[Cite as *In re D.L.*, 2026-Ohio-4459.]

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

IN RE: D.L.	Case No. 2026CA00149
	Opinion and Judgment Entry
	Appeal from the Court of Common Pleas, Juvenile Division, Case No. 2024JCV00780
	Judgment: Affirmed
	Date of Judgment Entry: November 6, 2026

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

APPEARANCES: RICHARD D. HIXSON, for Appellant-Mother; BRANDON WALTENBAUGH, for Appellee-Stark County JFS.

King, J.

{¶ 1} Appellant Mother appeals the June 25, 2026 decision of the Stark County Juvenile Court terminating her 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 previously lost custody of two children in Kentucky. In 2023 concerns were raised here in Ohio when Mother gave birth to D.L. without completing case plans in

prior cases, D.L.'s failure to gain weight and Mother failing to follow-up with doctor's appointments, 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 and Father'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 the biological father of D.L. 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} Mother filed an appeal and the matter is now before this court for consideration. She raises two assignments of error as follows:

I

{¶ 10} "THE TRIAL COURT ERRED WHEN IT FOUND THAT PERMANENT CUSTODY WAS IN THE BEST INTERESTS OF THE MINOR CHILD."

II

{¶ 11} "THE TRIAL COURT ERRED WHEN IT FOUND THAT REASONABLE EFFORTS HAS BEEN MADE BY THE AGENCY."

I

{¶ 12} In her first assignment of error Mother argues the trial court abused its discretion when it found permanent custody was in D.L.'s best interests. We disagree.

Standard of Review

{¶ 13} While Mother cites an abuse of discretion standard, 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.

{¶ 14} 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.

{¶ 15} 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.]

{¶ 16} 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

{¶ 17} 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:

> (a) The child is not abandoned or orphaned, and the child cannot be placed with either of the child's parents within a reasonable time or should not be placed with either of the child's parents
>
> ...
>
> (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.

{¶ 18} 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

{¶ 19} 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.

Temporary Custody for at Least 12 out of a Consecutive 22-month Period

{¶ 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.*

Mother's Arguments

{¶ 21} D.L was in the temporary custody of SCJFS for 12 or more months of a consecutive 22-month period and Mother concedes this fact. This court has adopted the position that proof of temporary custody with an agency for 12 or more months of a consecutive 22-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.). We nonetheless address Mother's remaining arguments.

{¶ 22} Mother argues permanent custody was not in D.L.'s best interest. She argues the child was bonded with herself and Father, that a 6-month extension of time was still available in this matter and should have been considered in order to facilitate either reunification or a kinship placement given that per Mother, she was compliant with her case plan objectives. She further argues that she had rectified the issues which resulted in SCJFS taking temporary custody of D.L. We disagree.

{¶ 23} D.L. was removed from the home after suffering a broken femur and a skull fracture. At the time, Mother was living with Father and a third party. Mother, Father and the third party were caring for D.L. at the time of her injuries. Transcript of trial (T.) 18-19.

{¶ 24} Mother's case plan required her to complete a parenting assessment, attend Goodwill parenting classes, obtain a mental health assessment and follow recommendations, obtain substance abuse treatment, attend anger management, and maintain housing and employment. Mother was also to submit to drug screens. T. 29-30.

{¶ 25} Mother completed her mental health assessment and was diagnosed with major depressive disorder, antisocial personality traits, cannabis use disorder, and stimulant use disorder in sustained remission. T. 117-118. Mother has a full-scale IQ of 84 which is below average, however her examiner felt Mother could benefit from treatment services if she chose to follow feedback. T. 118.

{¶ 26} Mother engaged in substance abuse treatment but tested positive for marijuana throughout the pendency of the case, and tested positive for cocaine on three occasions. When confronted by her case worker, Wanda Pounds, Mother argued marijuana is legal and claimed she was positive for cocaine only because she touched Father's cocaine stash when she threw it out. T. 30-31. Mother also attempted to sell cocaine to a confidential informant during the pendency of this matter. T. 88, 92-93. She stated she did so because she needed rent money. T. 276-278.

{¶ 27} Pounds additionally testified that while Mother attended substance abuse counseling, anger management, and mental health treatment as directed, she continued to have concerns for Mother's ability to care for D.L. Mother continued to be depressed, easily frustrated, and easily angered when Pounds addressed any concerns with Mother. T. 32-36.

During Mother's mental health assessment, the examiner also noted Mother's immediate anger when challenged. T. 117.

{¶ 28} Mother engaged in parenting classes at Goodwill, but was terminated from the program in October, 2025 when she violated the behavior contract of the program by showing up to class smelling of marijuana and under the influence of the same. Mother then refused to take a drug screen as directed. T. 38.

{¶ 29} As for D.L.'s skull fracture and broken femur, Mother claimed she did not know how the injuries occurred, but had no concerns for Father and the third party, who were also caregivers at the time of D.L.'s injuries, to continue to be caregivers for D.L. T. 36. When questioned by Pounds, Father felt Mother injured D.L. T. 41.

{¶ 30} Mother receives social security benefits and held various jobs throughout the case. Mother attended visitation with D.L. and Pounds observed no concerns during visitation.

{¶ 31} Pounds did not believe an extension of temporary custody would allow Mother to complete enough services to enable her to safely parent D.L. T. 41. Mother continued to defend Father throughout the case despite Father's extensive criminal history and the fact that Father was arrested and charged for transporting a large amount of cocaine from Ohio to Pennsylvania, remained incarcerated at the time of the permanent custody hearing, and had completed none of his case plan objectives. Mother believed Father had been "set up." T. 66, 82, 85. Mother continued to state she desired to raise D.L. with Father despite his extensive history of criminal activity involving drugs and violence. T. 108-109. Moreover, Mother's mental health assessment recommendations included that Mother should not be reunified with D.L. if Mother remained in a relationship with Father, and Father failed to complete his

case plan. T. 118-119. Mother additionally voiced her intention to continue to smoke marijuana if D.L. was returned to her custody. She stated she would smoke in a different room and monitor D.L. by camera. T. 283.

{¶ 32} The record reflects that while Mother went through the motions of case plan compliance, she failed to internalize the information presented to her as her behaviors did not change.

{¶ 33} 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. Mother's first assignment of error is overruled.

II

{¶ 34} In her final assignment of error, Mother argues the trial court erred in granting permanent custody to SCJFS when SCJFS failed to engage in diligent case planning and failed to make reasonable efforts to reunite the family. We disagree.

{¶ 35} We first note that mother never raised this issue below. The trial court found SCJFS had made reasonable efforts to prevent the removal of the children from their home on six occasions before the permanent custody hearing; July 19, 2024, September 9, 2024, September 24, 2024, February 5, 2025, July 2, 2025, and January 8, 2025. Mother never objected to these findings. She has therefore forfeited all but plain error.

{¶ 36} "In applying the doctrine of plain error in a civil case, reviewing courts must proceed with the utmost caution, limiting the doctrine strictly to those extremely rare cases

where exceptional circumstances require its application to prevent a manifest miscarriage of justice, and where the error complained of, if left uncorrected, would have a material adverse effect on the character of, and public confidence in, judicial proceedings." *Goldfuss v. Davidson,* 79 Ohio St.3d 116, 121 (1997). This is not one such case.

{¶ 37} R.C. 2151.419 does not require a trial court to decide that the agency used reasonable efforts to reunify the family at the time of the permanent custody hearing unless the agency has not established that reasonable efforts have been made prior to that hearing. *In re C.F.,* 2007-Ohio-1104. As previously mentioned, the trial court found SCJFS had used reasonable efforts on six occasions before the permanent custody hearing.

{¶ 38} Mother's argument appears not to be that the trial court failed to make the appropriate finding, but rather that SCJFS should have done more. Mother specifically complains SCJFS should have permitted her to complete an appropriate parenting program after she was terminated from the Goodwill Parenting Program for showing up to class under the influence of marijuana. But "[t]he issue is not whether there was anything more the agency could have done, but whether the agency's case planning and efforts were reasonable and diligent under the circumstances of the case." *In re J.H*, 2019-Ohio-5184, ¶ 54 (5th Dist.).

{¶ 39} As outlined in the first assignment of error, the record reflects the SCJFS provided Mother with ample opportunities to be successful by providing her with various services including assessments, classes, and transportation. Thus, even assuming arguendo that SCJFS had been required to prove best efforts, there was competent and credible evidence to support the trial court's determination that SCJFS' efforts were reasonable and diligent under the circumstances of the case. We therefore find no error, plain or otherwise and reject Mother's complaints.

{¶ 40} Based on the foregoing, mother's two assignments of error are overruled and the judgment of the Stark County Court of Common Pleas, Juvenile Division is affirmed.

{¶ 41} Costs to Appellant.

By: King, J.

Baldwin, P. J. and

Gormley, J. concur.