

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

IN RE D.N.	:	
	:	No. 116271
Minor Child	:	
	:	
[Appeal by Mother]	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED AND REMANDED
RELEASED AND JOURNALIZED: September 24, 2026

Civil Appeal from the Cuyahoga County Court of Common Pleas
Juvenile Division
Case No. AD-22903435

Appearances:

Monter Law LLC and Caitlin E. Monter, *for appellant.*

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

EMANUELLA D. GROVES, J.:

{¶ 1} Appellant-mother (“Mother”) appeals the juvenile court’s decision granting permanent custody of her child D.N. (“Child”) to the appellee Cuyahoga County Division of Children and Family Services (“CCDCFS” or the “agency”).

{¶ 2} In her sole assignment of error, Mother argues that the juvenile court’s decision was not supported by the manifest weight of the evidence. For the

reasons that follow, we affirm the decision of the juvenile court and remand the matter to correct the record.

I. Factual and Procedural History

{¶ 3} The agency filed a complaint for neglect and dependency regarding the Child (d.o.b. September 8, 2016) and his three siblings in April 2022, along with a motion for predispositional temporary custody. The Child was placed in the predispositional custody of the agency after a hearing. In June 2022, the juvenile court adjudicated the Child dependent and awarded temporary custody to the agency. Subsequently, Mother gave birth to another child who was immediately placed in the temporary custody of the agency. Later, the agency obtained permanent custody of that child.

{¶ 4} In October 2023, the Child was returned to the custody of Mother. The agency maintained protective supervision. In April 2024, the Child was removed from Mother's care on the court's own motion.

{¶ 5} In December 2024, the agency filed a motion for permanent custody of the Child. Mother filed a motion for legal custody and a motion to revise the case plan to include overnight visits.

{¶ 6} A trial on the motions was held in December 2025. Prior to taking testimony, the parties entered stipulated exhibits into evidence, including certificates establishing Mother's completion of training surrounding the Child's mental-health issues and certified copies of journal entries establishing that all five of Mother's children had been adjudicated dependent, that one child had been

committed to the permanent custody of the agency, another had been placed in a permanent planned living arrangement, and that the Child had been placed in the agency's temporary custody.

{¶ 7} The agency called one witness, Creeshia Murry ("Murry"), the child protection specialist assigned to the case. Murry testified that she was assigned to the case in 2022, around the time the Child first came into the agency's custody. Murry testified that the agency had not determined the identity of the Child's father after searching several databases, ruling out a potential father by genetic testing, and discovering Mother was not receiving financial assistance, or support for the Child.

{¶ 8} Murry testified that the agency had been involved with the family since 2009 and the juvenile court became involved in 2018. At that time, the family's issues included Mother's mental health, inadequate food within the home, and Mother leaving the younger children in the care of their older sister. The children were removed in 2022. The agency took temporary custody of the children but later returned the children to Mother's custody in October 2023. At the time, the agency determined that Mother had completed her case-plan objectives.

{¶ 9} Shortly after reunification, Murry testified that Mother elected to stop the Child's medication "cold turkey" against medical advice. Mother was advised to wean the Child off the medication slowly. The Child was diagnosed with autism, disruptive mood dysregulation disorder, PTSD, and ADHD. After the Child stopped taking his medication, he began acting out in school. Per Murry, Mother removed the Child from in-person school as a result and enrolled him in an online program.

Towards the end of the year, Mother became evasive with Murry. Murry completed multiple home visits and tried to get the Child linked with a mental-health provider. Murry also learned that the Child was not regularly attending school.

{¶ 10} Murry explained that the Child was returned to the agency's temporary custody in April 2024 despite the agency being in favor of the Child remaining in Mother's custody. Murry testified that a case plan was created. The objectives of the case plan were for Mother to complete a mental-health assessment, follow all recommendations, and address her outstanding warrants. Murry testified that Mother had diagnoses for PTSD, anxiety, major depressive disorder, intermittent explosive disorder, and a recent diagnosis for adjustment disorder. The case plan also called for the Child to receive mental-health services and for Mother to meet his special needs. Murry testified that during the agency's involvement, Mother had expressed she did not believe the Child's diagnoses were real. The agency's goal was for Mother to learn how to appropriately manage the Child's behaviors, master the techniques of helping him, and learn the importance of understanding the reality of his diagnoses and how best to treat him.

{¶ 11} Initially, Mother told Murry she was unwilling to engage in case-plan services. Murry testified that Mother told her that "it doesn't matter. It doesn't make – it doesn't make any sense. The Court[] was not going to send [the Child] back home anyways." Nevertheless, Murry proceeded to provide Mother with services and informed Mother that she had contacted Mother's prior mental-health provider, who discharged Mother for nonengagement. Murry explained that

Mother just needed to contact that organization to reengage with services. Murry also noted that she was unable to refer Mother for treatment because Mother's release of information had expired and she refused to sign a new one.

{¶ 12} In January or February 2025, Mother notified Murry that she completed a mental-health assessment with the Black Mental Health Corporation (the "BMHC") and signed an updated release of information for the agency. Mother's BMHC mental-health provider recommended that she engage in counseling services. Murry learned that Mother was compliant with mental health services until September 2025, when she was discharged for nonengagement. Murry also testified that she personally observed incidents where she believed Mother was not compliant with her provider or "constant" with her medications. When Mother was compliant, Murry noted that Mother was willing to work with her, communicated appropriately, and there were no overall concerns. When Murry believed Mother was noncompliant, Mother was hostile towards her, engaged in inappropriate conversation, such as name calling and accusing Murry of lying.

{¶ 13} Murry further testified that she considered anger management as part of Mother's mental health requirements because of Mother's diagnosis for intermittent explosive disorder. Murry observed issues with Mother's anger management referencing an incident where Mother lunged at her and other staff had to intervene. Further, Murry testified that Mother had not been cooperative with her recently. Murry explained that they communicated via email or text

message, and Mother's messages often contained inappropriate name calling, referring to Murry as "devil" or "demon."

{¶ 14} Murry also testified that Mother had not completed her mental-health-case-plan requirements at the time of trial. Mother could comply if she engaged in another mental-health assessment, gave an accurate description to the provider of her mental health history, and complied with all aspects of recommended treatment.

{¶ 15} Murry testified that Mother had not complied with the condition that she address her warrants. Murry noted that Mother could demonstrate compliance with this goal by becoming in good standing with the probation department, complying with all probation conditions, clearing up or paying fines, and addressing active warrants. Mother had not completed any of those goals as of the trial date.

{¶ 16} Murry next addressed the Child's placements. Murry testified that when the child was brought into custody in April 2024, he "disrupted" from the first foster home placement, i.e., the Child's behaviors led to his removal and placement into a new foster home. There were concerns that he threatened the caregivers, their children, and abused their pets. He was moved to another foster home, but was removed after three months when he threatened to harm himself and others in the home. After that, the Child was placed in a residential treatment program. He stayed there for approximately nine months. While there, he was able to receive individual counseling, group therapy, case-management services, and attend school. The Child was placed in another foster home when residential placement was no

longer deemed necessary. However, Murry noted that while in that foster home the Child was hospitalized “not that long ago” for running into traffic and stating he wanted to kill himself or make someone else angry enough to kill him. Since returning to the foster home from the hospital, Murry reported that “things have been quiet. [The Child] has been doing okay.”

{¶ 17} Murry testified that Mother had been invited to participate in the Child’s case management. She was given permission to engage in services with him and could contact the agency to find out more about his diagnoses and medications. At one point, Mother had contacted the Child’s mental-health providers, but she had not done so since February 2025.

{¶ 18} Murry estimated that Mother had attended 11 of the last 37 visits. She further estimated that six were cancelled by Mother and a “handful” were cancelled by the Child after either refusing to attend or being hospitalized. Mother also failed to show for some visits. The Child would act out or get very sad when Mother no-showed or cancelled a visit. Murry described the relationship between Mother and the Child during visits as “okay.” She noted that visits were two-hours long and many were spent catching up on events since the last visit. Murry noted that Mother would sometimes bring her daughter and granddaughter to visits. The Child’s brother, who was in a permanent planned living arrangement, would also attend visits sometimes. Murry did not have any concerns about the visits except when Mother brought others or video called people to speak with the Child because Mother’s focus was off the Child. Murry stated the main impediment to longer visits

was Mother's outstanding warrants and concerns about what could happen if she was arrested while the Child was in her care.

{¶ 19} Mother refused to provide the names of any person capable of taking custody of the Child, believing that the Child was going to return home. Murry was able to locate potential caregivers; however, none were able to provide permanency or a placement for him. During her search for family members, Murry found a docket entry in probate court that established Mother had given birth to a child in December 2024, and placed that child into the custody of a friend. Murry contacted that person to see if they could also take custody of the Child; however, that person indicated they needed to check with their partner first. Afterward, Mother contacted Murry and complained about Murry calling her friend.

{¶ 20} On cross-examination, Murry acknowledged that the Child was in five different placements since he returned to the agency's custody in April 2024. She also noted that she received certificates indicating Mother completed educational courses to educate herself about the child's autism and other conditions but she did not have any details regarding the courses. Mother sought the education on her own. Murry agreed that foster parents sought Mother's assistance in dealing with the Child's behaviors by allowing him to call her to help calm him down.

{¶ 21} At the conclusion of testimony, the juvenile court heard from the guardian ad litem ("GAL") and the Child's appointed attorney. The GAL testified that the trial evidence had not changed his position and he believed permanent custody was in Child's best interest. He noted that he did not believe that Mother's

behavior exemplified someone capable of keeping the Child's best interest at heart. The Child's attorney also gave a statement explaining that he last spoke to the Child through a video call during one of the two times that the Child was hospitalized, likely in August. At that time, the Child relayed that he did not wish to go home. The Child also stated that he sometimes does not feel safe in his placements or foster homes. During the same conversation, the Child stated he wanted to see Mother again and that he wanted to go home, but that he was afraid of "the situation."

{¶ 22} The juvenile court's magistrate granted the agency's motion for permanent custody. The magistrate found that the Child had been in agency custody for at least 12 months in a consecutive 22-month period. The magistrate considered all of the best-interest factors and determined that permanent custody was in the best interest of the child and that the Child could not or should not be placed back with a parent within a reasonable time.

{¶ 23} The magistrate further found that Mother had failed continuously and repeatedly to substantially remedy the conditions that caused the Child's removal and that a chronic mental or emotional illness, intellectual or physical disability, or chemical dependency of Mother was so severe that Mother was unable to provide an adequate permanent home for the Child at present or within one year. The magistrate also found that Mother had demonstrated a lack of commitment to the Child by failing to regularly support, visit, or communicate with the Child.

{¶ 24} Finally, the magistrate found:

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

Mother has failed to resolve outstanding criminal warrants in Euclid Municipal Court and Shaker Heights Municipal Court which jeopardizes the child's safety if the child were in Mother's care and control;

The parent has had parental rights terminated with respect to a sibling of the child and the parent has failed to provide clear and convincing evidence to prove, that notwithstanding the prior termination, the parent can provide a legally secure permanent placement and adequate care for the health, welfare and safety of the child.

{¶ 25} Mother filed preliminary objections to the magistrate's decision and leave to file supplemental objections upon receipt of the transcript. In her preliminary objections, Mother raised three claims: the juvenile court erred (1) in granting permanent custody where the agency failed to prove by clear and convincing evidence that permanent custody was in the best interest of the child; (2) by failing to commit the child to Mother's legal custody in the best interest of the child; and (3) in not granting Mother's request for an oral hearing on her motion to adopt a proposed case plan amendment.

{¶ 26} In her supplemental objections, Mother raised three additional arguments: the juvenile court erred (4) when it found that Mother demonstrated a failure to regularly support, visit, or communicate with the child because the record indicates Mother visited with the child and had phone call on a regular basis; (5) in finding that the parent placed the child at substantial risk of harm because of alcohol

or drug abuse because that finding was not supported by testimony or evidence; and (6) in overruling Mother’s objection to the admission of an irrelevant probate matter. The State opposed Mother’s objections.

{¶ 27} The juvenile court overruled Mother’s objections and adopted the magistrate’s ruling including the finding regarding Mother’s alcohol and/or drug abuse.

II. Law and Analysis

{¶ 28} Mother’s sole assignment of error challenges whether the award of permanent custody was supported by the manifest weight of the evidence. Mother’s argument is not well taken.

A. Standard of Review

{¶ 29} “[W]hen reviewing a 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’ rather than the abuse-of-discretion standard.” *In re T.C.*, 2024-Ohio-6131, ¶ 32 (8th Dist.), quoting *In re Z.C.*, 2023-Ohio-4703, ¶ 18.

{¶ 30} R.C. 2151.414(B)(1) provides that a juvenile court may grant permanent custody to a children services agency if the court determines, “by clear and convincing evidence, that [the placement] is in the best interest of the child” and that one of the five factors listed in R.C. 2151.414(B)(1)(a) through (e) applies. *In re Z.C.* at ¶ 7, quoting R.C. 2151.414(B)(1). We 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.).

{¶ 31} “It is well established that a parent has a fundamental right to raise and care for his or her child.” *In re V.C.*, 2015-Ohio-4991, ¶ 35 (8th Dist.). “The right to parent one’s children and maintain and pursue intimate familial associations are fundamental rights guaranteed by the Due Process Clause of the United States Constitution.” *In re J.W.*, 2007-Ohio-2007, ¶ 13 (10th Dist.). The termination of parental rights has been described as “the family law equivalent of the death penalty in a criminal case.” *In re V.C.* at ¶ 35.

{¶ 32} “[T]he United States Supreme Court holds that before any court may completely and irrevocably sever a parent’s rights in their natural child, ‘due process requires that the State support its allegations by at least clear and convincing evidence.’” *In re J.W.* at ¶ 14, quoting *Santosky v. Kramer*, 455 U.S. 745, 747-748 (1982).

{¶ 33} “Clear and convincing evidence is that measure or degree of proof, which will produce in the mind of the trier of facts a firm belief or conviction as to the allegations sought to be established.” *Cross v. Ledford*, 161 Ohio St. 469, 477 (1954); *In re K.S.*, 2021-Ohio-694, ¶ 15 (8th Dist.). It is “more than a mere preponderance” but not the level of certainty to establish proof beyond a reasonable doubt as in criminal cases. *Id.* “Where the proof required must be clear and convincing, a reviewing court will examine the record to determine whether the trier

of facts had sufficient evidence before it to satisfy the requisite degree of proof.”
Z.C., 2023-Ohio-4703, at ¶ 8, quoting *State v. Schiebel*, 55 Ohio St.3d 71, 74 (1990).

B. Permanent Custody

{¶ 34} “The termination of parental rights is governed by R.C. 2151.414.” *In re G.W.*, 2022-Ohio-2581, ¶ 32 (8th Dist.). Courts must apply a two-part test when deciding whether to award permanent custody to a children’s services agency. *Id.* The first prong tests whether factors are present that warrant the termination of parental rights. *Id.* at ¶ 33. The second prong requires the juvenile court to determine whether granting permanent custody is in the best interest of the child. *Id.* at ¶ 40.

1. First Prong: R.C. 2151.414(B)(1)(a)-(e)

{¶ 35} Mother does not challenge the first prong of the analysis and the issue is not in dispute.

{¶ 36} Here the juvenile court found that R.C. 2151.414(B)(1)(d) applied. The juvenile court may place a child in the permanent custody of the agency when the child has been in the temporary custody of the agency for 12 months of a consecutive 22-month period. The agency filed its motion for permanent custody in December 2024. In the 22 consecutive months prior to that, the Child was in agency custody for approximately 18 months. Accordingly, the juvenile court’s finding on the first prong was supported by competent, credible evidence.

2. Second Prong: R.C. 2151.414(D)

{¶ 37} The second prong requires the juvenile court to find that granting permanent custody to the agency is in the child's best interest. Mother challenges this finding, alleging that permanent custody was not in the best interest of the child nor was the finding supported by the manifest weight of the evidence. Like the first prong, we review the juvenile court's best interest determination by assessing whether it was supported by clear and convincing evidence. *In re Z.C.* at ¶ 11 and R.C. 2151.414(B)(1). R.C. 2151.414(D)(1) sets forth the best-interest factors that must be considered prior to granting permanent custody, including,

(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.

{¶ 38} The juvenile court noted in its entry that it had considered all of the best-interest factors and found that permanent custody was in the Child's best interest. In our review of the evidence, there was support for the permanent custody ruling. With respect to the Child's familial relationships, as contemplated in R.C. 2151.414(D)(1)(a), the conclusions were mixed. Murry felt Mother and the Child's relationship was "okay." The Child's attorney reported that the Child wanted to see Mother but also indicated he did not want to return home. Although the Child's brother, sister, and niece visited with him, there was no testimony regarding his relationship or connection to them. Additionally, the Child had been in several placements while in custody. He was removed from the first two placements, improved when in a structured setting, and was hospitalized when he expressed suicidal thoughts after going to a new foster home. There was no testimony regarding his relationship with his current foster family, though the child seemed to be doing "okay" there.

{¶ 39} With respect to the Child's wishes, as already noted, he told his attorney that he did not want to go home, he did not feel safe in his foster placements, and the GAL recommended permanent custody, believing it to be in the Child's best interest.

{¶ 40} Turning to R.C. 2151.414(D)(1)(c), the Child spent 12 or more months in the agency's custody in the past consecutive 22-month period.

{¶ 41} Next, we consider the Child's need for a legally secure placement and whether that type of placement can be achieved without a grant of permanent

custody to the agency, pursuant to R.C. 2151.414(D)(1)(d). The child had multiple placements while in agency custody. At the time of trial, the Child had exhibited suicidal thoughts and the conditions in his foster home were not addressed. Nevertheless, when Mother regained custody, she immediately took the Child off of his medications, which immediately affected the Child's demeanor and ability to attend in-person schooling.

{¶ 42} Finally, we consider whether any of the factors in R.C. 2151.414(E)(7) through (11) apply. Generally, any finding under R.C. 2151.414(E) requires that the court find that the parent cannot or should not be placed back with one of his parents within a reasonable time. The juvenile court made the following findings pursuant to R.C. 2151.414(E)(9) and (11):

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

(11) The parent has had parental rights terminated with respect to a sibling of the child and the parent has failed to provide clear and convincing evidence to prove, that notwithstanding the prior termination, the parent can provide a legally secure permanent placement and adequate care for the health, welfare, and safety of the child.

{¶ 43} Mother argues, and the State agrees, that the finding under R.C. 2151.414(E)(9) was erroneous. The State did not present any testimony that Mother abused drugs or alcohol or that her addiction created a substantial risk of harm to the Child on two or more occasions. Accordingly, that finding is not

supported by competent, credible evidence and is against the manifest weight of the evidence.

{¶ 44} Nevertheless, the finding under R.C. 2151.414(E)(11) was supported by the record. The agency obtained permanent custody of one of the Child's siblings. While Mother made some progress with certain case-plan objections, she failed to complete her mental-health treatment and was evicted weeks before trial. Additionally, Mother submitted certificates that she had completed some education relative to the Child's diagnoses, but she did not provide information that would allow Murry to evaluate the training. Accordingly, Mother failed to provide clear and convincing evidence that she can provide a legally secure permanent placement and adequate care for the health, welfare, and safety of the Child.

{¶ 45} The juvenile court also made additional findings pursuant to R.C. 2151.414(1), (2), and (4):

(1) Following the placement of the child outside the child's home and notwithstanding reasonable case planning and diligent efforts by the agency to assist the parents to remedy the problems that initially caused the child to be placed outside the home, the parent has failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home.

(2) The chronic mental illness, chronic emotional illness, intellectual disability, physical disability, or chemical dependency of the parent that is so severe that it makes the parent unable to provide an adequate permanent home for the child at the present time and, as anticipated, within one year.

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

{¶ 46} The juvenile court also found that Mother’s outstanding warrants would jeopardize the Child’s safety if he was in Mother’s care and control, which could fall into the catch-all section, R.C. 2151.414(E)(16) for “any other factor the court considers relevant.”

{¶ 47} We need not evaluate the evidence to support these findings. The juvenile court’s finding pursuant to R.C. 2151.414(E)(11) was all that was required to support the juvenile court’s ruling that the child could not be placed into Mother’s custody within a reasonable time or should not be placed with either parent. Nevertheless, we note that Mother failed to complete her mental-health treatment with BMHC and only attended 11 out of the last 37 scheduled visits with the Child. The record further reveals that Mother would make progress on her case plan, stop progressing and restart, and did so at least two times.

{¶ 48} Based on the foregoing, we overrule Mother’s assignment of error. However, we remand the case for the juvenile court to correct its journal entry and remove the R.C. 2151.414(E)(9) finding that Mother placed the Child at substantial risk because of drug or alcohol abuse.

{¶ 49} Judgment affirmed and remanded.

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.

EMANUELLA D. GROVES, PRESIDING JUDGE

MARY J. BOYLE, J., and
MICHAEL JOHN RYAN, J., CONCUR