[Cite as *In re A.G.H.*, 2026-Ohio-3235.]

**COURT OF APPEALS OF OHIO**

**EIGHTH APPELLATE DISTRICT**
**COUNTY OF CUYAHOGA**

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| IN RE A.G.H., ET AL. | : | |
| | | No. 116038 |
| Minor Children | : | |
| [Appeal by An.H., Father] | : | |

JOURNAL ENTRY AND OPINION

**JUDGMENT:** AFFIRMED
**RELEASED AND JOURNALIZED:** August 20, 2026

Civil Appeal from the Cuyahoga County Court of Common Pleas
Juvenile Division
Case Nos. AD25906956 and AD25906957

***Appearances:***

Scott J. Friedman, *for appellant*.

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

DEENA R. CALABRESE, J.:

{¶ 1} Appellant An.H. ("Father") appeals the orders of the Cuyahoga County Court of Common Pleas, Juvenile Division ("juvenile court"), that adjudicated his children, twins A.H. and A.G.H. (d.o.b. 8/27/2024) (collectively "the children"), to be neglected and dependent children and awarded legal custody of the children to

interested individual A.S. For the reasons stated below, we affirm the juvenile court's orders.

## I. Relevant Facts and Procedural History

{¶ 2} The children's mother ("Mother") and Father share three additional children (the "siblings") who are in the permanent custody of the Cuyahoga County Division of Children and Family Services ("CCDCFS").[1] The children in this case resided with Mother at the time of the filing of the original complaint.

{¶ 3} On January 13, 2025, CCDCFS filed a complaint for neglect and dependency and protective supervision to CCDCFS. The complaint was later dismissed. The next month, CCDCFS filed another complaint for neglect and dependency and permanent custody of the children to CCDCFS. That complaint was also later dismissed. On July 8, 2025, CCDCFS filed the complaint at issue here for neglect and dependency and legal custody to interested individual A.S.

{¶ 4} The complaint alleged, in relevant part:

> 2. On or about February 5, 2025, the children were placed with [A.S.] pursuant to a safety plan due to mother's home being found to be in unsanitary and unsafe condition. There was trash accumulated throughout the home and the children were lying on a dirty mattress. The children have remained with [A.S.] since that time.
>
> 3. Mother has a longstanding substance use disorder related to alcohol that impacts her ability to provide appropriate care for the children on a consistent basis. Despite prior participation in substance abuse treatment services, mother has failed to maintain her sobriety.

[1] This court recently affirmed the juvenile court's grant of permanent custody of the siblings in *In re Y.G.*, 2026-Ohio-267 (8th Dist.).

4. Mother and alleged father, [An.H.], have had a domestically violent relationship. Despite prior participation in domestic violence services, mother has failed to demonstrate a benefit from those services.

5. [An.H.] has refused to engage in recommended domestic violence services.

6. [An.H.] does not have safe and appropriate housing in which to provide for the basic needs of the children.

7. Mother and [An.H.] have three (3) other children who have been adjudicated Neglected and committed to the Temporary Custody of CCDCFS due in part to concerns related to mother's housing, domestic violence, and substance abuse. A motion for Permanent Custody of those children is pending before this Court. See Case Nos. AD23902129-31.

8. Mother has three (3) other children who have been adjudicated Neglected and committed to the Temporary Custody of CCDCFS due in part to concerns related to mother's housing, domestic violence, and substance abuse. A motion for Permanent Custody of one of those children is currently pending before this Court. A motion for Planned Permanent Living Arrangement is pending for another of the children, and a motion for Legal Custody to interested individual, [A.S.], is pending for the final child. See Case Nos. AD23902127'28, 32.

**{¶ 5}** The children were placed with A.S. on a safety plan during the pendency of this case. On October 1, 2025, the juvenile court held adjudicatory and dispositional hearings on CCDCFS's complaint and motion. The juvenile court heard testimony from LaGina White ("White") in both the adjudicatory hearing and the dispositional hearing.

**A. Adjudicatory Hearing**

**{¶ 6}** White testified at the adjudicatory hearing that she is a CCDCFS child protection specialist and was assigned to this family's case prior to the children's birth. The children have a total of six siblings, all of whom were previously removed

from the home, and three of the siblings are Father's children. The oldest sibling is in a planned permanent living arrangement, three siblings are in the permanent custody of CCDCFS, and two siblings are in the legal custody of two separate individuals. The three siblings that are in the permanent custody of CCDCFS are also Father's children.

{¶ 7} At the time the complaint was filed, White had ongoing concerns with Mother from a previous case. White visited the children and Mother after receiving a report that Mother tested positive for alcohol. Mother also reported that she was using alcohol. While visiting the home, White found that it was not suitable for the children to reside there. White testified that the condition of the home was generally unclean; there was trash, including tobacco and cigar shells, on the floor throughout the first floor; the children were sleeping on a receiving blanket on top of a soiled mattress; and there was only one portable crib for the two children.

{¶ 8} White also had ongoing concerns regarding Father. Father had not completed domestic-violence services at the time of the filing of the complaint. Mother reported that Father punched a hole through the wall when he was angry. Father admitted that he punched a hole through the wall at Mother's home and that he broke the second portable crib. Father reported that he did not have housing. He also reported that he did not want custody of the children and refused to complete domestic-violence services.

{¶ 9} The magistrate made a finding in each child's case recommending that the children be found neglected and dependent. The magistrate stated that the

determination was made by considering "prior Agency involvement regarding its dependency finding, and then on neglect related to housing and substance use concerns pursuant to 2151.03(A)(2) and 2151.04(D) among other things."

**B. Dispositional Hearing**

**{¶ 10}** The case proceeded to the dispositional hearing immediately following the adjudication. Testimony from the adjudicatory hearing was incorporated into the dispositional hearing without objection.

**{¶ 11}** White testified for a second time that day at the dispositional hearing. She testified that Mother's case-plan objectives in this case included completing services related to substance abuse, domestic violence, parenting, and maintaining stable housing. Mother completed services but did not exhibit any benefit from the services. First, Mother completed an inpatient substance-abuse program then admitted to drinking shots after completing the program and tested positive for alcohol. Second, Mother completed a domestic-violence program but continued to engage in a relationship with Father, the perpetrator of domestic violence. Lastly, Mother completed a parenting program but there were still concerns regarding the conditions of the home, the safe sleep of the children, and her continued interactions and relationship with Father.

**{¶ 12}** White further testified that Father's case plan involved completion of domestic-violence services. White referred Father for domestic-violence services to two different providers. Father reported that he completed domestic-violence services with a third provider, but White was not able to verify whether Father

completed a domestic-violence program because he did not sign a release of information. Father also reported that he did not have housing.

{¶ 13} White also testified that both Mother and Father did not visit the children consistently.

**C. GAL Report and Recommendation**

{¶ 14} The GAL filed a report and gave a recommendation at the conclusion of the dispositional hearing. He reported that he visited the children at A.S.'s home and they are doing well. He also visited Mother's home and observed soiled mattresses on the floors of the bedrooms and a lack of cleaning supplies and food. The GAL recommended that the motion for legal custody of the children to A.S. be granted.

**D. Exhibits**

{¶ 15} CCDCFS submitted journal entries from the children's siblings' cases. The entries establish that each of the siblings was adjudicated as either dependent, neglected, or abused, or some combination of these findings.

**E. The Decision**

{¶ 16} On October 3, 2025, the magistrate issued an order adjudicating the children as neglected and dependent and an order placing the children in the legal custody of A.S. On October 17, 2025, Father filed objections to the magistrate's decisions. Thereafter, the juvenile court overruled Father's objections, found the children to be neglected and dependent and committed the children to the legal custody of A.S. The juvenile court made findings in each child's case that "the child

is adjudicated to be Neglected, and Dependent due to unsanitary housing conditions, substance use problems, and prior Agency removals." The juvenile court also found in each child's case that "[u]pon weighing the best interest factors, the Court finds it is in the child's best interest to be committed into the custody of [A.S.], and the parents are unsuitable."

{¶ 17} Father's appeal followed. He raises the following assignments of error for our review:

> 1. The juvenile court erred by placing the children under the legal custody of A.S., in violation of Father's rights under the Fourteenth Amendment to the United States Constitution and Article I, Section 16 of the Ohio Constitution, because the evidence did not support the court's finding that the children were neglected or dependent.
>
> 2. The juvenile court erred by placing the children under the legal custody of A.S., in violation of Father's rights under the Fourteenth Amendment to the United States Constitution and Article I, Section 16 of the Ohio Constitution, because the evidence did not support the award of legal custody.

## II. Law and Analysis

### A. Standard of Review

{¶ 18} We review both of Father's assignments of error under sufficiency-of-the-evidence and manifest-weight-of-the-evidence standards of review. *See In re C.G.*, 2025-Ohio-648, ¶ 4-5 (8th Dist.), and *In re Q.M.B.*, 2026-Ohio-1975, ¶ 26-27 (8th Dist.).

{¶ 19} "[S]ufficiency-of-the-evidence and/or manifest-weight of the evidence standards of review are the proper appellate standards of review of an abuse, neglect, or dependency finding, as appropriate depending on the nature of the

arguments that are presented by the parties." *In re A.K.*, 2025-Ohio-2935, ¶ 12 (4th Dist.), citing *In re Z.C.*, 2023-Ohio-4703, ¶ 11. In this case, Father's argument demands both manifest-weight-of-the-evidence and sufficiency-of-the-evidence review.

> When reviewing for manifest weight, the appellate court must weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether, in resolving conflicts in the evidence, the finder of fact clearly lost its way and created such a manifest miscarriage of justice that the judgment must be reversed and a new trial ordered. [*Eastley v. Volkman*, 2012-Ohio-2179,] ¶ 20. "In weighing the evidence, the court of appeals must always be mindful of the presumption in favor of the finder of fact." *Id.* at ¶ 21. "The underlying rationale of giving deference to the findings of the trial court rests with the knowledge that the trial judge is best able to view the witnesses and observe their demeanor, gestures and voice inflections, and use these observations in weighing the credibility of the proffered testimony." *Seasons Coal Co., Inc. v. Cleveland*, 10 Ohio St.3d 77, 80, N.E.2d 1273 (1984). "'If the evidence is susceptible of more than one construction, the reviewing court is bound to give it that interpretation which is consistent with the verdict and judgment, most favorable to sustaining the verdict and judgment.'" *Id.* at fn. 3, quoting 5 Ohio Jurisprudence 3d, Appellate Review, Section 603, at 191-192 (1978).

*In re Z.C.* at ¶ 14.

**{¶ 20}** "When applying a sufficiency-of-the-evidence standard, an appellate court should affirm a trial court when the evidence is legally sufficient to support the factfinder's determination as a matter of law." *In re D.D.*, 2026-Ohio-1973, ¶ 64 (8th Dist.), citing *In re Z.C.* at ¶ 13. "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." (Citations omitted.) *In re P.S.*, 2023-Ohio-144, ¶ 30 (8th Dist.).

**B. Adjudication**

**{¶ 21}** In his first assignment of error, Father contends that the evidence did not support the juvenile court's finding that the children were neglected or dependent.

**{¶ 22}** Pursuant to R.C. 2151.35(A), the standard of proof used by the juvenile court when determining whether children are abused, neglected, or dependent, is that of clear and convincing evidence. *See also* Juv.R. 29(E)(4).

**{¶ 23}** Clear and convincing evidence has been defined as

> 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 intermediate, 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.

*Cross v. Ledford*, 161 Ohio St. 469, 477 (1954).

**{¶ 24}** Pursuant to R.C. 2151.03(A)(2), a "neglected child" is, in relevant part, one "who lacks adequate parental care because of the faults or habits of the child's parents, guardian, or custodian[.]"

**{¶ 25}** Pursuant to R.C. 2151.04(D), a "dependent child" is, in relevant part, a child

> [t]o whom both of the following apply:
>
> (1) The child is residing in a household in which a parent, guardian, custodian, or other member of the household committed an act that was the basis for an adjudication that a sibling of the child or any other child who resides in the household is an abused, neglected, or dependent child.

> (2) Because of the circumstances surrounding the abuse, neglect, or dependency of the sibling or other child and the other conditions in the household of the child, the child is in danger of being abused or neglected by that parent, guardian, custodian, or member of the household.

**{¶ 26}** "The juvenile court must base its adjudication on the evidence adduced at the adjudicatory hearing to support the allegations in the complaint." *In re E.B.*, 2020-Ohio-4139, ¶ 44 (8th Dist.), citing *In re Hunt*, 46 Ohio St.2d 378, 380 (1976). Put another way, "'the determination whether a child is dependent, neglected, or abused must be made based on evidence of facts as they existed at the time alleged in the complaint.'" *In re Q.M.B.*, 2026-Ohio-1975, at ¶ 26 (8th Dist.), quoting *In re R.L.*, 2017-Ohio-4271, ¶ 13 (9th Dist.).

**{¶ 27}** The record supports the juvenile court's adjudication that the children were neglected children at the time of the filing of the complaint. White testified that the unclean condition of the home at the time of the filing of the complaint rendered it unsuitable for the children to reside there. She also testified that there were ongoing concerns about Mother related to prior CCDCFS involvement. Specifically, Mother continued to abuse alcohol and engage in a domestically violent relationship with Father. In addition, Father did not have housing and refused to complete domestic-violence services. We conclude that there was clear and convincing evidence supporting the juvenile court's determination that the children were neglected. Therefore, the trial court did not err when it adjudicated the children neglected.

**{¶ 28}** The record also supports the juvenile court's adjudication that the children were dependent children at the time of the filing of the complaint. CCDCFS established that the children's siblings were each previously adjudicated to be abused, dependent, or neglected. The record also shows that the conditions in the home were similar to the conditions that existed when the siblings were removed from the home and the children were in danger of being neglected. Based on the forgoing, we conclude that there was clear and convincing evidence supporting the juvenile court's determination that the children were dependent children. Therefore, the trial court did not err when it adjudicated the children dependent.

**{¶ 29}** Father contends that "the court failed to draw any connection between Father's alleged conduct and any adverse effect on the children." However, the evidence does not support Father's contention. As stated above, White testified that Father did not complete domestic-violence services in the previous case involving the children's siblings and did not have housing. In addition, "[j]ust because a parent is not a custodial parent, does not absolve him or her from being aware of the conditions to which his or her child is subjected." *In re Tashayla S.*, 2004-Ohio-896, ¶ 27 (6th Dist.).

**{¶ 30}** We find that the juvenile court's adjudication of the children as dependent and neglected is supported by sufficient evidence and not against the manifest weight of the evidence. Therefore, Father's first assignment of error is overruled.

**C. Dispositional Hearing**

**{¶ 31}** In his second assignment of error, Father contends that the evidence did not support the award of legal custody to A.S.

**{¶ 32}** Pursuant to R.C. 2151.353(A)(3), the juvenile court may grant legal custody to any person who files a motion or who is identified as a proposed legal custodian in a complaint or motion requesting legal custody of the child prior to the dispositional hearing if it finds such a disposition to be in the child's best interest by a preponderance of the evidence. "'Preponderance of the evidence' means 'evidence that's more probable, more persuasive, or of greater probative value." (Cleaned up.) *In re Y.F.*, 2024-Ohio-5605, ¶ 31 (8th Dist.). Unlike a termination of parental rights, when a parent loses legal custody of a child, they retain residual parental rights, privileges, and responsibilities. *In re Y.F.* at ¶ 31, *see also* R.C. 2151.353(A)(3)(c).

**{¶ 33}** "Legal custody" is defined as:

> a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities.

R.C. 2151.011(B)(21).

**{¶ 34}** A trial court's "authority to award legal custody . . . is limited only by the best interests of the child." *In re W.A.J.*, 2014-Ohio-604, ¶ 3 (8th Dist.). The best interest of the child is "of paramount concern" when making custody determinations. *In re M.J.M.*, 2010-Ohio-1674, ¶ 14 (8th Dist.), citing *In re A.W.-G.*, 2004-Ohio-2298, ¶ 6 (12th Dist.). "In making such a determination 'courts have

looked to the best interest factors of R.C. 2151.414(D), R.C. 3109.04(F)(1), a combination of the two, or general notions of what should be considered regarding the best interests of the [child].'" *In re A.D.*, 2017-Ohio-6913, ¶ 32 (6th Dist.), quoting *In re A.K.*, 2012-Ohio-4430, ¶ 25 (9th Dist.).

**{¶ 35}** In this case, we note that neither Father nor Mother filed motions for legal custody. The only dispositional request pending before the juvenile court was CCDCFS's complaint for legal custody of the children to A.S. Therefore, the scope of our review is limited to determining whether the juvenile court erred when it granted CCDCFS's request for legal custody to A.S.

**{¶ 36}** A review of the record supports the juvenile court's finding that an award of legal custody of the children to A.S. is in the best interest of the children. Father did not complete domestic-violence services even though White referred him to two different providers. Although Father indicated he completed the services with a third provider, he failed to sign a release of information so White could confirm his completion of the services. Mother completed services for substance abuse, domestic violence, and parenting but failed to benefit from the services. This is evident from White's testimony that Mother continued to test positive for alcohol use, reported that she continued to abuse alcohol, continued to engage in a relationship with Father despite their history of domestic violence, and continued to exhibit poor parenting decisions. In addition, White and the GAL reported that the children were doing well in A.S.'s home.

{¶ 37} We find that the juvenile court's disposition of legal custody of the children to A.S. is supported by sufficient evidence and not against the manifest weight of the evidence. Therefore, Father's second assignment of error is overruled.

{¶ 38} For the reasons stated above, we affirm the juvenile court's orders that adjudicated Father's children, twins A.H. and A.G.H., to be neglected and dependent children and awarded legal custody of the children to A.S.

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 issue out of this court directing 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.

DEENA R. CALABRESE, JUDGE

MICHELLE J. SHEEHAN, A.J., and
KATHLEEN ANN KEOUGH, J., CONCUR