

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

IN RE Z.T.	:	
A Minor Child	:	No. 116252
[Appeal by Mother, S.R.]	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: October 22, 2026

Civil Appeal from the Cuyahoga County Court of Common Pleas
Juvenile Division
Case No. AD23905122

Appearances:

Patrick S. Lavelle, *for appellant.*

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

TIMOTHY W. CLARY, J.:

{¶ 1} Appellant S.R. (“Mother”), appeals from the juvenile court’s order that awarded legal custody of her minor child, Z.T. (d.o.b. 11/17/2016), to her paternal aunt, T.L. For the following reasons, we affirm.

I. Factual and Procedural History

{¶ 2} On April 26, 2023, the Cuyahoga County Division of Children and Family Services (“CCDCFS” or “agency”) filed a complaint alleging that Z.T. was dependent and requesting a disposition of temporary custody to the agency. Z.T. was removed from Mother’s home the following day, and her brother, L.O. (d.o.b. 4/17/2009), was removed the next month. This appeal involves the custody of Z.T. only.

{¶ 3} In July 2023, the juvenile court issued a judgment entry and findings of fact that stated Mother stipulated to the amended complaint. The amended complaint states, in relevant part:

1. Z.T. was placed in the pre-dispositional temporary custody of the agency in a private custody matter. See case no. FA23101070.
2. Mother has mental health concerns, including depression and anger management. Mother needs to engage in a mental health assessment and to follow all treatment recommendations.
3. Mother is currently on probation after convictions for burglary and felonious assault. See Cuyahoga County Court of Common Pleas case no. CR-22-. . . .
4. L.O. was previously adjudicated neglected and dependent, due in part to concerns about mother’s parenting skills and mental health issues. See case no. AD11907729. L.O. was ultimately returned to mother’s care.
5. Mother has two other children who were previously adjudicated neglected, dependent, and/or abused, due in part to concerns about mother’s parenting skills and mental health issues. See case nos. AD11907728 and AD03902781. The children were ultimately committed to the permanent custody of CCDCFS. . . .

{¶ 4} The court adjudicated Z.T. as dependent, committed Z.T. to the temporary custody of the agency, and placed Z.T. with relatives. The agency placed L.O. in a qualified residential treatment program (“QRTP”) on July 7, 2023. In September 2023, the agency placed Z.T. in the care of her paternal aunt, T.L., with whom the child remained throughout the duration of the case. Mother was permitted supervised visitation with Z.T.

{¶ 5} The court granted two extensions of temporary custody to allow Mother an opportunity to complete all the objectives on her case plan.

{¶ 6} On March 24, 2025, the agency filed a motion to modify temporary custody of Z.T. to T.L.’s legal custody. Four months later, Mother filed a motion for legal custody of L.O. and Z.T. Additionally, L.T. (“Father”), father of Z.T., filed a separate motion requesting legal custody of Z.T. to his sister, T.L. On September 4, 2025, the agency filed an amended request asking the court to terminate temporary custody and grant legal custody to Mother with court-ordered protective supervision. T.L. then filed a motion for companionship time.

{¶ 7} The juvenile court conducted trial on December 4, 2025, at which time Mother and the agency — as well as Z.T.’s attorney — requested that Mother be awarded legal custody of Z.T., with court-ordered protective supervision. Conversely, Father requested legal custody of Z.T. be awarded to T.L. The following individuals testified at trial: Alexandria Douglas (“Douglas”), Sabbrina Pompey (“Pompey”), T.L., Father, and Z.T.’s guardian ad litem (“GAL”).

A. Alexandria Douglas

{¶ 8} Agency worker Douglas testified about her work with Z.T. for over a year.

{¶ 9} Douglas stated that Mother's case plan includes mental-health services, substance-abuse services, parenting classes, basic needs, and housing. Per Douglas, she and Mother met monthly in Mother's home. She further stated that Mother currently lives in her own three-bedroom home with her son, L.O., with whom Mother was reunified in October 2025. Douglas testified that the home is appropriate and Mother has sufficient income to provide for the basic needs of both Z.T. and L.O. When questioned about Mother's ability to meet the children's basic needs, Douglas admitted that she does not know the cost of Mother's rent or other bills, but she stated that Mother was current on rent and utility bills three months prior to trial. Douglas also stated that she believed Mother was employed at Dunkin Donuts for five or six months prior to trial but she did not know how many hours per week she worked or her hourly pay rate. Douglas stated that she does not know if Mother receives food stamps although Mother has access to the local food pantry.

{¶ 10} Douglas testified that Mother, who abused K-2/Spice (a synthetic cannabinoid), is currently engaged with intensive outpatient substance-abuse treatment; has been sober since March 2025 — after a relapse in December 2024 or January 2025; and submits weekly drug screens. Douglas stated that Mother “has been very diligent with maintaining her sobriety. She continues to engage and have positive attitudes.” Tr. 25. According to Douglas, Mother voluntarily

continues to receive substance-abuse services and engages in weekly mental-health treatment. Douglas testified that Mother had completed her case-plan services and she had benefited from each of the services she received. Douglas further testified that Mother's "children are one of her biggest pushes in maintaining her sobriety and maintaining her mental health." Tr. 43. Douglas stated that if Mother was granted legal custody, Mother would maintain Z.T.'s relationship with T.L. and her extended family.

{¶ 11} According to Douglas, Mother and Z.T. engaged in overnight weekend visits for three months prior to trial. Douglas indicated that Mother and child enjoyed their visitation time; Mother was able to redirect Z.T. when necessary; and she was able to appropriately punish Z.T. Douglas stated that she completed unannounced visits and observed Mother and child in a bonded, positive relationship. Douglas further stated that she did not observe any inappropriate conduct. Douglas also testified that the court had granted Mother additional visitation time with Z.T. on Mondays, but several months later, Mother had not yet extended her visitation time to include Mondays.

{¶ 12} Douglas testified that Z.T. has "some minor behavioral concerns" for which she receives treatment at school from counselor Pompey and meets with a mental-health counselor outside of school. Tr. 18. Douglas stated that Mother has been open to counseling so she anticipated Mother would continue with Z.T.'s current counseling and engage in family counseling as recommended by Pompey.

{¶ 13} Douglas communicated with Z.T. outside of Mother's presence about Z.T.'s preferences for legal custody, and Z.T. told her she would prefer to live with Mother and maintain contact with T.L. Douglas stated that she did not believe Z.T.'s comments were inappropriately influenced by Mother's coaching. Douglas testified that reunification with Mother, with protective supervision, was in the child's best interest.

{¶ 14} Douglas testified about Z.T.'s brother, L.O., who exhibited AWOL tendencies while living in QRTP, a group home; Douglas denied any such behavior occurred in the last several months after L.O. was returned to Mother's care. Douglas further testified that L.O. previously exhibited sexualized behavior — urinating on Z.T. — which contributed to the children's removal from Mother's custody. Douglas stated that L.O. had received services for his sexualized behaviors and continued to receive counseling. Douglas further stated that she and Mother discussed appropriate boundaries with respect to Z.T. and L.O.:

We've talked about appropriate boundaries. She does have a camera in her living room. She does have sensors on her doors. I believe she wants to get those, as well as making sure that [L.O.] is not supervising [Z.T.] alone as well.

Tr. 45. Douglas stated that there had been no opportunity for Z.T. and L.O. to be together since their initial removal from Mother's custody and, accordingly, they had not participated in joint counseling.

{¶ 15} Douglas testified that she heard from Pompey — Z.T.'s counselor — that Mother and Z.T. should participate in family counseling prior to reunification

but no such counseling had occurred because Pompey did not make the necessary arrangements. Douglas indicated that she also spoke with Mother about family counseling at least three months prior to trial, but Mother had not coordinated any treatment for the family. Douglas also testified that she did not believe family counseling was necessary prior to reunification.

{¶ 16} Douglas stated that she believes L.O. and Z.T. are old enough to protect themselves from Mother. She also stated that because Z.T. is “very smart” and can identify appropriate behavior, she has the knowledge to remove herself from a compromising situation with L.O. Douglas conceded that Z.T. does not have the physical ability to self-protect herself from L.O.

{¶ 17} Douglas testified that Mother has a suspended driver’s license and does not own a vehicle. The agency worker also stated that Mother coordinates L.O.’s school transportation either by Uber ride or with family members and Mother hopes that Z.T. can take the bus for school transportation. Douglas indicated that Mother intends to coordinate her work schedule so that she can place Z.T. on the bus and get her after school. Yet, Douglas also testified that she does not know Mother’s schedule and Mother had not made any work arrangements at the time of trial.

{¶ 18} Douglas testified that Z.T. and T.L. are bonded and that Z.T. does “pretty well” in T.L.’s home. Tr. 16. Douglas testified that T.L. ensures that Z.T. attends school on a daily basis although Douglas had learned from Z.T.’s GAL on the morning of trial that Z.T. is often tardy to school. She stated that because of Mother

and T.L.'s strained relationship, legal custody to T.L. could adversely impact Mother's visitation with Z.T., yet Douglas could not identify any court order with which T.L. had refused to comply during the time Z.T. had been in her care.

{¶ 19} Douglas knew that L.O. and L.O.'s other sister — not Z.T. — had been previously removed from Mother's care but she did not know that the sister allegedly suffered from shaken-baby syndrome. Douglas also did not know if the allegations related to the other sister resulted in a conviction for Mother. She stated that Mother had a fourth child but Douglas did not know the custodial status of that child.¹ Douglas indicated that prior cases were relevant to her review of Mother's case, but she did not know how many cases involving Mother had been filed over the years. Douglas also stated that she did not know the standards for reunification.

{¶ 20} Douglas testified that she had met with Father only once and he did not participate in his case-plan services.

B. Sabbrina Pompey

{¶ 21} Pompey, Z.T.'s social worker and counselor, met with Z.T. at school weekly from June through October 2025, when Pompey took a leave of absence.

{¶ 22} Pompey did not offer an opinion about who should be granted legal custody of Z.T. Pompey stated that when Z.T. began home visits with Mother, she made the following observations:

¹ The stipulated amended complaint states Mother's two children, besides Z.T. and L.O., were previously adjudicated neglected, dependent, and/or abused and committed to the permanent custody of the agency.

So my issues with my client during sessions would be her regression as in sharing her emotions, regulating her emotions, being able to express basic emotions about her visits with mom.

I did have — well, she brought up an issue concerning her brother, I would say more issues of her regressing as in she was doing good when we first started, but as soon as visits came about, it just seems like my client shut down.

Tr. 92-93. Pompey could not identify the reason for the changes in Z.T. She agreed that Z.T. could have “shut down” and become “emotionally unavailable” because several people — including her GAL, attorney, social worker, and the magistrate — asked her the same questions about whether she was safe in her home, if she had experienced any incidents, and did she have concerns about her brother. Tr. 101. Pompey also testified that Z.T.’s lack of emotion could have been caused by anxiety or representative of a typical nine-year-old child’s behavior.

{¶ 23} Z.T. had indicated to Pompey that she could not talk with Mother about her experiences or emotions, and Pompey testified that it would be in the child’s best interest to address this issue in family counseling before Mother and Z.T. were reunified.

{¶ 24} Pompey attempted to provide individual counseling to Z.T. in regard to past interactions with her brother, but she was not successful. Pompey stated that Z.T. was also unwilling to discuss her relationship with her brother. Z.T. never expressed to Pompey a fear of interacting with her brother. Pompey stated that she was unaware of the siblings engaging in any family counseling. Pompey testified that if Z.T. and L.O. were to live in the same household, she would want to ensure

they were isolated in different rooms with “continuous watch of the kids.” Tr. 97. In regard to self-protection, Pompey was unsure if Z.T. could self-protect herself from L.O.

{¶ 25} Pompey stated that regardless of who was granted legal custody, Mother and Z.T. should engage in mandatory family counseling and Z.T. should continue with her individual therapy. Pompey also voiced her concern as to whether Mother would be emotionally available to Z.T. and opined it would be in Z.T.’s best interest to address this issue through family counseling prior to reunification.

{¶ 26} Pompey denied that it was her responsibility to coordinate family counseling for the family. She stated that she does not have a release that would permit her to contact mom directly and denied that anyone from the agency asked her to schedule family counseling.

C. Paternal Aunt, T.L.

{¶ 27} T.L., sister to Father and paternal aunt to Z.T., stated her desire to be designated Z.T.’s legal custodian. T.L. testified that Z.T. is “a good kid” who has a “very difficult time articulating” her emotions. Tr. 110. To assist Z.T., T.L. encourages Z.T. to communicate and provides counseling resources for the child. She testified that Z.T. finished the first quarter of school well, earning all Bs. She further testified that Z.T. was tardy five times during the 2025-2026 school year, once due to Mother’s actions and several times because daycare got her to school late. She also testified that during the 2024-2025 school year, Z.T. received several therapy sessions prior to the school day and, under those circumstances, T.L. could

not get the child to school on time. T.L. subsequently rescheduled the counseling sessions so that they did not interfere with Z.T.'s schooling.

{¶ 28} T.L. stated that she was concerned that if Mother was granted custody that she would not ensure that Z.T. received the necessary therapy. She stated that in the past Mother had not coordinated Z.T.'s regular participation in individual therapy and Mother failed to participate in Z.T.'s parent-teacher conference in October 2025. T.L. voiced her concerns that Mother was still involved with a prior boyfriend who had a criminal record; T.L. testified that she saw Mother and her ex-boyfriend together in a vehicle in 2023 and twice since that time. T.L. testified that per Z.T., the ex-boyfriend told Z.T. that he "kills kids." Tr. 119. T.L. also stated that she was concerned about Z.T. being left alone with L.O. because L.O.'s sexualized behavior occurred previously when Mother left the children alone in the house.

{¶ 29} T.L. testified that while Z.T. has been in her care, Mother has contributed approximately \$50 for her care and support.

{¶ 30} T.L. testified to Mother's past behavior that preceded the filing of the instant action, including Mother pleading guilty in 2023 to aggravated burglary and aggravated assault and being sentenced to probation. T.L. testified that she was unaware of any criminal acts that occurred at Mother's current house, but stated in the past Mother sold drugs and "had a lot of traffic at her homes which can of course create chaos." Tr. 134-135. T.L. also stated that Mother has been known to "feed people" and "drama follows [Mother]." Tr. 135. T.L. testified that she had been informed that Mother lacks a valid driver's license and she was concerned because

she had seen Mother, Mother's ex-boyfriend, and the ex-boyfriend's mother driving Z.T.

{¶ 31} T.L. stated that if she was granted legal custody of Z.T., she would follow court orders and facilitate visitation between Mother and Z.T. as she has done during the past two years. T.L. conceded that she and Mother have had a "rocky relationship" since T.L. reported Mother to CCDCFS several years ago. Tr. 126-127. T.L. stated that she knows Mother loves Z.T., but she does not agree with all of Mother's life choices.

D. Father

{¶ 32} Father testified that he was undergoing treatment for substance abuse, which is part of his case plan. Father further testified that he does not maintain a visitation schedule with Z.T.

{¶ 33} Father stated that he would like legal custody of Z.T. to be awarded to his sister, T.L., and he was concerned about Z.T. being placed with Mother. Father testified that Mother and her ex-boyfriend lived with him in 2024, and he had a "strong intuition" that they have continued their relationship. Tr. 151. Father testified that he believes Mother continues to traffic drugs. Father also testified that Mother physically threatened him during trial.

{¶ 34} Father also stated that before L.O. and Z.T. were removed from Mother's custody in 2023, he had learned from L.O. that L.O. had been molested by foster parents, which Father relayed to Mother but "she never addressed it." Tr. 151. Father testified about his concern that L.O.'s sexualized behavior towards Z.T.

demonstrated a “repeated cycle.” Tr. 151. Father also voiced his concern that if Z.T. is placed with Mother another incident may occur from which Z.T. cannot recover.

E. Child’s GAL

{¶ 35} The GAL acknowledged that Mother loves her children and has worked hard to complete her case service plan and provide a nice home. The GAL stated that in the past, Z.T. vacillated between wanting to live with her aunt or her Mother, but most recently she had indicated her desire to live with Mother. The GAL acknowledged that Mother had equipped her home with cameras, but the GAL felt there was too much uncertainty about whether Mother could protect Z.T. The GAL recommended that the court grant legal custody to T.L. because Z.T.’s behavior and openness had diminished since commencing visitations with Mother; Mother could not financially support the two children based upon her part-time employment; Mother lacked initiative to follow through and implement the increased visitation time on Mondays; and because he believed that Mother was not honest about who was responsible for the 2011 incident where her daughter suffered from shaken-baby syndrome.

{¶ 36} In addition to his trial testimony, the GAL provided the court with two detailed written reports based upon, but not limited to, a review of relevant pleadings, home visits with both children, personal participation in the September 3, 2025 staffing meeting, an unannounced observation of the exchange of Z.T. between Mother and T.L., a surprise home visit with Mother, and a phone call with Mother and a social worker.

{¶ 37} In his initial April 2025 report, the GAL stated Mother was unfit to parent because of the minimization of her responsibility for the safety and protection of her children. The GAL described L.O. as a 16-year-old child with the body of a plus-sized adult male. In his initial report, the GAL recommended permanent custody of the children to the agency because the relationship between Mother and T.L. was contrary to legal custody.

{¶ 38} In an October 2025 report, the GAL recommended that the court grant legal custody of Z.T. to T.L., with visitation with Mother. He indicated that prior to the court's in camera interview with Z.T., the child voiced her desire to live with T.L., and he believed that Z.T.'s subsequent change of heart to live with Mother was because of coaching by either Mother or L.O.

{¶ 39} The report listed concerns about L.O.'s recent defiant behavior and how placement in the same home with L.O. would be contrary to Z.T.'s best interests. The report discussed Z.T.'s increased anxiety and negative attitude when she commenced overnight visitation with Mother. The GAL indicated that he had confronted Mother about allowing Z.T. and L.O. to sleep in the same bed with her during overnight visits. The report stated that Mother exhibited outbursts with the GAL during phone conversations and in-home visits and as recently as September 2025 during a SAR meeting. The GAL reported Mother's incorrect comments during a June 2025 home visit — denying her past use of K-2/Spice and blaming Father for spreading rumors about L.O.'s sexualized behavior towards Z.T. The GAL stated that he interpreted these comments as either Mother reimagining the facts to

conform to current truths or presenting answers that she believed represented what professionals wanted to hear.

{¶ 40} The GAL recognized Mother's significant case plan progress but questioned the sustainability of those improvements. He noted that Mother historically had exhibited limited periods of stability to regain custody and then returned to her past behaviors; in his mind, Mother had not displayed consistency, stability, or safety for her young children. He also noted that Z.T. cannot protect herself from L.O. or Mother's poor decisions. The GAL found Mother's salary from working 9-16 hours per week, plus her federal supplemental income, insufficient to meet the financial needs necessary to support herself and her two children. He also questioned the added expense of Lyft and Uber that Mother allegedly used for transportation purposes. The GAL questioned whether Mother's lifestyle was financially supplemented by illicit means.

{¶ 41} The GAL stated that Mother had been observed driving with and engaging with her former boyfriend who was a negative influence. Further, Mother was videotaped driving a vehicle even though Mother denied driving because she does not hold a valid driver's license.

{¶ 42} According to the GAL, Z.T. thrives under T.L.'s care. Z.T. participates in church and Girl Scouts, where she has fostered healthy friendships. T.L. related to the GAL about an incident where Mother absconded with Z.T. following a visit and the police were contacted to intervene. For the foregoing reasons, the GAL

opined a grant of legal custody in any form to Mother would not be in Z.T.'s best interest.

F. Post-Trial

{¶ 43} On December 9, 2025, the magistrate issued a decision recommending Z.T.'s placement in the legal custody of T.L., and Mother filed objections to the magistrate's decision. The juvenile court overruled Mother's objections and committed Z.T. to T.L.'s legal custody.

{¶ 44} On March 16, 2026, Mother filed a timely notice of appeal, and she now presents a sole assignment of error:

The trial court's decision to award legal custody to the paternal [aunt] T.L. was against the manifest weight of the evidence.^[2]

II. Legal Analysis

{¶ 45} In her sole assignment of error, Mother contends that the juvenile court's judgment denying her motion for legal custody while simultaneously awarding legal custody of Z.T. to paternal aunt, T.L., was against the manifest weight of the evidence.

A. Standard of Review

{¶ 46} According to R.C. 2151.353(A)(3), a court may award legal custody of a child who has been adjudicated abused, neglected, or dependent, to a person who, prior to the dispositional hearing, filed a motion requesting legal custody. Legal custody is statutorily defined as

² Appellant's brief incorrectly references T.L. as the paternal grandmother rather than the paternal aunt.

a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

R.C. 2151.011(B)(21). “Legal custody is significantly different than the termination of parental rights because despite losing legal custody of a child, the parents of the child retain residual parental rights, privileges, and responsibilities.” *In re V.P.*, 2020-Ohio-5626, ¶ 31 (8th Dist.), citing R.C. 2151.353(A)(3)(c). Thus, “[j]uvenile courts are afforded broad discretion in fashioning a disposition following the adjudication of a child as being abused, neglected, or dependent, because the courts are charged with protecting the best interests of children.” *In re R.G.M.*, 2024-Ohio-2737, ¶ 16 (8th Dist.).

{¶ 47} “When a juvenile court awards legal custody following an adjudication of abuse, neglect or dependency, “it does so by examining what would be in the best interest of the child based on a preponderance of the evidence.”” *In re A.C.*, 2019-Ohio-5127, ¶ 15 (8th Dist.), quoting *In re T.R.*, 2015-Ohio-4177, ¶ 44 (8th Dist.), quoting *In re M.J.M.*, 2010-Ohio-1674, ¶ 11, 14 (8th Dist.). Accordingly, on a request for legal custody, a reviewing court applies a preponderance-of-the-evidence standard of appellate review to the court’s factual findings. *In re W.A.J.*, 2014-Ohio-604, ¶ 2 (8th Dist.), citing *In re G.M.*, 2011-Ohio-4090, ¶ 14 (8th Dist.). However, the ultimate decision to grant or deny a request for legal custody — or

“whether the facts as determined would make it in the child’s best interests to be placed in legal custody” — is reviewed for an abuse of discretion. *In re W.A.J.* at ¶ 2, quoting *In re G.M.* at ¶ 14.

{¶ 48} A “preponderance of the evidence” means evidence that is “more probable, more persuasive, or of greater value.” *In re C.V.M.*, 2012-Ohio-5514, ¶ 7 (8th Dist.), quoting *In re D.P.*, 2005-Ohio-5097, ¶ 52 (10th Dist.). The term abuse of discretion “implies that the court’s attitude is unreasonable, arbitrary or unconscionable.” *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983). An abuse of discretion occurs when a court exercises its judgment in an unwarranted way regarding a matter over which it has discretionary authority. *Johnson v. Abdullah*, 2021-Ohio-3304, ¶ 35.

{¶ 49} Additionally, “[a] custody decision will not be overturned as being against the manifest weight of the evidence if it is supported by competent, credible evidence.” *In re Ry.T.*, 2023-Ohio-12, ¶ 24 (8th Dist.), citing *In re D.G.B.*, 2019-Ohio-3571, ¶ 25 (8th Dist.). When reviewing a juvenile court’s decision under a manifest-weight-of-the-evidence standard,

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. “In weighing the evidence, the court of appeals must always be mindful of the presumption in favor of the finder of fact.” “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.”

“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.”

(Cleaned up.) *In re Z.C.*, 2023-Ohio-4703, ¶ 14; *see also State v. Reillo*, 2026-Ohio-2701, ¶ 3 (“An appellate court sits as the thirteenth juror only when evidence contradicts a fact-finder’s findings, or when a witness’s testimony is so inconsistent as to material facts, so impeached, or so fantastical as to make it patently unbelievable.” (Citation omitted.)).

B. Analysis

{¶ 50} There is no specific test applied or set of criteria considered when determining the best interests of a child with respect to a motion for legal custody. R.C. 2151.353(A)(3); *In re G.M.*, 2011-Ohio-4090, at ¶ 15 (8th Dist.). Yet, the R.C. 2151.414(D) best-interest factors applied in permanent custody cases may be instructive in the legal custody determination. *In re G.M.* at ¶ 15-16. The R.C. 2151.414(D) factors are (1) the interaction and interrelationship of the child with the child’s parents, siblings, relatives, caregivers, and persons who may significantly affect the child; (2) the wishes of the child, as expressed by the child or the GAL; (3) the child’s custodial history; and (4) the child’s need for a legally secure permanent placement. R.C. 2151.414(D).

{¶ 51} This court has also looked to R.C. 3109.04(F)’s best-interest factors to determine a child’s best interest in a motion for legal custody. *In re J.T.*, 2022-Ohio-4747, ¶ 40 (8th Dist.). Such factors include, but are not limited to:

- (1) the wishes of the child’s parents regarding the child’s care;
- (2) the child’s interaction and interrelationships with the child’s parents, siblings and any other person who may significantly affect the child’s best interest;
- (3) the child’s adjustment to home, school and community;
- (4) the mental and physical health of all persons involved in the situation; and
- (5) the extent to which court-approved visitation and companionship rights are likely to be honored and facilitated.

R.C. 3109.04(F); *In re A.G.H.*, 2026-Ohio-3235, ¶ 34 (8th Dist.), quoting *In re A.D.*, 2017-Ohio-6913, ¶ 32 (6th Dist.), quoting *In re A.K.*, 2012-Ohio-4430, ¶ 25 (9th Dist.) (“In making . . . a [best interest] determination [in a legal custody case,] “courts have looked to the best interest factors of R.C. 2151.414(D), R.C. 3109.04(F)(1), a combination of the two, or general notions of what should be considered regarding the best interests of the [child].””).

{¶ 52} After careful consideration, we find the record supports the juvenile court’s findings by a preponderance of the evidence. The record shows that T.L. had provided Z.T. with a safe and stable home environment for approximately 27 months, and under T.L.’s care, the child engaged in extracurricular activities, received regular therapy, and excelled at school. There was a bond between T.L. and Z.T. There were no concerns about Z.T. living with T.L. — except for arriving late to school a few times — and T.L. was able to meet the child’s needs. While T.L. and Mother had a contentious relationship, the women had communicated for over two years to coordinate their schedules and work together for Z.T.’s benefit.

{¶ 53} With respect to Mother, Mother complied with her case plan, but the juvenile court nevertheless granted legal custody to the paternal aunt. The record shows that Mother loves Z.T. and wishes to have the child returned to her home. Prior to trial, Z.T. verbalized her preference to be placed in Mother's legal custody, although the GAL questioned whether those statements were inappropriately influenced by Mother or L.O. Mother maintained her participation in mental-health and substance-abuse services and indicated she would continue counseling services for Z.T. Mother's home was appropriate; conflicting evidence was submitted as to whether Mother could meet Z.T.'s basic needs. The record shows that Mother completed her case-plan services and demonstrated nine months of sobriety, but the principal concern in a custody determination is the child's best interest. *In re N.N.*, 2021-Ohio-3931, ¶ 24 (8th Dist.). While Mother's completion of her case plan may have been in Mother's best interest, this was not a factor in determining what was in Z.T.'s best interest. *Id.* at ¶ 14; *In re M.J.M.*, 2010-Ohio-1674, ¶ 14 (8th Dist.).

{¶ 54} Beyond satisfaction of her case-plan services, the record presents evidence that Mother cannot adequately protect Z.T. from L.O. Testimony indicated Z.T. could potentially self-protect herself on an emotional level, but could not physically self-protect herself from L.O., who was described as a 16-year-old child with the frame of a plus-sized adult male. Additionally, Mother's actions such as allowing the children to sleep together in the same bed indicated a lack of judgment and inability to appropriately protect Z.T. The children have not engaged in

counseling, nor have Z.T. and Mother engaged in family counseling, even though it was recommended by Z.T.'s counselor, Pompey.

{¶ 55} T.L. testified that Z.T.'s behavior was adversely impacted following overnight visitations with Mother. Pompey similarly testified that since overnight visitations with Mother, Z.T. had become less forthright during therapy sessions although the therapist could not state with certainty that the changes were because of Z.T.'s interactions with Mother.

{¶ 56} The GAL, whose sole responsibility is to advocate for the child's best interests, recommended legal custody to T.L. The GAL stated that Z.T. demonstrated disrespectful behavior following the initiation of her overnight visitations with Mother. The GAL acknowledged Mother's completion of her case-plan services but questioned whether she had benefitted from the services. For instance, Mother exhibited outbursts towards the GAL during telephone calls, at home visits, and during a SAR meeting as recent as three months prior to the custody trial. The GAL referenced Mother's younger daughter who suffered from shaken-baby syndrome. The GAL did not believe legal custody to Mother would be in Z.T.'s best interest; the GAL stated that Z.T. thrived in T.L.'s care, and he recommended legal custody to her. The court also conducted an in camera interview of Z.T. and considered that interaction when making its custody determination.

{¶ 57} The juvenile court found that Mother was unfit because she minimized her responsibilities for the safety and protection of Z.T. The juvenile court found the GAL's testimony and report relevant and persuasive on Mother's

unsuitability as a parent, and the record supports such a finding. Mother's completion of her case-plan services did not preclude this finding. *In re Higby*, 81 Ohio App.3d 466, 471 (9th Dist. 1992) ("While [Father] presented evidence that he had fully complied with [his] case plan, we find that the evidence supports the court's conclusion that [Father] is not a suitable parent to take custody of [his child].") Further, we can infer Mother's unsuitability where the trial court adjudicated Z.T. dependent and Mother did not regain legal custody of her during the pendency of the case. *In re A.S.*, 2026-Ohio-3906, ¶ 34.

{¶ 58} Collectively, we find that the foregoing evidence demonstrates that Z.T. needed a legally secure placement that could not be achieved with an award of legal custody to Mother. Given the presented evidence, we cannot say that the juvenile court's determination that it was in Z.T.'s best interest to be placed in the legal custody of T.L. was arbitrary or unreasonable. The record supports the court's findings by a preponderance of the evidence, and the grant of legal custody to T.L. was not against the manifest weight of the evidence. The court's award of legal custody to T.L. was in Z.T.'s best interest and, accordingly, we overrule Mother's sole assignment of error.

{¶ 59} Judgment affirmed.

It is ordered that appellee recover from appellant the 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 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

MICHAEL JOHN RYAN, P.J., and
DEENA R. CALABRESE, J., CONCUR