

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

IN RE D.W.	:	
	:	No. 116121
A Minor Child	:	
	:	
[Appeal by Father, R.W.]	:	

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 No. AD24904222

Appearances:

Christina M. Joliat, *for appellant*.

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Joseph C. Young, Assistant Prosecuting Attorney, *for appellee* Cuyahoga County Division of Children and Family Services.

TIMOTHY W. CLARY, J.:

{¶ 1} Appellant R.W. (“Father”) appeals from the juvenile court’s January 28, 2026 judgment entry that terminated his parental rights to his minor child, D.W. (d.o.b. 2/2/2019), and granted permanent custody of the child to the Cuyahoga

County Division of Children and Family Services (“the agency” or “CCDCFS”).¹ After reviewing the facts of the case and pertinent law, we affirm the juvenile court’s judgment.

I. Factual and Procedural History

{¶ 2} The agency previously had custody of D.W. before the underlying action was filed. At the time of D.W.’s birth in February 2019, he tested positive for PCP. The court adjudicated the child to be abused and dependent, and the agency obtained temporary custody. *See* Cuyahoga J.C. No. AD19901389. Father’s case-plan services addressed mental-health concerns; Father did not engage in any services. In February 2020, the trial court committed D.W. to Mother’s legal custody with an order of protective supervision.

{¶ 3} Based upon Mother’s relapse with PCP, the child was again committed to the agency’s temporary custody from July 2020 through July 2022. The family-case plan noted new concerns about Father’s use of drugs and alcohol, mental health, and domestic violence. Father again did not participate in case-plan services. In July 2022, the court committed D.W. to Mother’s legal custody with protective supervision, and the court terminated protective supervision on April 12, 2023.

¹ The January 28, 2026 judgment entry also extinguished the parental rights of L.M. (“Mother”), the mother of D.W. Mother has filed her own appeal in 8th Dist. Cuyahoga No. 112154, a companion case to this appeal. We will detail the facts and legal analysis only in regard to Father.

{¶ 4} On or about October 30, 2023, an altercation occurred between Mother and Father that resulted in Father falling down a set of stairs while carrying D.W. and D.W. sustaining a head injury that left a scar on his forehead. Mother and Father presented different versions of the events that occurred that day.

{¶ 5} Mother claimed that Father came to her residence under the influence of drugs, kicked down her door, grabbed D.W. from his bed, and fell as he was carrying the child down a set of stairs. Mother maintained that D.W. did not require any medical treatment following the fall. Father asserted that Mother contacted Father's mother, Ru.W., to inform her that she had experienced a mental breakdown and could not care for D.W. and Ru.W. communicated this information to Father. Concerned about his son's safety, Father claimed he went to Mother's apartment but she would not open the door. Father stated he "pushed the door in" and collected D.W. Jan. 20, 2026 hearing, tr. 420. Father claimed that while he was leaving the apartment and descending a set of stairs with D.W. in his arms, Mother pushed him from behind, causing him to fall and resulting in D.W.'s head wound. D.W. later corroborated Father's version of the incident.

{¶ 6} Pursuant to the October 2023 altercation, D.W. was removed from Mother's custody on November 3, 2023, and placed in the agency's temporary care. The agency twice unsuccessfully attempted to resolve the case within the statutory time limits and, accordingly, dismissed the cases without prejudice. *See* Cuyahoga J.C. Nos. AD23912658 and AD24900929. On April 30, 2024, the agency filed a

complaint for abuse, neglect, dependency, and permanent custody to the agency, and Father's appeal stems from this case.

{¶ 7} At a July 23, 2024 hearing, Mother and Father stipulated to the agency's amended complaint; the court's adjudication of D.W. as abused, neglected, and dependent; and the child's commitment to the agency's temporary custody. The amended complaint stated, in pertinent part, that D.W. had remained in the uninterrupted custody of CCDCFS since November 3, 2023, and Mother and Father had a volatile relationship. The amended complaint also stated that Father had to address his substance-abuse issues, comply with recommendations, and maintain a significant period of sobriety.

{¶ 8} The agency drafted a case plan for Father that included domestic-violence classes, parenting classes, substance-abuse treatment with random drug testing, and housing. Sarah Smith ("Smith"), a child protection specialist with the agency, had been assigned to Father's case, and she testified that the agency made no referrals for Father because he refused to sign a release of information.

{¶ 9} Under Smith's supervision, the agency completed a number of Kinship Caregiver Assessment and Resources Investigations ("KCAR investigations") on family members to determine whether they were appropriate to provide care or custody for D.W. The application of Ru.W., Father's mother, was denied because of allegations that Father lived at Ru.W.'s home. The agency also believed Ru.W.'s home was not appropriate because children are not permitted to reside at a senior living apartment.

{¶ 10} K.J., Mother's sister who is a licensed foster-care placement provider, was approved for placement. However, the agency had reservations about moving D.W. into her home because (1) K.J. and the child did not know one another or have a bond, (2) potential limitations because of K.J.'s own medical issues, (3) K.J. had attended only a portion of a scheduled visitation with D.W. and one virtual visitation, (4) K.J.'s lack of knowledge of the child's mental-health concerns, and (5) Mother did not support placement with K.J.

{¶ 11} The application of T.M., Father's sister, was initially approved. T.M., a kindergarten teacher who lives with an adult child, had a positive relationship with D.W. According to Smith, T.M. asked that she be considered "the last resort" as a placement for the child because she had already raised her children and she was employed. Jan. 16, 2026 hearing, tr. 76. Father and Ru.W. later informed Smith that T.M. retracted her comment and wanted D.W. placed with her, but Smith never confirmed that comment with T.M.

{¶ 12} The agency did not think it was in the child's best interest to place D.W. with any KCAR-approved relative when the goal was reunification and Mother was attempting to work her case-plan services.

{¶ 13} Starting in 2019 through the duration of the case, D.W. was placed with the same family foster. D.W. referred to his foster parents as "mommy" and "daddy." The foster home was described as "very appropriate," with many items to assist with D.W.'s release of stress, anger, and energy. The foster parents and D.W. were noted to be affectionate with one another and to share a strong bond.

{¶ 14} On September 24, 2024, the agency filed its first extension of temporary custody, and the court granted the motion. In October 2024, D.W.'s case was reassigned from Smith to agency worker Alease Chisolm ("Chisolm") who referred Father for substance-abuse, parenting, and domestic-violence services. Father made initial contact with a provider, but did not complete a drug and alcohol assessment. When Chisolm asked Father to submit drug screens, he stated the results would be positive for drugs and he refused to comply with her request. Father completed parenting and domestic-violence classes in July 2025, and participated in supervised visitation with D.W.

{¶ 15} Father initially had weekly visits with D.W., and his schedule was modified to every other week and then once a month because of inconsistent participation. Father was sometimes accompanied by his mother, Ru.W., or his sister, T.M., for visitations. Chisolm testified that D.W. liked to visit with Father. Chisolm testified that D.W. informed her he would prefer to live with his foster parents and interact with Mother and Father at visitations.

{¶ 16} On March 18, 2025, the agency filed a second extension for temporary custody and indicated Father had engaged in parenting classes and needed to participate in substance-abuse services and obtain housing. The court conducted an in camera interview of D.W. on May 21, 2025, and the court subsequently granted the agency's second extension for temporary custody.

{¶ 17} On September 18, 2025, the agency filed a motion to modify temporary custody to permanent custody. Mother filed a motion to terminate

temporary custody and grant legal custody to her or, alternatively, to maternal aunt K.J. The trial court conducted trial on January 16, 2026, and January 20, 2026. We summarize the following trial testimony that is relevant to Father’s appeal.

Sarah Smith

{¶ 18} Smith testified consistently with the above facts and indicated she was assigned to Father’s case from December 2023 through October 2024.

{¶ 19} Smith stated that D.W. was excited for visits with Father and Father played with the child at each visitation. Smith described their relationship as “good,” “playful,” and “comfortable.” Jan. 16, 2026 hearing, tr. 119.

{¶ 20} Smith stated that while assigned to the case she was unable to verify Father’s employment, suitable housing, or sobriety. Father submitted only two drug screens — on December 28, 2023, and June 14, 2024 — that were positive for PCP. Following Smith’s receipt of the positive drug screens, Father told Smith he would start substance-abuse services but he never followed through. Smith also testified that Father admitted he and Mother used PCP together and they had a toxic, physical relationship.

{¶ 21} According to Smith, when the agency considers a relative for placement of a child, it completes a KCAR investigation and considers how many times the child has been placed in agency custody, who the child was placed with previously, and whether the child has a bond with the proposed family member. Smith testified that D.W. had been placed with the same foster family since 2019. Smith described an emotional bond between D.W. and his foster family and stated

he received services while in their care. Smith also testified that the agency did not pull D.W. from his foster care and place him with a KCAR-approved relative because of his mental health.

Alease Chisolm

{¶ 22} Chisolm testified consistently with the above facts and testified that D.W. receives mental-health care because of trauma he has endured.

{¶ 23} Chisolm confirmed that Father completed a parenting class in July 2025 and that Father interacted with D.W. during visitations. She testified that Father often canceled scheduled visitations because of work conflicts.

{¶ 24} Chisolm testified that Father had not ask her about how D.W. performed in school or about specialized instructional meetings at his school. Chisolm conceded that she had not informed Father about any school events that he could have attended.

{¶ 25} Chisolm testified that because the agency had been unable to document long-term sobriety, Father had not remedied the conditions that led to the removal of D.W. Chisolm also stated that she did not believe Father had substantially benefited from the case-plan services. Chisolm also testified that D.W. needed permanency at this time and Father cannot provide a safe, stable, and permanent home.

{¶ 26} Chisolm testified that K.J. does not know D.W., she is not familiar with his special needs, and she cannot provide a home that would be in the child's

best interest. Chisolm also testified that K.J. informed her she sought legal custody of D.W. so that the child could visit with his maternal grandmother and an uncle.

{¶ 27} Chisolm stated that D.W. informed her he wanted to live with his foster parents and visit with Mother and Father. Chisolm testified that the foster parents are “very committed” and “want what’s best for [D.W.]” Jan. 16, 2026 hearing, tr. 318.

Jamie Saunt (“Saunt”)

{¶ 28} Saunt, an early childhood mental health therapist with Ohio Guidestone, testified that she has worked with D.W. since August 2020. She discussed D.W.’s initial therapy that focused on issues with aggression, impulsivity, speech delays, and sleeping. Saunt testified that D.W. made “great progress” for the two years he lived with his foster parents. Jan. 20, 2026 hearing, tr. 349. D.W.’s foster parents reengaged with Saunt when he was placed with them for the third time. Saunt testified that the child is “doing really well in school,” “he talks about feeling safe at home with his foster parents,” and he states that “he enjoys his visitation [with his parents] and he likes to know that he’s going back home to his foster parents after the visit’s over.” Jan. 20, 2026 hearing, tr. 359-360. D.W. had recently informed Saunt that “it would be fine” if he did not have any additional visits with Mother and Father. Jan. 20, 2026 hearing, tr. 360.

{¶ 29} Saunt stated that she believed D.W. would benefit from ongoing therapy services. She further stated that if D.W. were placed in Father’s custody, Saunt believes he would need more intensive therapy services to adjust to such a

major disruption in his life and ongoing psychiatric services. Saunt did not know of any other relative, besides Mother and Father, with whom D.W. would feel safe to move into their home.

Father

{¶ 30} Father testified that he completed parenting and domestic-violence classes, and he conceded that he does not have independent and stable housing where D.W. could live. Father denied continued use of PCP but stated that he had not submitted to drug screens because they would have been positive for marijuana.

{¶ 31} Father testified that if D.W. cannot be placed with him, he would like the child to be placed with either Mother or a family member.

K.J.

{¶ 32} K.J., Mother's sister, testified that she would like to care for D.W. until Mother is "able to get him back." Jan. 20, 2026 hearing, tr. 445. K.J. stated she would ensure the child's regular attendance at school and continue his therapy. K.J. testified that she had met D.W. eight times. She knew D.W. received therapy but did not know the purpose or extent of his therapy. K.J. was not familiar with any specialized education plans in place for D.W.

{¶ 33} K.J. stated that she received income in exchange for caring for a 61-year-old disabled woman who lives in her home and was scheduled to leave her home in April 2026. K.J. further testified that she receives disability income because of health conditions and she would attempt to foster another child in addition to D.W.

Guardian ad Litem (“GAL”)

{¶ 34} The GAL submitted several reports to the court and testified at trial. Because of D.W.’s age, the GAL indicated that D.W. was not able to fully understand the complexities of the litigation or state his desire regarding his future custody. The GAL noted that D.W. was content and happy living with his foster parents and considers their residence his home. The GAL did not recommend the court place D.W. in the legal custody of K.J., citing to K.J.’s limited relationship with D.W. and her minimal knowledge of the child’s specialized needs. The GAL also referenced K.J.’s limited knowledge of Mother and the issues she had experienced throughout the custody process and K.J.’s belief that D.W. had been denied relationships with family members. The GAL recommended that it would be in D.W.’s best interest to be committed to the permanent custody of the agency.

{¶ 35} Following trial, the court found by clear and convincing evidence that pursuant to R.C. 2151.414(B)(1), D.W. had been in the agency’s temporary custody for 12 or more months of a consecutive 22-month period. The court considered R.C. 2151.414(D)(1)’s best-interest factors and found it was in the child’s best interest to be placed in the agency’s permanent custody. The court found by clear and convincing evidence that D.W. cannot be placed with either of his parents within a reasonable time or should not be placed with either parent pursuant to R.C. 2151.414(E). The juvenile court also denied Mother’s motion for legal custody to K.J., finding such placement would not be in D.W.’s best interest because of the lack of a bond between D.W. and K.J. and K.J.’s lack of knowledge of the child’s

preferences and special needs. The trial court issued a January 28, 2026 judgment entry detailing the above findings and granting permanent custody of D.W. to the agency; terminating the parental rights of Mother and Father; and denying Mother's motion for legal custody either to herself or maternal aunt, K.J.

{¶ 36} On February 9, 2026, Father filed a timely appeal, presenting a single assignment of error for our review:

The trial court's order granting permanent custody to the agency was against the manifest weight of the evidence and it erred in finding permanent custody, rather than legal custody to blood relatives that remained present throughout the case, to be in the best interest of the child.

II. Legal Analysis

A. Permanent Custody

{¶ 37} Father argues that the trial court's grant of permanent custody of D.W. to the agency was against the manifest weight of the evidence, not supported by clear and convincing evidence, and not in the best interest of the child. Specifically, Father argues that he, Mother, and their extended families demonstrated a bond between themselves and D.W.; Mother and Father "completed some case[-]plan services" including parenting classes; Mother, Father, and family members maintained visitation with D.W.; Mother and Father expressed their desire to continue a relationship with D.W.; and Mother and Father stated their "willingness to follow the rules and guidelines of legal custody." Appellant's brief, p. 13.

1. Standard of Review

{¶ 38} A parent has a fundamental interest in the care and custody of his or her child. *In re L.W.*, 2019-Ohio-1343, ¶ 20 (8th Dist.). However, parental rights are not absolute: “The natural rights of a parent are always subject to the ultimate welfare of the child, which is the polestar or controlling principle to be observed.” *In re L.D.*, 2017-Ohio-1037, ¶ 29 (8th Dist.), quoting *In re Cunningham*, 59 Ohio St.2d 100, 106 (1979). “By terminating parental rights, the goal is to create ‘a more stable life’ for dependent children and to ‘facilitate adoption to foster permanency for children.’” *In re R.G.*, 2016-Ohio-7897, ¶ 21 (8th Dist.), quoting *In re N.B.*, 2015-Ohio-314, ¶ 67 (8th Dist.), citing *In re Howard*, 1986 Ohio App. LEXIS 7860, *5 (5th Dist. Aug. 1, 1986).

{¶ 39} “An appellate court will not reverse a juvenile court’s termination of parental rights and award of permanent custody to an agency if the judgment is supported by clear and convincing evidence.” *In re M.J.*, 2013-Ohio-5440, ¶ 24 (8th Dist.), citing *In re A.S.*, 2012-Ohio-4893, ¶ 40 (11th Dist.).

{¶ 40} The Ohio Supreme Court clarified that, when reviewing a juvenile court’s award of permanent custody and termination of parental rights, “the proper appellate standards of review to apply . . . are the sufficiency-of-the-evidence and/or manifest-weight-of-the-evidence standards, as appropriate depending on the nature of the arguments that are presented by the parties.” *In re Z.C.*, 2023-Ohio-4703, ¶ 18. Regarding whether a juvenile court has sufficient evidence to satisfy the clear-and-convincing-evidence standard, the Ohio Supreme Court has stated:

“Clear and convincing evidence is that measure or degree of proof which is more than a mere ‘preponderance of the evidence,’ but not to the extent of such certainty as is required ‘beyond a reasonable doubt’ in criminal cases, and which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.”

In re Z.C. at ¶ 7, quoting *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus.

{¶ 41} “When applying a sufficiency-of-the-evidence standard, a court of appeals should affirm a trial court when ‘the evidence is legally sufficient to support the jury verdict as a matter of law.’” *In re Z.C.* at ¶ 13, quoting *Bryan-Wollman v. Domonko*, 2007-Ohio-4918, ¶ 3. A trial court’s judgment may be sustained by sufficient evidence, but an “appellate court may nevertheless conclude that the judgment is against the manifest weight of the evidence.” *Id.* at ¶ 14, quoting *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 12. In reviewing a juvenile court’s decision regarding permanent custody on weight-of-the-evidence grounds,

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*] at ¶ 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, 10 Ohio B. 408, 461 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. “Although sufficiency and manifest weight are distinct legal concepts, a finding that a judgment is supported by the manifest weight of the evidence necessarily includes a finding that sufficient evidence supports the judgment.” *In re P.S.*, 2023-Ohio-144, ¶ 30 (8th Dist.), citing *In re C.N.*, 2015-Ohio-2546, ¶ 9 (10th Dist.), citing *State v. Howze*, 2013-Ohio-4800, ¶ 10 (10th Dist.).

2. R.C. 2151.414 Factors

{¶ 42} R.C. 2151.414 provides a two-prong analysis to be applied by a juvenile court in adjudicating a motion for permanent custody. *In re S.C.*, 2018-Ohio-2523, ¶ 20 (8th Dist.), citing R.C. 2151.414(B). The first prong authorizes the juvenile court to grant permanent custody of a child to the public agency if, after a hearing, the court determines, by clear and convincing evidence, that any of the following factors apply:

- (a) the child is not abandoned or orphaned, but the child cannot be placed with either parent 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 12 or more months of a consecutive 22-month period; or
- (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.

R.C. 2151.414(B)(1)(a)-(e). “Only one of the factors must be present for the first prong of the permanent custody analysis to be satisfied.” *In re S.C.*, 2015-Ohio-2410, ¶ 20 (8th Dist.), quoting *In re L.W.*, 2017-Ohio-657, ¶ 28 (8th Dist.). In accordance with the second prong of the R.C. 2151.414 analysis, when any one of the above factors exists, the juvenile court must then analyze whether, by clear and convincing evidence, it is in the best interest of the child to grant permanent custody to the agency pursuant to R.C. 2151.414(D).

a. R.C. 2151.414(B)(1)(d) — Length of Temporary Custody

{¶ 43} In the instant case, the juvenile court addressed the first prong of the statutory test by finding that, pursuant to R.C. 2151.414(B)(1)(d), D.W. had been in the temporary custody of the agency for 12 or more months of a consecutive 22-month period. Father does not dispute this finding, and it is supported by the record.

{¶ 44} “The time period for R.C. 2151.414(B)(1)(d) is calculated from when the child enters custody of the agency and the filing of the motion for permanent custody.” *In re D.H.*, 2021-Ohio-3821, ¶ 28 (8th Dist.), citing *In re J.C.*, 2018-Ohio-2234, ¶ 29 (8th Dist.), citing *In re C.W.*, 2004-Ohio-6411, ¶ 26. Additionally, “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 the home.”
R.C. 2151.414(B)(1).

{¶ 45} D.W. was removed from Mother’s custody on November 3, 2023, and he was adjudicated as abused, neglected, and dependent on July 23, 2024. For purposes of R.C. 2151.414(B)(1), D.W. was committed to the agency’s temporary custody in January 2024 — two months after removal from Mother’s custody — where he remained for the pendency of the case. The agency filed for permanent custody on September 18, 2025. Accordingly, the court satisfied the first prong of the R.C. 2151.414(B)(1) analysis when it found D.W. was in the agency’s temporary custody for more than 12 months of a consecutive 22-month period. *In re L.W.*, 2019-Ohio-1343, at ¶ 26 (8th Dist.).

b. R.C. 2151.414(D) — Best Interest of the Child

{¶ 46} Once the trial court found that one of the enumerated R.C. 2151.414(B)(1) factors was present, the court then moved to the second prong of the test and conducted an analysis of the child’s best interest. The juvenile court had to find by clear and convincing evidence that it was in the child’s best interest to grant permanent custody to the agency. *In re L.W.* at ¶ 36; R.C. 2151.414(D).

{¶ 47} The focus of a best-interest determination is the child, not the parent. *In re R.G.*, 2016-Ohio-7897, at ¶ 28 (8th Dist.), citing *In re N.B.*, 2015-Ohio-314, at ¶ 59 (8th Dist.); *In re Awkal*, 95 Ohio App.3d 309, 315 (8th Dist. 1994). To determine the best interest of a child, the trial court considers all relevant factors including, but not limited to, those listed in R.C. 2151.414(D)(1)(a)-(e) that read:

(D)(1)(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, 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;

(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.

"There is not one element that is given greater weight than the others pursuant to the statute." *In re Schaefer*, 2006-Ohio-5513, ¶ 56. Moreover, only one factor need be resolved in favor of permanent custody to support a finding that permanent custody is in the best interest of the child. *In re S.C.*, 2015-Ohio-2410, at ¶ 30 (8th Dist.), citing *In re Moore*, 2000 Ohio App. LEXIS 3958 (8th Dist. Aug. 31, 2000), citing *In re Shaeffer Children*, 85 Ohio App.3d 683 (3d Dist.1993).

{¶ 48} As to the interaction and interrelationship of D.W. with Mother, Father, foster parents, and relatives pursuant to R.C. 2151.414(D)(1)(a), the juvenile court found that D.W. had the strongest bond with his foster parents with whom he

felt the safest. D.W. refers to his foster parents as “mommy” and “daddy,” and he has spent the majority of his life in their care and custody. The court noted that D.W. interacts well with Father and Ru.W. at visitations and he refers to Father as “dad.” The court also noted that D.W. refers to Mother by her first name and there is not much interaction between them during visits. The court found D.W. did not interact with K.J. during the few visits at which she participated.

{¶ 49} Pursuant to R.C. 2151.414(D)(1)(b), the court found that the GAL recommended permanent custody to the agency. The court also conducted an in camera interview of D.W. in May 2025, and the trial testimony demonstrated D.W. was happiest in the home of his foster parents where he wished to remain.

{¶ 50} In accordance with R.C. 2151.414(D)(1)(c), the juvenile court found D.W., who was almost seven years old at the time of trial, had spent the majority of his life in the agency’s custody and was currently placed for the third time in the agency’s care with the same foster parents.

{¶ 51} This court has noted that “[a] child’s best interests require permanency and a safe and secure environment.” *In re K.M.*, 2011-Ohio-349, ¶ 23 (8th Dist.), quoting *In re Holyak*, 2001 Ohio App. LEXIS 3105 (8th Dist. July 12, 2001). Per R.C. 2151.414(D)(1)(d), the court found D.W.’s need for a stable and permanent home outweighed a relationship with Father or Mother:

The child deserves a safe and stable home environment that fosters growth, stability and security, where his needs can be met, and he can thrive. This cannot be achieved with either parent as [M]other has continuously failed to remedy the cause for removal, has not maintained her sobriety, does not fully engage with case[-]plan[-]

]services or follow court orders, and has placed the child's safety at risk. Father does not have a safe and appropriate home for the child and has not engaged in, completed, or benefitted from case[-]plan[-]services in order to safely care for the child. [K.J.] has met the child approximately 8 times in his life, does not have a bond with him, and is unaware of his likes and needs.

Jan. 28, 2026 judgment entry.

{¶ 52} The juvenile court found R.C. 2151.414(D)(1)(e) was inapplicable in the instant case.

{¶ 53} Our review of the record shows that the trial court's R.C. 2151.414(D)(1)(a)-(e) findings are supported by the record, including the testimony presented at the hearing. While there was testimony that D.W. and Father had a good relationship, "the mere existence of a good relationship is insufficient. Overall, we are concerned with the best interest of the child, not the mere existence of a relationship." *In re K.M.*, 2011-Ohio-349, ¶ 23 (8th Dist.), quoting *In re R.N.*, 2004-Ohio-2560 (8th Dist.).

{¶ 54} We also address Father's contention that legal custody should have been granted to any of the numerous family members willing and able to care for D.W., some of whose KCAR applications were approved. At trial, Father asked the court to grant custody to paternal grandmother, Ru.W.; paternal aunt, T.M.; or maternal aunt, K.J. The only pending motion for legal custody was Mother's motion to alternatively grant custody to K.J. and, accordingly, the court had authority to consider only K.J. as an alternate custodian. *In re Ez.D.*, 2021-Ohio-3041, ¶ 17 (8th Dist.).

{¶ 55} R.C. 2151.414 “requires a weighing of all the relevant factors” and to “find the best option for the child” *In re Schaefer*, 2006-Ohio-5513, at ¶ 64. “The statute does not make the availability of a placement that would not require a termination of parental rights an all-controlling factor” nor does “[t]he statute . . . even require the court to weigh that factor more heavily than other factors.” *Id.* “[T]he willingness of a relative to care for a child does not alter what the court must consider in determining permanent custody.” *In re A.D.*, 2005-Ohio-5441, ¶ 12 (8th Dist.), citing *In re Benavides*, 2001 Ohio App. LEXIS 2002 (8th Dist. May 3, 2001). If permanent custody is in the best interest of the child, legal custody necessarily is not. *In re D.E.*, 2025-Ohio-654, ¶ 15 (8th Dist.), citing *In re Y.F.*, 2024-Ohio-5605, ¶ 34 (8th Dist.).

{¶ 56} While K.J. was an approved foster-care provider, the agency identified several reservations about placing D.W. with her: K.J.’s recent and ongoing medical condition; lack of relationship between K.J. and D.W.; limited relationship with Mother; K.J.’s desire to have D.W. to foster a relationship with his grandparents and uncle with whom Mother has a toxic relationship; and lack of knowledge by K.J. about D.W.’s daily life and mental-health demands. It is clear that the court considered K.J. as a care-provider but, upon consideration of all relevant factors, found that awarding custody to K.J. was not in D.W.’s best interest.

{¶ 57} Father also argues that because of the approval of T.M.’s and K.J.’s KCAR applications during the pendency of the custody case, the agency should have placed D.W. with either of those individuals rather than the foster parents. Father

offers no case law in support of this position. “If an argument exists that can support [the] assigned error, it is not this court’s duty to root it out.” *Strauss v. Strauss*, 2011-Ohio-3831, ¶ 72 (8th Dist.), quoting *Cardone v. Cardone*, 1998 Ohio App. LEXIS 2028 (9th Dist. May 6, 1998). And, as we have noted above, a relative’s willingness to care for a child does not change a court’s analysis when determining permanent custody. *In re M.S.*, 2015-Ohio-1028, ¶ 11 (8th Dist.) (The court “is not required to favor a relative if, after considering all the factors, it is in the child’s best interest for the agency to be granted permanent custody.”).

{¶ 58} Further, Father argues permanent custody to the agency was not warranted where he completed case-plan objectives and visited with D.W. regularly. The record shows that Father completed parenting and domestic-violence classes but he never established sobriety or housing. Father testified that his two drug screens were positive for PCP and, while he denied continued use of that narcotic, he testified that he did not submit to additional drug screens because of his regular consumption of marijuana. Father’s testimony also demonstrated that he did not have appropriate housing for D.W. “[T]he case plan is simply a means to a goal, not the goal itself.” *In re C.C.*, 2010-Ohio-780, ¶ 25 (8th Dist.). The ultimate question in the termination of a parent’s rights is whether the parent substantially remedied the conditions that caused the child’s removal. *Id.*, citing *In re Shchigelski*, 2000 Ohio App. LEXIS 4900 (11th Dist. Oct. 20, 2000). The record shows Father did not substantially remedy the conditions that caused D.W.’s removal.

{¶ 59} Upon our review of the record, we find that there is clear and convincing evidence in the record to support the juvenile court's determination that permanent custody is in the best interest of D.W.

{¶ 60} We find that the juvenile court engaged in a proper analysis and made the requisite statutory determinations. We find further that the evidence was legally sufficient to support the juvenile court's decision as a matter of law and the judgment was not against the manifest weight of the evidence. Accordingly, we overrule Father's sole assignment of error.

{¶ 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 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.

TIMOTHY W. CLARY, JUDGE

EILEEN T. GALLAGHER, P.J., and
EILEEN A. GALLAGHER, J., CONCUR