

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
BELMONT COUNTY

IN RE: As.D., Ad.D., Ar.D.

OPINION AND JUDGMENT ENTRY

Case No. 26 BE 0032

Juvenile Appeal from the
Court of Common Pleas, Juvenile Division, of Belmont County, Ohio
Case Nos. 25 JC 49, 25 JC 50, 25 JC 51

BEFORE:

Katelyn Dickey, Cheryl L. Waite, Carol Ann Robb, Judges.

JUDGMENT:

Affirmed.

Atty. J. Kevin Flanagan, Belmont County Prosecutor, and *Atty. Jacob A. Manning*,
Assistant Prosecuting Attorney, for Appellee and

Atty. Martin S. Hume, Martin S. Hume Co., LPA, for Appellant.

Dated: September 2, 2026

DICKEY, J.

{¶1} Appellant, C.D. ("Mother"), appeals from the May 12, 2026 judgment of the Belmont County Court of Common Pleas, Juvenile Division, terminating the parental rights of Mother and T.C. ("Father") and granting permanent custody of the three minor children, As.D. (d.o.b. 4/29/2013), Ad.D. (d.o.b. 12/21/2015), and Ar.D. (d.o.b. 12/6/2017) ("minor children"), to Appellee, Belmont County Department of Job and Family Services - Children Services Division ("Agency"), following a hearing.

{¶2} Mother and Father have been married since 2010. The minor children were born during Mother's marriage to Father. Mother is the biological mother of the minor children. However, Father is the legal, not the biological, father of the minor children. The biological father is a registered sex offender and paternity was not established. Father sexually abused As.D. and Ad.D. and pled guilty to raping As.D. and is serving a life sentence. Mother pled guilty to obstructing justice for aiding Father in raping As.D. Mother was sentenced to nine months incarceration and is currently in a half-way house. Mother's expected release/parole eligibility date is September 25, 2026. Father is not a named party in this appeal.

{¶3} On appeal, Mother asserts the juvenile court erred in terminating her parental rights and granting permanent custody of the minor children to Agency. Finding no reversible error, we affirm.

FACTS AND PROCEDURAL HISTORY

{¶4} These cases, juvenile court Case Nos. 25 JC 49, 25 JC 50, and 25 JC 51, commenced on February 11, 2025. Agency filed a complaint for temporary legal custody alleging As.D. and Ad.D. were abused and dependent children and Ar.D. was a dependent child. Attorney Jacob Leach was appointed guardian ad litem ("GAL"). Protective supervision hearings and an adjudicatory hearing were held. Throughout the proceedings, the GAL filed reports. Case plans were also filed and case plan hearings were held. On September 5, 2025, an emergency shelter care hearing was held. The minor children were placed in foster care before temporary custody was placed with Agency.

{¶15} On January 23, 2026, Agency filed a motion for permanent custody. The juvenile court held an evidentiary hearing on April 16, 2026, during which time Father was incarcerated and Mother was in a half-way house under APA supervision. Agency called upon the following individuals to testify: (1) Chief John J. Watson with the Village of Bellaire Police Department (“Chief Watson”); (2) Detective Jason Schwarck with the Belmont County Sheriff’s Department (“Detective Schwarck”); (3) D.W., Mother’s neighbor (“Neighbor”); (4) Trina Palmer, Agency Intake Caseworker (“Caseworker Palmer” or “Palmer”); (5) Michele Burkhardt, Assigned Agency Caseworker (“Caseworker Burkhardt” or “Burkhardt”); (6) Attorney Sheryl Shaw, legal counsel for As.D. and Ad.D. (“Attorney Shaw”); and (7) the GAL. Mother testified on her own behalf.

{¶16} On behalf of Agency, the following exhibits were admitted into evidence: (1) indictment/court entries pertaining to a criminal prosecution of Father in the Court of Common Pleas of Belmont County, Ohio; (2) indictment/court entries pertaining to a criminal prosecution of Mother in the Court of Common Pleas of Belmont County, Ohio; (3) DNA lab report, issue date of January 19, 2026; (4) Application for Marriage License filed by Mother and Father; (5) Affidavit of Laura Zupko, Clerk of Court for the Court of Common Pleas of Belmont County, Ohio (limited in scope for the purpose of evidencing that there has never been a divorce or dissolution of marriage proceeding filed in said court involving the parties); (6) December 6, 2024, Case Plan 1.00; (7) December 4, 2024, Family Team Meeting notes; (8) transcript of adjudication and disposition proceedings from May 7, 2025; (9) June 6, 2025, updated Case Plan 1.01; (10) July 23, 2025, entry regarding a review hearing held that date; (11) September 16, 2025, Family Team Meeting notes; (12) October 10, 2025, Case Plan 1.02; and (13) November 24, 2025, updated Case Plan 1.02.

{¶17} On behalf of Mother, the following exhibits were admitted into evidence: Exhibit A, case file entries in Case No. 12 CRB 651 from the Northern Division County Court of Belmont County, Ohio, concerning a domestic violence prosecution of Father; and Exhibit B, flash drive of Belmont County Jail telephone calls from Father to Mother.

{¶18} Chief Watson testified there were no police calls made or dispatches to Mother’s residence regarding a suspicious person or intruder on the night of August 31 to early September 1, 2025, and no related investigation occurred. Chief

Watson reviewed a two to three week period after September 1 and found no calls or reports by Mother for her address. He confirmed there was no police report of a breaking and entering at Mother's home around the time period at issue.

{¶9} Detective Schwarck investigated the rape of As.D. by Father at Mother's residence between August 31 and September 1, 2025. Father pled guilty to rape and is currently serving a life sentence in prison. Detective Schwarck interviewed Mother twice. He first heard Mother deny that Father had been in the home. Mother later admitted Father entered through the back door that night. Mother maintained contact with Father, brought him food and money, and knew his location after learning law enforcement was seeking him.

{¶10} Detective Schwarck obtained Mother's consent to search her phones. He discovered Mother initially concealed a second phone in her car and found post-September 2 communications with Father on her devices. Jail calls and video visits initiated by Father were accepted by Mother multiple times. They were generally ordinary in tone without direct threats to Mother, however, Father messaged that he would accuse Mother if she did not answer. Mother continued accepting Father's calls during his incarceration.

{¶11} Father's phone recovered from a campsite contained video evidence tied to As.D.'s room. A search of Mother's bedroom found a sex toy with DNA consistent with As.D. and Mother. Detective Schwarck confirmed Mother pled guilty to obstructing justice for aiding Father in raping As.D. and she received a short prison sentence.

{¶12} Neighbor lives two houses from Mother and has known the family at least 15 years. Neighbor provided safety plan placement beginning September 26, 2024, in which the minor children resided with her until May 7, 2025. The minor children were with Neighbor briefly again on September 9 to 10, 2025, due to allegations involving Father and As.D. Neighbor saw Father exiting Mother's house around 8:00 to 8:30 a.m. approximately two to three times per month from about September to December 2024, despite no contact terms. In summer 2025, Neighbor only saw Father driving up and down the street. Neighbor testified that Mother regularly visited with the minor children during the placement. As.D. told Neighbor that in September 2025, Father came into her room and touched her.

{¶13} Caseworker Palmer received a May 2024 report that Ad.D. disclosed sexual abuse by Father at home and both As.D. and Ad.D. disclosed sexual abuse by Father while they were at Harmony House. Palmer instructed Mother to keep Father out of the residence. A September 2024 report alleged Father had returned home and continued the abuse. Agency implemented a safety plan placing the minor children with Neighbor. It was learned that Mother and Father had been married since 2010 without divorce. The December 6, 2024 Case Plan 1.00, signed by Mother, required her to keep Father away, recognize the abuse, and engage counseling. The December 2024 Family Team Meeting notes emphasized that Father must stay away from the minor children permanently. At a May 7, 2025 adjudication, Mother was ordered not to permit Father any contact with the minor children.

{¶14} Caseworker Burkhardt testified regarding the updated Case Plan 1.01 on June 6, 2025 under protective supervision. She reiterated that Father must have no contact and that Mother must protect the minor children, maintain stable housing and income, and engage counseling. Burkhardt described the plan as “simple”. A July 23, 2025 court review found Mother cooperative but not proactive enough in scheduling the minor children’s counseling.

{¶15} In early September 2025, after As.D. disclosed sexual abuse at home, Caseworker Burkhardt coordinated a SANE (sexual assault nurse examiner) exam at the hospital with Mother’s consent. As.D. received HIV prophylaxis and Plan B. Concerns included As.D.’s fear of Father. Following removal, a September 2025 Family Team Meeting notes documented ongoing counseling needs and no contact with Father. Burkhardt stated the minor children are doing very well in a therapeutic foster home that is willing to adopt all three. Many contacts were made but no kinship placement was found. Burkhardt understood Father is the legal, not biological, father and that the named biological father could not be engaged. Mother had reported the biological father is a registered sex offender and paternity was not established.

{¶16} The minor children are current on medical care and all receive counseling. Caseworker Burkhardt stated As.D. needs intensive services after self-harm and hospitalization and As.D. fears videos from Father’s phone will be seen by others. As.D. and Ad.D. told Burkhardt they wish to be adopted by their foster mother and wrote letters

requesting adoption. The minor children attend public school with improved grades. After September 2025, As.D. reported waking up to Father at her bed and Mother told her she filed a police report claiming he must have broken in. Concerns remained focused on Mother's protection and keeping Father away. Agency later learned Father pled guilty to raping As.D. Burkhart still had concerns about Mother's ability to keep the minor children safe, even if Father were incarcerated, based on As.D.'s statement that she felt Mother knew Father was around.

{¶17} Attorney Shaw represents As.D. and Ad.D. She maintains ongoing Agency contact. She spoke with the girls about the hearing and permanent custody and reported they want to remain with their foster mother. Attorney Shaw's concern is the girls feel Mother may have known about Father's abuse but turned a blind eye. The girls fear not being protected if they return home.

{¶18} The GAL has served since the case's inception. He had minimal contact with Father and regular contact with Mother. The GAL expressed early concern over Mother's apparent apathy and reluctance to choose sides and did not observe acknowledgment and support that the minor children needed. The GAL opined the minor children love Mother but feel unsafe and torn. The GAL recommended permanent custody to Agency as being in the minor children's best interests. He cited repeated sexual assaults over the years showing Mother cannot protect the minor children.

{¶19} After Agency rested, Mother testified that in September 2025, Father entered her home, uninvited, through the back door, slapped her awake, and threatened to kill her if she divorced him. Mother described years of threats, prior violence, and fear. Mother said she removed Father from the home in 2024 after sexual abuse allegations. She reported Father's persistent jail calls using other inmates' PINs. Mother supports Father's incarceration due to him raping As.D. Mother pled guilty to fifth degree obstruction of justice with other charges dismissed. She has engaged programs for trauma, domestic violence, substance use recovery, and safety planning. She intends to resume work and return to her home upon being released. Mother has installed cameras, alarms, and locks, created a safety plan including trusted adults, and is willing to move if the minor children desire. Mother acknowledged Case Plan duties of counseling, employment, and housing. She conceded initial dishonesty to law enforcement. Mother

admitted a substance use history, disputed the extent of counseling inconsistency, and agreed Father sexually abused her daughters on multiple occasions.

{¶20} On May 12, 2026, the juvenile court terminated Mother's and Father's parental rights and granted permanent custody of the minor children to Agency following the hearing. In its judgment, the court made the following findings of fact:

1. On May 26, 2010, [Mother] and [Father] were married by the Honorable Mayor John J. Callarik of the Village of Bridgeport, Ohio, and as of the date of the evidentiary hearing herein, [Mother] and [Father] were still married to each other.

2. During the course of [Mother's] and [Father's] marriage the three (3) minor children that are the subject of these cases were born with the minor child As.D. being born on 4/29/2013, the minor child, Ad.D. being born on 12/21/2015, and the minor child, Ar.D. being born on 12/6/2017.

3. Although the minor children were born during the course of [Mother's] and [Father's] marriage and, therefore, [Father] is legally presumed to be their father, uncontested evidence presented during the evidentiary hearing indicated that he was not the biological father of all the children. Further, the evidence presented during the evidentiary hearing indicated that another man was the biological father of all of the children and that said individual is a registered sex offender. The Agency did contact said individual but he did not want any involvement with respect to the cases and no paternity testing was performed.

4. Over the course of their marriage, the relationship between [Mother] and [Father] was incredibly dysfunctional as evidenced by [Mother] having three (3) children with another man during the course of the marriage, prolonged periods of separation between [Mother] and [Father] during the marriage, acts of domestic violence by [Father] upon [Mother] and a reunification of their relationship in the Spring of 2024 upon [Father's] release from prison after serving a sentence for a felony drug offense.

5. In May, 2024, an initial disclosure of sexual abuse was made by the minor child, Ad.D., while she was at school. The Agency investigated matters concerning the disclosure but no formal case was opened at that time. The alleged perpetrator of the sexual abuse was [Father]. The reason the Agency did not open up a case is that [Mother] agreed that she would keep [Father] away from the children for a certain period [of] time (60 days following the “in take” date by the Agency).

6. In September, 2024, another disclosure of sexual abuse was made by the minor child, Ad.D., and the minor child, As.D., also made a disclosure. The alleged perpetrator of said acts was, again, [Father]. As a result of the disclosures made by the two children, a safety plan was implemented by the Agency and the children were placed with [Neighbor], a neighbor to [Mother] who knew her, [Father] and the children. The children lived in [Neighbor’s] household from September, 2024 until May, 2025. During that time [Mother] never expressed to [Neighbor] that she was fearful of [Father].

7. On November 15, 2024, the Agency initiated abuse and dependency actions involving the three (3) minor children which were designated as 24 JC 443, 24 JC 444, 24 JC 445. The initial case plan filed in said cases clearly and unambiguously stated that [Mother] was to take all action to prevent the children from having any contact with [Father]. Further, during a family team meeting on December 4, 2024, the “No Contact Order” was reviewed and emphasized by members of the team with [Mother].

8. [Mother] never informed Agency representatives that she was legally married to [Father] but shortly after the cases were filed, the Agency became aware of their marriage. On February 11, 2025, Complaints were refiled so as to include [Father] as the legally presumed father of the children and the cases were designated as set forth above. On February 13, 2025, Case Nos. 24 JC 443, 24 JC 444, 24 JC 445 were dismissed.

9. During a hearing on May 7, 2025, the minor children, As.D. and Ad.D., were adjudicated abused and dependent and the minor child, Ar.D., was adjudicated dependent and the Agency was granted protected supervision over the minor children. Further, the Court ordered that [Father] was not to have any contact or communication, directly or indirectly, through mail, telephone, any electronic messaging, computer email, through [Mother], or in any manner with the minor children pending further order of the Court.

10. On June 6, 2025, an Updated Case Plan, designated 1.01, was filed by the Agency and on June 9, 2025, the Case Plan was approved by the Court as filed. A central theme of the Case Plan was for [Mother] to take all action to prevent the children from having any contact with [Father].

11. On July 23, 2025, the cases were before the Court for a semi-annual review hearing and during said proceedings the Court reiterated the prior order prohibiting [Father] from having any contact with the minor children and that said order was to remain in effect.

12. On or about September 1, 2025, while [Mother] was at her home with the minor children, [Father] came into the residence and raped the minor child, As.D. The sexual abuse and criminal act was also videotaped by [Father].

13. On September 5, 2025, the Agency was granted emergency temporary custody of the children and on October 22, 2025, the Agency was granted temporary legal custody of the minor children.

14. On January 8, 2026, an eight count indictment was filed against [Father] in the Court of Common Pleas of Belmont County, Ohio, General Division. Said indictment included two (2) counts of Rape, four (4) counts of Pandering Obscenity Involving a Minor and two (2) counts of Felony Drug Offenses. The victim in the rape counts was the minor child, As.D.

15. During the time period from the rape of As.D. to the time period when [Father] was taken into custody for the same, [Mother] had contact and communications with [Father]. Additionally, during that time period [Mother] was being investigated by the Belmont County Sheriff's Department in matters concerning [Father's] alleged crimes and his whereabouts. During said investigation [Mother] initially stated to Detective Schwarck that [Father] was not at her house on the date the child was raped. Further, when [Father] was found and taken into custody by law enforcement he had been staying on the property of a relative of [Mother].

16. On December 4, 2025, a four (4) count indictment was filed against [Mother] in the Court of Common Pleas of Belmont County, Ohio, General Division, and in Count 2 of the indictment [Mother] was alleged to have obstructed justice in the rape offense committed by [Father] involving the minor child, As.D. On January 20, 2026, [Mother] plead guilty to Count II in the indictment, Obstructing Justice, and on March 23, 2026, [Father] plead guilty to Count 1 of his indictment, Rape, a felony of the first degree, involving the minor child, As.D.

17. In the criminal case involving [Father], the joint sentencing recommendation to the Court was that he would serve a sentence of life in prison with the possibility of parole after 18 - 22 years. At the time of the evidentiary hearing herein [Father] had not yet been sentenced.

18. On January 20, 2026, [Mother] was sentenced to serve nine (9) months in the women's reformatory. [Mother] served approximately two (2) months in the reformatory and is currently in a half-way house with a scheduled release sometime in September, 2026.

19. [Mother] clearly lacks stability and her instability poses a severe risk to the safety of the children. [Mother's] instability is evidenced by remaining in a marital relationship with [Father] while presumably having three (3) children with a registered sex offender, continuing to stay in the

relationship with [Father] despite his threats [and] acts of domestic violence, intimidation and cruelty towards her; reunifying with [Father] after he served a prison sentence for a felony drug offense; continuing to have contact and communication with [Father] while knowing that law enforcement was actively searching for him subsequent to the rape of one of her daughters and being convicted of Obstructing Justice in regards to said offense.

20. Further, [Mother] has a drug problem and admitted to being an addict during the evidentiary hearing herein. Only now, while she has been incarcerated and receiving services at a halfway house, has [Mother] begun to understand the trauma that has been inflicted upon her children and how her instability and her lack of being able to provide a stable household and keep the children away from [Father] has affected them.

21. The children are currently in a foster-to-adopt placement and are doing very well in the same. The foster parents are taking all necessary action to protect the children and to promote their health, safety and welfare.

22. The children now need a safe, stable, nurturing and legally secure placement and due to [Mother's] actions, behaviors and history with [Father] and a registered sex offender, she cannot be determined by the Court to be responsible for meeting the children's basic day-to-day needs and to keep them safe.

23. It is the opinion of legal counsel for the minor children, As.D. and Ad.D., that said children be placed in the permanent custody of the Agency and that such action is in their best interest.

24. In his report to the Court and in his testimony during the evidentiary hearing, the Guardian ad Litem set forth his opinion that the children should now be placed in the permanent custody of the Agency and that said action is in their best interest. The Guardian ad Litem's opinion is based upon his belief that [Mother's] actions have clearly demonstrated that

she did not and can not protect the children and her “history” presents too many risks to the children’s safety.

(5/12/2026 Judgment Entry, p. 3-6).

{¶21} In its judgment, the juvenile court additionally made the following conclusions of law:

Based upon the findings of facts set forth above, as applied to the applicable legal standards in the instant proceedings, the Court hereby finds and concludes as follows:

1. At the time of the filing of the Agency’s Motion for Permanent Custody, the children had not been in the Agency’s temporary custody for twelve (12) or more months of a consecutive twenty-two (22) month period; however, pursuant to R.C. 2151.414(B)(1)(a), the Court finds that the children should not be placed with [Mother] or [Father]. In determining that the children should not be placed with [Father], findings under R.C. 2151.414(E)(1), (3), (5), (7), (10), (13), (14), (15), (16) are applicable. Due to [Father’s] Rape conviction, R.C. 2151.414(E)(7)(d) is directly on point.

2. With respect to [Mother], again, the Court does believe that there are several factors under R.C. 2151.414(E) which demonstrate that the children should not be placed with her. Of particular relevance are the factors under 2151.414(E)(1) and 2151.414(E)(16). From the time period of the initial disclosures made by one of the minor children in this case, the same being May, 2024, until the date the minor child, As.D. was raped by [Father], the orders of this Court could not have been clearer. That is, [Mother] was to do everything in her power to prevent [Father] from having any contact with the children. Although [Mother] claims to have taken the order seriously and abided by the same, during the referenced time period, not one but two disclosures were made by the children and the minor child, As.D., was raped. Further, subsequent to said heinous criminal act, [Mother] continued to have communication and contact with [Father] and was

convicted of Obstructing Justice wherein the underlying crime involving the obstruction was [Father's] rape of the minor child, As.D. Not only did [Mother] fail to follow this Court's orders, she failed to remedy the concerns which caused the Agency to become initially involved as is relevant pursuant to R.C. 2151.414(E)(1). In fact, she knowingly permitted them to continue.

3. Further, in regards to R.C. 2151.414(E)(16) this Court cannot simply ignore the facts that have previously been addressed in regards to [Mother's] lack of stability. Evidence concerning her instability now spans the course of time of 16 years, that is, from the time she married [Father] in 2010 to date. Her lack of stability contributed to egregious criminal contact by [Father] with the minor children while the children were under her care. Further, although Obstruction of Justice is not specifically a listed crime under R.C. 2151.414(E)(6) or (7), it is clear from [Mother's] indictment and subsequent guilty plea, as well as [Father's] indictment and guilty plea, that their crimes are intertwined and related. [Mother's] relationship with [Father] and her criminal conviction are highly relevant under R.C. 2151.414(E)(16). Accordingly, this Court does find that the clear and convincing evidence establishes that the children should not be placed with [Mother] or [Father].

4. The best interest of the children will be served by granting the Agency's Motion for Permanent Custody. Although every termination of parental rights cases involve a difficult balance between maintaining a natural parent-child relationship and protecting the best interests of a child, the paramount consideration is always the best interest of the child. The children have been through incredible trauma and it is imperative that they now have a safe and stable environment to heal and recover. The children are all in the same foster home and have flourished in said environment. They have now had at least eight (8) months of safety and stability in their current placement and they are well-bonded with their foster parents who desire to adopt all three (3) children.

5. The minor child, As.D., has expressed to her attorney and to the Guardian ad Litem that she desires to remain with her foster parents and not return to [Mother's] household. As previously addressed the Guardian ad Litem is of the opinion that the children should be placed in the permanent custody of the Agency and that such an order will promote their best interests.

6. The children's custodial history was primarily with [Mother] while she participated in her dysfunctional relationship with [Father]; however, for at least seventeen (17) months during the time period from September, 2024, to the date of the evidentiary hearing herein the children have either resides with [Neighbor] (approximately nine (9) months) or their current foster placement (approximately eight (8) months).

7. Regarding the children's need for a legally secure placement and whether that type of placement can be achieved without a grant of permanent custody to the Agency, as previously indicated, the children's physical and emotional well-being and health and welfare are being met in their foster home. The Court's findings of fact set forth herein established that there are now too many risks associated with [Mother] being entrusted with placement for the children. Clearly, a legally secure placement cannot be achieved without granting permanent custody to the Agency.

8. Finally, due to his heinous criminal acts, R.C. 2151.414(E)(7)(d) applies in relation to [Father].

Therefore, the parental rights of [Mother] and [Father] are hereby terminated[.]

(5/12/2026 Judgment Entry, p. 6-8).

{¶22} Mother filed a timely appeal and raises one assignment of error.

ASSIGNMENT OF ERROR

THE JUDGMENT OF THE JUVENILE COURT WAS NOT SUPPORTED BY SUFFICIENT EVIDENCE AND WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶23} In her sole assignment of error, Mother contends the juvenile court’s permanent custody order was not supported by sufficient evidence and was against the manifest weight of the evidence. Mother’s argument centers on whether it was in the best interest of the minor children to terminate her parental rights and grant permanent custody to Agency.

“[T]he right to raise a child is an ‘essential’ and ‘basic’ civil right.” *In re Murray*, 52 Ohio St.3d 155, 157, 556 N.E.2d 1169 (1990), quoting *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208 (1972). A parent’s interest in the care, custody, and management of his or her child is “fundamental.” *Id.*; *Santosky v. Kramer*, 455 U.S. 745, 753, 102 S.Ct. 1388 (1982). The permanent termination of a parent’s rights has been described as, “. . . the family law equivalent to the death penalty in a criminal case.” *In re Smith*, 77 Ohio App.3d 1, 16, 601 N.E.2d 45 (6th Dist.1991). Therefore, parents “must be afforded every procedural and substantive protection the law allows.” *Id.*

In re W.W., 2021-Ohio-3440, ¶ 26 (7th Dist.).

“[A] court exercising Juvenile Court jurisdiction is invested with a very broad discretion, and, unless that power is abused, a reviewing court is not warranted in disturbing its judgment.” *In re Anteau*, 67 Ohio App. 117, 119, 36 N.E.2d 47, 48 (1941). “The term ‘abuse of discretion’ connotes more than an error of law or of judgment; it implies that the court’s attitude is unreasonable, arbitrary or unconscionable. . . .” *In re Jane Doe 1*, 57 Ohio St.3d 135, 137, 566 N.E.2d 1181, 1184 (1990), citing *State v. Adams*, 62 Ohio St.2d 151, 157, 172-173, 404 N.E.2d 144, 148-149 (1980). A juvenile court’s decision to terminate parental rights and transfer permanent custody

of a minor child must be supported by clear and convincing evidence. *Santosky, supra*, paragraph three of the syllabus. “Clear and convincing evidence is that measure or degree of proof which will produce in the mind of the trier of facts a firm belief or conviction as to the allegations sought to be established. It is [an] intermediate [standard], being more than a mere preponderance, but not to the extent of such certainty as is required beyond a reasonable doubt as in criminal cases. It does not mean clear and *unequivocal*.” (Emphasis sic). *Cross v. Ledford*, 191 Ohio St. 469, 477, 120 N.E.2d 118 (1954).

When reviewing the decision of a juvenile court to determine whether it is supported by clear and convincing evidence, “a reviewing court may not as a matter of law substitute its judgment as to what facts are shown by the evidence for that of the trial court” because the “trial judge, having heard the witnesses testify, was in a far better position to evaluate their testimony th[a]n a reviewing court.” *Id.* at 478, 120 N.E.2d 118. “Where the evidence is in conflict, the trier of facts may determine what should be accepted as the truth and what should be rejected as false.” *Id.* “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.” *C.E. Morris Co. v. Foley Constr. Co.*, 54 Ohio St.2d 279, 376 N.E.2d 578 (1978), syllabus.

In the Matter of K.J. and S.M.J., 2021-Ohio-4299, ¶ 29 (7th Dist.), quoting *In re T.N.T.*, 2013-Ohio-861, ¶ 14-15 (7th Dist.).

{¶24} “Although sufficiency and manifest weight are distinct legal concepts, a finding that a judgment is supported by the manifest weight of the evidence necessarily includes a finding that sufficient evidence supports the judgment.’ *In re P.S.*, 2023-Ohio-144, ¶ 30 (8th Dist.), citing *In re C.N.*, 2015-Ohio-2546, ¶ 9 (10th Dist.), citing *State v. Howze*, 2013-Ohio-4800, ¶ 10 (10th Dist.).” *In re X.R.*, 2026-Ohio-2828, ¶ 29 (8th Dist.).

{¶25} When a motion for permanent custody is filed by a children services agency, the juvenile court's decision whether to grant permanent custody to the agency is governed by R.C. 2151.414(B)(1), the first prong of the permanent custody test, which provides:

[T]he court may grant permanent custody of a child to [the agency] if the court determines at the hearing . . . 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:

(a) 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.

(d) The child has been in the temporary custody of one or more public children services 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 . . . for twelve or more months of a consecutive twenty-two-month period and . . . the child was previously in the temporary custody of an equivalent agency in another state.

(e) The child or another child in the custody of the parent or parents from whose custody the child has been removed has been adjudicated an abused, neglected, or dependent child on three separate occasions by any court in this state or another state.

For the purposes of division (B)(1) of this section, a child shall be considered to have entered the temporary custody of an agency on the earlier of the date the child is adjudicated pursuant to section 2151.28 of the

Revised Code [to be an abused, neglected, or dependent child] or the date that is sixty days after the removal of the child from home.

R.C. 2151.414(B)(1)(a)-(e).

{¶26} In this case, the minor children could not be safely placed with either parent within a reasonable period of time. As stated, at the time of the filing of Agency’s motion for permanent custody, the minor children had not been in Agency’s temporary custody for 12 or more months of a consecutive 22-month period. However, pursuant to R.C. 2151.414(B)(1)(a), the juvenile court found the minor children should not be placed with Mother or Father.

{¶27} In determining that the minor children should not be placed with Father, findings under R.C. 2151.414(E)(1), (3), (5), (7), (10), (13), (14), (15), and (16) are applicable. Due to Father’s rape conviction, R.C. 2151.414(E)(7)(d) is directly on point. With respect to Mother, there are factors under R.C. 2151.414(E)(1) and (16) which demonstrate that the minor children should not be placed with her. These specific factors as to both parents were considered by the juvenile court as addressed in detail above as well as cited below. Thus, there is clear and convincing evidence to support the juvenile court’s termination of Mother’s and Father’s parental rights and award of permanent custody to Agency under the first prong of the permanent custody test. R.C. 2151.414(B)(1)(a).

{¶28} In addition to the first prong, “[an] agency [also] bears the burden of proving by clear and convincing evidence that the grant of permanent custody is in the child’s best interest.” *Matter of J.C.*, 2021-Ohio-1476, ¶ 6 (7th Dist.), citing *In re B.C.*, 2014-Ohio-4558, ¶ 26. “R.C. 2151.414(D)(1) sets out a nonexhaustive list of factors the court must consider, and the court is encouraged but not required to address the factors relevant to the decision.” *Matter of J.C.* at ¶ 6. R.C. 2151.414(D)(1) provides:

In determining the best interest of a child . . . the court shall 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 caregivers 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, 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. . . ;

(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 to the agency;

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

R.C. 2151.414(D)(1)(a)-(e).

{¶29} Mother believes this court should reverse the juvenile court’s judgment because “[t]his case is factually extremely similar to the case of *In Re: L.H.*, 2024-Ohio-2271 [(8th Dist.)].” (7/30/2026 Appellant’s Brief, p. 10). In *L.H.*, our Sister Court held, based on the facts and record in that particular case, that the manifest weight of the evidence did not support the first prong of the required showing for a termination of parental rights. *L.H.* at ¶ 44, 47. Unlike the case sub judice, *L.H.* did not deal with the same egregious facts: a mother obstructing justice in aiding the father in raping their minor child. Accordingly, we find *L.H.* distinguishable.

{¶30} In determining the best interest of the minor children being placed into the permanent custody of Agency, the juvenile court considered and referenced 24 findings in its May 12, 2026 judgment, as addressed, before concluding: “The best interest of the children will be served by granting the Agency’s Motion for Permanent Custody” and

terminating the parental rights of Mother and Father. (5/12/2026 Judgment Entry, p. 7-8).

{¶31} Specifically, the court considered all relevant factors, including: Mother and Father had an incredibly dysfunctional relationship, including acts of domestic violence; instances of sexual abuse by Father against As.D. and Ad.D. were known by Mother and she permitted them to continue; while under Mother's care, Father was at her home and raped As.D.; Mother initially lied to police that Father was not at her home on the date of the rape; Mother later pled guilty to obstructing justice for aiding Father in raping As.D.; Mother clearly lacks stability and her instability poses a severe risk to the safety of the minor children; Mother has a drug problem and admitted to being an addict during the evidentiary hearing; the minor children cannot be safely placed with either parent within a reasonable period of time; the minor children are in need of a legally secure placement; and said placement cannot be accomplished without the granting of permanent custody to Agency. See (*Id.* at p. 3-6); R.C. 2151.414(D)(1)(a)-(e).

{¶32} Turning now to determining whether a child can be placed with either parent within a reasonable period of time, or whether a child should be placed with either parent pursuant to R.C. 2151.414(E), a court "shall consider all relevant evidence" and determine "by clear and convincing evidence" that "one or more of the following exist as to each of the child's parents:"

(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. . . .

. . .

(3) The parent committed any abuse as described in section 2151.031 of the Revised Code against the child, caused the child to suffer any neglect as described in section 2151.03 of the Revised Code, or

allowed the child to suffer any neglect as described in section 2151.03 of the Revised Code between the date that the original complaint alleging abuse or neglect was filed and the date of the filing of the motion for permanent custody;

. . .

(5) The parent is incarcerated for an offense committed against the child or a sibling of the child;

. . .

(7) The parent has been convicted of or pleaded guilty to one of the following:

. . .

(d) An offense under section 2907.02, 2907.03, 2907.04, 2907.05, or 2907.06 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense;

. . .

(10) The parent has abandoned the child.

. . .

(13) The parent is repeatedly incarcerated, and the repeated incarceration prevents the parent from providing care for the child.

(14) The parent for any reason is unwilling to provide food, clothing, shelter, and other basic necessities for the child or to prevent the child from

suffering physical, emotional, or sexual abuse or physical, emotional, or mental neglect.

(15) The parent has committed abuse as described in section 2151.031 of the Revised Code against the child or caused or allowed the child to suffer neglect as described in section 2151.03 of the Revised Code, and the court determines that the seriousness, nature, or likelihood of recurrence of the abuse or neglect makes the child's placement with the child's parent a threat to the child's safety.

(16) Any other factor the court considers relevant.

R.C. 2151.414(E)(1)-(16).

{¶33} In granting permanent custody of the minor children to Agency, the juvenile court specifically concluded in its May 12, 2026 judgment, as stated:

1. At the time of the filing of the Agency's Motion for Permanent Custody, the children had not been in the Agency's temporary custody for twelve (12) or more months of a consecutive twenty-two (22) month period; however, pursuant to R.C. 2151.414(B)(1)(a), the Court finds that the children should not be placed with [Mother] or [Father]. . . .

2. With respect to [Mother], again, the Court does believe that there are several factors under R.C. 2151.414(E) which demonstrate that the children should not be placed with her. Of particular relevance are the factors under 2151.414(E)(1) and 2151.414(E)(16). From the time period of the initial disclosures made by one of the minor children in this case, the same being May, 2024, until the date the minor child, As.D. was raped by [Father], the orders of this Court could not have been clearer. That is, [Mother] was to do everything in her power to prevent [Father] from having any contact with the children. Although [Mother] claims to have taken the order seriously and abided by the same, during the referenced time period, not one but two disclosures were made by the children and the minor child,

As.D., was raped. Further, subsequent to said heinous criminal act, [Mother] continued to have communication and contact with [Father] and was convicted of Obstructing Justice wherein the underlying crime involving the obstruction was [Father's] rape of the minor child, As.D. Not only did [Mother] fail to follow this Court's orders, she failed to remedy the concerns which caused the Agency to become initially involved as is relevant pursuant to R.C. 2151.414(E)(1). In fact, she knowingly permitted them to continue.

3. Further, in regards to R.C. 2151.414(E)(16) this Court cannot simply ignore the facts that have previously been addressed in regards to [Mother's] lack of stability. Evidence concerning her instability now spans the course of time of 16 years, that is, from the time she married [Father] in 2010 to date. Her lack of stability contributed to egregious criminal contact by [Father] with the minor children while the children were under her care. Further, although Obstruction of Justice is not specifically a listed crime under R.C. 2151.414(E)(6) or (7), it is clear from [Mother's] indictment and subsequent guilty plea, as well as [Father's] indictment and guilty plea, that their crimes are intertwined and related. [Mother's] relationship with [Father] and her criminal conviction are highly relevant under R.C. 2151.414(E)(16). Accordingly, this Court does find that the clear and convincing evidence establishes that the children should not be placed with [Mother] or [Father].

(5/12/2026 Judgment Entry, p. 6-7).

{¶34} The record reveals the juvenile court complied with the procedure prescribed by R.C. 2151.414. The court did not err in finding that it was in the minor children's best interest to terminate Mother's and Father's parental rights and grant permanent custody to Agency. Mother fails to establish that the court incorrectly found that the minor children could not or should not be placed with her within a reasonable period of time.

{¶35} Based on the facts presented, the juvenile court's decision does not go against the sufficiency or manifest weight of the evidence. The court had more than

adequate facts and sufficient testimony, as delineated above and in the judgment granting permanent custody of the minor children to Agency, to proceed with a determination that As.D. and Ad.D. remained abused and dependent and Ar.D. remained dependent as previously adjudicated. Clear and convincing evidence existed that the minor children shall be placed into the permanent custody of Agency as the same was in the best interest of the minor children. Thus, because the juvenile court's judgment is supported by some competent, credible evidence going to all the essential elements of the case, it will not be reversed by this court as being against the sufficiency or weight of the evidence. The minor children deserve safety and stability at this time which can only be accomplished through permanent custody to Agency.

{¶36} Accordingly, the juvenile court did not err in finding that it was in the minor children's best interest to terminate Mother's and Father's parental rights and grant permanent custody to Agency.

CONCLUSION

{¶37} For the foregoing reasons, Mother's sole assignment of error is not well-taken. The May 12, 2026 judgment of the Belmont County Court of Common Pleas, Juvenile Division, terminating the parental rights of Mother and Father and granting permanent custody of the minor children to Agency following a hearing is affirmed.

Waite, P.J., concurs.

Robb, J., concurs.

For the reasons stated in the Opinion rendered herein, the assignment of error is overruled and it is the final judgment and order of this Court that the judgment of the Court of Common Pleas, Juvenile Division, of Belmont County, Ohio, is affirmed. Costs to be waived.

A certified copy of this opinion and judgment entry shall constitute the mandate in this case pursuant to Rule 27 of the Rules of Appellate Procedure. It is ordered that a certified copy be sent by the clerk to the trial court to carry this judgment into execution.

NOTICE TO COUNSEL

This document constitutes a final judgment entry.