[Cite as *In re L.J.*, 2022-Ohio-2278.]

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

IN RE: L.J., ET AL.	:	
Minor Children	:	No. 111221
[Appeal by Mother]	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: June 30, 2022

Civil Appeal from the Cuyahoga County Court of Common Pleas
Juvenile Division
Case Nos. AD 1990773, 19907734, 19907735, and 19907736

Appearances:

Olivia A. Myers, *for appellant*.

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Joseph C. Young, Assistant Prosecuting Attorney, *for appellee*.

CORNELIUS J. O'SULLIVAN, JR., J.:

{¶ 1} Appellant-mother appeals from a judgment of the juvenile court granting permanent custody of four of her children: L.J. (d.o.b. 8-25-05), E.B. (d.o.b. 8-17-09), J.B.[1] (d.o.b. 5-03-17), and C.B. (6-17-19), to the Cuyahoga County

[1] J.B. is at times referred to in the record as "J.S." For purposes of this opinion, we will refer to the child as J.B.

Department of Children and Family Services (hereinafter "CCDCFS" or "agency"). Our review reflects the juvenile court properly engaged in the statutory analysis set forth in R.C. 2151.414 and clear and convincing evidence supports the findings made by the court in support of its decision granting permanent custody. Accordingly, we affirm the juvenile court's decision.

Substantive History and Procedural Background

{¶ 2} The children in the present matter were removed from appellant's care and placed in agency custody in June 2019 due to issues regarding appellant's substance abuse, mental health, and housing. Upon admission to the hospital to give birth to C.B., appellant tested positive for opiates and marijuana. When C.B. was born, the child tested positive for benzodiazepines, buprenorphine, opiates, and marijuana. Appellant's involvement with the agency, however, dates to 2017. When J.B. was born, the child tested positive for marijuana and appellant tested positive for marijuana and unprescribed suboxone.

{¶ 3} Following the children's removal in June 2019, a case plan was developed with the goal of reunification. The case plan included services to address substance abuse, mental health, housing/basic needs and parenting.

Substance Abuse

{¶ 4} Appellant was initially referred for a substance abuse assessment through New Visions Unlimited, Inc. (New Visions). She was diagnosed with

alcohol disorder, buprenorphine disorder,[2] benzodiazepine disorder,[3] opioid disorder, and THC disorder.[4] During her assessment at New Visions, appellant acknowledged having tested positive for illegal substances at the time of C.B.'s birth.

{¶ 5} Appellant was referred for intensive outpatient services but chose not to participate in services at New Visions and instead began outpatient treatment through the Center for Effective Living in November 2019. In January 2020, appellant began aftercare treatment, but the record reveals she was noncompliant. As a result, in November 2020, appellant was recommended for inpatient treatment. When appellant's treatment center recommended that she engage in a higher level of care, appellant became very upset and "made suicidal threats on herself." Appellant contacted her CCDCFS caseworker and told her that she was not going to go to inpatient treatment because she did not think she needed that level of treatment. Appellant was discharged by her treatment program for noncompliance. CCDCFS provided appellant with a list of four alternative providers, but as of the time of the permanent custody hearing, appellant had not engaged in further substance abuse services.

{¶ 6} Appellant's agency caseworker repeatedly inquired about appellant's ongoing substance abuse treatment issues, but appellant refused to provide any

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[2] Buprenorphine is the active ingredient in suboxone, which is used to treat opiate dependency. As is mentioned, appellant did not have a prescription for suboxone.

[3] Benzodiazepines are tranquilizers; commonly known ones are Valium and Xanax.

[4] THC is the active ingredient in marijuana.

information or to sign any releases for CCDCFS to monitor or assist her with this case plan objective. As part of her case plan, appellant was required to submit to weekly drug screens. Her caseworker testified that "mother has not done a single screen for the agency at all." Appellant also stopped showing attendance slips for Alcoholics Anonymous meetings in July or August 2019. Thus, according to the agency, appellant has failed to make significant progress on the substance abuse portion of her case plan and has no documented sobriety.

Mental Health

{¶ 7} Mental health services were included in appellant's case plan due to her history of untreated mental health and failure to benefit from services. Appellant made several statements for the purpose of treatment during her assessment at New Visions, admitted that "she knows she has mental health issues that likely need addressing again," and that she "has been diagnosed with [post-traumatic stress] due to the accidental death of her three year old son, has been treated with antidepressants and benzodiazepines for it, but denies counseling and cannot recall how long it has been since she last had mental health treatment." As a result, it was recommended that appellant would benefit from a full mental health assessment. Appellant declined to be assessed at New Visions and told her caseworker that she would find her own facility to complete the assessment.

{¶ 8} The caseworker referred appellant for psychological assessment through the juvenile court, but appellant failed to attend the assessment. The caseworker later learned that appellant had engaged in mental health services

through the Center for Effective Living, but she was discharged in November 2020, and has not reported any subsequent engagement in mental health services since that time.

{¶ 9} The caseworker testified that appellant failed to demonstrate she had benefitted from any mental health services, as evidenced by her threats to commit suicide. The caseworker opined that appellant did not benefit from the mental health services she had received given that the most recent of these incidents of suicidal ideation occurred just before she was discharged from treatment, along with appellant's demonstrated negative interactions with her children and her refusal to engage in case plan services.

{¶ 10} Following appellant's discharge from mental health services in November 2020, the agency caseworker offered to assist her in finding another mental health provider, but appellant refused the offers of assistance and told her caseworker that she was doing her own counseling. Appellant refused to tell the caseworker where she was receiving counseling services. She also refused to sign releases for the agency to request information from any potential providers. As of the time of hearing on permanent custody, appellant had not provided any information to her caseworker to demonstrate any recent engagement in mental health services.

Parenting

{¶ 11} The agency referred appellant to parenting programs at Parma Collaborative in 2019 and the Westside Community House in 2020, but appellant

refused to engage in either program. Appellant told her caseworker that she was taking parenting at the Center for Effective Learning, but she did not complete that class since she was discharged from the center in November 2020.

Basic Needs – Housing and Employment

{¶ 12} At the time the children were removed, appellant lacked stable housing, so she was referred to the Parma Collaborative for housing assistance. Appellant refused numerous invitations to meet with the staff at Parma Collaborative to discuss housing options. Appellant claimed she had housing but never gave her caseworker an address, which was required so the caseworker could visit and see if the housing was suitable for the children. Appellant further refused to allow the caseworker to do a home visit to any of the locations she allegedly resided at during the pendency of the case.

{¶ 13} Appellant claimed she was employed but did not verify her employment. At the time of the permanent custody hearing, she had not provided financial support for the children or otherwise shown she could meet their basic needs.

Visitation

{¶ 14} The caseworker testified that appellant failed to consistently or timely visit with her children during their scheduled supervised visitations. She would often show up late or not at all. During the visits, appellant had difficulty dealing with the children or properly supervising them. The caseworker testified that during the visits appellant would argue with her older children and she had to tell appellant

that visits would not continue if appellant continued her behavior. Visitation was eventually reduced to once a month due to appellant's behavior and inconsistent attendance.

{¶ 15} The caseworker testified that appellant was observed to be "making jokes about her daughter's mental health and saying it wasn't a real thing and called her daughter names during the visit, as well." Appellant also made false promises to the children that they were coming home "and her having all these things in the house and everything for them, which, in turn, would upset them after the visit." L.J. had to take anxiety medication before visits "because she never knows how things are going to go during the visits." After one visit, appellant told L.J. that she needed to tell the agency she wanted to live with her (the mother) or L.J. would never see her brothers again.

Fathers

{¶ 16} The fathers of the children had each established paternity. The father of L.J. failed to engage in case plan services and had not been in contact with the agency since June 2020. He had not visited with L.J. since July 2019. The father of E.B. and J.B. was convicted of driving under the influence in 2020 and did not comply with subsequent service referrals. He was visiting with his children until February 2020, but has only had minimal contact with the children since that time. C.B.'s father failed to successfully complete case plan services, had not been in contact with his child since mid-2020, and was incarcerated at the time of the permanent custody hearing.

{¶ 17} The fathers were represented by counsel at the hearing on permanent custody. None of the fathers participated in the hearing, and they are not parties to this appeal.

Kinship Placement

{¶ 18} The agency attempted to identify relatives of the children for placement but these efforts were unsuccessful. The children were in foster case. L.B. and E.B. were placed in the same foster home, where they are doing well and are bonded with their foster caregivers. J.B. and C.B. are placed together in the same foster home, where they are also doing well and having their needs met.

Guardian Ad Litem ("GAL")

{¶ 19} The children's GAL gave a written and oral recommendation, recommending that the children be placed in the permanent custody of CCDCFS. The GAL testified that despite his efforts to engage appellant throughout the pendency of the case, he never heard from her.

{¶ 20} The GAL indicated that L.J. wishes to remain with her foster caregivers and be adopted by them and does not want to live with appellant. E.B. is autistic and, according to the GAL, the foster caregivers have "done a great job" with the child, he has greatly improved in their care, and he wishes to remain with his foster family. J.B. was four years old, has intellectual disabilities, and was diagnosed with fetal alcohol syndrome. C.B. was only three years old and was developmentally on target; both J.B. and C.B. were too young to express their wishes on placement. The GAL recommended a grant of permanent custody, finding that since the agency

took custody, there has been a lot of stability, especially as to L.J. and E.B. and he (the GAL) thought the children needed to stay with their foster caregivers. As to J.B. and C.B., they were in a placement where their special needs are being met. The GAL opined:

> [Appellant], to be blunt, cannot provide stability for any of the minor children, much less ones with special needs * * * her situation, lack of cooperation with the Agency, refusal to test [for illegal substances], and refusal to allow visitation of her home shows a distinct lack of care or concern for minor children who have a multitude of special needs.

{¶ 21} Appellant did not appear at the hearing on permanent custody. She was represented by counsel, who opposed the agency's motion. At the conclusion of the hearing, the court granted the agency's motion for permanent custody. Appellant filed the instant appeal.

Assignments of Error

{¶ 22} On appeal, appellant raises the following assignments for our review:

> I. The trial court abused its discretion and committed reversible error by denying mother's motion to dismiss for lack of subject matter jurisdiction.
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> II. The agency did not prove by clear and convincing evidence that the parental rights of the mother should be terminated.
>
> III. The juvenile court committed cumulative errors by the erroneous admission of court records and other documents which were not properly authenticated and which were used for improper purposes, prohibited by Evid.R. 404(B).
>
> IV. The juvenile court erred to the substantial prejudice of the mother be terminating her parental rights pursuant to R.C. 2151.414.
>
> V. The judgment of the juvenile court permanently terminating the parental rights of appellant was against the manifest weight of the evidence.

Law and Analysis

Motion to Dismiss

{¶ 23} In the first assignment of error, appellant claims that the trial court erred in denying her motion to dismiss, which she had filed claiming that the trial court was required to dismiss the complaint for permanent custody against her for failure to resolve the matter within the 90-day time period prescribed by R.C. 2151.35(B)(1).

{¶ 24} Appellant relies on *In re K.M.*, 159 Ohio St.3d 544, 2020-Ohio-995, 152 N.E.3d 245. In *In re K.M.*, the Ohio Supreme Court analyzed a former version of R.C. 2151.35 that did not contain the "good cause" language that was later added to the statute. In analyzing the former version, the Ohio Supreme Court found that because the statute explicitly required dismissal after the 90-day time period and did not contain any language that allowed the court to act beyond the 90-day limit, there could be no implicit waiver of the 90-day time limit. *Id.* at ¶ 24-25.[5]

[5]As this court noted in *In re J.S.*, 8th Dist. Cuyahoga No. 111097, 2022-Ohio-1679, ¶ 19, after *In re K.M.* was decided, the General Assembly amended R.C. 2151.35(B), effective April 12, 2021, to add language that allows the juvenile court to act beyond the 90-day time limit, i.e., "for good cause shown, the court, on its own motion or on the motion of any party or the child's guardian ad litem, may continue the dispositional hearing for a reasonable period of time beyond the ninety-day deadline. This extension beyond the ninety-day deadline shall not exceed forty-five days * * *."

{¶ 25} In this case, however, appellant expressly waived her 90-day time requirement by timely executing, with counsel, a "Waiver of 90-Day Statutory Time Requirement" form, that provided:

> We, the undersigned, having been fully advised of our rights under Ohio Law, do hereby knowingly and voluntarily waive the right to have this matter heard within ninety (90) days of filing as required by Ohio Revised Code §2151.35(B)(1).
>
> We further expressly consent to and request this Court to continue this matter for resolution beyond the ninety (90) day limit in the interests of justice.
>
> We hereby formally waive the right to move this Court to dismiss said Complaint without prejudice for the reason that said matter has not been resolved within the ninety (90) day limit as referenced above.

{¶ 26} Thus, considering appellant's express waiver of the 90-day statutory time requirement, her reliance on *In re K.M.* is misplaced. The trial court did not err in denying appellant's motion to dismiss.

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

Admission of Exhibits

{¶ 28} In the second and third assignments of error, the appellant challenges the evidence admitted during the permanent custody hearing, arguing that much of the state's evidence was admitted in error.

{¶ 29} Appellant argues the following exhibits, some of which refer to siblings that are not at issue in this appeal, were admitted in error:

- Exhibit No. 1: November 13, 2020 journal entry adjudicating J.J. neglected and dependent and granting legal custody of him to his father, G.J. The journal entry also stated that the child and three siblings were previously adjudicated neglected and committed to temporary custody of the agency.

- Exhibit No. 2: November 13, 2020 journal entry adjudicating K.J. neglected and dependent and granting legal custody of her to her father, G.J. The journal entry also stated that the child and three siblings were previously adjudicated neglected and committed to temporary custody of the agency.

- Exhibit No. 3: August 4, 2017 "Complaint for Neglect and Abuse and Protective Supervision to CCDCFS" for J.J., K.J., L.J., E.B., and J.[B.].

- Exhibit No. 4: November 7, 2017 journal entry adjudicating J.B. a neglected child and placing him in protective supervision.

- Exhibit No. 7: November 8, 2017 journal entry adjudicating L.J. a neglected child and placing her in protective supervision.

- Exhibit No. 8: November 8, 2017 journal entry adjudicating E.B. a neglected child and placing him in protective supervision.

- Exhibit No. 9: Medical records from C.B.'s birth.

{¶ 30} First, appellant claims that the trial court erred by admitting the exhibits that were certified journal entries regarding the children, wherein they had been adjudicated neglected, arguing that the agency was using the journal entries as evidence to show that a prior finding of neglect equated to a current finding of neglect. In other words, according to appellant, because the exhibits were used to show that because the children had prior findings of neglect, it must mean they are currently being neglected.

{¶ 31} At the permanent custody hearing, the juvenile court was determining disposition; that is, the court was determining whether the children would be placed in the agency's permanent custody. The children had already been adjudicated neglected and/or dependent. R.C. 2151.414(A)(1) states that "[t]he adjudication that the child is an abused, neglected, or dependent child and any dispositional order

that has been issued in the case under section 2151.353 of the Revised Code pursuant to the adjudication shall not be readjudicated at the [permanent custody] hearing[.]"

{¶ 32} Next, the issue of whether the children or their siblings had previously been adjudicated abused, neglected, or dependent was a proper consideration for the court to make. In determining whether permanent custody should be granted, R.C. 2151.414(B)(1)(e) requires the trial court to determine if "[t]he 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." In determining the best interests of a child, R.C. 2151.414(D)(1)(c) states that the court shall consider that custodial history of the child. Finally, in determining whether a child cannot be or should not be placed with his or her parent(s) within a reasonable period, R.C. 2151.414(E)(11) requires the court to consider if the parent has had parental right involuntarily terminated with respect to a sibling of the child.

{¶ 33} Finally, we note that the exhibits were admissible pursuant to Evid.R. 803(8) and 902(4) as public records. Evid.R. 902(4) provides that extrinsic evidence of authenticity is not required as a condition precedent to admissibility for certified copies of public records and Evid.R. 803(8) excludes public records and reports from the hearsay rule. *See In re S.S.*, 9th Dist. Summit No. 28921, 2018-Ohio-2279, ¶ 13, citing *In re I.T.*, 9th Dist. Summit Nos. 27513, 27560, 27581, 2016-Ohio-555 (holding that contents of prior dependency and neglect files were not inadmissible hearsay because certified court documents are self-authenticating

under Evid.R. 902(4) and are admissible under the public records exception to the hearsay rule).

{¶ 34} Next, appellant contends that exhibit No. 9 was erroneously admitted into evidence because the medical records were not offered into evidence by the hospital's record custodian.

{¶ 35} R.C. 2317.422 provides that "[n]otwithstanding sections 2317.40 and 2317.41 of the Revised Code" such records may be authenticated if the records custodian has certified them "in lieu of the testimony in open court of their custodian, person who made them, or person under whose supervision they were made."

> R.C. 2317.40 works in concert with R.C. 2317.422. Under R.C. 2317.422, hospital records are admissible, for purposes of R.C. 2317.40, if they are accompanied by a certificate attesting to their accuracy and authenticity. Thus, it is unnecessary for the custodian of those records to testify in person in court as to the authenticity of the proposed evidence.

Hunt v. Mayfield, 65 Ohio App.3d 349, 353, 583 N.E.2d 1249 (2d Dist. 1989). *See also State v. Youssef*, 8th Dist. Cuyahoga No. 101362, 2015-Ohio-766, ¶ 32 (Trial court did not err in admitting certified medical records because the records "contained a certificate of medical records signed by an employee of MetroHealth Hospital, certifying that 'the attached records are true and authentic copies of the medical records prepared in the usual course of business of said institution.' This certificate was sufficient under the Evid.R. 901(B)(10) and R.C. 2317.422.").

{¶ 36} Here the medical records at issue were certified. As such, the juvenile court did not err in admitting the records.

{¶ 37} Accordingly, the second and third assignments of error are overruled.

Permanent Custody – Manifest Weight of the Evidence

{¶ 38} In the fourth and fifth assignments of error, appellant contends that the trial court's decision awarding permanent custody of the children to the agency failed to consider the children's best interest and was against the manifest weight of the evidence.

Standard of Review and Permanent Custody Statute

{¶ 39} We begin our analysis with the recognition that a parent's right to raise a child is an essential and basic civil right. *In re Hayes*, 79 Ohio St.3d 46, 48, 679 N.E.2d 680 (1997). The parent's interest, however, is "'always subject to the ultimate welfare of the child.'" *In re M.J.M.*, 8th Dist. Cuyahoga No. 94130, 2010-Ohio-1674, ¶ 15, quoting *In re B.L.*, 10th Dist. Franklin No. 04AP-1108, 2005-Ohio-1151, ¶ 7.

{¶ 40} Under Ohio's permanent custody statute, R.C. 2151.414, the juvenile court's judgment granting permanent custody must be supported by clear and convincing evidence. We will not reverse a juvenile court's termination of parental rights and award of permanent custody to an agency unless the judgment is not supported by clear and convincing evidence. *See, e.g., In re N.B.*, 8th Dist. Cuyahoga No. 101390, 2015-Ohio-314, ¶ 48, and *In re M.J.*, 8th Dist. Cuyahoga No. 100071, 2013-Ohio-5440, ¶ 24.

{¶ 41} R.C. 2151.414 sets forth a two-prong analysis to be applied by a juvenile court in adjudicating a motion for permanent custody. R.C. 2151.414(B). Under the statute, the juvenile court is authorized to grant permanent custody of a child to the agency if, after a hearing, the court determines, by clear and convincing evidence, that any of the five factors under R.C. 2151.414(B)(1)(a) to (e) exists and, furthermore, permanent custody is in the best interest of the child under the factors enumerated in R.C. 2151.414(D)(1).

First Prong: R.C. 2151.414(B)(1)

{¶ 42} Under the first prong of the permanent-custody analysis, the juvenile court is to determine if any of the following factors exists as to each child: whether the child is abandoned; whether the child is orphaned and there are no relatives of the child who are able to take permanent custody; whether the child has been in the temporary custody of public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-month period; whether another child of the parent has been adjudicated as abused, neglected, or dependent on three separate occasions; or, when none of these factors apply, whether "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." R.C. 2151.414(B)(1)(a)-(e).

{¶ 43} In this case, the trial court made the finding as to each child that the child could not be placed with their parents within a reasonable time or should not be placed with either parent pursuant to R.C. 2151.414(B)(1)(a). For the (B)(1)(a) factor, R.C. 2151.414(E) enumerates 15 factors for the court to consider. *In re L.C.*,

8th Dist. Cuyahoga No. 111053, 2022-Ohio-1592, ¶ 47. Pursuant to R.C. 2151.414(E), if the court determines, by clear and convincing evidence, that one or more of the (E)(1)-(15) factors exist, 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. Pursuant to the statute, the trial court is only required to find one of the R.C. 2151.414(E) factors present in order to enter a finding that a child cannot or should be placed with a parent. In the case herein, the trial court found the presence of (E)(1) and (4), the pertinent portions of the statute state as follows:

> (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.
>
> * * *
>
> (4) The parent has demonstrated a lack of commitment toward the child by failing to regularly support, visit, or communicate with the child when able to do so, or by other actions showing an unwillingness to provide an adequate permanent home for the child.

{¶ 44} Appellant does not challenge the trial court's findings, other than to make the general claim that the findings were against the manifest weight of the evidence. Our review of the record shows clear and convincing evidence supports

the trial court's R.C. 2151.414(E) findings and the juvenile court's findings were not against the manifest weight of the evidence.

Best Interest of the Children

{¶ 45} Next, the court must find that the award of permanent custody is in the child's best interest. We review a juvenile court's determination of a child's best interest under R.C. 2151.414(D) for abuse of discretion. *In re D.A.*, 8th Dist. Cuyahoga No. 95188, 2010-Ohio-5618, ¶ 47.

{¶ 46} In determining the best interest of a child at a hearing held pursuant to R.C. 2151.414(A)(1), the juvenile 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 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).

{¶ 47} A juvenile court is required to consider each relevant factor under R.C. 2151.414(D)(1) in making a determination regarding permanent custody, but "[t]here is not one element that is given greater weight than the others pursuant to the statute." *In re Schaefer*, 111 Ohio St.3d 498, 2006-Ohio-5513, 857 N.E.2d 532, ¶ 56. This court has previously stated that *only one* of these enumerated factors needs to be resolved in favor of the award of permanent custody. *In re Moore*, 8th Dist. Cuyahoga No. 76942, 2000 Ohio App. LEXIS 3958 (Aug. 31, 2000), citing *In re Shaeffer Children*, 85 Ohio App.3d 683, 621 N.E.2d 426 (3d Dist.1993). Further, the Supreme Court of Ohio has clarified that "R.C. 2151.414(D)(1) does not require a juvenile court to expressly discuss each of the best-interest factors in R.C. 2151.414(D)(1)(a) through (e). Consideration is all the statute requires." *In re A.M.*, 166 Ohio St.3d 127, 2020-Ohio-5102, 184 N.E.3d 1, ¶ 31.

{¶ 48} Appellant contends that the juvenile court did not engage in a best interest analysis. This claim is completely unsupported by references to specific facts in the record.

{¶ 49} The juvenile court stated that it considered the relevant factors set forth under R.C. 2151.414(D)(1) when assessing the children's best interests and included findings relating to each of the factors list in R.C. 2151.414(D)(2). Upon review of the record, we do not find that the juvenile court abused its discretion in determining that permanent custody was in the children's best interest.

{¶ 50} As it relates to the interaction and interrelationship of the children with various significant individuals in the children's lives under

R.C. 2151.414(D)(1)(a), the record demonstrates that appellant's interactions with the children was frequently detrimental to their well-being. During visitation, which was often sporadic, appellant had difficulty dealing with the children and properly supervising them and visits were marked by considerable turmoil. According to the caseworker, there was "a lot of arguing back and forth with her and her older children at the time, as well, that I had to redirect and let her know that if that continued, we'd have to shut visits down because it's not what the visits were for."

{¶ 51} Because of appellant's inconsistency and the nature of the visits she did attend, visits were reduced to one visit per month. During some visits, appellant was observed to be "making jokes about her daughter's mental health and saying it wasn't a real thing and called her daughter names during the visit, as well." Appellant also made "false promises to them coming home and her having all these things in the house and everything for them, which, in turn, would upset them after the visit." L.J. would take anxiety medication before visits "because she never knows how things are going to go during the visits." L.J., who was 16 years old at the time of the permanent custody hearing, expressed a desire to live with her foster caregivers and to be adopted by them and does not want to live with appellant. L.J. was thriving in her placement. According to the caseworker, L.J. had done a "complete 180." She was getting all A's and B's in school, had recently gotten a part time job, and now planned to go to college after high school.

{¶ 52} E.B. considers his foster caregivers his family. Children L.J. and E.B. are doing extremely well in their placement. The GAL noted that "there has been a

lot of stability, especially regarding [L.J.] and [E.B.]. I think that they — they need to be in this home [with their foster caregivers]." He further stated that J.B. and C.B. "have special needs. They're in a placement where those special needs can be addressed."

{¶ 53} Examining R.C. 2151.414(D)(1)(b), the consideration of where the children wish to be placed, as mentioned L.J. and E.B. wish to remain with their foster caregivers. At the time of trial, J.B. was only four years old and C.B. was three years old; both children were too young to express their wishes regarding permanent custody. "The juvenile court properly considers the GAL's recommendation on the permanent-custody motion as part of the R.C. 2151.414(D)(1)(b) analysis where the children are too young to express their wishes." *In re B/K Children*, 1st Dist. Hamilton No. C-190681, 2020-Ohio-1095, ¶ 45. The GAL recommended permanent custody to CCDCFS.

{¶ 54} Under R.C. 2151.414(D)(1)(c), dealing with the children's custodial history, the record reflects that the children were removed in June 2019 and remained in agency custody. The juvenile court made the finding that the children had "been in the agency's custody for two years and no longer qualif[y] for temporary custody."

{¶ 55} In so far as the children's need for a legally secure placement under R.C. 2151.414(D)(1)(d), the trial court specifically found that the children could not be placed with one of their parents within a reasonable time and should not be

placed with either parent, listing its findings under R.C. 2151.414(E) in support of its conclusion.

{¶ 56} Under R.C. 2151.414(D)(1)(e), the juvenile court was to consider whether any of the factors in divisions (E)(7) to (11) of R.C. 2151.414 applied. The court made the finding under (E)(9) that

> the parent has placed the child at substantial risk of harm two or more times due to alcohol or drug abuse and has rejected treatment two or more times or refused to participate, in further treatment two or more times after a case plan issued requiring treatment of the parent was journalized as part of a dispositional order issued with respect to the child or an order was issued by any other court requiring treatment of the parent.

{¶ 57} Reviewing this matter under R.C. 2151.414(D)(2)(a)-(d), the trial court made each of the necessary findings. We determine the record supports the trial court's findings by clear and convincing evidence. Moreover, appellant does not challenge the court's findings pursuant to R.C. 2151.414(D)(2); therefore, we will not discuss them herein.

{¶ 58} The trial court did not err in finding that a grant of permanent custody was in the children's best interest. Likewise, the trial court's decision was not against the manifest weight of the evidence. The above-mentioned findings were all supported by the testimony presented at trial. Moreover, the court was guided by the recommendation of the GAL, who spoke on behalf of children and recommended that it was in the children's best interest to grant the agency permanent custody.

{¶ 59} Thus, we find that the juvenile court's decision was not against the manifest weight of the evidence. The fourth and fifth assignments of error are overruled.

{¶ 60} While we recognize the paramount right of a parent to raise his or her children, *In re Murray*, 52 Ohio St.3d 155, 157, 556 N.E.2d 1169 (1990), a parent's rights are not absolute. *In re K.H.*, 119 Ohio St.3d 538, 2008-Ohio-4825, 895 N.E.2d 809, ¶ 40. In these matters before us, a careful review of the record reveals clear and convincing evidence in support of the trial court's granting of permanent custody of the children to the CCDCFS.

{¶ 61} Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to the common pleas court, juvenile division, to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

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CORNELIUS J. O'SULLIVAN, JR., JUDGE

KATHLEEN ANN KEOUGH, P.J., and
LISA B. FORBES, J., CONCUR