

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

IN RE J.P.S.	:	
	:	No. 112101
A Minor Child	:	
	:	
[Appeal by C.L.T., Mother]	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: DISMISSED
RELEASED AND JOURNALIZED: September 7, 2023

Civil Appeal from the Cuyahoga County Court of Common Pleas
Juvenile Division
Case No. AD-20904997

Appearances:

John H. Lawson, *for appellant.*

EILEEN T. GALLAGHER, J.:

{¶ 1} This appeal stems from the judgment of the juvenile court terminating the parental rights of appellant-mother, C.L.T. (“Mother”), and awarding permanent custody of the minor child, J.P.S., to the Cuyahoga County Division of Children and Family Services (“CCDCFS” or “agency”).

{¶ 2} Mother’s appointed counsel has filed a motion to withdraw pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), asserting that based on his review, he could not “discern any meritorious issues.” We held the

motion in abeyance and afforded Mother an opportunity to file a pro se brief. Mother has failed to avail herself of that opportunity.

{¶ 3} After careful consideration of the relevant case law and following a thorough independent review of the record, this court grants appointed counsel's motion to withdraw, and we dismiss this appeal.

I. Procedural and Factual History

{¶ 4} Mother is the biological parent of the minor child, J.P.S., (d.o.b. 03/28/2020). The child's biological father has not been established.

{¶ 5} On May 27, 2020, CCDCFS filed a complaint for temporary custody, alleging that J.P.S. was dependent as defined in R.C. 2151.04(B). In support of the complaint, CCDCFS alleged the following set of particulars:

1. The child has specialized needs related to his premature birth and mother has not demonstrated the ability to meet those needs.
2. Mother has failed to consistently visit the child or participate in training for his needs.
3. Mother has severe cognitive delays which prevent her from providing proper care for the child.
4. Alleged father, [E.T.] has failed to establish paternity and has failed to support, visit, or communicate with the child since birth.
5. Alleged father, [C.S.] has failed to establish paternity and has failed to support, visit, or communicate with the child since birth.
6. Alleged father, John Doe, has failed to establish paternity and has failed to support, visit, or communicate with the child since birth.

{¶ 6} Following a hearing, the child was committed to the emergency temporary custody of CCDCFS on May 29, 2020. Thereafter, the juvenile court

found the allegations of an amended complaint¹ were proven by clear and convincing evidence. Accordingly, J.P.S. was “adjudicated to be dependent” on September 8, 2020.

{¶ 7} On September 18, 2020, the juvenile court committed J.P.S. to the temporary custody of CCDCFS and approved a case plan for reunification. In pertinent part, the case plan required Mother to (1) “complete a psychological evaluation/mental health assessment to address any issues surrounding mental health concerns,” (2) “complete a drug and alcohol assessment” and “attend, participate and successfully complete any recommended treatment and/or aftercare,” and (3) “actively attend, participate, and successfully complete an agreed upon parenting program.” The case plan was later amended to include objectives for nurturing parenting and domestic violence.

{¶ 8} Temporary custody of the child was extended twice by entries journalized on October 6, 2021, and November 30, 2021.

{¶ 9} On February 2, 2022, CCDCFS filed a motion to modify the order of temporary custody to an order of permanent custody pursuant to R.C. 2151.413. The motion was supported by the affidavit of CCDCFS social worker, Quenisha Smith (“Smith”), who averred, in relevant part:

5. A case plan was filed with the court, amended as appropriate, and approved which required that [Mother] complete a psychological evaluation and successfully manage any/all mental health conditions to demonstrate the ability to provide for the child’s basic needs;

¹ On its own motion, the court amended the complaint to include allegations that the child was a dependent child as defined by both divisions (B) and (C) of R.C. 2151.04.

complete a drug/alcohol assessment and comply with all recommendations, demonstrate ongoing long-term sobriety, submit to random drug screens as requested; successfully complete a parenting program and demonstrate benefit therefrom; sign releases of information for her services upon request.

6. Despite reasonable case planning and diligent efforts by CCDCFS, mother has not sufficiently reduced the risks to the child or remedied the conditions causing the child's removal from the home, has failed to demonstrate sufficient benefit from services, and has failed to demonstrate appropriate bonding with the child.

7. Despite participation in case plan services, [Mother] continues to struggle with the child during visits and it appears difficult for her to manage the child along with another child in her care.

{¶ 10} On October 4, 2022, a hearing was held to address the agency's motion for permanent custody. At the hearing, Laura Johnson ("Johnson"), a direct care intern employed by Pathway Caring for Children, testified that she was responsible for transporting the child to and from visits with Mother. Johnson stated that there were multiple occasions where Mother either missed scheduled visits with the child or did not respond to Pathway's attempts to contact her prior to visitation. Most recently, Pathway lost contact with Mother for a two-week period in July 2022, when she briefly moved to another location.

{¶ 11} Johnson also described the observations she made while dropping the child off for visits with Mother. For instance, Johnson testified that Mother often had random people inside her home during the visits, the state of the interior of the home left the child's feet "filthy," and the child often seemed thirsty and hungry after visits. Johnson testified that she personally did not feel safe transporting the child to Mother's home based on several occurrences, including her witnessing an

individual in Mother's home "hit a dog," and Mother's statement that her own mother had recently "beat her up" for her food-stamp card. (Tr. 34.) Finally, Johnson testified about the child's demeanor before and after visits with Mother, stating that "[i]t seemed [the child] was always ready to leave with me and was happy I was there to take him back." (Tr. 29.)

{¶ 12} Christopher McKinley ("McKinley"), an extended-services worker employed by CCDCFS, testified that he was assigned to the child's case in the fall of 2021. McKinley outlined his familiarity with the parties and explained the circumstances that caused the child to be removed from Mother's care in May 2020. McKinley described the lack of participation of the two men listed as the child's potential biological father and further described the case-plan services that were developed to assist Mother in remedying the issues that led to the child's removal. McKinley summarized Mother's case plan objectives as follows:

So for Mother there was for her to take a mental health evaluation. We asked her to participate in a parenting course. We asked her to provide basic needs for [the child] and [complete] a substance abuse assessment.

(Tr. 57.)

{¶ 13} McKinley confirmed that Mother completed a parenting program, completed an alcohol and substance-abuse assessment, obtained appropriate housing, and obtained a mental-health evaluation while the child was in the agency's temporary custody. Nevertheless, McKinley stated that the agency had ongoing concerns with Mother's ability to provide "a safe, nurturing, loving environment" for

the child. (Tr. 58.) In support of this opinion, McKinley testified that Mother (1) was not consistent with completing random urine screens, (2) failed to ensure there is a sober environment in her home, (3) has a history of engaging in abusive relationships in the presence of her children, (4) has not established a strong bond with the child, and (5) infrequently attended the child's doctor visits. McKinley later admitted that the agency decided to "back away from the reunification plan" based, in part, on the conduct of the biological father of Mother's other children, J.M. McKinley explained the agency's stance as follows:

[J.M.], who was in the home who was not cooperating with the agency on any level who was aggressive, who made threats to the previous worker.

* * *

He felt as if he didn't have to cooperate with our agency because [J.P.S.] was not his child. And there were other individuals in the home too that — this is a bad situation. This was an unstable situation, you know, as it related to us trying to reasonably work services to reunify [J.P.S.], so we had to back off of that.

There was information [Mother] was not forthcoming with around that time, you know, and she couldn't — I hate to say couldn't control [J.M.], but I guess that's what I would say. [J.M.] was kind of in and out of the home. When he was in the home, he was an aggressive force. When he was out of the home, unfortunately, there were other individuals that came into the home at that time when he was away from the home.

(Tr. 70-72.)

{¶ 14} McKinley also provided extensive testimony concerning the child's current placement in foster care. McKinley testified that the child has remained in the continuous care of the same foster placement since the time he was released

from the hospital in May 2020. The foster parents are meeting the child's specialized needs, including the medical needs that stem from his premature birth.

{¶ 15} On cross-examination, McKinley confirmed that although Mother failed to complete random urine screens as requested by CCDCFS, the agency removed the substance-abuse objectives from Mother's case plan in October 2020. He further conceded that no recommendations for additional services were made following Mother's substance-abuse assessment and that Mother completed two parenting programs. With respect to the agency's concerns with Mother's personal relationships, McKinley agreed that the domestic-violence component of Mother's case plan was not added until August 2022. In turn, McKinley confirmed that he was aware that Mother had since taken steps to procure a protection order against J.M.

{¶ 16} Nicole House ("House"), an extended social worker employed by CCDCFS, testified that she was assigned to the child's case in July 2022. House described her familiarity with the procedural history of the case and Mother's evolving case-plan objectives. House testified that when she first spoke to Mother after being assigned to the child's case, they discussed the agency's concerns with domestic violence and "her possible substance abuse use." (Tr. 99.) House stated that Mother initially attempted to minimize the allegations of domestic violence in her home and "didn't seem concerned at all." (Tr. 100.) Subsequently, however, Mother "finally acknowledged that she got into a domestic with [J.M.]" and her mother actually. (Tr. 101.) To address the agency's concerns, House referred

Mother to a local support center for domestic-violence classes. However, Mother did not appear for her appointment with the support center and had not engaged in domestic-violence services as of the date of trial.

{¶ 17} Similarly, House testified that Mother failed to complete two requested urine screens between July 2022, and the date of trial. House explained that the agency had ongoing concerns with substance abuse because House smelled marijuana in Mother's residence during a home visit in August 2022.

{¶ 18} Regarding Mother's interactions with the child, House testified that Mother "didn't give [J.P.S.] much attention" during scheduled visits. (Tr. 106.) House stated that Mother did not attempt to pick the child up when he cried and that the child did not seek Mother out when he was in distress. Thus, House described Mother's bond with the child as being "minimal." (Tr. 107.) She explained that J.P.S. was "emotionally deprived" and rarely communicated with Mother during visits. (Tr. 112.) In contrast, House testified that J.P.S. is "always laughing and jumping around" in his foster placement and has a strong bond with his foster parents.

{¶ 19} Based on the foregoing, House opined that permanent custody in favor of the agency was in the child's best interests. House reiterated that although Mother participated in several case-plan services recommended by the agency, she did not benefit from the services or resolve the agency's concerns with parenting, emotional bonding, substance abuse, and domestic violence. She summarized her position as follows:

Mom is not consistent with her case plan services. She does do some things, and again, she does something else to show that she has not benefited from that service. * * * It's back and forth, back and forth situation. I believe [the child] needs consistency. He needs to be stable. He needs to know that, okay, that mom is going to be there for me emotionally, mentally, physically on every level, not just whenever she gets a chance or when she feels like it. Whenever I can be available to do it.

The doctor's appointment was a major thing for me. Being a new worker coming into the case, I saw a pattern, and what I look at as a pattern, she's not being consistent with the doctor's appointment, she's not being consistent with the agency asking her to do the DV classes. And that was a concern as my supervisor testified to previously. She has not been consistent with dropping urine screens, and to me consistency is very important. If she's not consistent with those things, will she be consistent with [J.P.S.] when [he] comes to her home?

(Tr. 116-117.)

{¶ 20} Consistent with the testimony of McKinley and House, the child's guardian ad litem, Russ Gates, Esq. (the "GAL"), opined that permanent custody was in the best interests of the child. On cross-examination, the GAL testified that it would be "cruel" to remove the child from the care of the foster parents who have raised him since the time of his birth and have successfully addressed the medical challenges J.P.S. faced by being born prematurely. The GAL testified that J.P.S. is "incredibly happy when he is with his foster mother." In contrast, the GAL opined that Mother does not share a bond with the child. In fact, the GAL opined that Mother acts as if J.P.S. "is not her child" during visits. (Tr. 161.) The GAL further raised concerns with Mother's ability to protect the child based on disputes in her home. The GAL referenced his interactions with J.M. and characterized him as an "abusive person." (Tr. 161.)

{¶ 21} The state called Mother to testify as if on cross-examination. In relevant part, Mother confirmed that in June 2022, she made a statement to the police, indicating that J.M. “slammed [her] head on the floor and threw her into the bedroom television.” (Tr. 151.) Mother testified that she filed a motion for a protective order against J.M. several days before the permanent-custody hearing. She expressed that she sought the protection order to “keep [her] and [her] baby safe.” (Tr. 149.) Mother did not dispute that she failed to comply with several of the agency’s requests for random urine screens. Mother declined to provide a reason for her lack of compliance. However, she attempted to address the agency’s substance abuse concerns by providing a hair sample for testing one day before the permanent-custody hearing, the results of which were not available at the time of the hearing.

{¶ 22} On direct examination by her own counsel, Mother clarified that she moved out of her home following the incident of domestic abuse with J.M. She did not tell J.M. or her mother where she moved to and believed that she was taking the necessary steps to protect herself and her children from J.M. by blocking him on social media and filing for a protective order.

{¶ 23} At the conclusion of the trial, the juvenile court found by clear and convincing evidence that permanent custody was in the child’s best interests. The trial court further concluded that (1) the child cannot be placed with either parent within a reasonable time and (2) the child has been in temporary custody of CCDCFS

for 12 or more months of a consecutive 22-month period. Accordingly, the juvenile court granted permanent custody of the children to the CCDCFS.

{¶ 24} This appeal followed.

II. Law and Analysis

A. Anders Standard

{¶ 25} *Anders* outlines the procedure that counsel must follow to withdraw due to the lack of any meritorious grounds for appeal. *Anders*, 386 U.S. at 744, 87 S.Ct. 1396, 18 L.Ed.2d 493. In *Anders*, the United States Supreme Court held that if appointed counsel, after a conscientious examination of the case, determines an appeal to be wholly frivolous, he or she should advise the court of that fact and request permission to withdraw. *Id.* This request, however, must be accompanied by a brief identifying anything in the record that could arguably support the appeal. *Id.* Counsel must also provide the client with a copy of the brief and allow the client sufficient time to file his or her own brief. *Id.*

{¶ 26} Once the appellant's counsel satisfies these requirements, this court must fully examine the proceedings below to determine if any arguably meritorious issues exist. *Id.* If the court determines that the appeal is wholly frivolous, the court may grant counsel's request to withdraw and dismiss the appeal. *Id.*; see also *State v. Sims*, 2019-Ohio-4975, 149 N.E.3d 1143, ¶ 7-9 (8th Dist.).

{¶ 27} Although *Anders* arose in a criminal context, this court has applied *Anders* in appeals involving the termination of parental rights. *In re E.G.*, 8th Dist. Cuyahoga No. 112212, 2023-Ohio-2305, ¶ 25, citing *In re J.L.*, 8th Dist. Cuyahoga

No. 109626, 2020-Ohio-5254, ¶ 35, *In re A.M.*, 8th Dist. Cuyahoga No. 106789, 2018-Ohio-3186, ¶ 11; *In re C.S.*, 8th Dist. Cuyahoga No. 105700, 2017-Ohio-8664, ¶ 13. We explained:

Previously, former Loc.App.R. 16(C) set forth the specific procedure governing *Anders* briefs and motions to withdraw followed by this court. That rule was amended on February 1, 2019, and no longer includes any procedure for the filing of *Anders* briefs. However, as this court has previously stated, “the absence of a local rule governing *Anders* briefs does not prevent this court from accepting these briefs nor from following the procedure the United States Supreme Court outlined in *Anders*.” *Sims* at ¶ 7-14 (discussing “the duties of appellate counsel when filing an *Anders* brief and our duties when ruling on counsel’s motion to withdraw on the grounds that the appeal would be frivolous” even in the absence of former Loc.App.R. 16(C), different Ohio appellate courts’ views on *Anders* briefs and this court’s decision that “until the Ohio Supreme Court resolves the split among the Ohio Appellate Districts regarding the application of *Anders* * * * we will continue to adhere to the procedures outlined in *Anders* pertaining to both counsel and the court when appointed appellate counsel files a motion to withdraw because an appeal would be wholly frivolous”); see also *State v. Lariche*, 8th Dist. Cuyahoga No. 108512, 2020-Ohio-804, ¶ 7.

In re J.L. at ¶ 36.

{¶ 28} In this case, appellate counsel has set forth a detailed analysis of the record and the law governing motions for permanent custody under R.C. 2151.414. Counsel contends, however, that no meritorious issues can be discerned from the record. Counsel explains his position as follows:

Mother missed a considerable number of visits. She would be late. She failed to follow through on urine testing regularly. She tended to become involved in abusive relationships. She missed fifteen (15) out of twenty (20) medical appointments for her son. Although she made “significant progress,” she takes one step forward and then two steps back. She finally got a protective order against J.M. and her mother, four days before trial. After over two years, the bond with her son is

marginal. Finally the [GAL's] testimony is very poignant. The child has been thriving in the foster home for over two years. Mother is still an unstable and an unpredictable caregiver. The [GAL] actually states it would be "cruel" to remove this child from the foster home where he overcame his premature birth and is now thriving.

The undersigned has reviewed the transcript, twelve exhibits, the seven [GAL] reports, the complaint, motions and journalized orders. There does not appear to be any meritorious assignments of error to overturn the trial court's order for permanent custody of [J.P.S.].

{¶ 29} With the foregoing standard in mind, we consider the record and the applicable provisions of R.C. 2151.414.

B. Independent Review

{¶ 30} A parent has a "fundamental liberty interest * * * in the care, custody, and management of [his or her child]." *Santosky v. Kramer*, 455 U.S. 745, 753, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982). The termination of parental rights is regarded as "the family law equivalent of the death penalty in a criminal case." *In re J.B.*, 8th Dist. Cuyahoga No. 98546, 2013-Ohio-1704, ¶ 66, quoting *In re Hoffman*, 97 Ohio St.3d 92, 2002-Ohio-5368, 776 N.E.2d 485, ¶ 14. Consequently, parents "must be afforded every procedural and substantive protection the law allows." *In re Hayes*, 79 Ohio St.3d 46, 48, 679 N.E.2d 680 (1997), quoting *In re Smith*, 77 Ohio App.3d 1, 16, 601 N.E.2d 45 (6th Dist.1991).

{¶ 31} Nevertheless, a parent's right to the care and custody of his or her child is not absolute. *In re L.G.*, 8th Dist. Cuyahoga No. 110789, 2022-Ohio-529, ¶ 49. "[T]he natural rights of a parent * * * are always subject to the ultimate welfare of the child, which is the polestar or controlling principal to be observed." *In re*

L.D., 2017-Ohio-1037, 86 N.E.3d 1012, ¶ 29 (8th Dist.), quoting *In re Cunningham*, 59 Ohio St.2d 100, 106, 391 N.E.2d 1034 (1979).

{¶ 32} Before a juvenile court can terminate parental rights and grant permanent custody of a child to CCDCFS, it must satisfy the two-prong test set forth in R.C. 2151.414. First, the juvenile court must find by clear and convincing evidence that one of the following conditions set forth in R.C. 2151.414(B)(1)(a) through (e) exists:

(a) The child is not abandoned or orphaned, has not 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 has not 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 if, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state, and the child cannot be placed with either of the child's parents within a reasonable time or should not be placed with the child's parents.

(b) The child is abandoned.

(c) The child is orphaned, and there are no relatives of the child who are able to take permanent custody.

(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 division (D)(1) of section 2151.413 of the Revised Code, 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.

Only one of the factors must be present for the first prong of the permanent-custody analysis to be satisfied. *In re S.S.*, 8th Dist. Cuyahoga No. 109356, 2020-Ohio-3039, ¶ 28, citing *In re L.W.*, 8th Dist. Cuyahoga No. 104881, 2017-Ohio-657, ¶ 28.

{¶ 33} When any one of the above factors exists, the second prong of the analysis requires the juvenile court to determine, by clear and convincing evidence, whether it is in the best interest of the child to grant permanent custody to the agency pursuant to R.C. 2151.414(D).

First Prong — R.C. 2151.414(B)

{¶ 34} With respect to the first prong of the permanent-custody analysis, the juvenile court found, pursuant to R.C. 2151.414(B)(1)(d), that the child had been in temporary custody of the agency for 12 or more months of a consecutive 22-month period.

{¶ 35} For purposes of calculating time under subsection (d), R.C. 2151.413(D)(1) provides that “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 or the date that is sixty days after the removal of the child from home.”

{¶ 36} In this case, the child was committed to the emergency temporary custody of CCDCFS on May 29, 2020. The child remained in the agency’s care until he was adjudicated dependent on September 8, 2020, and committed to the temporary custody of CCDCFS on September 18, 2020. Applying either date

contemplated under R.C. 2151.413(D)(1), the record confirms that J.P.S. had been in the temporary care of the agency for 12 or more months of a consecutive 22-month period at the time the motion for permanent custody was filed on February 2, 2022. Under these procedural circumstances, our review of the record confirms the trial court's finding pursuant to R.C. 2151.414(B)(1)(d).²

Second Prong – Best Interests of the Child

{¶ 37} Turning to the second prong of the permanent-custody analysis, we recognize “[t]he discretion that the juvenile court enjoys in [deciding] 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 [decision] will have on the lives of the parties concerned.” *In re Awkal*, 95 Ohio App.3d 309, 316, 642 N.E.2d 424 (8th Dist.1994). Thus, a juvenile court’s determination of a child’s best interests under R.C. 2151.414(D) is generally reviewed for an abuse of discretion. *In re D.A.*, 8th Dist. Cuyahoga No. 95188, 2010-Ohio-5618, ¶ 47.

{¶ 38} 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:

² Because the time requirements under R.C. 2151.414(B)(1)(d) were satisfied, it is unnecessary to determine whether any additional factor under R.C. 2151.414(B)(1) was applicable to the circumstances presented in this matter. *See In re M.G.*, 8th Dist. Cuyahoga No. 111144, 2022-Ohio-1077, ¶ 29, citing *In re L.W.*, 8th Dist. Cuyahoga No. 107648, 2019-Ohio-1344, ¶ 15, citing *In re C.W.*, 104 Ohio St.3d 163, 2004-Ohio-6411, 818 N.E.2d 1176, ¶ 21.

(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).

{¶ 39} 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 “there 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.

{¶ 40} In this case, the juvenile court made the following findings in support of its determination that, pursuant to R.C. 2151.414(D)(1), permanent custody was in the child’s best interests:

The child has lived in the same foster home since being released from the hospital after birth. He is very well bonded to his caregiver. There was extensive testimony about the lack of bonding between the child and his mother and siblings.

* * *

The child is nonverbal and too young to express his wishes.

* * *

Since his release from the hospital following his birth, [the child] has been in the custody of CCDCFs which has been more than two years. There have been two extensions of temporary custody and further extensions of temporary custody are not legally an option.

* * *

The only option before the court are immediate reunification and permanent custody. As discussed below, the court cannot find that reunification is in the child’s best interests.

* * *

The alleged fathers have abandoned the child.

* * *

There was extensive testimony about a lack of bonding between the mother and the child and ongoing issues with domestic violence with the mother and her family. The child was born severely premature in the middle of a pandemic. The extensive written report of the GAL captures both of the concerns for lack of bonding and domestic violence over the course of this case. Initially, there were concerns with mother’s attendance at the hospital and medical appointments, and her

relationship with [alleged father.] There have been concerns about the mother's judgment which is why the agency requested and the court granted an extension of temporary custody rather than reunifying the child in April of 2021. These problems continue to exist more than two years after the case was opened.

One alleged father is currently incarcerated, neither of the alleged father's have had contact with the child and no family member or interested individual has filed for or been in a written motion for legal custody.

* * *

The Guardian Ad Litem recommends that permanent custody is in the best interests of the child.

The juvenile court further noted Mother's failure to substantially remedy the conditions causing the child to be placed outside her home and her demonstration of a lack of commitment toward the child.

{¶ 41} Viewing the record in its entirety, it is clear the juvenile court's best interests' considerations relied substantially on the recommendation of the GAL and the testimony of social workers McKinley and House. Consistent with court's findings, McKinley, House, and the GAL collectively described Mother's inconsistent conduct during the pendency of this matter and the circumstances supporting their opinions that Mother failed to remedy the issues that caused the child to be removed from her custody at the time of his birth. Each testified that Mother lacks a bond with J.P.S. and has not demonstrated that she benefitted from the services she completed through the agency. Mother often missed scheduled visits or doctors' appointments with J.P.S. and has a history of losing contact with the agency for significant periods of time. She failed to consistently provide random

drug screens, and her home smelled like marijuana during a home visit. Moreover, the record reflects that the agency has ongoing concerns with Mother's pattern of questionable judgment and issues of domestic violence that were not adequately resolved prior to the permanent-custody hearing. Finally, the witnesses each described J.P.S.'s strong bond with his current foster family. McKinley, House, and the GAL each noted that the child has been in the care of his foster parents since the time he left the hospital and that they have no concerns with foster family's ability to provide J.P.S. a safe and stable home that addresses his special, medical needs.

{¶ 42} Given the amount of time the child has spent in the agency's custody, and the evidence establishing (1) the child's relationship with his caregiver; (2) the child's need for legally secure placement; (3) Mother's diminished relationship with the child, and (4) Mother's failure to remedy the conditions that caused the child's removal, we find the record clearly and convincingly supports the juvenile court's findings under R.C. 2151.414(D)(1). Accordingly, we are unable to conclude that the juvenile court acted unreasonably, arbitrarily, or unconscionably in determining that an award of permanent custody was in the child's best interests.

{¶ 43} Based on the foregoing, the record reflects that the trial court carefully engaged in the two-prong analysis required under R.C. 2151.414 and rendered findings that were supported by the evidence adduced at the permanent custody hearing. Consequently, following a thorough, independent examination of the record as required by *Anders*, we find the juvenile court did not err when it awarded permanent custody to the agency. Thus, we agree that there are no "arguably

meritorious issues” and that this appeal is wholly frivolous. We grant counsel’s motion to withdraw and dismiss this appeal.

{¶ 44} This appeal is dismissed.

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

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

EILEEN T. GALLAGHER, JUDGE

EILEEN A. GALLAGHER, P.J., and
EMANUELLA D. GROVES, J., CONCUR