[Cite as *In re E.R.*, 2026-Ohio-4522.]

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

IN THE MATTER OF: E.R. (D.O.B. 8-27-2009)	Case No. 2026CA00101 Opinion And Judgment Entry Appeal from the Stark County Court of Common Pleas, Family Court Division, Case No. 2024JCV01265 Judgment: Affirmed Date of Judgment Entry: November 13, 2026

BEFORE: Andrew J. King; Robert G. Montgomery; Kevin W. Popham, Judges

APPEARANCES: RICHARD D. HIXSON, for Plaintiff-Appellant; BRANDON J. WALTENBAUGH, for Defendant-Appellee.

Montgomery, J.

{¶1} Appellant A.R. (hereinafter "Mother") appeals the judgment of the Stark County Common Pleas Court, Family Court Division, awarding Appellee Stark County Job and Family Services (hereinafter "SCJFS") permanent custody of her daughter, E.R. (hereinafter "the Child").

STATEMENT OF THE FACTS AND CASE

{¶2} The Child was born on August 27, 2009. On October 28, 2024, SCJFS filed a complaint alleging the Child was dependent, neglected, and/or abused. SCJFS received

concerns that two other families were living with the Child and her parents. Father is a convicted sexual offender, and several people living in the home disclosed that Father was sexually abusing them. During transport after she was removed from the home, the Child expressed suicidal ideations and claimed the following day was her "death day." Tr. 13. The Child had multiple knives with her which she intended to use to commit suicide. She was admitted to a psychiatric facility for treatment. The trial court found the Child to be dependent and placed her in the temporary custody of SCJFS.

{¶3} SCJFS had extensive concerns about the educational, dental, and mental health care of the Child while in the custody of Father and Mother. The Child was fifteen years old when she was removed from the home. She had been homeschooled from third grade on, and her math skills remained at a third-grade level. The Child needed three root canals and surgery for a tongue-tied condition. The Child blamed Father and Mother for her lack of social skills, educational neglect, and poor mental health.

{¶4} Mother's case plan required her to complete a parenting evaluation, which then recommended she engage in weekly in-person mental health treatment, joint counseling with the Child after Mother began making progress in individual treatment, and parenting classes. Mother did not begin mental health treatment until August of 2025, and only participated in telehealth despite the recommendation of in-person treatment. Mother was diagnosed with borderline personality disorder and did not make progress in counseling; therefore, she did not progress to joint counseling with the Child.

{¶5} Mother has allowed homeless people to reside in the home and does not acknowledge the effect this has had on the Child, claiming she was called by God to do so. Mother minimized the issues presented by moving people into her home with concerning

histories and behavior, stating that she would not change what God had called her to do despite the effects it had on the Child.

{¶6} Mother indicated that she did not believe Father presents any risk to the Child based on his sex offender truth verification results. However, the Child witnessed a concerning interaction between Father and a minor child living in the home, and an evaluator found the eight-year-old child's detailed report of sexual abuse by Father to be substantiated. Further, Father has a criminal history of sexual assault.

{¶7} Mother attended a parenting class, but the class was not one approved by SCJFS. Mother also failed to regularly meet with the caseworker.

{¶8} Mother was not receptive to mental health treatment for herself or for the Child. She would not allow the Child to have surgery to correct her tongue-tied condition, claiming the Child wanted the surgery to be able to kiss boys with her tongue. Mother tried to convince the Child to get off of mental health medication, offering natural remedies instead.

{¶9} The Child repeatedly expressed to the guardian ad litem that she does not wish to be reunited with her parents. While there is affection between the Child and her parents, the Child feared that if she returned home, she would not be able to attend counseling and receive medication for her mental health. The Child expressed that while in her current foster home, she was the happiest she has ever been and she wished to be adopted.

{¶10} On September 18, 2025, SCJFS filed a motion for permanent custody of the Child. The case proceeded to trial.

{¶11} Following trial, the trial court found that Father and Mother had failed to remedy the conditions which led to the removal of the Child from the home, and the Child

could not be placed with either parent in a reasonable time. The trial court found permanent custody to be in the best interest of the Child and granted the motion for permanent custody.

{¶12} Mother assigns two errors to the April 30, 2026, judgment of the trial court:

{¶13} "I. THE TRIAL COURT ERRED IN FINDING THAT THE MINOR CHILD COULD NOT BE PLACED WITH MOTHER WITHIN A REASONABLE TIME OR SHOULD BE SO PLACED.

{¶14} "II. THE TRIAL COURT ERRED IN FINDING THAT PERMANENT CUSTODY WAS IN THE BEST INTERESTS OF THE MINOR CHILD."

STANDARD OF REVIEW AND APPLICABLE LAW

{¶15} R.C. 2151.414 sets forth the 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 upon the filing of a motion for permanent custody of a child by a public children services agency or private child placing agency that has temporary custody of the child or has placed the child in long term foster care.

{¶16} Following the hearing, R.C. 2151.414(B)(1) authorizes the juvenile 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, 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; or (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 ending on or after March 18, 1999.

{¶17} 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, the trial court will usually 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.

{¶18} If the child is not abandoned or orphaned, the focus turns to whether the child cannot be placed with either parent within a reasonable period of time or should not be placed with the parents. Under R.C. 2151.414(E), the trial court must consider all relevant evidence before making this determination. The trial court is required to enter such a finding if it determines, by clear and convincing evidence, one or more of the factors enumerated in R.C. 2151.414(E)(1) through (16) exist with respect to each of the child's parents.

{¶19} Because R.C. 2151.414 requires a juvenile court to find by clear and convincing evidence the statutory requirements are met, the sufficiency-of-the-evidence and/or manifest-weight-of-the-evidence standards of review are the proper appellate standards of review of a juvenile court's permanent-custody determination, as appropriate depending on the nature of the arguments that are presented by the parties. *In re Z.C.*, 2023-Ohio-4703, ¶11. "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." *Id.* at ¶ 7, *quoting Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus.

{¶20} The second prong of the analysis requires the juvenile court to determine, by clear and convincing evidence, it is in the best interest of the child to grant permanent custody to the agency pursuant to R.C. 2151.414(D). R.C. 2151.414(B)(1).

{¶21} In determining the best interest of the child at a permanent custody hearing, R.C. 2151.414(D)(1) mandates the trial court must consider all relevant factors, including, but not limited to, the following: (a) 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; (b) 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; (c) the custodial history of the child; (d) 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; and (e) whether any of the factors in division (E)(7) to (11) of R.C. 2151.414 apply in relation to the parents and child.

I.

{¶22} Mother argues that the trial court erred in finding that the Child cannot be placed with her within a reasonable time. R.C. 2151.414(E) sets forth the following factors the trial court is to consider when determining if a child can be placed with a parent within a reasonable time, in pertinent part:

> (E) In determining at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code whether a child cannot be placed with either parent within a reasonable period of time or should not be placed with the parents, the court shall consider all relevant evidence. If the court determines, by clear and convincing evidence, at

a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code that one or more of the following exist as to each of the child's parents, 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:

(1) Following the placement of the child outside the child's home and 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 determining whether the parents have substantially remedied those conditions, the court shall consider parental utilization of medical, psychiatric, psychological, and other social and 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.

(2) Chronic mental illness, chronic emotional illness, intellectual disability, physical disability, or chemical dependency of the parent that is so severe that it makes the parent unable to provide an adequate permanent home for the child at the present time and, as anticipated, within one year after the court holds the hearing pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code[.]

{¶23} The trial court found R.C. 2151.414(E)(1) applicable to both parents, and R.C. 2151.414(E)(2) applicable to Mother.

{¶24} SCJFS presented evidence that the Child suffered years of neglect from both parents. She suffered from lack of dental care, the refusal of her parents to fix her tongue-tied condition, and lack of care for her mental health conditions. The Child had previously attempted suicide and was suicidal at the time of her removal. The Child was severely delayed in schooling because despite the parents' decision to homeschool her, neither parent made sure she was learning. The Child indicated during her evaluation that she did not view her parents' home as a safe place.

{¶25} SCJFS presented evidence that Mother did not comply with the portion of her case plan requiring in-person counseling, and Mother did not make progress in telehealth counseling. Mother believed she was called by God to allow homeless families to live in the home, without acknowledging the effect this had on the Child. Mother did not regularly meet with the caseworker and her place of residence remained unclear throughout the case. Mother did not provide a lease or pay stubs to the caseworker to prove she had employment or a place to live.

{¶26} An expert witness who completed an assessment on the Child testified that Mother did the Child's schoolwork for her while she was enrolled in online school. The Child reported that at one point she attempted to commit suicide by taking medication. Mother refused to take her to the hospital until Father insisted, opting instead to pray for the Child.

{¶27} The evaluator who conducted Mother's parenting evaluation testified that Mother was not receptive to mental health treatment for herself or the Child and did not comprehend the Child's mental health issues. Mother similarly demonstrated through her

own testimony at trial that she did not comprehend the risk to the Child from Father's history of sexual abuse, instead believing from his truth verification assessment that he was not a risk to the Child. Mother testified that she was not aware of any of the Child's suicide attempts. Mother attempted to get the Child to stop taking her mental health medication and offered her natural remedies instead.

{¶28} We find that SCJFS proved by clear and convincing evidence that the Child could not be placed with Mother within a reasonable time.

{¶29} Mother also argues that the trial court erred in finding that SCJFS made reasonable efforts to assist the family in remedying the conditions which led to the removal of the Child. The reasonable efforts requirement does not apply to permanent custody hearings so long as the agency making the permanent custody motion has established reasonable efforts prior to the hearing. *In re C.F.,* 2007-Ohio-1104; *In re K.B.,* 2025-Ohio-2997, ¶¶ 47-48 (5th Dist.). The trial court made findings of reasonable efforts on five separate occasions prior to trial, and Mother did not object to any of the findings. Therefore, SCJFS was not required to prove it made reasonable reunification efforts at the permanent custody hearing.

{¶30} The first assignment of error is overruled.

II.

{¶31} Mother argues the trial court erred in finding permanent custody was in the best interest of the Child.

{¶32} SCJFS presented the testimony of the guardian ad litem that while the Child loved her parents, she did not desire to return home. The Child was concerned about her mental health, and now that she is in a foster home and taking appropriate medication, she is

happier and has minimal suicidal thoughts. The Child was on a waiting list for in-person counseling and was engaging in counseling through telehealth. The Child was doing well in a traditional school setting. The Child feared that if she returned home, her life would go back to the way it was before. The family with which the Child resides wishes to adopt the Child. Both the caseworker and the guardian ad litem testified that permanent custody was in the best interest of the Child. While the caseworker acknowledged that there would be damage to the Child from permanent custody, she testified that in her opinion, the benefits of permanency in the Child's placement would outweigh the damage.

{¶33} We find the trial court did not err in finding that permanent custody was in the best interest of the Child.

CONCLUSION

{¶34} The judgment of the Stark County Common Pleas Court, Family Court Division, is affirmed.

{¶35} Costs are assessed to Appellant.

By: Montgomery, J.

King, P.J. and

Popham, J. concur.