight of the evidence. We disagree.

Standard of Review

{¶ 12} 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 and/or a sufficiency-of-the-evidence standard, depending on the nature of the arguments presented by the parties. *In re Z.C.*, 2023-Ohio-4703, ¶ 11.

{¶ 13} Whether the evidence is legally sufficient to sustain a verdict is a question of law. *In re: Z.C.*, 2023-Ohio-4703, ¶13. "When applying a sufficiency-of-the-evidence standard, a court of appeals should affirm a trial court when 'the evidence is legally sufficient to support the jury verdict as a matter of law.' " *Bryan-Wollman v. Domonko*, 2007-Ohio-4918, ¶ 3, quoting *Thompkins* at 386, 678 N.E.2d 541, quoting Black's at 1433.

{¶ 14} On review for manifest weight, the standard 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 [decision] must be

reversed and a new trial ordered." *State v. Martin*, 20 Ohio App.3d 172, 175 (1st Dist.1983). In *Thompkins*, supra, at 387, quoting Black's Law Dictionary 1594 (6th Ed.1990), the Supreme Court of Ohio explained the following:

> Weight of the evidence concerns "the inclination of *the greater amount of credible evidence*, offered in a trial, to support one side of the issue rather than the other. It indicates clearly to the jury that the party having the burden of proof will be entitled to their verdict, if, on weighing the evidence in their minds, they shall find *the greater amount of credible evidence* sustains the issue which is to be established before them. Weight is not a question of mathematics, but depends on its *effect in inducing belief*." [Emphasis sic.]

{¶ 15} In weighing the evidence, however, we are always mindful of the presumption in favor of the trial court's factual findings. *Eastley v. Volkman*, 2012-Ohio-2179. Additionally, " 'Judgments supported by some competent, credible evidence going to all the essential elements of the case will not be reversed by a reviewing court as being against the manifest weight of the evidence.' " *Seasons Coal Co.*, 10 Ohio St.3d 77, 80, (1984), quoting *C.E. Morris Co. v. Foley Construction Co.*, 54 Ohio St.2d 279, 280-281 (1978).

Permanent Custody

{¶ 16} R.C. 2151.414(B)(1) states in relevant part that permanent custody may be granted to a public or private agency if the trial court determines by clear and convincing evidence at a hearing held pursuant to division (A) of R.C. 2151.414, that it is in the best interest of the child and any of the following apply:

. . .

(b) The child is abandoned.

. . .

(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, or 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 and, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state.

{¶ 17} R.C. 2151.414(B) therefore provides a two-pronged analysis the trial court is required to apply when ruling on a motion for permanent custody. In practice, the trial court will determine whether one of the four circumstances delineated in R.C. 2151.414(B)(1) (a) through (d) is present before proceeding to a determination regarding the best interest of the child.

Best Interests

{¶ 18} R.C. 2151.414(D) governs "best interests" and states:

(D) In determining the best interest of a child at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) or

(5) of section 2151.353 or division (C) of section 2151.415 of the Revised Code, the court shall 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 caregivers 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, including whether 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 ending on or after March 18, 1999;

(4) The child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency;

(5) Whether any of the factors in divisions (E)(7) to (11) of this section apply in relation to the parents and child.

Father's Arguments

R.C. 2151.414(B)(1)

{¶ 19} Father argues the child had been in SCJFS custody for less than a year and therefore the trial court's reliance on the 12-of-22 months provision of R.C. 2151.414(B)(1)(d) was erroneous. We disagree.

{¶ 20} The "12 of 22" provisions contained in R.C. 2151.413(D)(1) and R.C. 2151.414(B)(1)(d) balance the importance of reuniting a child with the child's parents against the importance of a speedy resolution of the custody of a child. *In re C.W.,* 2004-Ohio-6411, ¶22. Through the "12 of 22" provisions in the permanent-custody statutes, the legislature provides parents with 12 months to work toward reunification before an agency can institute a permanent-custody action asserting R.C. 2151.414(B)(1)(d) grounds. *Id.*

{¶ 21} Pursuant to R.C. 2151.414(B)(1)(d), "a child shall be considered to have entered the custody of the agency on *the earlier of* the date the child is adjudicated. . . *or* the date sixty days after the removal of the child from the home." Emphasis added.

{¶ 22} Here, D.L. was removed from the home via ex parte order on September 6, 2024 and adjudicated dependent on September 24, 2024. SCJFS filed its motion for permanent custody on October 28, 2025. While Father appears to argue the trial court's time calculation was required to begin 60 days following the child's removal from the home, the argument is without merit as it ignores the statutory language indicating calculation begins on the earlier date of removal or adjudication.

{¶ 23} Additionally, this court has adopted the position that proof of temporary custody with an agency for twelve or more months of a consecutive twenty-two-month period, standing alone, is sufficient to award permanent custody. *In the Matter of A.S., V.S., and Z.S.*,

2013-Ohio-4018 (5th Dist.). In this matter, we additionally note the trial court found Father has abandoned D.L., a finding Father does not challenge here on appeal. Father was arrested in September of 2025 for transporting a large amount of cocaine from Ohio to Pennsylvania. At the time of the April and June 2026 permanent custody hearing, Father remained incarcerated in Pennsylvania. Thus, not only had D.L. been in SCJFS custody for 12 or more months of a consecutive 22-month period, Father additionally abandoned D.L. by virtue of his incarceration. While these factors alone support the trial court's grant of permanent custody to SCJFS, we nonetheless address Father's remaining arguments.

Best Interests Findings

{¶ 24} We begin by noting Father failed to comply with the requirements of his case plan including failing to comply with drug testing throughout the case, failing to complete substance abuse treatment, failing to obtain housing and employment, and failing to complete parenting classes. T. 23-26. Additionally, Father was diagnosed with bipolar, antisocial personality disorder, cannabis use disorder, and alcohol use disorder. He was not engaged in any treatment at the time of his evaluation with Dr. Aimee Thomas. T. 102 Father admitted to problematic lifestyle choices including the use and sale of drugs and frequent incarcerations as a result. T. 99. As noted by SCJFS, Father does not address any of the trial court's findings related to whether the child could be placed with him within a reasonable time and instead points to Mother's alleged compliance with her case plan. However, Mother's case plan performance is not relevant to Father's compliance with his case plan.

{¶ 25} Next, Father attacks the trial court's finding that the child is African American. Although unclear, Father's argument appears to be that the child's race is not relevant. When the trial court's best interests findings are read in context, however, it is clear that the trial

court's finding referred to the fact that the child is not protected by the Indian Child Welfare Act because the child is African American rather than of Native American decent. Findings of Fact and Conclusions of Law filed June 25, 2026 at page 10. Wanda Pounds, the caseworker assigned to this matter, testified the child is African American and is not protected by the Indian Child Welfare Act. Transcript of trial (T.) at 294.

{¶ 26} State courts are required to "ask each participant in an emergency or voluntary or involuntary child-custody proceeding whether the participant knows or has reason to know that the child is an Indian child. The inquiry is made at the commencement of the proceeding, and all responses should be on the record." 25 C.F.R. 23.107(a). "A court's failure to identify Indian children can nullify court proceedings that have not been conducted in accordance with the Act." *In re L.M.*, 2024-Ohio-5549 ¶ 13 (12th Dist.), citing Adm. Code 5101:2-53-02. Because the trial court was required to make this finding, Father's argument is without merit.

{¶ 27} Father further complains there was no testimony regarding the relationship between the foster parents and D.L. or whether the bond between D.L. and the foster parents was greater than the bond between D.L., Father and Mother. However, Pounds testified the child had been in the same foster home for nearly two years, is bonded with everyone in the foster home, and that the foster parents were willing to consider adoption. T. 295-296. Pounds further testified that although there was a bond between Mother, Father and D.L., concerns which caused the removal of the child from the home had not been adequately remedied, and returning D.L. to her home would place her at risk for further harm. Pounds also testified that the benefit of adoption would outweigh any negative impact of severing parental rights. T. 298-299.

{¶ 28} Next, Father argues the trial court failed to make findings or consider D.L.'s relationship with her siblings. Father provides no authority which would support a conclusion that the trial court must make findings regarding every factor contained in R.C. 2151.141(D)(1). Indeed, the Supreme Court of Ohio has found a trial court need not expressly discuss each of the best interests factors as long as a reviewing court can discern from the juvenile court's judgment entry that the court satisfied the statutory requirement that it consider the enumerated factors. *In re A.M.* 2020-Ohio-5102 ¶ ¶ 31, 33; *In re L.A.* 2024-Ohio-3436 ¶ 88 (5th Dist.) ("No one element is given greater weight or heightened significance. *In re C.F.,* 2007-Ohio-1104, 113 Ohio St. 3d 73, 862 N.E.2d 816. R.C. 2151.414(D)(1) does not require a juvenile court to make specific findings regarding each best-interest factor listed in R.C. 2151.414(D)(1) or to include in its decision or judgment entry a written discussion of each of those factors. *In re: A.M.,* 2020-Ohio-5102, ¶33, 166 Ohio St. 3d 127, 184 N.E.3d 1.")

{¶ 29} Little information is contained in the record as to which siblings were living with D.L. at the time of her removal, and Father does not state which siblings the trial court should have considered. Father was living in a polyamorous relationship with both D.L.'s Mother and a second woman with whom he has five children when D.L. was injured. D.L. was an infant when she was removed from the home and Father does not explain what connection infant D.L. had with her older siblings. Moreover, during his psychosocial evaluation with Dr. Aimee Thomas, Father blamed two children in the home, age 5 and 10, for D.L.'s broken leg and skull fracture. T. 98.

{¶ 30} Father next faults the trial court's finding that the Guardian ad Litem filed a final report which recommended permanent custody. He notes the Guardian ad Litem did not testify at trial and the report was not entered into evidence. However, at the beginning of

trial the trial court asked counsel for both parties if there was any objection to the court taking judicial notice of prior entries. Counsel for Mother replied "No, no part of a court file, Your Honor." Counsel for Father also replied "No." T. 21-22. The trial court therefore properly considered the Guardian ad Litem's final filing.

{¶ 31} Finally, Father argues D.L. could have been placed with maternal relatives. 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.). So too, 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.).

{¶ 32} Upon review, we conclude competent, credible evidence supported the trial court's determination that granting permanent custody to SCJFS was in D.L.'s best interest, and because proof of temporary custody with SCJFS for 12 or more months of a consecutive 22-month period alone was sufficient to award permanent custody, a finding that grounds existed for permanent custody cannot be against the manifest weight of the evidence. Father's sole assignment of error is overruled.

{¶ 33} The judgment of the Stark County Court of Common Pleas, Juvenile Division is affirmed. Costs to Appellant.

By: King, J.

Baldwin, P. J. and

Gormley, J. concur.