[Cite as *In re A.M.*, 2026-Ohio-4380.]

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

IN RE A.M., ET AL.	:	
		No. 116465
Minor Children	:	
[Appeal by S.M., Mother]	:	

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-25-900928, AD-25-900929, and AD-25-900930

Appearances:

Scott J. Friedman, *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-mother S.M. ("Mother") appeals from the juvenile court's judgment terminating her parental rights and granting permanent custody of her minor children A.M. (d.o.b. 11/30/2018), G.K. (d.o.b. 10/22/2021), and K.K. (d.o.b. 2/22/2023) (collectively, "the children") to appellee Cuyahoga County Division of Children and Family Services ("CCDCFS" or "the agency"). After careful review of the record and relevant case law, we affirm the juvenile court's judgment.

Factual and Procedural History

{¶ 2} On January 30, 2025, the agency filed a complaint for dependency and temporary custody of the children, alleging that Mother was currently incarcerated related to convictions for assault, robbery, and other charges, and had been recently sentenced to serve 9 to 13 years in prison.[1] The complaint also alleged that Mother had two other children, in addition to the three listed in the complaint and the subject of this appeal, who had previously been adjudicated dependent and committed to the temporary custody of the agency "due in part to Mother being overwhelmed with the care of the children." The complaint alleged that after being reunified with Mother, one of the children was subsequently adjudicated abused, due in part to Mother engaging in excessive physical discipline and Mother's anger-management issues; both of the other children were subsequently committed to the agency's custody.

{¶ 3} With respect to A.M., the complaint alleged that her father T.M. has failed to support, visit, or communicate with her since birth, and additionally, that T.M. was previously convicted of domestic violence and attempted trafficking offenses. With respect to G.K. and K.K., the complaint alleged that their father,

[1] The complaint also included a fourth child, but that child is not a subject of this appeal.

Gr.K., has health issues that prevent him from providing care for the children.[2] The agency also requested predispositional temporary custody.

{¶ 4} On February 5, 2025, the agency filed an amended complaint for neglect.

{¶ 5} Following an April 21, 2025 hearing, the court adjudged the children neglected and dependent. The court also placed the children in the temporary custody of the agency.

{¶ 6} On July 15, 2025, the agency filed a motion to modify temporary custody to permanent custody to CCDCFS.

{¶ 7} On January 29, 2026, Mother filed a motion with the court, notifying the court that she was no longer incarcerated and requesting in-person visitation with the children.

{¶ 8} A February 9, 2026 journal entry reflects that Mother's motion for in-person visitation was granted.

{¶ 9} On April 8, 2026, this matter proceeded to trial.

{¶ 10} Agency employee Elaina Sadler ("Sadler") testified that she was an extended services worker who was assigned to this case around April 2025. Sadler testified that the children had been in agency custody since January 2025, when the case was initiated upon Mother's arrest. Sadler testified that Mother was released

---

[2] The complaint referred to Gr.K. as the father of G.K. and alleged father of K.K. For simplicity, we refer to Gr.K. as father of both G.K. and K.K. A companion appeal to this case, *In re G.K.,* 8th Dist. Cuyahoga No. 116462, is Gr.K.'s appeal from the trial court's decision.

around January 2026; Sadler learned that Mother was released from a third party and was subsequently able to establish contact with Mother upon her release. According to Sadler, Mother was released while an appeal in her criminal case was pending. Sadler testified that she assessed Mother for case-plan-service needs after her release and determined that anger management and basic needs were two areas where Mother needed improvement. Sadler testified that Mother had intended to apply for Section 8 housing but she could not confirm whether Mother had applied, and at the time of trial, Mother did not have independent housing. She also testified that Mother was employed at McDonald's. Sadler testified that the agency made referrals to Mother for anger-management services, but Mother informed her that she was already engaging in services.

{¶ 11} Sadler testified that Mother had been engaged in supervised visitation with the children on a weekly basis since February 2026. Sadler testified that Mother's interactions with the children were appropriate but limited, and she testified that at the time of trial, she would not be comfortable moving to unsupervised visitation.

{¶ 12} Sadler testified that the children were placed with a relative of Gr.K. and had been in that placement for approximately one month. She further testified that she believed that permanent custody to the agency was in the best interest of the children. She testified that her opinion was based on the children's need for permanency and stability and not knowing what was going to happen with Mother's criminal case.

{¶ 13} The guardian ad litem ("GAL") testified as to her report and recommendation. The GAL testified that neither parent in the case was able to care for the children. With respect to Mother, the GAL testified that for the majority of the case, Mother was incarcerated, and although Mother had several months of visitation with the children, she had not made any additional progress on her case plan since her release from incarceration. Further, the GAL testified that she was concerned about Mother's pending criminal matters, stating that Mother was on house arrest at the time of trial, and due to her pending appeal, she could still be facing a long prison sentence in the future. According to the GAL, that level of uncertainty was a concern in light of the children's need for permanency. Ultimately, the GAL recommended permanent custody of the children be awarded to the agency.

{¶ 14} On April 20, 2026, the juvenile court granted the agency's motion to modify temporary custody to permanent custody. In its corresponding journal entry, the court stated, in relevant part:

> The Court finds by clear and convincing evidence that pursuant to O.R.C. 2151.414(B)(1):
>
> (a) The child is not abandoned or orphaned or has not been in the temporary custody of a public children services agency or private child placing agency under one or more separate orders of disposition for twelve or more months of consecutive twenty-two month period, if as described in division (D)(1) of section 2151.413 of the Ohio Revised Code, the child was previously in the Temporary Custody of an equivalent agency in another state, 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.

With respect to the best interest of the child, the Court has considered the following factors under O.R.C. 2151.414(D)(1):

(a) The interaction and interrelationship of the child with the child's parents, siblings, relatives, and 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. *The recommendation of the GAL is for permanent custody*.

(c) The custodial history of the child, including whether the child has been in temporary custody of a public children services agency or private child placing agency under one or more separate orders of disposition 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.

(e) Whether any factors in divisions (E)(7) to (11) of this section apply in relation to the parents and the child.

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

(7) The parent has been convicted of or pleaded guilty to one of the following:

(c) An offense under division (B)(2) of section 2919.22 of the Ohio Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to the offense described in that section and the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense is the victim of the offense; *Applies to Mother*.

. . .

(11) The parent has had parental rights involuntarily terminated with respect to a sibling of the child pursuant to this section or section 2151.353 or 2151.415 of the Ohio Revised Code, or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to those sections, and the parent has failed to provide clear and convincing evidence to prove that, notwithstanding the prior termination, the parent can provide a legally secure placement and adequate care for the health, welfare, and safety of the child. *See Exhibits 13-14*. [Applies to Mother.]

(16) Any other factor the Court finds relevant: Mother is out on bond for appeal with potential long term prison sentence if she is not successful on appeal. Mother does not have stable housing at this time.

The child's guardian ad litem recommended that the child be committed to the permanent custody of the Cuyahoga County Division of Children and Family Services.

The Court further finds that the child's continued residence in or return to the home of [T.M.] and [Mother] would be contrary to the child's best interest. The child cannot be placed with a relative because no relative is available, willing or suitable at this time.

The Court does find by clear and convincing evidence that it is in the best interest of the child to be placed in the Permanent Custody of CCDCFS.

The Motion to Modify Temporary Custody to Permanent Custody is hereby granted.

(Emphasis in original.)

{¶ 15} Mother appealed, raising one assignment of error for our review:

The juvenile court erred in terminating Mother's parental rights, in violation of her rights under the Fourteenth Amendment to the United States Constitution and Article I, Section 16 of the Ohio Constitution.

Law and Analysis

{¶ 16} Under R.C. 2151.414(B)(1), a juvenile court may grant a public children services agency's motion for permanent custody if it determines, by clear and convincing evidence, that permanent custody is in the best interest of the child and, as it applies to this case, "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." R.C. 2151.414(B)(1)(a).

{¶ 17} "'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.

{¶ 18} 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 L.W.*, 2026-Ohio-2415, ¶ 22 (8th Dist.), citing *In re Z.C.* at ¶ 11 and *In re T.W.*, 2026-Ohio-124, ¶ 44 (8th Dist.). Here, Mother contends that the trial court's decision was not supported by sufficient evidence and was against the manifest weight of the evidence.

{¶ 19} A sufficiency review involves a question of law, and in undertaking a sufficiency review, this court should affirm a trial court's judgment if the evidence is legally sufficient to support the factfinder's judgment as a matter of law. *In re Z.C.* at ¶ 13. For a review of manifest weight, however, this 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 factfinder clearly lost its way and created such a manifest miscarriage of justice that the judgment must be reversed and a new trial ordered. *In re Z.C.* at ¶ 14, citing *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 20. "Although sufficiency and manifest weight are distinct legal concepts, a finding that a judgment is supported by the manifest weight of the evidence necessarily includes a finding that sufficient evidence supports the judgment." *In re P.S.*, 2023-Ohio-144, ¶ 30 (8th Dist.), citing *In re C.N.*, 2015-Ohio-2546, ¶ 9 (10th Dist.), citing *State v. Howze*, 2013-Ohio-4800, ¶ 10 (10th Dist.).

{¶ 20} In her sole assignment of error, Mother argues that the trial court's judgment was not supported by sufficient evidence and was against the manifest weight of the evidence. In support of this argument, she asserts that the initial basis for the children's removal was Mother's incarceration, but by the time of trial, Mother had been released.

{¶ 21} R.C. 2151.414 sets forth a two-prong analysis to be applied by a juvenile court in adjudicating a motion for permanent custody. Under the statute, the juvenile court is authorized to grant permanent custody of a child to the agency if, after a hearing, the court determines, by clear and convincing evidence, that any of the five factors in R.C. 2151.414(B)(1)(a)-(e) exists and that permanent custody is in the best interest of the child under the factors enumerated in R.C. 2151.414(D)(1).

{¶ 22} Regarding the first factor, here, the juvenile court found by clear and convincing evidence that R.C. 2151.414(B)(1)(a) applied, which provides in relevant

part, that "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."

{¶ 23} 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 K.L.*, 2026-Ohio-266, ¶ 26 (8th Dist.), citing *In re K.G.*, 2026-Ohio-127, ¶ 14 (8th Dist.). If any one or more of the R.C. 2151.414(E) factors are found by clear and convincing evidence, the court "'*shall* enter a finding that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent.'" (Emphasis added.) *Id.*, quoting R.C. 2151.414(E) and *In re J.S.*, 2022-Ohio-4517 (8th Dist.).

{¶ 24} Here, the juvenile court found by clear and convincing evidence that the children could not be placed with Mother within a reasonable time or should not be placed with Mother, based on findings pursuant to R.C. 2151.414(E)(1), (7), and (16), which provide:

> (1) Following the placement of the child outside the child's home and notwithstanding reasonable case planning and diligent efforts by the agency to assist the parents to remedy the problems that initially caused the child to be placed outside the home, the parent has failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home. *Applies to Mother*.
>
> (7) The parent has been convicted of or pleaded guilty to one of the following:
>
> (c) An offense under division (B)(2) of section 2919.22 of the Ohio Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to the

> offense described in that section and the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense is a victim of the offense; *Applies to Mother*.
>
> . . .
>
> (16) Any other factor the Court finds relevant: Mother is out on bond for appeal with potential long term prison sentence if she is not successful on appeal. Mother does not have stable housing at this time.[3]

(Emphasis in original.)

{¶ 25} Our review of the record reflects that the juvenile court's findings are supported by clear and convincing evidence and thus are supported by the weight of the evidence.

{¶ 26} With respect to the court's (E)(1) finding that Mother has failed to substantially remedy the conditions causing the children to be placed outside the children's home and the (E)(16) finding related to Mother's potential future incarceration, Mother asserts that because she was released from incarceration at the time, the conditions causing the children's removal had been remedied. This is a mischaracterization of Mother's status at the time of trial. The record reflects that Mother was released from incarceration following a successful criminal appeal to this court, and at the time of trial in the underlying case, a subsequent appeal to the Ohio Supreme Court was pending. Based on that pending appeal, the status of

---

[3] The juvenile court issued separate journal entries for each child that are the subject of this appeal; the findings relevant to Mother's appeal were the same for all three children, but for ease of discussion we are including excerpts from a single journal entry.

Mother's criminal conviction was uncertain.[4] The GAL testified that this uncertainty significantly underscored the children's need for permanency.

{¶ 27} Further, the court found, pursuant to (E)(7)(c), that Mother had a prior conviction of child endangering of a sibling of the children at issue in this case.[5] The record reflects that Mother has previous convictions for child endangering; Mother does not dispute this. If the juvenile court determines that one or more of the R.C. 2151.414(E) factors apply, it is statutorily obligated to find that the children cannot be placed with either parent within a reasonable time or should not be placed with either parent. *In re J.S.*, 2022-Ohio-4517, ¶ 38 (8th Dist.). Therefore, the court correctly determined, in accordance with its statutory obligation, that the children could not be placed with either parent within a reasonable time or should not be placed with either parent.

{¶ 28} Mother has not raised a separate argument on appeal specifically challenging the juvenile court's best-interest determination under R.C. 2151.414(D)(1). Accordingly, that finding will not be addressed.

---

[4] While it is outside of the record in the instant appeal, and not critical to our analysis, we are compelled to take judicial notice of our own docket in mother's criminal case, *State v. M.* (redacted to maintain the children's confidentiality.) In that case, this court, under the direction of the Ohio Supreme Court to reconsider our prior decision resulting in Mother's release from prison, affirmed Mother's criminal conviction and remanded the case to the trial court for the execution of her nine- to 13-year prison sentence. Therefore, the uncertainty surrounding the status of Mother's pending appeal has been resolved.

[5] The agency notes in its appellate brief that the trial court's journal entry erroneously cited R.C. 2151.414(E)(7)(c) rather than R.C. 2151.414(E)(6). Regardless, the record supports the trial court's finding that Mother has previous criminal convictions for assault and child endangering related to other children.

{¶ 29} For these reasons, the juvenile court's judgment was supported by sufficient evidence and was not against the manifest weight of the evidence. Mother's sole assignment of error is overruled.

{¶ 30} Judgment affirmed.

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

The court finds there were reasonable grounds for this appeal.

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

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

_____
TIMOTHY W. CLARY, JUDGE

EMANUELLA D. GROVES, P.J., and
DEENA R. CALABRESE, J., CONCUR