

**COURT OF APPEALS OF OHIO**  
**EIGHTH APPELLATE DISTRICT**  
**COUNTY OF CUYAHOGA**

|                          |   |            |
|--------------------------|---|------------|
| IN RE J.F., ET AL.       | : |            |
| Minor Children           | : | No. 116355 |
| [Appeal by E.F., Father] | : |            |

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**JOURNAL ENTRY AND OPINION**

**JUDGMENT: AFFIRMED**  
**RELEASED AND JOURNALIZED: October 8, 2026**

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Civil Appeal from the Cuyahoga County Court of Common Pleas  
Juvenile Division  
Case Nos. AD24913640 and AD25910423

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***Appearances:***

Barbara Martincic, *for appellant.*

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

EILEEN A. GALLAGHER, J.:

{¶ 1} Appellant E.F. (“Father”) appeals the juvenile court’s judgment terminating his parental rights and awarding permanent custody of his children,

J.F. and E.F., to the Cuyahoga County Division of Children and Family Services (“CCDCFS” or “the agency”).<sup>1</sup> For the reasons that follow, we affirm.

### **Procedural History**

{¶ 2} This appeal stems from two separate juvenile cases that have distinct procedural histories culminating in their joint trial.

{¶ 3} As to J.F., on December 12, 2024, CCDCFS received emergency custody of J.F. through a delinquency proceeding and on December 27, 2024, CCDCFS filed a complaint alleging she was neglected and dependent and requested temporary custody. On January 15, 2025, pursuant to a magistrate’s order, J.F. was committed to the predispositional temporary custody of CCDCFS and, on March 3, 2025, J.F. was adjudicated neglected and dependent and was committed to the temporary custody of CCDCFS. On March 19, 2025, the magistrate issued a decision granting CCDCFS’s motion for J.F.’s placement in a qualified residential treatment program. On October 3, 2025, CCDCFS filed a motion to modify temporary custody to permanent custody. On October 24, 2025, a guardian ad litem (“GAL”) was appointed for J.F.

{¶ 4} On October 20, 2025, while J.F.’s case was pending, her brother E.F. was “removed by law enforcement” pursuant to R.C. 2151.31(A)(6). On October 21, 2025, CCDCFS filed a complaint for neglect and dependency and also requested an

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<sup>1</sup> J.F. and E.F. have the same mother who is not a party to this appeal. She is referred to throughout as “Mother.”

order of permanent custody of E.F. to CCDCFS.<sup>2</sup> The same day a magistrate's order was issued granting predispositional temporary custody of E.F. to CCDCFS. On October 23, 2025, E.F. was appointed a GAL.

{¶ 5} On February 25, 2026, an adjudication hearing for E.F. was held, testimony was provided, and E.F. was adjudicated neglected and dependent. On that same date, a joint disposition trial was held for J.F. and E.F. By motion of the parties, the court incorporated the testimony and exhibits from the adjudication hearing. As such, the following relevant testimony was provided to the court regarding the children and Father.

**Rebecca Semancik**

{¶ 6} Rebecca Semancik ("Semancik") testified that she is a caseworker for CCDCFS and was assigned to Mother's children, towit: J.F., E.F. and their sister A.G. Father established paternity for E.F. E.F. has been in the emergency custody of CCDCFS since October 20, 2025. Prior to custody with the agency E.F. was with Mother. J.F. was 15 years old and E.F. was 16 years old at the time of the hearing.

{¶ 7} The agency initially received custody of J.F. but had known about E.F., in name only, for a year prior. It was not until J.F., while going through her residential program for sexual abuse and human trafficking, had begun opening up about her situation that the agency got more information about E.F.'s situation. J.F. "disclosed a lot of sexual abuse, prostitution, and trafficking."

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<sup>2</sup> The complaint also included another sibling: A.G., who is not a subject of this appeal and is not biologically related to Father.

**{¶ 8}** The Human Trafficking Task Force, CCDCFS and Semancik had been searching for E.F. since J.F. had disclosed the circumstances in which he was living. Semancik coordinated with the task force and found E.F. and A.G. in an unfinished basement of a home owned by a Carlos Bruton. There were five unidentified adults present, but Mother was not present. There were no lights or electricity, dirt floors, broken objects and two mattresses with broken bed sets in the basement. E.F. reported to the team who arrived to rescue them that he had been there consistently for approximately six months. There was no indication Mother had been living in the home. Mother was arrested shortly thereafter.

**{¶ 9}** E.F. stated to Semancik that he had not been in school for at least two years. According to school records, his unexcused absences began in August 2024 and he has missed 938 hours of school for the 2024-25 school year. His last unexcused absence was in May 2025. His last documented school year in attendance was for the 2023 school year. Father is not the custodial parent for the children so he is unable to enroll them in school.

**{¶ 10}** Mother had a past history with CCDCFS since the birth of her first child 23 years prior. J.F. had previously been in the agency's emergency custody through delinquency court. J.F. could not identify a consistent guardian to take care of her so the court issued a notice of intent to grant custody to the agency which CCDCFS accepted and they then filed a complaint for temporary custody. J.F. was then adjudicated dependent. J.F. and three other of her siblings were adjudicated neglected.

**{¶ 11}** Mother is now in the Cuyahoga County Jail awaiting trial on charges from an arrest for trafficking in persons, compelling prostitution, promoting prostitution, rape and kidnapping. The victim for these charges was identified as J.F. She has an additional pending criminal case in the Cuyahoga County Court of Common Pleas. Mother had previously pled guilty to receiving stolen property, identity fraud and attempted theft.

**{¶ 12}** Regarding Father, Semancik testified that he has a criminal history and has pled guilty to charges of falsification, failure to comply, receiving stolen property and obstructing official business. Father is currently serving a 30-month prison sentence for those charges. Semancik also stated that Father had a history of domestic violence. The agency was concerned about Father's substance use, emotional management, criminal charges throughout a short period of time and mental health.

**{¶ 13}** CCDCFS's case plan for Father identified initial concerns as basic needs, substance use, mental health and parenting. Father's case plan also involved establishing a parent/child relationship with J.F. and E.F. and developing a plan to be able to provide basic needs for the children. Phone calls and letters are approved as supervised visitation with Father in the agency's case plan for the children. Since J.F. came into agency custody, they have been trying to figure out a way to establish visitation with Father but it has been difficult due to his incarceration. J.F. has been able to communicate with Father consistently by writing letters to him. E.F. has not

had any contact with Father and Semancik has not received any letters from Father to E.F.

{¶ 14} Semancik has been unable to provide Father with any resources for housing or income while he is incarcerated. Semancik testified that Father is scheduled to be released from prison in June 2027. When Father spoke to Semancik, he talked about wanting to get housing and a job so he can provide for his children's basic needs.

{¶ 15} J.F. was first placed in a residential treatment facility because she had disclosed that she did not have a stable caregiver or home and during her interview disclosed some possible sexual abuse. When she came into juvenile court, she tested positive for marijuana, cocaine, opiates and oxycodone and was transferred to a substance use unit. During that treatment, J.F. disclosed sexual abuse and human trafficking in which her family was involved. J.F. was then transferred to a dual program for human trafficking and substance abuse where she resided for approximately 11 months.

{¶ 16} J.F. is currently at a treatment foster home and has been for the last three months as of the date of trial. Semancik explained that

[t]hese foster parents in treatment foster homes have gotten extra training, extra certifications, and are more knowledgeable on history of trauma, how trauma affects the children and their reactions, as well as additional training on de-escalating a foster child when they're triggered.

J.F. is doing well there considering the circumstances. She has transitioned well from the residential facility and is doing well in school including making friends.

Semancik testified that J.F. benefited from the residential treatment facility. J.F. is currently in therapy and a support group for survivors of sexual abuse and human trafficking. J.F. is a grade behind where she should be at school.

**{¶ 17}** E.F. was also placed in a treatment foster home in which he is also doing well. He had previously been in this foster home and already familiar with the adults and the children living there. He was “able to see old friends that have helped him through school.” E.F. is also a grade behind in school and he is struggling with math, history and some science. His grades are average despite being “pretty smart.” E.F. initially refused therapy but, at Semancik’s insistence, he has recently begun talking with an assigned therapist, albeit reluctantly.

**{¶ 18}** Semancik testified that the agency has looked into family for placement of the children. Two relatives, a maternal aunt and maternal great grandmother to the children, were identified but were ultimately rejected. The two relatives had also been rejected in 2017 for placement. Semancik was worried the aunt would be unable to protect the children, stop them from being revictimized or help them rebuild their lives. The aunt has five children two of whom had serious delinquency charges and may draw the children back into trouble. The aunt also lived in a three-bedroom home with five children and Semancik was worried that J.F and E.F. would have nowhere to go.

**{¶ 19}** Semancik also had concerns with the maternal great-grandmother’s house and her ability to provide for the children’s basic needs. She lives in a two-bedroom house and the spare bedroom is very cluttered. The house was “sparingly”

furnished and lacked in basic safety such as smoke detectors. Further talking with the great-grandmother, she seemed more and more hesitant to be a guardian. Semancik is also worried about Mother coming and going from this house.

**{¶ 20}** It was Semancik’s professional opinion that permanent custody is in the best interest of the children.

**{¶ 21}** J.F. has told Semancik that she has a lot of love for Father and wants him to be in her life; however, “she does not think it is in her own best interest to be in his custody and to live with him.” E.F. has told Semancik that the only person he wishes to stay in contact with is J.F. He stated there was no other adult he could identify that he felt he wanted to be with. J.F. and E.F. were able to have visitation with each other via video at least weekly but have only seen each other once, in person, since placement due to the distance between their individual placements.

### **Father**

**{¶ 22}** Father testified that he was currently incarcerated at Mansfield Correctional Institution serving a 30-month prison sentence. He has already served 14 months of that sentence. His expected release date is June 6, 2027. Father testified that he is enrolled in an IOP program that, once completed, will get him 90 “dump days,” which count towards his time served resulting in an earlier release date.<sup>3</sup> The completion of other programs help him accumulate dump days. He estimated by the time he finishes the IOP program, he will have 125 dump days

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<sup>3</sup> “IOP program” is never defined nor fully explained in the testimony or the parties’ briefing.

which would push his release date up by approximately four months, to February 2027. Father stated that he was unable to complete the IOP program for substance abuse because it is a six-month program and he missed too many meetings while attending hearings for his children's cases. He was told he has to reapply to get back into the program and do it all over again. That is his intention when he gets back to prison. He has completed several classes concerning parenting, which he found helpful. There, he learned how to cope with his anger and anxiety to be a better parent. "I see how important it is, you know what I'm saying, to be there for my kids, you know, and I'm taking it seriously. I'm taking this time to better myself so I can be a better parent to my children."

**{¶ 23}** Father testified that he has a good relationship with J.F. He was active in her life for her first 11 years. He was not involved in her life for almost four years due to his relationship with Mother. This resulted in him leaving both children's lives for a little bit. Father stated he was also involved in E.F.'s life from birth until E.F. was 11 or 12. He has not had a relationship with E.F. since E.F. has been in CCDCFS's custody. Father has never filed for custody of either child. Father testified that he did have physical custody of E.F. for about three months, but he had to give E.F. back to Mother because she was not picking him up to go to school while at Father's house. Father was unable to take him to school because of his morning work shift.

**{¶ 24}** Father wrote a letter to the case worker to give to E.F. but it came back "return to sender" possibly because he put the wrong address. Father has been

bouncing between Mansfield, Cuyahoga County Jail and the juvenile court, which has made communication more difficult. In Mansfield, where his commissary account has funds, he is able to afford writing utensils, paper and stamps to send letters. His letters to communicate with J.F. have been consistent. He is planning on writing to E.F. and it is his intention to continue communicating with both children.

{¶ 25} Should he be released early in February 2027, Father intends to go into the EDWINS program, which can help provide housing and employment while completing the program. The housing also permits children, though he does not know for sure what the exact housing situation will look like. Father stated it was a guarantee he would be entered into this program. Father also has the support of his parents.

{¶ 26} Father acknowledged his past criminal conduct and when asked why the court should believe things will be different when he is let out this time, Father responded:

I'm gonna be honest. Man, I'm tired, you know. I just want to do the right thing. You know what I'm saying? I want to come home and be a father to my kids. I love my kids. I just ain't been able to be in their life how I really wanted to be in their life, you know, due to their mom. But other than that, I just want to come home and do the right thing.

### **GAL Report and Recommendation**

{¶ 27} The children's GAL Margaret Keenan ("Keenan") testified that "I do recommend permanent custody as being in the best interest of [these] children." Keenan acknowledged that she respected Father was here trying to get custody but

that the children have never been in his custody. At no point did Father seek to establish a parent/child relationship with his children nor did he ever seek custody of them since the agency's involvement in 2017.

{¶ 28} J.F. and E.F. are doing well where they are and are happy with their respective placements. Keenan sees no other option than permanent custody. Father will not be in a position to care for these children for another year but that is not even certain. Keenan is unaware of the EDWINS program being an automatic enrollment and she is concerned he never asked about the housing situation. Keenan does not understand why Father has not made arrangements for these children in the last 15 or 16 years of their lives.

### **Trial Court's Findings**

{¶ 29} The trial court issued separate judgment entries for each child finding permanent custody to the agency was in their best interest. As to J.F., the court made the following findings relevant to Father's appeal in its journal entry:

The Court finds by clear and convincing evidence that pursuant to O.R.C. 2151.414(B)(1) . . . . The child cannot be placed with either of the child's parent within a reasonable time or should not be placed with the child's parents . . . .

The Court finds by clear and convincing evidence that the child cannot be placed with either of the child's parent within a reasonable time or should not be placed with either parent pursuant to O.R.C. 2151.414(E):

. . .

(12) The parent is incarcerated at the time of the filing of the motion for permanent custody or the dispositional hearing of the child and will not be available to care for the child for at least eighteen months after the filing of the motion for permanent custody or the dispositional hearing.  
*Applies to Father*

(13) The parent is repeatedly incarcerated, and the repeated incarceration prevents the parent from providing care for the child. *Applies to mother and father. . . .*

(Emphasis in original.) The court's journal entry stated that, regarding J.F.'s best interest, it considered all factors under R.C. 2151.414(D)(1)(a)-(e). The court emphasized pursuant to (D)(1)(b) that "[t]he Court considered the child's wishes and the recommendation of the GAL."

**{¶ 30}** Relevant to Father's appeal regarding E.F. the court made similar findings:

The Court finds by clear and convincing evidence that the child cannot be placed with one of the child's parent[s] within a reasonable time or should not be placed with either parent, *pursuant to O.R.C. 2151.414(E)*:

. . .

(10) The Parent has abandoned the child. *Applies to father.*

. . .

(12) The parent is incarcerated at the time of the filing of the motion for permanent custody or the dispositional hearing of the child and will not be available to care for the child for at least eighteen months after the filing of the motion for permanent custody or the dispositional hearing. *Applies to father*

(13) The parent is repeatedly incarcerated, and the repeated incarceration prevents the parent from providing care for the child. *Applies to mother and father . . . .*

(Emphasis in original.) The court's journal entry also stated that regarding E.F.'s best interest it considered all factors under R.C. 2151.414(D)(1)(a)-(e). The court emphasized, pursuant to (D)(1)(b), "[t]he Court considered the [GAL's] recommendation as well as the child's wishes."

**{¶ 31}** Father now appeals these two judgments raising two assignments of error for our review:

I. The trial court’s findings that the children cannot and should not be returned to parents under 2151.414(E) and 2151.414(B)(1) were against manifest weight of the evidence.

II. The trial court erred in finding that permanent custody is in the children’s best interest under R.C. 2151.414(B)(1).

## **Law and Analysis**

### **Standard of Review**

**{¶ 32}** “A juvenile court’s decision to grant permanent custody of a child to CCDCFS is reviewed under sufficiency-of-the-evidence and/or manifest-weight-of-the-evidence standards of review depending on the nature of the arguments presented.” *In re X.R.*, 2026-Ohio-2828, ¶ 28 (8th Dist.). “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.).

### **Permanent Custody Determination Requirements**

**{¶ 33}** CCDCFS can obtain permanent custody of a child in two ways. “An agency may first obtain temporary custody of the child and then file a motion for permanent custody under R.C. 2151.413. Or an agency may request permanent custody as part of its original abuse, neglect, or dependency complaint under R.C. 2151.353(A)(4).” *In re A.R.*, 2020-Ohio-5005, ¶ 30 (8th Dist.). Here, regarding J.F., CCDCFS first obtained temporary custody and then filed a motion for permanent

custody pursuant to R.C. 2151.413. For E.F., CCDCFS requested permanent custody as a part of its original complaint pursuant to R.C. 2151.353(A)(4). Each section establishes a two-part test for the court to satisfy to grant permanent custody to the agency.

**{¶ 34}** As this court has previously explained regarding motions for permanent custody:

When an agency files a permanent custody motion under R.C. 2151.413 after obtaining temporary custody, the guidelines and procedure set forth under R.C. 2151.414 apply. Division (B) of R.C. 2151.414 sets forth a two-prong analysis to be applied by a juvenile court. Pursuant to this division, before a trial court can terminate parental rights and grant permanent custody to a county agency, the court must find by clear and convincing evidence (1) the existence of any one of the conditions set forth in R.C. 2151.414(B)(1)(a) through (e), and (2) that granting permanent custody to the agency is in the best interest of the child [pursuant to the relevant factors listed in R.C. 2151.414(D)].

*In re J.F.*, 2018-Ohio-96, ¶ 45 (8th Dist.). The relevant condition in this case is R.C. 2151.414(B)(1)(a): “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.”

**{¶ 35}** Conversely pursuant to R.C. 2151.353(A)(4) this court has explained that

[w]hen proceeding on a complaint with an original dispositional request for permanent custody, the trial court must satisfy two statutory requirements before ordering a child to be placed in permanent custody of a children’s services agency. Specifically, the trial court must find, “in accordance with division (E) of section 2151.414 of the Revised Code that the child cannot be placed with one of the child’s parents within a reasonable time or should not be placed with either parent,” and further must determine “in accordance with division (D)(1) of section 2151.414 of the Revised Code that the permanent commitment is in the best interest of the child.” R.C. 2151.353(A)(4).

*In re A.R.*, 2020-Ohio-5005, at ¶ 31.

**{¶ 36}** In this case, because of the trial court’s finding pursuant to R.C. 2151.414(B)(1)(a) regarding J.F., the relevant first requirement for the court to grant permanent custody to CCDCFS for both children was whether the child cannot or should not be placed with either parent pursuant to R.C. 2151.414(E). To determine whether a child cannot or should not be placed with either parent courts are required to determine by clear and convincing evidence that one or more of the 16 conditions under R.C. 2151.414(E) exist as to each of the child’s parents. *In re F.M.*, 2021-Ohio-3039, ¶ 23 (8th Dist.). “Only one condition needs to be found to require the court to enter a finding that the children cannot or should not be placed with either parent and no factor is weighted greater than the others.” *Id.*

**{¶ 37}** “‘Clear and convincing evidence’ is that ‘measure or degree of proof that ‘produce[s] 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.*, 2023-Ohio-4703, ¶ 7, quoting *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph two of the syllabus. “Where clear and convincing proof is required at trial, a reviewing court will examine the record to determine whether the trier of fact had sufficient evidence before it to satisfy the requisite degree of proof.” *In re J.F.*, 2018-Ohio-96, at ¶ 47.

**{¶ 38}** As stated previously, the second prong for both children’s permanent custody analysis is a determination that permanent custody is in the best interest of the child pursuant to R.C. 2151.414(D)(1). “The court is required to consider each factor listed in R.C. 2151.414(D)(1)(a)-(e), but no one factor is given greater weight

than the others.” *In re F.M.* at ¶ 32. “Importantly, only one of the factors in R.C. 2151.414(D)(1) is required to support a finding that permanent custody is in a child’s best interest and to terminate parental rights.” *Id.*

**Assignment of Error I: Trial Court’s Findings Pursuant to R.C. 2151.414(B)(1)/(E) that the Child Cannot or Should be Returned to the Parent**

{¶ 39} In his first assignment of error, Father alleges the trial court’s findings that the children could not or should not be returned to the parents pursuant to R.C. 2151.414(B)(1) and (E) were against the manifest weight of the record. Father specifically takes issue with the court’s findings pursuant to (E)(10), (12) and (13).

{¶ 40} “[U]nder a manifest-weight review, a court weighs all the evidence and all reasonable inferences, considers the credibility of witnesses and determines 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.” (Cleaned up.) *State v. Reillo*, 2026-Ohio-2701, ¶ 26. “Judgments supported by some competent, credible evidence going to all the material elements of the claim must not be reversed as being against the manifest weight of the evidence.” *Gudenas v. Gudenas*, 2024-Ohio-3009, ¶ 39 (8th Dist.).

{¶ 41} We now turn to the evidence provided to determine if the trial court’s findings, pursuant to factors (E)(10), (12) and (13), are supported by competent, credible evidence. The factors for R.C. 2151.414(E)(10), (12) and (13) are that

(10) The parent has abandoned the child . . . .

...

(12) The parent is incarcerated at the time of the filing of the motion for permanent custody or the dispositional hearing of the child and will not be available to care for the child for at least eighteen months after the filing of the motion for permanent custody or the dispositional hearing.

(13) The parent is repeatedly incarcerated, and the repeated incarceration prevents the parent from providing care for the child.

{¶ 42} The trial court made an abandonment finding pursuant to (E)(10) regarding E.F. A child is presumed abandoned pursuant to R.C. 2151.011(C) “when the parents of the child have failed to visit or maintain contact with the child for more than ninety days, regardless of whether the parents resume contact with the child after that period of ninety days.” *See In re D.F.*, 2023-Ohio-1373, ¶ 27 (8th Dist.). Other courts have held that this presumption applies even when the parent is incarcerated. *See In re S.M.*, 2018-Ohio-4654, ¶ 15 (12th Dist.); *In re D.V.*, 2023-Ohio-238, ¶ 37 (5th Dist.).

{¶ 43} Father testified that he was not in E.F.’s life for “about four years” when he was about 12 years old. Father also testified that he has not been in contact since E.F.’s custody case began in October 2025. Trial for this case occurred in February 2026. As such, we understand this to mean Father has not communicated with E.F. from at least October 2025 to February 2026, clearly a period of more than 90 days. Based on this testimony E.F. is presumed abandoned. Father attempts to rebut that presumption by stating he tried to write a letter to E.F. to reestablish communication from prison, but the letter was returned to sender and Father suspected he used the wrong address. No other attempts were made by Father to

communicate with E.F. This evidence is not sufficient to rebut the presumption of abandonment. The trial court's finding that E.F. was abandoned by Father pursuant to this factor is supported by competent, credible evidence.

**{¶ 44}** The trial court's findings regarding factors (E)(12) and (13) were made for both J.F. and E.F. We turn to the (E)(12) finding first. The record demonstrates that Father has been incarcerated at the Mansfield Correctional Institution since May 2025. The record also shows that the permanent custody motion for J.F. was filed on October 3, 2025, and the complaint for permanent custody for E.F. was filed on October 21, 2025. Father was therefore incarcerated at the time of the filing of the motion and complaint for permanent custody.

**{¶ 45}** The evidence at trial was that his scheduled release date is sometime in June 2027 and 18 months from October 2025 would be April 2027. Because the statute provides two alternative dates from which the 18-month period of incarceration can run (the date of the filing for permanent custody or the date of the dispositional hearing) the statute is satisfied if either condition is satisfied. *In re* V.S., 2003-Ohio-5612, ¶ 7 (9th Dist.). Consequently, because Father's period of incarceration exceeds 18-months from the dates of the filing of the permanent custody motion/complaint, the trial court's finding of this factor for both children is supported by competent, credible evidence.

**{¶ 46}** Father's argument that he could possibly be released earlier in February 2027 on the condition that he completes these IOP programs is unpersuasive. The trial court cannot base its findings, and thereby the disposition

of these children, on mere possibilities. This is especially true given that Father testified that he had already been removed from the IOP program for too many unexcused absences, further highlighting the serious uncertainty in getting an earlier release date.

{¶ 47} Having found that clear and convincing evidence that “one or more” of the (E) factors exists for Father regarding both children and this was supported by competent, credible evidence, the trial court was therefore required to “enter a finding that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent[.]” R.C. 2151.414(E); *In re X.R.*, 2026-Ohio-2828, at ¶ 38. As such, we need not look further to see if the court’s finding under (E)(13) was proper.

{¶ 48} Wherefore, Father’s first assignment of error is overruled.

**Assignment of Error II: Trial Court’s R.C. 2151.414(D)(1) Best Interest Determination<sup>4</sup>**

{¶ 49} In his second assignment of error, Father alleges the trial court erred in finding permanent custody was in the best interest of the children. As stated above, our standard of review depends upon the argument made by a party. However, Father fails to argue which standard of review applies and instead merely argues the trial court’s determination of the children’s best interest was wrong. As such we will conduct the more encompassing manifest weight review.

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<sup>4</sup> We note Father’s stated assignment of error has “under R.C. 2151.414(B)(1)” written but his entire argument is centered around the court’s best interest findings pursuant to R.C. 2151.414(D)(1) and we believe that to be his actual argument.

**{¶ 50}** As stated above the second prong of the permanent custody determination requires the court to find by clear and convincing evidence that permanent custody to CCDCFS is in the best interest of the child. R.C. 2151.414(D)(1) requires a court “in determining the best interest of a child” to

consider all relevant facts, including, but not limited to the following:

(a) The interaction and interrelationship of the child with the child’s parents, siblings, relatives, foster caregivers and out-of-home providers, and any other person who may significantly affect the child;

(b) The wishes of the child, as expressed directly by the child or through the child’s guardian ad litem, with due regard for the maturity of the child;

(c) The custodial history of the child, including whether the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period, 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.

“Importantly, only one of the factors in R.C. 2151.414(D)(1) is required to support a finding that permanent custody is in a child’s best interest and to terminate parental rights.” *In re F.M.*, 2021-Ohio-3039, at ¶ 32. The Ohio Supreme Court has recently held 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.*, 2020-Ohio-5102, ¶ 31. A reviewing court must be able to discern from the trial court’s decision and judgment that it satisfied the requirement that it consider the factors. *Id.*

**{¶ 51}** Here, the trial court’s journal entry for both children expressly states that it considered each of the best interest factors in R.C. 2151.414(D)(1) and lists factors (a) through (e). Regarding the second factor, the court specifically noted for each child that the court considered the child’s wishes and the recommendation of the GAL. The record reflects that Semancik and the GAL testified that both children communicated to them that it was in their best interest not to be with Father. J.F. expressed love for Father to Semancik but stated definitively “she does not think it is in her own best interest to be in his custody and to live with him.” E.F. similarly expressed to Semancik he does not want Father to have custody of him. Even Father acknowledged in his appellate brief that “both children did express that they did not want to live with Father.” R.C. 2151.414(D)(1)(b) explicitly states courts must give “due regard for the maturity of the child” and again, J.F. was 15 years old at the time of the hearing and E.F. was 16 years old. As such, the children were mature enough to have their wishes be given due regard.

**{¶ 52}** Furthermore, the record supports the GAL’s unequivocal recommendation that permanent custody to the agency was in the best interest of the children. The GAL noted that both children’s wishes were for permanent custody with the agency and not Father. The GAL noted in her recommendation that Father has never had custody of either child and, at no point, has Father ever

sought to establish a parent-child relationship with his children. The children had been involved with the agency since 2017 and he never requested custody of them. The GAL also noted that Father is not even in an arguable position to care for the children for at least another year after the trial and his future outside of prison is incredibly uncertain. Meanwhile, the children are doing well in their respective placements. As such the GAL testified that “I do recommend permanent custody, and I do affirm that that is what’s in their best interest.”

**{¶ 53}** Based on the foregoing as well as our review of the evidence presented at trial, we find the trial court’s determination that permanent custody was in the best interest of the children was supported by clear and convincing evidence. Furthermore, the trial court made the proper findings and considered the best interest of the children. Its decision to grant permanent custody to the agency was supported by clear, competent evidence and as such is not against the manifest weight of the evidence.

**{¶ 54}** Father’s second assignment of error is overruled.

**{¶ 55}** 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 Cuyahoga County Court of Common Pleas, Juvenile Division, to carry this judgment into execution.

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

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EILEEN A. GALLAGHER, JUDGE

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