

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

In re J.P., R.P.

Court of Appeals No. {72}S-26-021
{72}S-26-022

Trial Court No. 22330107
22330108

DECISION AND JUDGMENT

Decided: October 20, 2026

* * * * *

Dean E. Ross, for appellee.

Anthony J. Richardson, II, for appellant.

* * * * *

{¶ 1} This is an expedited, consolidated appeal from the judgments by the Sandusky County Court of Common Pleas, Juvenile Division, which terminated the parental rights of appellant-Mother, A.O., to five-year old J.P. and four-year old R.P., and granted appellee Sandusky County Department of Job and Family Services permanent custody of them. The father of J.P. and R.P., whose parental rights was also terminated, did not appeal the judgments, and we will limit our discussion below to Mother. For the reasons set forth below, this court affirms the juvenile court's judgments.

I. Background

{¶ 2} On June 9, 2025, following a hearing at which the juvenile court magistrate received testimony from 13 witnesses and admitted 21 exhibits into the record, the court

awarded permanent custody of J.P. and R.P. to appellee. Mother does not dispute that the juvenile court adjudged both children were dependent children and that appellee's temporary custody of the children began on May 16, 2023, on an emergency basis and continued uninterrupted thereafter. However, Mother filed objections to the magistrate's June 9 decisions, which the juvenile court denied on April 21, 2026. The juvenile court explained:

In the Objection and Supplement, the Mother is generally objecting based upon the Magistrate's findings related to her interpretation of the evidence presented.

On the general matter of the evidence, a review of the decision under scrutiny would show that the Magistrate listed detailed impressions from the trial that were taken into consideration, and appear to be well-supported by the transcript and exhibits.

Both the Supplement to the Objection and the Response to Objection from each counsel referenced various portions of the transcript in support of their arguments, which have been considered ... with the Court finding the arguments contained within the Response to Objection by the Agency to be more persuasive.

Further, upon the independent review of the Court's file, transcripts, and pleadings, along with all information, evidence, and arguments contained therein, the Court, upon the appropriate application of the standards and law, comes to the same conclusion as that of the assigned Magistrate ... being that the requested Permanent Custody, by clear and convincing evidence, is in the best interest of the minor children in this case, meeting the two-prong test required for granting such a motion

{¶ 3} Mother timely appealed the juvenile court's decisions with two assignments of error:

1. The trial court committed reversible error by awarding permanent custody to Sandusky County against the manifest evidence.
2. The trial court committed reversible error by terminating appellant's parental rights in violation of her and her children's constitutional rights.

{¶ 4} On July 10, 2026, this court consolidated case No. S-26-022¹ into S-26-021² under App.R. 3(B).

II. Permanent Custody Determination

{¶ 5} We will address Mother's two assignments of error together.

{¶ 6} Procedurally we are presented with the situation that this appeal stems from the juvenile court's judgments overruling Mother's objections to the magistrate's June 9, 2025 decisions awarding permanent custody of J.P. and R.P. to appellee. However, Mother does not challenge the trial court's decisions overruling her objections to the magistrate's decisions granting appellee permanent custody of J.P. and R.P., which we review for an abuse of discretion. *In re G.H.*, 2024-Ohio-4943, ¶ 19 (6th Dist.), citing *Boersma v. Brancatto*, 2013-Ohio-3052, ¶ 9 (6th Dist.). We will not rule on a matter not argued on appeal. App.R. 12(A)(1)(b).

{¶ 7} Instead, Mother challenges the substantive outcome of the juvenile court's denial of her objections to the magistrate's decisions: the grants of permanent custody of J.P. and R.P. to appellee. We review the juvenile court's determination of permanent custody under either a sufficiency-of-the-evidence and/or a manifest-weight-of-the-evidence standard, depending on the nature of the arguments presented by the parties. *In re J.D.*, 2024-Ohio-282, ¶ 43 (6th Dist.), citing *In re Z.C.*, 2023-Ohio-4703, ¶ 11. A sufficiency-of-the-evidence standard is distinctly different, both quantitatively and qualitatively, from a manifest-weight-of-the-evidence standard. *In re Z.C.* at ¶ 13. The

¹ The appeal of juvenile court case No. 22330108 regarding R.P.

² The appeal of juvenile court case No. 22330107 regarding J.P.

former is a test of evidence adequacy while the latter is not a question of mathematics but depends on its effect in inducing belief. *Id.*

{¶ 8} Mother repeatedly makes passing reference to both a sufficiency-of-the-evidence challenge and a manifest-weight-of-the-evidence challenge to the juvenile court's judgments: they were "not supported by legally sufficient clear and convincing evidence and [were] against the manifest weight of the evidence." However, when Mother argues there was no clear and convincing evidence for the juvenile court to find under R.C. 2151.414 that permanent custody to appellee is in the children's best interests, she clarifies that "she challenges whether the Agency proved best interest and the broader termination judgment by clear and convincing evidence when the disputed record is weighed fairly. The disputed toxicology evidence could not bear the weight the juvenile court placed on it."

{¶ 9} Consequently, we find the gravamen of Mother's first assignment of error is that the juvenile court's determination was against the manifest weight of the evidence under R.C. 2151.414(B)(1) and (D). Mother argues the lack of the following clear and convincing evidence: "A record filled with disputed toxicology, false-positive concerns, improper collection testimony, medication-interaction evidence, and inconsistent oral-fluid and urine results does not create that firm belief that A.O. could not reunify with the children."

Under a manifest weight standard of review, we must weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether the trier of fact clearly lost its way in resolving evidentiary conflicts so as to create such a manifest miscarriage of justice that the decision must be reversed. But, while we review the

evidence and consider the witnesses' credibility, we must be mindful that the juvenile court, as the trier of fact, is in the best position to weigh evidence and evaluate testimony. Its discretion 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." (Citations omitted.)

In re S.J., 2024-Ohio-5137, ¶ 32 (6th Dist.). "Therefore, we will not find a permanent custody decision against the weight of the evidence if it is supported by some competent, credible evidence in the record upon which the trial court could have formed a firm belief as to all of the essential permanent custody findings." *In re A.S.*, 2026-Ohio-244, ¶ 100 (6th Dist.).

{¶ 10} Appellee responds to Mother's first assignment of error by agreeing that manifest-weight is the appropriate standard of review. Appellee argues that the juvenile court properly determined the children's best interests because Mother's disputed substance-abuse history was not the sole basis for the juvenile court's decisions under R.C. 2151.414(B)(1)(d) and 2151.414(D)(1). In any event, the juvenile court was in the best position to resolve any conflicting evidence through its first-hand view of the evidence, such as witness demeanors, inflections, and gestures, citing *In re Anisha N.*, 2003-Ohio-2356, *6 (6th Dist.). A juvenile court uses its first-hand observations when weighing the credibility of the proffered evidence, citing *In re J.J.*, 2018-Ohio-3915, ¶ 60 (6th Dist.). Appellee argues that Mother relies on "a very small amount of testimony taken out of context and framed in a light favorable to her position," and the juvenile court's credibility determinations are supported by some competent, credible evidence, citing *Id.*

{¶ 11} Appellee further responds that the juvenile court directly addressed manifest-weight in its findings:

34. The Court found most witnesses to be generally credible in their testimony. Each one appeared to understand the seriousness of the proceedings. Mother's witnesses provided testimony as to Mother's treatment. The teachers and service providers for the children and CASA/GAL³ provided valuable insight into what the children require and the work it will take to just maintain daily life for the children. When there were conflicts in testimony, the Court appropriately weighed the degree of credibility, self-interest, bias, ability to observe and recall, and other factors in determining which evidence to give more credence to in determining the outcome of these matters:

35. In this case there are two small children with three placement options – with Mother, Father or the Agency. Each party had witnesses highlighting the benefits of custody being placed with the respective parties. Each party had some helpful, good, and strong aspects that made weighing the statutory factors of utmost importance along with case plan completion and consistent behavior changes of the parents.

{¶ 12} Prior to granting appellee's motion for permanent custody of J.P. and R.P., the juvenile court must make specific findings by clear and convincing evidence pursuant to R.C. 2151.414(B)(1). *In re A.M.*, 2020-Ohio-5102, ¶ 18. First, "that one or more of the conditions in R.C. 2151.414(B)(1)(a) through (e) applies." *Id.* Second, that the grant of permanent custody to appellee is in the best interest of the children. *Id.*, citing R.C. 2151.414(B)(1).

{¶ 13} "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

³ "CASA" refers to court-appointed special advocates and "GAL" refers to the court-appointed guardian ad litem.

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, 471 (1954), paragraph three of the syllabus.

{¶ 14} The juvenile court found that from the date J.P. and R.P. were placed in a foster care home on May 16, 2023, until the first day of trial on March 26, 2025, the children had been in appellee’s temporary custody for 679 days. Mother does not dispute the first prong regarding permanent custody: “In this case, A.O. does not dispute that the children had been in Agency custody long enough to implicate the twelve-of-twenty-two provision.” Here the juvenile court determined by clear and convincing evidence that R.C. 2151.414(B)(1)(d) applied to Mother, which states:

[T]he court may grant permanent custody of a child to a movant if the court determines . . . by clear and convincing evidence, that it is in the best interest of the child to grant permanent custody of the child to the agency that filed the motion for permanent custody and that any of the following apply:

. . .

(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 [R.C. 2151.413(D)(1)], the child was previously in the temporary custody of an equivalent agency in another state.

{¶ 15} Thus, under R.C. 2151.414(B)(1), any of the factors in subparts (a) through (e) satisfy appellee’s burden for filing motions for permanent custody. *In re C.W.*, 2004-Ohio-6411, ¶ 27. Through Mother’s admission, the first prong regarding permanent custody is satisfied by the undisputed finding under R.C. 2151.414(B)(1)(d).

{¶ 16} In order to satisfy the second prong regarding permanent custody, the juvenile court must consider for the children’s best interests “all relevant factors,” including the nonexhaustive list under R.C. 2151.414(D)(1)(a) through (e). *In re A.M.*, 2020-Ohio-5102, at ¶ 19. “Consideration is all the statute requires.” *Id.* at ¶ 31. We find the juvenile court satisfied the second prong by considering all five of the R.C. 2151.414(D)(1) factors.

{¶ 17} Regarding R.C. 2151.414(D)(1)(a), the juvenile court found, “[J.P.’s] progress since being in the foster home has been significant. Both children have responded well since in foster care and the stability, consistency and involvement in services has resulted in improving behaviorally, socially, medically, emotionally, and developmentally, as detailed during the testimony on the record in these matters.” The juvenile court further found:

Interactions and interrelationships of the children and the foster family is very strong. The foster family has enrolled, attended and engaged in multiple service providers and the providers are strong. The children are healthy and well taken care of by the foster family. The resources for [J.P.] existed prior to the removal of the children but were not initiated by the parents.

{¶ 18} Regarding R.C. 2151.414(D)(1)(b), the juvenile court found, “The children’s GAL ultimately indicated that it is her opinion that granting the Motion for Permanent Custody would be in the best interests of the children.” The juvenile court further found, “The children are too young to express their wishes.”

{¶ 19} Regarding R.C. 2151.414(D)(1)(c), which mirrors R.C. 2151.414(B)(1)(d), the juvenile court found, “[J.P.] and [R.P.] have been in the Temporary-Custody of the

Sandusky County DJFS for 679 days at the start of this hearing - twelve or more months of a consecutive twenty-two month period of time; and also as of the filing of the motion in December of 2024.” The juvenile court further found, “The children have been in the temporary custody of the agency for twelve or more months out of twenty-two months, since the ex parte removal [on] May 16, 2023.”

{¶ 20} Regarding R.C. 2151.414(D)(1)(d), the juvenile court found, “The children need a legally secure permanent placement that can only be achieved through the granting of permanent custody to [appellee]. The children deserve to have the real and immediate opportunity for an appropriate and permanent adoptive home, which can only be achieved through the granting of permanent custody to [appellee].” The juvenile court further found, “The children need and deserve a legally secure placement and no such placement is possible without granting permanent custody to [appellee].”

{¶ 21} R.C. 2151.414(D)(1)(e) does not apply to Mother and the children.

{¶ 22} We find the gravamen of Mother’s second assignment of error is a similar challenge to the manifest weight of the evidence, but this time masked with language claiming a constitutional due process violation: “The constitutional or due process problem here is not that the juvenile court held a hearing. It did. The problem is that the resulting judgment lacks the reliability that due process requires when the State permanently destroys the parent-child relationship.” Put another way, Mother argues, “The judgment should be reversed and remanded for a new permanent-custody hearing or for further proceedings that apply the clear-and-convincing burden to a reliable and fairly weighed record.”

{¶ 23} As a preliminary matter, Mother failed to raise with the juvenile court her constitutional challenge to the application of a statute to her which she alleges permanently destroyed her parent-child relationships. Mother does not specify which statute is unconstitutional as applied, but the three reasons she argues to support her second assignment of error, appear to challenge the juvenile court’s findings under R.C. 2151.414(E)(1), which, although extensively reviewed in the record, is not a factor under R.C. 2151.414(B)(1)(d) and 2151.414(D)(1).

{¶ 24} “The ‘failure to raise at the trial court level the issue of the constitutionality of a statute or its application, which issue is apparent at the time of trial, constitutes a waiver of such issue and a deviation from this state's orderly procedure, and therefore need not be heard for the first time on appeal.’” *In re A.W.*, 2015-Ohio-407, ¶ 49 (6th Dist.), quoting *State v. Awan*, 22 Ohio St.3d 120 (1986), syllabus. Because Mother did not raise her constitutional challenge we need not consider it now. *Id.*

{¶ 25} Upon review we find no abuse of discretion when the juvenile court denied Mother’s objections to the magistrate’s June 9, 2025 decisions to grant permanent custody of J.P. and R.P. to appellee. We find that the juvenile court’s permanent custody decisions for J.P. and R.P. are not against the weight of the evidence because they are supported by some competent, credible evidence in the record upon which the juvenile court could have formed a firm belief as to all of the essential permanent custody findings. The juvenile court’s determination was supported by clear and convincing evidence in the record to produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.

{¶ 26} Mother’s first and second assignments of error are not well-taken.

III. Conclusion

{¶ 27} The judgments of the Sandusky County Court of Common Pleas, Juvenile Division, terminating Mother’s parental rights to J.P. and R.P. and granting permanent custody to appellee are affirmed. 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.

Thomas J. Osowik, P.J.

JUDGE

Gene A. Zmuda, J.

JUDGE

Charles E. Sulek, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio’s Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court’s web site at: http://www.supremecourt.ohio.gov/ROD/docs/.
