[Cite as *In re G.K.*, 2026-Ohio-4379.]

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

IN RE G.K., ET AL.	:	
		No. 116462
Minor Children	:	
[Appeal by Father]	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: November 5, 2026

Civil Appeal from the Cuyahoga County Court of Common Pleas
Juvenile Division
Case Nos. AD-25900929 and AD-25900930

Appearances:

Dunham Law LLC and Michael P. Dunham, *for appellant*.

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

EMANUELLA D. GROVES, P.J.:

{¶ 1} Appellant-father ("Father") appeals the juvenile court's decisions committing G.K. (d.o.b. 10/22/2021) and K.K. (d.o.b. 02/22/2023) (collectively, "Children"), to the permanent custody of the Cuyahoga County Division of Children

and Family Services ("CCDCFS") and terminating his parental rights.[1] Father raises the following assignments of error for review:

> **Assignment of Error No. 1**
>
> The trial court erred in violation of R.C. 2151.414 (C) and the right to due process under U.S. Const., amend. XIV and Ohio Const., art. I for failing to make sufficient findings of fact and conclusions of law.
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> **Assignment of Error No. 2**
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> The decision of the trial court denying a continuance violated Father's right to due process and a fair trial under U.S. Const., amend. XIV and Ohio Const., art. I.
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> **Assignment of Error No. 3**
>
> The decision of the trial court was made with insufficient evidence and against the manifest weight of the evidence in violation of Father's right to parent his child under U.S. Const., amend. XIV and Ohio Const., art. I.
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> **Assignment of Error No. 4**
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> Father was denied his right to effective assistance of counsel under U.S. Const., amend. XIV and Ohio Const., art. I.

Upon review, we affirm the permanent-custody decisions.

I. Facts and Procedural History

{¶ 2} In January 2025, CCDCFS filed complaints for dependency and temporary custody of G.K. and K.K., along with motions for predispositional

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[1] Based on the record before us, appellant-father was the established father of G.K. and the identified father of K.K. Although paternity was not established for K.K., appellant-father is referred to as "Father" throughout this decision for ease of reference. Moreover, we note that this appeal addresses the parental rights and responsibilities of Father only. The parental rights and responsibilities of Children's mother are addressed in a separate, companion appeal. *See* 8th Dist. Cuyahoga No. 116465.

temporary custody.[2] The complaints alleged that Children's mother ("Mother") had several convictions, was currently incarcerated, and had two other children previously adjudicated dependent and committed to the temporary custody of CCDCFS before being committed to the legal custody of relatives. The complaints further alleged that Father had health issues that prevented him from providing care for Children. Following a hearing, predispositional temporary custody was granted, and Children were committed to CCDCFS's care pending further hearings. CCDCFS amended its complaints in February 2025 to include allegations of neglect.

{¶ 3} In April 2025, Children's guardian ad litem ("GAL") filed a report and recommendation. Therein, GAL noted that Mother was incarcerated and Father was paralyzed after being shot. Father resided in a nursing facility and occasionally visited Children with the assistance of his cousin ("Cousin"), with whom Children and their sibling were placed. According to GAL, Cousin reported that Children were living with her since December 2024. GAL noted that G.K. was diagnosed with autism, was nonverbal, and expressed himself with movement. G.K. attended preschool, had an individualized education program, and required assistance using the restroom. K.K. was home every day. Children played together at Cousin's home. Based on GAL's investigation, she recommended Children be committed to the temporary custody of CCDCFS.

[2] Two other children were also included in the complaint but are not involved in this appeal.

{¶ 4} An adjudicatory hearing was also held in April 2025. Father was not present. At the hearing, CCDCFS's short-term worker Courtney Ford ("Ford") offered testimony about her investigation, which resulted in Children entering CCDCFS's custody. Relevant to this appeal, Ford testified that Father was residing in a nursing facility because he was paralyzed from the chest down. According to Ford, Father could not provide care for Children at the time. After hearing testimony and accepting evidence, the juvenile court adjudicated Children neglected and dependent.

{¶ 5} The parties agreed to proceed immediately to disposition and incorporate testimony from the adjudicatory hearing into the dispositional hearing. Ford then offered further testimony about the case plan. Ford explained that Father did not have any case-plan services at the time due to his physical condition. Ford further explained that Children and their sibling were placed with Cousin, who was a licensed foster-care provider. G.K. was doing well and engaged in autism services through school. K.K. was "doing as well as possible" and was referred to services. Ford testified that Children would remain in their current placement if CCDCFS received temporary custody.

{¶ 6} Following Ford's testimony, GAL indicated that she believed it was in Children's best interests to be committed to CCDCFS's temporary custody. The juvenile court then asked Cousin, who was present at the hearing, how Children were doing. Cousin stated that Children were "doing fine" and she loved them. Cousin noted that G.K. was in school and learning to say a few words while K.K. was

"the boss" and "very articulate and very, very helpful." Based on the evidence presented, the juvenile court terminated the emergency-custody order and committed Children to the temporary custody of CCDCFS.

{¶ 7} In July 2025, CCDCFS filed motions to modify temporary custody to permanent custody. Amended motions were filed in August 2025. In the affidavit attached to the amended motions, Elaina Sadler ("Sadler"), the CCDCFS extended-services worker of record, attested that Father had a severe and chronic physical disability that prevented him from providing permanency for Children. Sadler further attested that Father resides in a nursing facility due to his disability and Children are not permitted to stay. Later that month, counsel ("Trial Counsel") was appointed for Father.

{¶ 8} An arraignment was held on CCDCFS's amended motions in September 2025. Father and Trial Counsel were present. A denial was entered on Father's behalf, and the matter was continued.

{¶ 9} In November 2025, Father filed motions requesting that legal custody be granted to Cousin. Therein, Father explained that he suffered from chronic health limitations, resided at a nursing facility that did not accept children, and was unable to obtain independent housing. Father asserted that he maintained a strong parental bond and ongoing interest in Children's welfare. Father "designate[d] and consent[ed]" to Children's placement with Cousin since she previously provided care for Children from December 2024 until August 2025. Father further claimed that Cousin was "willing and suitable to assume legal custody" of Children and believed

placement with Cousin was in Children's best interest. Father requested that GAL be directed to investigate and report on the suitability of Cousin and CCDCFS update its assessment. After a final pretrial and an attorney conference were held, a review hearing was set for January 2026, and trial was set for February 2026.

{¶ 10} At the January 2026 review hearing, Sadler offered testimony about the efforts made by CCDCFS. Sadler testified that Father was disabled and in a nursing facility and Mother was incarcerated, and therefore, reunification was not in Children's best interests unless either of those circumstances changed. Sadler explained that physical health was included in Father's case plan since he was unable to physically care for Children. According to Sadler, Father had a visitation schedule with Children, and she would "take over . . . primary responsibility" when physical care for Children was required during his visits. However, Sadler noted that she was unsure "exactly how realistic it is to say [Father] should start being mobile again or . . . hav[e] improvements in his physical health because he is disabled."

{¶ 11} Sadler further testified that Father recently moved to a nursing facility in Cuyahoga County and CCDCFS was making a community collaborative referral.[3] Children also received in-home services and were placed together in a foster home. Children were removed from Cousin's home after she expressed that she would not continue to care for Children if they developed "any sort of behaviors in the future." However, Sadler believed there was "either a change of heart or there

[3] During oral arguments, CCDCFS explained that community collaboration is a resource that provides service referrals based on an individual's needs.

was a misunderstanding" and Cousin was being reconsidered for a permanency placement. Sadler explained that Children were attached to Cousin and continued to maintain contact with her through scheduled family visits and during the holidays.

{¶ 12} After hearing testimony, the juvenile court found that CCDCFS made reasonable efforts to prevent Children's removal and make reunification possible. The juvenile court noted that Father had health issues and was referred for community collaboration now that he resided in Cuyahoga County. The juvenile court concluded that a continuation of temporary custody was in Children's best interests.

{¶ 13} After the review hearing, GAL filed another report and recommendation. GAL explained that Children's placement with Cousin was disrupted due to their sibling's behavioral issues. At the time of GAL's report, Children were placed in another foster home and "appeared to be doing well." According to GAL, Cousin stated that she would like Children to return to her care and preferred adoption over legal custody. Cousin maintained contact with Children since their removal from her home, attended some family visits, and acted as a respite for them. Children's foster mother reported that Children called Cousin "Mommy" and asked for her.

{¶ 14} GAL noted that Father was involved with Children "as his health allow[ed]" but was unable to be a caregiver due to his disability. According to GAL, Father "ha[d] not engaged in services" but attended visits with Children and wanted

Cousin to obtain custody. Children were receiving counseling and other services, meeting with a behavioral health specialist, and attending school. GAL did not believe Children were of sufficient age or maturity to express their wishes. GAL believed that Children were "in need of permanency" and concluded it was in Children's best interests to be committed to CCDCFS's permanent custody.

{¶ 15} On the day of the February 2026 trial, counsel for Father and Mother made an oral motion to continue the matter. The juvenile court granted the continuance over CCDCFS's objection. Trial was reset for April 2026.

{¶ 16} Cousin, Sadler, GAL, and Trial Counsel were present for the April 2026 trial along with counsel for CCDCFS and Mother. Father was not present, and Trial Counsel made an oral motion for continuance.[4] Trial Counsel stated:

> I did speak with my client yesterday. He is unable to be here today because he had an engagement, and he told me that he was going to be here about 12:30 today. So he has always been present, as well. Even though he's confined in a wheelchair, he's always made efforts getting transportation to be here at every hearing that we've had in the past.

Trial Counsel requested that Father be afforded "the opportunity to be present and to be part of the proceedings." CCDCFS objected to the motions, countering that good cause was not shown for a day-of-trial continuance. CCDCFS argued that little information was provided about when Father's scheduling conflict arose; any attempts made to accommodate the rescheduled trial, which was originally scheduled in February 2026 and continued at both parents' requests; or the length

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[4] Mother was not present at the trial's onset. Mother's counsel also moved for a continuance, which was denied by the trial court. Mother later appeared remotely and participated in the trial.

of the delay. CCDCFS further asserted that a continuance would inconvenience the people who were present and prepared to proceed.

{¶ 17} The juvenile court denied the motion for continuance, noting that the matter was previously set for trial and continued at the parents' requests, the April 2026 trial was rescheduled in February 2026, and there was no communication about any conflicts prior to the morning of the April 2026 trial. Before proceeding, the juvenile court allowed Trial Counsel to contact Father, offered remote participation as an option, and started a remote meeting in case he was able to join. Trial Counsel advised that he was unable to reach Father and left a voicemail. Father sent a text message in response indicating that he was unable to answer the phone. Trial Counsel also indicated that Father was withdrawing his motions proposing that Cousin be Children's legal custodian since Cousin was no longer willing to pursue legal custody.

{¶ 18} The matter then proceeded to trial on CCDCFS's amended motions to modify temporary custody to permanent custody. Sadler testified that Children remained in CCDCFS's uninterrupted custody since January 2025. Children received behavioral therapy, and G.K. had an individualized education program that included speech and occupational therapy.

{¶ 19} Sadler offered testimony about Mother's incarceration, convictions, and prior involvement with CCDCFS and CCDCFS's ongoing concerns. Sadler then expressed concerns regarding Father's physical health, noting that he was paralyzed,

in a wheelchair, and residing in a nursing facility where he received daily care and services. Sadler testified:

> His perspective on his physical health is a little bit different from the staff at his nursing home. Per the nursing home, he was a full-assist, meaning he requires all — like all assistance to do daily activities. . . . And his perspective is that he can do some things independently.

Sadler contacted the nursing facility and was told that children were not permitted to reside there. Sadler did not know how long Father would be staying at his current nursing facility. Sadler advised that Father had a weekly visitation schedule in place for supervised visits with Children. Sadler explained that the visits were supervised due to Father's physical health and Children's tendencies "to run off." Sadler opined that Father would not be able to independently manage Children on his own and was not in a position to provide permanency. Sadler further opined that it was unlikely that Father would be able to provide permanency in a reasonable time.

{¶ 20} Sadler also explained that an incident occurred at Children's foster home and Children were placed with Cousin about a month prior to trial. Sadler noted that Children were previously placed with Cousin for about four to six months and were "very attached" to Cousin. At the time of trial, Sadler advised that Cousin was not willing to assume legal custody but was interested in adopting Children and providing permanency. Sadler was unaware of any other relatives or interested individuals who were willing and able to assume legal custody and did not have any reason to recommend Children's removal from their current placement. Sadler opined that CCDCFS's permanent custody was in Children's best interests since they

were young and needed permanency and stability. According to Sadler, CCDCFS's "concurrent plan" was to facilitate Cousin's adoption of Children.

{¶ 21} On cross-examination, Sadler testified that Father used paratransit but did not need other assistance to attend weekly visits with Children. Sadler further testified that Father could go to the store and would bring snacks and drinks for Children. According to Sadler, Father indicated that he was looking to move into a home for himself; however, he was not successful. CCDCFS talked with Father about a referral to the community collaborative, but Father indicated that he was working with an acquaintance, who was a council member, for housing. Sadler acknowledged Father's physical health was her only concern, noting that "he does well with the parenting aspect emotionally."

{¶ 22} Following Sadler's testimony, CCDCFS rested and stipulated exhibits were admitted. Trial Counsel did not call any witnesses on Father's behalf. GAL testified that she maintained the recommendation that she provided in her report: it was in Children's best interests to be committed to CCDCFS's permanent custody. GAL opined that Father was unable to care for Children and Children needed to be placed with a caregiver who could provide permanency.

{¶ 23} During closing arguments, Trial Counsel asked the juvenile court to deny CCDCFS's motions for permanent custody. Trial Counsel argued that CCDCFS had not made reasonable efforts to reunify Father with Children or independently assess his ability to care for them. The juvenile court advised that it would take the matter under advisement and rule by journal entry.

{¶ 24} Weeks later, the juvenile court issued journal entries granting CCDCFS's permanent-custody motions. The juvenile court found that Children could not be placed with either parent within a reasonable time or should not be placed with either parent pursuant to R.C. 2151.414(B)(1). The juvenile court noted that it considered R.C. 2151.414(D)(1)'s best-interest factors, including GAL's recommendation for permanent custody. The juvenile court found that R.C. 2151.414(E)(2) applied since he resided at a nursing facility and would be unable to provide daily care and housing for Children. The juvenile court also found that CCDCFS made reasonable efforts to finalize a permanency plan for Children since Children were engaged in services and Father was referred for community collaboration. The juvenile court concluded that permanent custody was in Children's best interest and terminated Father's parental rights. Father appealed the juvenile court's decisions.

II. Law and Analysis

A. Required Findings of Fact and Conclusions of Law

{¶ 25} In his first assignment of error, Father argues that the juvenile court's findings of fact and conclusions of law were insufficient under R.C. 2151.414(C). Father acknowledges that the juvenile court concluded that Children could not or should not be placed with Father, that reasonable efforts were made by CCDCFS to prevent removal, and that it was in Children's best interests to terminate his parental rights. However, Father claims that the juvenile court did not make specific findings related to each of those conclusions.

{¶ 26} "Interestingly, neither the juvenile rules nor the revised code requires findings of fact and conclusions of law in permanency cases." *In re S.M.*, 2025-Ohio-5144, ¶ 42 (8th Dist.) (Keough, J., concurring). R.C. 2151.414(C) provides, in relevant part: "If the court grants permanent custody of a child to a movant under this division, the court, *upon the request of any party*, shall file a written opinion setting forth its findings of fact and conclusions of law in relation to the proceeding." (Emphasis added.) Absent a request, reviewing courts will presume all factors and relevant facts were considered and "a trial court need not set forth specific factual findings regarding each R.C. 2151.414(D) best[-]interest factor or the factors in R.C. 2151.414(E) regarding placement with either parent within a reasonable time." *In re I.B-C*, 2019-Ohio-1464, ¶ 34-35 (citing Civ.R. 52 and applying the rule to R.C. 2151.414 permanent-custody cases); *In re K.M.*, 2019-Ohio-4252, ¶ 58-59 (4th Dist.). Indeed, "[t]he failure to request findings of fact and conclusions of law ordinarily results in a waiver of the right to challenge the trial court's lack of an explicit finding concerning an issue." *Id.* at ¶ 34.

{¶ 27} Father does not assert — nor does the record indicate — that he requested the juvenile court issue a written opinion setting forth its findings of fact and conclusions of law. Therefore, the juvenile court was not required to do so. *In re C.L.*, 2025-Ohio-2078, ¶ 48 (10th Dist.). Consequently, Father's first assignment of error is overruled.

B. Motion to Continue Permanent-Custody Hearing

{¶ 28} In his second assignment of error, Father argues that the juvenile court erred in denying his motion to continue the trial. Father claims that delay would have been minimal and the denial was "of great inconvenience" since he was prevented from testifying. Father asserts that he "could have rebutted the claim that he is so physically disabled that he could not take care of [Children]" and was deprived of "the opportunity to prove that reasonable efforts were not made because [CCDCFS] did not help him with housing."

{¶ 29} The decision to grant or deny a motion for continuance rests in the broad and sound discretion of the trial court. *In re C.W.*, 2020-Ohio-3189, ¶ 15 (8th Dist.), citing *State v. Unger*, 67 Ohio St.2d 65, 67 (1981). An appellate court cannot reverse the trial court's ruling on a motion for continuance absent an abuse of that discretion. *In re S.B.*, 2014-Ohio-4839, ¶ 43 (8th Dist.). An abuse of discretion occurs when the trial court's decision is unreasonable, arbitrary, or unconscionable. *In re C.W.* at ¶ 15, citing *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983). When applying the abuse-of-discretion standard, an appellate court may not substitute its judgment for that of the trial court. *In re C.K.*, 2019-Ohio-4167, ¶ 18 (8th Dist.).

{¶ 30} When reviewing a trial court's ruling on a motion to continue, "[a]ny potential prejudice to a party denied a continuance is weighed against the trial court's 'right to control its own docket and the public's interest in the prompt and efficient dispatch of justice.'" *In re I.N.*, 2021-Ohio-1406, ¶ 16 (8th Dist.), quoting

Unger at 67. There are "no mechanical tests" for deciding when a continuance's denial is so arbitrary that it violates due process; rather, courts must consider the circumstances in every case and the reasons presented to the trial court at the time. *Id.* at ¶ 17, citing *id.*

{¶ 31} However, there are certain factors that courts should consider when evaluating a motion for continuance, including the following:

> "the length of the delay requested; whether other continuances have been requested and received; the inconvenience to litigants, witnesses, opposing counsel, and the court; whether the requested delay is for legitimate reasons or whether it is dilatory, purposeful, or contrived; whether the defendant contributed to the circumstance, which gives rise to the request for a continuance; and other relevant factors, depending on the unique facts of each case."

Id., quoting *id.* at 67-68. While courts are not required to give a particular weight to any one factor, courts in permanent-custody cases must be mindful of the children's best interests and their need for stability and permanency. *In re K.H.*, 2022-Ohio-2588, ¶ 69 (8th Dist.).

{¶ 32} Moreover, certain rules provide guidance regarding the consideration of continuances and timeframes for disposing of certain matters in juvenile court. For example, Juv.R. 23 provides that "[c]ontinuances shall be granted *only* when imperative to secure fair treatment for the parties." (Emphasis added.) Juv.Loc.R.35(C) establishes further parameters:

> No case will be continued on the day of trial or hearing except for good cause shown, which cause was not known to the party or counsel prior to the date of trial or hearing, and provided that the party and/or counsel have used diligence to be ready for trial and have notified or made diligent efforts to notify the opposing party or counsel as soon as

> he/she became aware of the necessity to request a postponement. This rule may not be waived by consent of counsel.

{¶ 33} Our review of the record reveals that Father requested a continuance in February 2026. Trial was rescheduled for April 2026. In the interim, Father did not notify the juvenile court of any scheduling conflicts or request a continuance. The record further reveals that Cousin, Sadler, GAL, Trial Counsel, and counsel for CCDCFS and Mother were present for the April 2026 trial. Trial Counsel orally moved for a continuance on the grounds that Father "had an engagement." Trial Counsel was informed of the conflict the day prior and was told that Father "was going to be here" later. The record does not indicate whether Father intended to testify. The juvenile court denied Father's motion and ensured that he could participate remotely if he became available. However, Father never appeared.

{¶ 34} Weighing the potential prejudice to Father against the juvenile court's right to control its docket, the public's interest in the prompt and efficient dispatch of justice, and Children's best interests and need for stability and permanency, we find that the juvenile court did not abuse its discretion in denying Father's motion for continuance. Father did not comply with Juv.Loc.R. 35(C) and did not show that a continuance was "imperative to secure fair treatment for the parties" as required under Juv.R. 23. On these facts, we cannot say that the juvenile court acted unreasonably, arbitrarily, or unconscionably in denying Father's motion.

{¶ 35} Accordingly, we conclude that the juvenile court did not abuse its discretion in denying Father's motion for continuance and overrule his second assignment of error.

C. Sufficiency and Manifest Weight of the Evidence

{¶ 36} In his third assignment of error, Father challenges the juvenile court's permanent-custody determinations, claiming they were made with insufficient evidence and against the manifest weight of the evidence.

{¶ 37} The Ohio Supreme Court clarified that sufficiency of the evidence and/or manifest weight of the evidence are the proper appellate standards of review to apply in cases involving a juvenile court's decision to award permanent custody of a child and terminate parental rights, depending on the nature of the arguments presented by the parties. *In re Z.C.*, 2023-Ohio-4703, ¶ 18 (holding remand was required where an appellate court applied the abuse-of-discretion standard). Sufficiency of the evidence and manifest weight of the evidence are two distinct and different concepts: "'sufficiency is a test of adequacy'" while manifest weight depends on the evidence's "'"effect in inducing belief."'" (Emphasis deleted.) *Id.* at ¶ 13, quoting *State v. Thompkins*, 78 Ohio St.3d 380, 386-387 (1997), quoting *Black's Law Dictionary* (6th Ed. 1990). The court explained:

> "Whether the evidence is legally sufficient to sustain a verdict is a question of law." [*Thompkins*] at 386. "When applying a sufficiency-of-the-evidence standard, a court of appeals should affirm a trial court when "'the evidence is legally sufficient to support the jury verdict as a matter of law.'"" *Bryan-Wollman v. Domonko*, [2007-Ohio-4918,] ¶ 3, quoting *Thompkins* at 386, quoting Black's at 1433.

> But "even if a trial court judgment is sustained by sufficient evidence, an appellate court may nevertheless conclude that the judgment is against the manifest weight of the evidence." *Eastley* [*v. Volkman*, 2012-Ohio-2179,] ¶ 12. When reviewing for manifest weight, the appellate court must weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether, in resolving conflicts in the evidence, the finder of fact clearly lost its way and created such a manifest miscarriage of justice that the judgment must be reversed and a new trial ordered. *Id.* at ¶ 20. "In weighing the evidence, the court of appeals must always be mindful of the presumption in favor of the finder of fact." *Id.* at ¶ 21. "The underlying rationale of giving deference to the findings of the trial court rests with the knowledge that the trial judge is best able to view the witnesses and observe their demeanor, gestures and voice inflections, and use these observations in weighing the credibility of the proffered testimony." *Seasons Coal Co., Inc. v. Cleveland*, 10 Ohio St.3d 77, 80, 10 Ohio B. 408, 461 N.E.2d 1273 (1984). "'If the evidence is susceptible of more than one construction, the reviewing court is bound to give it that interpretation which is consistent with the verdict and judgment, most favorable to sustaining the verdict and judgment.'" *Id.* at fn. 3, quoting 5 Ohio Jurisprudence 3d, Appellate Review, Section 603, at 191-192 (1978).

Id. at ¶ 13-14; *State v. Reillo*, 2026-Ohio-2701, ¶ 3 (reaffirming that "appellate courts reviewing a manifest-weight challenge must still give some deference to a fact-finder's credibility determinations"). Finally, we note that 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 M.T.*, 2024-Ohio-3111, ¶ 40 (8th Dist.).

{¶ 38} With these concepts in mind, we turn to the law governing permanent-custody determinations and Father's specific arguments.

1. Permanent-Custody Determinations

{¶ 39} Both the U.S. and Ohio Supreme Courts recognize that parents have a basic and fundamental interest in the care, custody, and management of their children. *Troxel v. Granville*, 530 U.S. 57, 65 (2000); *In re Murray*, 52 Ohio St.3d 155, 157 (1990); *In re C.F.,* 2007-Ohio-1104, ¶ 28. Parental rights, however, are not absolute, and a parent's natural rights are always subject to the child's ultimate welfare. *In re K.M.*, 2015-Ohio-4682, ¶ 15 (10th Dist.). Therefore, the "[t]ermination of parental rights is an alternative of last resort but is sanctioned when necessary for the welfare of a child." *In re M.S.*, 2015-Ohio-1028, ¶ 7 (8th Dist.). By terminating parental rights, the goal is to create a more stable life for dependent children and to facilitate adoption to foster permanency for children. *In re L.W.*, 2017-Ohio-657, ¶ 21 (8th Dist.), quoting *In re N.B.*, 2015-Ohio-314, ¶ 67 (8th Dist.).

{¶ 40} When a motion for permanent custody is filed, the termination of parental rights is governed by R.C. 2151.414 and determined by a two-prong test established therein. *In re J.C-A.*, 2020-Ohio-5336, ¶ 78 (8th Dist.). Before a court may terminate parental rights and award permanent custody of a child to the proper agency, it must determine by clear and convincing evidence that (1) one of the factors enumerated in R.C. 2151.414(B)(1)(a)-(e) applies, and (2) an award of permanent custody is in the child's best interest. R.C. 2151.414(B)(1). The Ohio Supreme Court explained:

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

In re Z.C., 2023-Ohio-4703, at ¶ 7, quoting *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus. In instances where clear and convincing proof is required, "'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.'" *Id.* at ¶ 8, quoting *State v. Schiebel*, 55 Ohio St.3d 71, 74 (1990).

{¶ 41} On appeal, Father argues that his parental rights should not have been terminated since "[t]he only concern was [his] health." Father asserts that he visited Children weekly without incident, the juvenile court should have granted an extension of time to allow him to obtain housing, and CCDCFS did not make reasonable efforts to find him housing. Father summarizes several cases but does not explain how their holdings bear on the specific facts of this case. Nor does Father analyze the statutory requirements of R.C. 2151.414, identify which of the juvenile court's findings were unsupported by the record, or explain how the evidence supported a different result. Despite Father's undeveloped arguments and failure to engage with the statutory framework, we address each prong of the R.C. 2151.414 analysis and consider whether the record supports the juvenile court's findings.

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

{¶ 42} Pursuant to R.C. 2151.414(B)(1):

> [T]he court may grant permanent custody of a child to a movant if the court determines at the hearing . . . by clear and convincing evidence, that it is in the best interest of the child to grant permanent custody of the child to the agency that filed the motion for permanent custody and that *any* of the following apply:
>
> (a) The child is not abandoned or orphaned [or] has not 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 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.
>
> (b) The child is abandoned.
>
> (c) The child is orphaned, and there are no relatives of the child who are able to take permanent custody.
>
> (d) The child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period . . . .
>
> (e) The child or another child in the custody of the parent or parents from whose custody the child has been removed has been adjudicated an abused, neglected, or dependent child on three separate occasions by any court in this state or another state.

"Only one of the factors must be present to satisfy the first prong of the two-part analysis for granting permanent custody to an agency." *In re D.H.*, 2021-Ohio-3821, ¶ 27 (8th Dist.).

{¶ 43} Here, the juvenile court found that Children could not or should not be placed with either parent under R.C. 2151.414(B)(1)(a). "When assessing whether a 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 under R.C. 2151.414(B)(1)(a), a juvenile court must consider the factors outlined in R.C. 2151.414(E)." *In re L.H.*,

2024-Ohio-2271, at ¶ 34 (8th Dist.). If the court finds, by clear and convincing evidence, that at least one of the enumerated factors exists as to each of the child's parents, the juvenile court must find that the child cannot be placed with either parent within a reasonable time or should not be placed with the child's parents. R.C. 2151.414(E).

{¶ 44} Turning to the juvenile court's R.C. 2151.414(E) findings, the court concluded that several factors existed as to Mother and R.C. 2151.414(E)(2) existed as to Father. The R.C. 2151.414(E)(2) factor contemplates a parent's physical disability "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 after the court holds the [R.C. 2151.414(A)] hearing. . . ." Related to this factor, the juvenile court found that Father resided in a nursing facility and would be unable to provide daily care and housing for Children.

{¶ 45} Clear and convincing evidence within the record supports the juvenile court's finding under R.C. 2151.414(B)(1)(a), based on R.C. 2151.414(E)(2). The record reveals that Father was paralyzed and resided in a nursing facility where he received daily care and services. The nursing facility did not permit children to reside at the facility. Sadler testified that Father's visits were supervised due to his physical limitations and she would "take over . . . primary responsibility" when physical care for Children was required. Sadler further testified that Father indicated he was looking for housing with the help of an acquaintance but was unsuccessful. Sadler opined that Father would not be able to independently manage

Children on his own and was not in a position to provide permanency. Nor did she believe Father would be able to provide permanency for Children in a reasonable amount of time. GAL also noted in her report and recommendation that Father was involved with Children "as his health allow[ed]" but was unable to be a caregiver due to his disability. During the trial, GAL opined that Father was unable to care for Children. Therefore, findings under R.C. 2151.414(B)(1)(a) and (E)(2) are supported by the record before us, and the first prong of the two-prong analysis is satisfied.

3. Second Prong: Children's Best-Interest Factors

{¶ 46} In determining the best interest of a child, the juvenile court must consider all relevant factors, 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 . . .
>
> (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.

R.C. 2151.414(D)(1).

{¶ 47} Although a trial court is required to consider each relevant factor under R.C. 2151.414(D)(1) in deciding to award permanent custody, "[t]here is not one element that is given greater weight than the others pursuant to the statute." *In re Schaefer*, 2006-Ohio-5513, ¶ 56. The Ohio Supreme Court has 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.

{¶ 48} Here, the juvenile court noted in its decisions that it considered each R.C. 2151.414(D)(1) factor and found that permanent custody was in Children's best interests. After weighing the evidence and all reasonable inferences and considering the credibility of the witnesses, we cannot say that the juvenile court clearly lost its way in its resolution of evidentiary conflicts and created a manifest miscarriage of justice in finding that permanent custody was in Children's best interests.

{¶ 49} With respect to R.C. 2151.414(D)(1)(a), the record reveals that Father's physical health was Sadler's only concern; Father visited Children weekly and "d[id] well with the parenting aspect emotionally." Sadler also testified that Children were "very attached" to Cousin, with whom they were placed at the time of trial. Children referred to Cousin as "Mommy" and asked for her while they were placed in a foster home. Cousin stated that she loved Children and maintained contact with them during that time. According to Sadler, Cousin was interested in adopting Children.

{¶ 50} While Children could not understand the implications of permanent custody to express their wishes under R.C. 2151.414(D)(1)(b), GAL emphasized that Children needed to be placed with a caregiver who could provide permanency. GAL recommended that permanent custody be granted to CCDCFS, believing it to be in Children's best interests.

{¶ 51} Relevant to R.C. 2151.414(D)(1)(c) — which contemplates the child's custodial history — the record reveals that Children were previously adjudicated neglected and dependent and placed with Cousin. Children's placement with Cousin was disrupted after four to six months due to a sibling's behavioral issues. Children were placed in a foster home but returned to Cousin's care about one month prior to trial. Children remained in CCDCFS's continuous and uninterrupted custody since January 2025.

{¶ 52} Evidence of Children's need for legally secure permanent placement under R.C. 2151.414(D)(1)(d) was also presented. Sadler testified that G.K. was autistic and nonverbal and both Children were young and needed permanency and stability. GAL also opined that Children needed to be placed with a caregiver who could provide permanency. Sadler was unaware of any other relatives or interested individuals who were willing and able to assume legal custody and did not have any reason to recommend Children's removal from their current placement. According to Sadler, CCDCFS's "concurrent plan" was to facilitate Cousin's adoption of Children.

{¶ 53} Finally, the record reveals that Mother was convicted of or pleaded guilty to a designated offense and Mother's parental rights were previously terminated with respect to at least one of Children's siblings, satisfying R.C. 2151.414(D)(1)(e) by way of R.C. 2151.414(E)(7)(c) and (11).

{¶ 54} Thus, there is clear and convincing evidence in the record to support a permanency finding based on the best-interest factors set forth in R.C. 2151.414(D)(1)(a)-(e). Accordingly, we hold that the juvenile court's award of permanent custody to CCDCFS is supported by sufficient evidence within the record and is not contrary to that evidence's manifest weight. Father's third assignment of error is overruled.

D. Ineffective Assistance of Counsel

{¶ 55} In his fourth assignment of error, Father argues that Trial Counsel was ineffective.

{¶ 56} It is well-settled that Ohio courts apply the same established test for ineffective-assistance-of-counsel claims in criminal cases to ineffective-assistance-of-counsel claims in permanent-custody proceedings. *In re Z.J.*, 2020-Ohio-383, ¶ 20 (8th Dist.); *In re B.S.*, 2025-Ohio-4318, ¶ 19 (3d Dist.); *In re Baby Girl O.*, 2023-Ohio-4323, ¶ 11 (5th Dist.). "'A reviewing court will strongly presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.'" *State v. Powell*, 2019-Ohio-4345, ¶ 69 (8th Dist.), quoting *State v. Pawlak*, 2014-Ohio-2175, ¶ 69 (8th Dist.). Because it is presumed that a licensed attorney is competent, the party asserting ineffective

assistance of counsel bears the burden of proof. *Ohio v. Redmond*, 2022-Ohio-3734, ¶ 41 (8th Dist.).

{¶ 57} To establish an ineffective-assistance-of-counsel claim, the appellant must demonstrate that (1) his or her "counsel's performance was deficient," and (2) "the deficient performance prejudiced the defense." *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Deficient performance, the first prong of the *Strickland* test, requires a showing "that counsel's representation fell below an objective standard of reasonableness." *Id.* at 688. Prejudice, the second prong of the *Strickland* test, requires "a reasonable probability that but for counsel's errors, the proceeding's result would have been different." *State v. Winters*, 2016-Ohio-928, ¶ 25 (8th Dist.), citing *Strickland* at 687-688. The failure to prove either prong of *Strickland*'s two-part test makes it unnecessary for a reviewing court to consider the other prong. *State v. Madrigal*, 87 Ohio St.3d 378, 389 (2000), citing *Strickland* at 697.

{¶ 58} On appeal, Father claims that Trial Counsel "was deficient by not filing a written motion for a continuance as required under [Juv.Loc.R. 35,]" which "forbids oral motions for a continuance." Father concludes that "[t]he violation caused prejudice because counsel's failure to make such a motion might have waived the issue," and "[t]he motion likely could have been granted but for waiver." Father does not provide any basis for those conclusions and cites one case, *In re Thompkins*, 2007-Ohio-5238, in support of his argument. However, *Thompkins* does not discuss motions for continuances or ineffective-assistance-of-counsel claims; rather, it contemplates service and personal-jurisdiction issues.

{¶ 59} Even if Trial Counsel's oral motion for continuance amounted to deficient performance, Father does not assert or establish that the trial's result would have been different. Nor does the record indicate that a written motion would have probably resulted in the granting of a continuance or that said continuance would have reasonably led to the denial of CCDCFS's motion for permanent custody. Therefore, we cannot say that Father was prejudiced by Trial Counsel's alleged failure to file a written motion for continuance. Since Father has not proven the second prong of *Strickland*'s two-part test, it is unnecessary to consider whether Trial Counsel's performance was deficient under the first prong. Accordingly, we decline to find that Trial Counsel was ineffective and overrule Father's fourth assignment of error.

{¶ 60} Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court, juvenile division, to carry this judgment into execution.

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

_____

EMANUELLA D. GROVES, PRESIDING JUDGE

DEENA R. CALABRESE, J., and
TIMOTHY W. CLARY, J., CONCUR