

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

In re: Lai.K., Lav.K., I.K.

Court of Appeals No. L-26-00041

Trial Court No. 22290196

DECISION AND JUDGMENT

Decided: October 16, 2026

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Laurel A. Kendall, for appellant.

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ZMUDA, J.

I. Introduction

{¶ 1} This matter is before the court upon appeal of the judgment of the Lucas County Court of Common Pleas, Juvenile Division, awarding legal custody of Lai.K. (d.o.b. 4/12/15), Lav.K. (d.o.b. 6/26/17), and I.K. (d.o.b. 6/15/20) to their maternal step-aunt, with parenting time for appellant-mother, J.K., according to a court-ordered schedule. For the reasons that follow, we affirm.

II. Facts and Procedural Background

{¶ 2} Appellee, Lucas County Children Services (LCCS) opened a case in 2022 after receiving multiple referrals, including a report of domestic violence between mother and the father of Lai.K., Lav.K., and I.K. Both mother and father had a history of domestic violence, both as victim and as the aggressor, and the children experienced trauma from witnessing the ongoing violence. In addition to the domestic violence issues, LCCS had concerns regarding mother related to mental health, substance abuse, parenting, and housing.

{¶ 3} On August 3, 2022, LCCS filed a complaint in dependency and neglect and motion for shelter care, and on September 26, 2022, the juvenile court awarded temporary custody of the minor children to LCCS. Mother received case plan services, including parenting services, substance abuse treatment, and mental health services. After initially struggling with substance abuse, mother engaged with treatment through the Zepf Center in April 2023 and completed the treatment successfully.

{¶ 4} On June 6, 2024, mother filed a motion to reunify and on June 14, 2024, LCCS filed a motion to change placement, asking the juvenile court to grant mother custody of the children. On August 20, 2024, the guardian ad litem (GAL) assigned to the case for the children filed a motion, seeking kinship placement with the step-aunt and an order determining support and visitation.¹ However, prior to the scheduled trial in

¹ The motion was filed by the first guardian ad litem assigned to the case. The juvenile court appointed the present GAL on September 25, 2024, after the initial GAL became unavailable due to maternity leave, and after independent review of the case, the successor GAL prosecuted the motion for legal custody at trial.

December 2024, LCCS received new allegations of abuse by mother concerning I.K., and the trial was continued for LCCS to investigate the matter.

{¶ 5} The juvenile court held a trial on the motions over two days, on February 25 and June 20, 2025.² On the first day of hearing, the parties stipulated to returning legal custody of an older sibling of the children, Je.K., to mother. Je.K., born in 2011, had been removed from mother's custody at the same time as Lai.K., Lav.K., and I.K., but was placed separately. The juvenile court accepted the stipulation and granted custody of Je.K. to mother. LCCS proceeded with its motion to change placement, seeking reunification of the younger children and mother.

{¶ 6} On the first day of hearing, testimony was presented regarding mother's participation in parenting classes and in domestic violence classes through Providence Project, demonstrating mother successfully completed the classroom portion of parenting services in August 2024 and the domestic violence class in September 2024. Mother continued to engage with the observation component of parenting classes, with no further services for domestic violence. However, Providence Project was unaware of the specific allegations related to the domestic violence referral to LCCS and did not know that mother continued to have a relationship with father or that father was intermittently living in the home. The observation component of the parenting program included scheduled parent support visits, either in mother's home or at the agency, to permit observation.

² A week before the second day of hearing, the step-aunt filed a motion to intervene and for custody. The juvenile court denied the motion to intervene but permitted the step-aunt to be present at the trial as the caregiver for the children.

Mother appeared to apply her new parenting skills in interacting with her children, and the children expressed their desire to return home to mother.

{¶ 7} LCCS staff also testified regarding mother's compliance with her case plan and mother's demonstration of positive change. While acknowledging one recent drug test showing fentanyl, LCCS was satisfied the test was a false positive; all of mother's other recent screenings were negative for illicit drug use. LCCS was also satisfied with mother's efforts to use proper parenting methods, and indicated the most recent abuse referral, delaying trial, was investigated and determined to be unsubstantiated, although the investigation was conducted by Sandusky Children Services. The incident that led to the referral, however, also resulted in I.K.'s therapist barring mother from accompanying I.K. to appointments due to mother's aggressive conduct during therapy and suspected recording of one of I.K.'s sessions. As to father, LCCS acknowledged that father was discovered hiding in the shower of mother's home during a visit by the case worker in July 2024, after mother indicated there was nobody else in the house. Father had no belongings in the home and LCCS did not believe he resided there anymore, but LCCS also acknowledged that father had provided them with no permanent address, and as recently as September 2024 claimed to live with mother. Father also told LCCS that he and mother were working on their relationship and both were afraid of LCCS discovering him in mother's home.

{¶ 8} Following the witnesses presented by LCCS, the GAL presented her case, seeking legal custody for the step-aunt, called "auntie mom" by the children. First, I.K.'s preschool teacher testified regarding I.K.'s behavior and special needs. Lav.K.'s therapist

also testified regarding Lav.K's diagnoses and Lav.K.'s report that she had unsupervised contacts with father. Additionally, the therapist testified that Lav.K. identified auntie mom's home as her safe place, and while Lav.K. expresses a desire to live with mother, Lav.K. indicated she does not feel safe there.

{¶ 9} The GAL, herself, also testified. She stated she was assigned to the case after the prior GAL took maternity leave, and that she worked to review all the records and speak with all involved to quickly understand the case. In her review, the GAL noted concerns that she did not feel were completely addressed. First, the GAL noted that, in addition to the positive test for fentanyl at the testing center used by LCCS, mother had positive tests for fentanyl and cocaine at the Zepf center in spring and fall of 2024, with no investigation by LCCS to determine whether the positive tests were related to prescribed medications or an indication mother was using illicit drugs. Additionally, the GAL had concerns with mother's consistency in taking prescribed medications.

{¶ 10} Next, the GAL addressed concerns that mother had been caught in lies numerous times in 2023 and 2024, either by withholding information or not being honest. The GAL cited, as an example, mother's dishonesty regarding her criminal record. After conducting a background check, the GAL discovered mother had been charged with theft during the pendency of the juvenile court proceedings and completed her probation for that offense in October 2024. After the GAL asked the LCCS case worker about the offense, she learned that LCCS was unaware mother had been charged or was on probation, and LCCS did not pursue the matter any further.

{¶ 11} The GAL also believed that mother was dishonest regarding her continued relationship with father. She testified that mother seemed to know current details of father's life, and the GAL noticed that mother and father arrived for their consecutive, one-hour visitations at the agency together. On the day of the April 5 visit, the GAL observed mother's visit, stayed for father's visit after mother left, then left father's visit early and drove to mother's home for an unannounced visit. The GAL observed father arrive and enter mother's home after his visit at the agency. The GAL did not confront the pair that day, and when the GAL later asked mother if father had been to her home recently, mother did not disclose this visit. The GAL testified that the children tell her that father is in the house when they have their home visits with mother, and that mother and father are still having a relationship. When the GAL informed LCCS of this, she was assured by LCCS that this was not happening.

{¶ 12} Next, the GAL addressed mother's parenting and her involvement in the children's medical appointments. Having observed mother's visits with her children, the GAL noticed that mother had trouble parenting all the children together, with I.K. requiring extra attention based on his ability to escape and run. One of the incidents that delayed proceedings for an investigation involved I.K., who ran from mother at his therapy appointment; mother pursued and returned with I.K., but I.K. was bleeding from his nose and reported that mother hit him, a claim deemed unsubstantiated after the investigation. Furthermore, the GAL indicated that mother had not been communicating with auntie mom about appointments, prior to the GAL's involvement. She asked auntie mom to begin putting all the appointments in AppClose, and mother has had access since 6.

April 2024. However, the GAL testified mother's attendance at her children's appointments has been sporadic, causing concern that mother is not engaged regarding their medical care, a troubling concern considering the special needs of her children.

{¶ 13} The GAL also addressed the wishes expressed by the children, mainly the wishes of Lai.K. and Lav.K., as I.K. is very young and has verbal/communication deficits. She testified that the children want to live with mom but also wish to see auntie mom and have auntie mom in their life. They indicated they feel safe at auntie mom's house, they do not always feel safe at mother's home, and they fear father.

{¶ 14} As to the home, the GAL noted that mother has not set up bedrooms for the three children, and she has no transportation. Mother was not employed and had no immediate plans to get a job, indicating she would use the SSDI benefits for her children to support the family. After mother was reunited with Je.K., however, she continued to rely on Je.K.'s foster placement for parenting support, with the foster family providing transportation and help in obtaining his medications. The GAL noted a similar reliance by mother, relative to Lai.K., Lav.K., and I.K. She observed that mother looked to others for direction during visitation, and in numerous instances, LCCS staff intervened during mother's visitation and helped manage the children before mother had a chance to act.

{¶ 15} Finally, the GAL testified regarding concerns she conveyed to LCCS regarding the older sibling, Je.K., who returned to mother's custody in February 2025. The GAL testified that she learned Je.K. was exhibiting sexual behaviors and the younger children reported that Je.K. does not listen to mother, he cusses and watches scary movies, and he tries to scare his younger siblings. Based on what the younger children

shared, mother only monitors Je.K.'s conduct with his siblings when LCCS staff or the GAL will be observing.

{¶ 16} The GAL considered mother's progress with services, but also considered mother's lack of truthfulness, finding mother's withholding and lies weighed against trusting her commitment to parenting her children. The GAL found that the children are doing well with auntie mom and believed that LCCS is pushing for reunification despite red flags with mother's behavior, which LCCS is not interested in investigating considering the age of the case. The GAL argued that mother complied with her case plan but failed to demonstrate real change, as incidents with father, with drug screens, and with the children occurred after she had completed services. While recognizing that loss of legal custody was difficult, the GAL believed that mother could have reunification if she consistently demonstrated she is ready by engaging in continued services and visitation, attending her children's medical appointments, and maintaining a safe home for the children.

{¶ 17} In addressing the attitude of LCCS regarding reunification, the GAL argued:

And I made every attempt to talk to the prior caseworker about my concerns, but every time I did, it was dismissed as this was old information. It's not new and mom deserves a chance. [Auntie mom] is a manipulator. [Auntie mom] tricked all these therapists. I just – I'm baffled that we have so many professionals and records and SACWIS notes and everyone admitting that all these things are happening, but they still want to reunify with mother. And all three of these children have an IEP, and they have special needs, and they have behaviors and she has the child in her home that was alleged to have sexualized behaviors that were never really treated. And at one point – and there's been testimony in the past that one of the children that have alleged that he has been inappropriate with them is his

own sister, and yet the Agency was completely comfortable with trying to reunify all four of these children in the home of mother who cannot handle a few of the children because she gets overwhelmed by them. And I'm just a little shocked that there's really been no discussion, no sit down even when requested by provider and myself. It's just been, this is our recommendation, reunification with mom. And I tried my best and I could not agree with that, and I still don't agree with that. Thank you.

{¶ 18} Following the trial, the magistrate interviewed the children, in camera.

Upon completion of the children's testimony, the matter was taken under advisement.

{¶ 19} On August 11, 2025, the magistrate issued her decision, awarding legal custody of Lai.K., Lav.K., and I.K. to the maternal step-aunt, "auntie mom," and granting mother visitation not to include overnight visits.

{¶ 20} Mother filed an objection to the magistrate's decision on August 22, 2025, pro se, with a request for transcripts. Mother argued that the magistrate's findings did not reflect her progress and completion of case plan services, and she objected to the GAL's unfair bias against her. Mother argued that both GALs assigned to her case failed to get to know her as a person or appreciate the effort and commitment she demonstrated by completing her services, maintaining sobriety, and creating a stable and loving home for her children.

{¶ 21} On December 20, 2025, after independent review of the objections, the record, and the transcript, the juvenile court overruled the objections and adopted the magistrate's decision as the judgment of the court. Mother filed a timely appeal of the judgment. Neither LCCS nor the GAL participated in the appeal.

III. Assignment of Error

{¶ 22} Mother appeals this judgment, asserting the following assignment of error:

The award of legal custody to the maternal step-aunt was not supported by a preponderance of the evidence when the Lucas County Children Services permanency plan was reunification with mother.

IV. Analysis

{¶ 23} Mother challenges the juvenile court's award of legal custody to her step-sister, the children's step-aunt. In support, she argues that LCCS filed a motion seeking reunification and agreed with her that she completed her case plan services and demonstrated the necessary change for reunification.

{¶ 24} The juvenile court denied the motions of mother and LCCS seeking reunification, and instead granted the GAL's motion, awarding legal custody to the step-aunt. "An award of legal custody of a child does not divest parents of their residual parental rights, privileges, and responsibilities." *In re C.R.*, 2006-Ohio-1191, paragraph one of the syllabus. Because the parent retains residual rights, the parent has "far different procedural safeguards in [a] legal-custody proceeding than those that would be afforded a parent in a permanent-custody proceeding through which parental rights could be completely terminated." *In re M.L.*, 2026-Ohio-2267, ¶ 22 (6th Dist.), quoting *In re R.G.M.*, 2024-Ohio-2737, ¶ 17, citing R.C. 2151.011(B)(31).

{¶ 25} In awarding legal custody, a court has broad discretion in considering the evidence and making its decision, with proof by a preponderance of the evidence necessary to support that decision. *In re A.V.*, 2019-Ohio-1685, ¶ 13 (6th Dist.), citing *In re Nice*, 141 Ohio App.3d 445, 455 (7th Dist.2001). The preponderance of the evidence

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standard is a lower standard than the clear and convincing burden of proof used by courts in permanent custody proceedings. *In re M.L.* at ¶ 22. A “preponderance” means “the greater weight of the evidence[,]” which is satisfied by even an infinitesimal amount of evidence if that evidence is “sufficient to destroy the equilibrium.” *In re M.L.* at ¶ 22, quoting *Travelers’ Ins. Co. v. Gath*, 118 Ohio St. 257, 261 (1928).

{¶ 26} We review the juvenile court’s legal custody determination for abuse of discretion. *In re M.L.* at ¶ 23, citing *In re S.L.*, 2025-Ohio-4608, ¶ 40 (6th Dist.); *In re A.B.*, 2018-Ohio-4206, ¶ 12 (6th Dist.); *In re K.V.*, 2012-Ohio-190, ¶ 19 (6th Dist.). “An abuse of discretion occurs when the trial court exercises its judgment, in an unwarranted way, regarding a matter over which it has discretionary authority.” *Sweet v. Sweet*, 2024-Ohio-4824, ¶ 12 (6th Dist.), citing *Halbeisen v. Fantozz*, 2023-Ohio-4340, ¶ 7 (6th Dist.), citing *Johnson v. Abdullah*, 2021-Ohio-3304, ¶ 35.

{¶ 27} The juvenile court awarded legal custody to the step-aunt pursuant to R.C. 2151.353(A)(3), which authorizes the court to “[a]ward legal custody of [a] child to either parent or to any other person who, prior to the dispositional hearing, files a motion requesting legal custody of the child.” *In re L.N.*, 2024-Ohio-2571, ¶ 35 (6th Dist.). The statute contains no “predicate conditions that a trial court must find before awarding a nonparent legal custody.” *Id.* at ¶ 36, quoting *Matter of S.M.*, 2023-Ohio-2686, ¶ 42-43 (4th Dist.). In cases involving abuse, neglect, or dependency adjudication, the unsuitability of the parents is implicit, with the matter proceeding directly to the best-interest-of-the-child consideration. *In re L.N.* at ¶ 38, citing *In re C.R.* at ¶ 23, *In re D.A.*, 2007-Ohio-1105, ¶ 11 (additional citations omitted.).

{¶ 28} Here, mother does not challenge the initial findings regarding abuse, neglect, or dependency, reserving her challenge to the custody determination. In addressing the best-interest factors, mother argues that LCCS also sought reunification, supported by testimony of her caseworkers and case service providers, and that the children expressed a desire to return home. However, while acknowledging the instance in which LCCS discovered father hiding in her home, mother fails to address the numerous issues raised by the GAL regarding other interactions with father or the GAL's concerns regarding mother's honesty, sobriety, or parenting, unrelated to father.

{¶ 29} In seeking reunification, LCCS emphasized mother's compliance with all case plan services while discounting the issues raised by the GAL. However, we have previously noted that "the crux of the analysis is not on the case plan services themselves, but on the desired effect of those services. The services are provided to the parent 'for the purpose of changing parental conduct to allow them to resume and maintain parental duties.'" *In re C.S.*, 2023-Ohio-1662, ¶ 49 (6th Dist.), quoting R.C. 2151.414(E)(1).

{¶ 30} In this case, the juvenile court found that mother continued "to test positive for Fentanyl on some screens" and, in awarding mother visitation, specified no overnight visitation and required mother to "ensure all contact between Minor Children and their older Half-Sibling" be supervised. The juvenile court, furthermore, referenced "the GAL Report and Recommendation file-stamped 12/10/2024" and the in-camera interview of the children, following the trial. While objections were filed to the magistrate's decision with a request for transcripts, no findings of fact, conclusions of law were requested.

Therefore, the record is limited to the trial transcripts and exhibits and the magistrate's

reference to the GAL's testimony, including "remaining concerns" raised by the GAL. Considering this record, neither addressed nor distinguished by mother, the juvenile court had sufficient contrary evidence to support the custody determination, applying a preponderance of the evidence standard.

{¶ 31} Accordingly, based on the record, we find no abuse of discretion by the juvenile court in awarding legal custody to step-aunt. Mother's sole assignment of error is not well-taken.

V. Conclusion

{¶ 32} We affirm the judgment of the Lucas County Court of Common Pleas, Juvenile Division. Mother is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Thomas J. Osowik, P.J.

JUDGE

Gene A. Zmuda, J

JUDGE

Myron C. Duhart, J
CONCUR.

JUDGE

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