

STATE OF OHIO)
)ss:
COUNTY OF WAYNE)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

IN RE: Av. S.
 Zac. S.
 Zak. S.
 Zai. S.
 Zae. S.
 C. S.
 Ar. S.

C.A. Nos. 22AP0036
 22AP0037
 22AP0038
 22AP0039
 22AP0040
 22AP0041
 22AP0042

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF WAYNE, OHIO
CASE Nos. 2020 JUV-C 000176
 2020 JUV-C 000177
 2020 JUV-C 000178
 2020 JUV-C 000179
 2020 JUV-C 000181
 2020 JUV-C 000182
 2020 JUV-C 000183

DECISION AND JOURNAL ENTRY

Dated: June 30, 2023

HENSAL, Presiding Judge.

{¶1} Appellant Mother appeals the judgment of the Wayne County Court of Common Pleas, Juvenile Division, that terminated her parental rights and placed seven of her children in the permanent custody of Wayne County Children Services Board (“CSB” or “the agency”).

I.

{¶2} Mother is the biological mother of the seven children at issue in this case. They include Ar.S. (“Ar”), born September 2, 2007; Av.S. (“Av”), born June 1, 2010; Zac.S. (“Zac”),

born July 4, 2012; Zak.S. (“Zak”), born May 29, 2013; Zai.S. (“Zai”), born June 18, 2016; Zae.S. (“Zae”), born November 24, 2017; and C.S., born November 6, 2019. Mother also has another child, A.J., born October 1, 2005, who was initially involved in the cases below until he was placed in the legal custody of a third party.

{¶3} Paternity has been established for each of the children. Father B. is the biological father of Ar and Zae. Father R. is the biological father of Av, Zac, and Zak. Father W. is the biological father of Zai. Father F., with whom Mother currently resides, is the biological father of C.S. None of the fathers have appealed the juvenile court’s judgment.

{¶4} Mother and Father F. lived together with the seven oldest children before C.S. was born. After Mother and Father F. broke up and he left the home, Mother could not afford to pay the rent to stay in the home. In June 2019, she moved with the children into the home of C.F. and N.F., Mother’s cousin and the cousin’s husband. Five months later, Ar attempted suicide and was placed in residential treatment at The Village Network, where she disclosed that Mother frequently hit the children, the home was infested with bed bugs, and the children were only given one meal each day. Two days later, Mother unexpectedly gave birth to C.S., as she had been unaware she was pregnant. Two days after that, CSB investigated a referral regarding the conditions in the home. Mother agreed to work with the agency on a voluntary basis at that time to address the concerns.

{¶5} In February 2020, Ar reported ongoing instances of harsh discipline in the home. Based on further investigation, the agency discovered that there were approximately 20 people living in the four-bedroom home and that only N.F. was employed. Mother shared one bedroom with seven of her eight children and allowed then-12-year-old Ar to share a room with C.F.’s teenage son. In addition, the children were being subjected to extreme disciplinary measures,

including inappropriate corporal punishment and being terrorized by people in clown masks who chased the children with knives and axes and dragged them to the basement when they misbehaved. Given these concerns, coupled with Mother's extensive history with child welfare agencies in Trumbull and Portage Counties, CSB removed Mother's eight children and two of C.F.'s minor children¹ from the home and filed complaints alleging that all the children were abused, neglected, and dependent.

{¶6} Mother waived her right to an adjudicatory hearing and stipulated that the children were dependent. The agency dismissed its allegations of abuse and neglect and presented evidence of the children's dependency in the absence of any stipulations by the fathers.² After a dispositional hearing, the juvenile court placed the children in the temporary custody of CSB, granted Mother supervised visitation, and adopted the agency's case plan as an order. Mother's case plan objectives included engaging in case management services, obtaining and maintaining appropriate housing and income to meet the children's basic needs, submitting to a psychological assessment and following all recommendations, and successfully completing parenting education.

{¶7} During the first 20 months of the cases, most of the children disrupted from their various placements due to behavioral issues. Two of the children spent time in multiple residential treatment facilities. Some children were at times in foster homes together. A.J. was placed in the legal custody of a third party. Mother began to work on some case plan objectives. The juvenile court granted a first six-month extension of temporary custody. Mother and Father F. re-established their relationship. Father F. and Father B. indicated the desire to engage in

¹ For reasons not explained in the record, CSB did not remove C.F.'s minor teenage son, who joined N.F. in wearing clown masks and terrorizing the other children in home.

² Although properly served, none of the fathers appeared for the adjudicatory hearing.

reunification services. The juvenile court granted a second six-month extension of temporary custody.

{¶8} Two months before the two-year sunset date of the cases, CSB filed a motion for permanent custody of Mother’s remaining seven children. The agency alleged that the children had been in its temporary custody for more than twelve months of the prior consecutive 22 months and that permanent custody was in their best interest.

{¶9} The juvenile court held a two-day hearing on the agency’s motion. The guardian ad litem for Ar and the guardian ad litem for the remaining six children each filed reports in which they opined that an award of permanent custody was in the children’s best interest. Upon due consideration of the evidence, the juvenile court issued a judgment terminating the parental rights of Mother and all four fathers and placing the seven children in the permanent custody of CSB. Mother timely appealed, raising one assignment of error for review.

II.

ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED AND ABUSED ITS DISCRETION BY TERMINATING MOTHER’S PARENTAL RIGHTS AND GRANTING PERMANENT CUSTODY OF THE CHILDREN TO [CSB].

{¶10} Mother argues that the juvenile court’s award of permanent custody of the seven children to CSB is against the manifest weight of the evidence. This Court disagrees.

{¶11} In considering whether the juvenile court’s judgment is against the manifest weight of the evidence, this Court “weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the [finder of fact] clearly lost its way and created such a manifest miscarriage of justice that the [judgment] must be reversed and a new [hearing] ordered.” (Internal quotations and citations omitted.)

Eastley v. Volkman, 132 Ohio St.3d 328, 2012-Ohio-2179, ¶ 20. When weighing the evidence, this Court “must always be mindful of the presumption in favor of the finder of fact.” *Id.* at ¶ 21.

{¶12} Before a juvenile court may terminate parental rights and award permanent custody of a child to a proper moving agency, it must find clear and convincing evidence of both prongs of the permanent custody test: (1) that the child is abandoned; orphaned; has been in the temporary custody of the agency for at least 12 months of a consecutive 22-month period; the child or another child of the same parent has been adjudicated abused, neglected, or dependent three times; or that the child cannot be placed with either parent, based on an analysis under Revised Code Section 2151.414(E); and (2) that the grant of permanent custody to the agency is in the best interest of the child, based on an analysis under Section 2151.414(D)(1). R.C. 2151.414(B)(1) and 2151.414(B)(2); *see also In re William S.*, 75 Ohio St.3d 95, 98-99 (1996).

{¶13} The juvenile court found that CSB proved the first prong of the permanent custody test by demonstrating that the children had been in the temporary custody of the agency for at least 12 of the prior 22 consecutive months. Mother does not challenge that finding which is supported by the record. She solely challenges the trial court’s finding that permanent custody is in the best interest of the children.

{¶14} When determining by clear and convincing evidence whether permanent custody is in the children’s best interest, the juvenile court must consider the interaction and interrelationships of the children, their wishes and custodial history, the children’s need for permanence and whether that can be achieved without a grant of permanent custody, and whether any of the factors outlined in Section 2151.414(E)(7)-(11) apply. R.C. 2151.414(D)(1)(a)-(e); *see In re R.G.*, 9th Dist. Summit Nos. 24834, 24850, 2009-Ohio-6284, ¶ 11. Clear and convincing evidence is that which will “produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to

be established.” (Internal quotations omitted.) *In re Adoption of Holcomb*, 18 Ohio St.3d 361, 368 (1985), quoting *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus.

{¶15} As an initial matter, the evidence demonstrates that none of the four fathers had any interaction with their children for the duration of the case. Fathers R. and W. never responded to the agency’s attempts to contact them. Father B. expressed an interest in reunification but failed to engage in any services or maintain contact with the caseworker. Father F. participated in parenting education but never requested visitation with C.S. In fact, because Mother gave birth to C.S. while she and Father F. were not involved, Father F. has never met his son. All four fathers abandoned their children by failing to have any contact with them for over two years.

{¶16} It appears that Mother was the sole legal custodian of all the children. However, Trumbull, Portage, and Wayne County child welfare agencies each removed the children from Mother’s care at various times. Even when the children were in Mother’s care, she typically relied on others to discipline them.

{¶17} Mother has visited consistently with the six youngest children throughout the cases. The caseworker, a visitation specialist, and guardian ad litem for the six all described Mother’s visits as “chaotic.” Mother struggled to maintain the children’s attention and manage their behaviors. Random children would run off while she was dealing with others, leaving the two visitation specialists to return those children to the visitation room. A visitation specialist testified that she uses a technique during sibling visits which focuses the children and keeps them calmer and responsive to positive interactions. Although she explained the technique to Mother, Mother declined to try to use it.

{¶18} Mother visited in person with Ar only twice shortly before the hearing because Ar’s therapist had recommended against in-person visits based on the long-term trauma that child

experienced under Mother's care. Before in-person visits began, Mother and Ar had contact by phone. Some visits went well; others were so triggering for the child that her therapist considered discontinuing them.

{¶19} With the exception of C.S., who is a typical two-year-old, the six oldest children all have behavioral issues. After psychological assessments, Ar, Av, Zac, and Zak were diagnosed with post-traumatic stress disorder. The trauma the children experienced after being subjected to harsh and scary punishments manifested in outbursts and aggression towards others. Ar, Av, Zac, and Zak were moved to various placements because they struggled to interact appropriately with others. Even six-year-old Zai and four-year-old Zae had difficulties behaving in preschool and school settings, resulting in their removals from some educational facilities and school transportation.

{¶20} The children are bonded with one another and everyone agrees that maintaining those sibling bonds is important. Ar's guardian ad litem described her as "parentified" as she tends to try to assume a parental role with the younger children, given the responsibility imposed on her while in Mother's care. Ar was originally placed in a foster home with C.S. and Zae, but her criticism of and false accusations against the foster mother necessitated an alternative placement for Ar.

{¶21} The agency and foster parents have coordinated sibling visitation. The two foster mothers who testified asserted that they have developed good relationships with the children in other placements and are willing to continue to facilitate the children's visits with one another. Although many of the children were resistant to taking direction from their foster parents, the foster families have been proactive in seeking therapeutic interventions like counseling and medication

management. The foster mothers and guardians ad litem reported gradual improvements in the children's behaviors and interactions with others as a result.

{¶22} The guardians ad litem for the children both opined that permanent custody would be in the best interest of all the children. Zai, Zae, and C.S. were too young and immature to express their wishes, so their guardian ad litem made a recommendation on their behalf. Eight-year-old Zak is closely bonded with her foster mother, although she exhibits a strong loyalty to Mother. Zak, however, consistently avoided the guardian's questions regarding Mother and whether she would want to return to her care. Ten-year-old Zac reported to his guardian ad litem that he thought he could return to Mother because Mother no longer yelled at visits. Eleven-year-old Av told her guardian ad litem that she wanted to live with Mother. While the caseworker testified that Ar stated on many occasions that she did not want to go home to Mother, Ar's guardian ad litem reported that the child wants to live with Mother but was adamant that she did not want to live with Father F. Mother was clear to the guardians ad litem, the caseworker, and Ar that she intended to remain with Father F.

{¶23} The seven children have been involved with child welfare agencies throughout their entire lives. The oldest children have been removed from home as many as three times. C.S. spent nearly his entire life in foster care. These cases have pended for more than two years and the children deserve permanency.

{¶24} The evidence demonstrates that Mother is not able to provide a safe and stable home environment for any of the children. She has been consistently unemployed and reliant on others for support. She remained in her cousin's home for nine months after the children's removal instead of seeking alternative and appropriate housing. Mother then moved in with her sister in Columbiana County, although she admitted that there was insufficient room in that home for the

children. That out of county move also significantly impacted Mother's ability to continue with certain services provided by CSB to facilitate reunification. About four months before the hearing, Mother informed the caseworker that she and Father F. had moved in together into a home in Columbiana County. The caseworker could not verify the stability of that housing because Mother provided a purported lease agreement that did not contain her or Father F.'s names or signatures. While there was an illegible signature on the line for the landlord, the landlord's name was not printed and Mother refused to disclose his identity to the caseworker. In addition, the lease agreement contained typographical errors, causing the caseworker to view it as suspect. The caseworker testified that, under the circumstances, Mother had not complied with her basic needs case plan objective.

{¶25} Mother struggles with mental health issues. She submitted to an initial psychological assessment at Anazao Community Partners early in the case. That therapist diagnosed Mother with adjustment disorder which she described as a preliminary diagnosis which she hoped to clarify during counseling. Mother attended 17 counseling sessions with the Anazao therapist who testified that they did not make much progress. Mother consistently expressed a lack of understanding for why CSB had removed the children. She denied the occurrence of any incidents involving clowns despite the consistent reports of all the children who could communicate. Mother took no responsibility for her role in traumatizing the children and asserted that CSB had "railroaded" her. The Anazao therapist reported that Mother lacked insight regarding the agency's need for involvement and that until Mother could recognize her role in traumatizing the children, she could not begin to work on addressing the problems.

{¶26} Mother obtained a second psychological assessment from Lighthouse Family Center by Dr. Amy Thomas who had earlier assessed Mother in 2014 during the family's

involvement with another child welfare agency. Dr. Thomas diagnosed Mother with other specified personality disorder, adjustment disorder, and below average intellectual functioning. There were additional concerns regarding Mother's mood swings and low threshold for frustration.

{¶27} Dr. Thomas testified that there were many discrepancies between what Mother reported to her in 2014 and 2020, which raised issues regarding Mother's credibility. Dr. Thomas opined that Mother's cognitive deficiencies do not prevent her from parenting. Instead, Mother's issue is her lack of "empathetic understanding and acknowledgement that something harmful happened to her children." Dr. Thomas testified that until Mother can admit that she engaged in inappropriate parenting and discipline, she will be unable to make the necessary changes to allow her to provide an appropriate home environment for the children. Both the Anazao therapist and Dr. Thomas recommended intensive parenting services where a parenting evaluator would observe, critique, and guide Mother's parenting, allowing Mother to practice techniques and demonstrate the ability to consistently apply them. Based on Mother's extensive history with child welfare agencies and participation in numerous services, Dr. Thomas testified that Mother's prognosis is "poor" due to her lack of empathy to the children's emotional reactions and Mother's consistently unstable lifestyle choices.

{¶28} The caseworker testified that she referred Mother for parenting education and services with an agency homemaker. Mother completed four out of five lessons in the Triple P parenting program and began one on one in-home sessions with the homemaker until Mother moved out of Wayne County 15 months into the cases. The homemaker testified that Mother never mastered the material from the parenting classes because she could not demonstrate the skills discussed. The homemaker noticed that Mother struggled during visits with time management, praising the children, and leading the children rather than merely commanding them not to do

certain things. Mother became flustered by the children's behaviors and threatened corporal punishment, telling one child that if he continued to misbehave, "he would be picking his teeth up off the floor." The caseworker testified that Mother's failure to assimilate and apply the information presented during parenting education resulted in her unsuccessful completion of that case plan objective.

{¶29} This Court has already noted the children's behavioral issues and need for ongoing mental health interventions to address their emotional needs. The four oldest children are engaged in trauma-focused therapy. Their need for ongoing services will continue long term. Even the younger Zai and Zae continue to require intervention services to address their emotional needs. Only C.S. was spared the trauma based on exposure to Mother's poor parenting choices because of his removal at three months old, although Ar reported that C.S. too was subjected to corporal punishment as an infant. The evidence indicates that Mother would not maintain the children in necessary mental health services or modify her approach to parenting because she has consistently denied that her home environment was detrimental to the children's well-being.

{¶30} Based on a thorough review of the record, this is not the exceptional case in which the trier of fact clearly lost its way and created a manifest miscarriage of justice by finding that permanent custody was in the best interest of the children. No father expressed any interest in visiting or establishing a relationship with his child(ren). The children were removed from an environment of extreme overcrowding and where they were subjected to harsh and traumatic disciplinary measures. Those included Mother's acquiescence in allowing clowns to terrify the children by threatening them with weapons and dragging them into the basement. The children will require long-term mental health interventions to address the effects of the trauma they suffered. Mother adamantly denied that the children suffered any harmful effects from living in

the home environment Mother provided. The professionals who assessed Mother and provided counseling services to her testified that Mother continues to take no responsibility for the circumstances that required CSB's involvement and removal of the children. Until Mother can admit that there were problems in her home environment and her role in creating them, the consensus of the service providers was that Mother will be unable to make the necessary changes to provide a safe and appropriate home for the children.

{¶31} Mother has also not demonstrated the ability to meet the basic needs of the children. She is not employed and has no source of income. She relies on Father F. to pay expenses. Father F. abandoned her and the children once before in 2019, leaving Mother with no financial support and requiring her to seek shelter with her cousin in an environment which necessitated the children's removal. The purported lease agreement Mother and Father F. gave the caseworker does not include the parents' names or indicate the length of time the lessee may occupy the premises.

{¶32} The children continue to struggle with emotional issues but all have seen some level of improvement after consistent involvement in services. Ar is beginning independent living services as she approaches the age of 15. The remaining children are in foster homes, some of those being therapeutic. The foster mothers for Zak, Zai, Zae, and C.S. expressed the willingness to provide care for those children for as long as necessary. They are open to the idea of adoption. Av is also in a secure foster home. Ar and Zac have disrupted from multiple therapeutic foster homes and residential treatment centers and require stability that Mother cannot provide.

{¶33} Given all fathers' abandonment of their children and Mother's extensive history with child welfare agencies, lack of success in developing insight and appropriate parenting skills despite her participation in various services designed to facilitate reunification, and continued

instability relating to housing and economic resources, this Court concludes that the juvenile court's judgment terminating the parents' parental rights and placing the seven children in the permanent custody of CSB is not against the manifest weight of the evidence. Mother's assignment of error is overruled.

III.

{¶34} Mother's sole assignment of error is overruled. The judgment of the Wayne County Court of Common Pleas, Juvenile Division, is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Wayne, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

JENNIFER HENSAL
FOR THE COURT

CARR, J.
FLAGG LANZINGER, J.
CONCUR.

APPEARANCES:

ERIC D. HALL, Attorney at Law, for Appellant.

ANGELA WYPASEK, Prosecuting Attorney, and TIMOTHY BOGNER, Assistant Prosecuting Attorney, for Appellee.