[Cite as *In re T.G.*, 2026-Ohio-4472.]

STATE OF OHIO	)	IN THE COURT OF APPEALS
	)ss:	NINTH JUDICIAL DISTRICT
COUNTY OF SUMMIT	)	

IN RE: T.G.	C.A. No. 31777
	APPEAL FROM JUDGMENT ENTERED IN THE COURT OF COMMON PLEAS COUNTY OF SUMMIT, OHIO CASE No. DN 23 02 0957

DECISION AND JOURNAL ENTRY

Dated: November 12, 2026

SUTTON, Presiding Judge.

{¶1} Appellant, A.G. ("Mother"), appeals from a judgment of the Summit County Court of Common Pleas, Juvenile Division, that placed her minor child in the legal custody of the child's paternal grandmother ("Grandmother"). This Court affirms.

I.

{¶2} Mother is the biological mother of T.G., born January 10, 2018. The child's father is deceased. Mother has three other children who were parties to the trial court proceedings but are not parties to this appeal. Two of her children were placed in the legal custody of their respective fathers, and the oldest child has since reached the age of majority and is no longer subject to the jurisdiction of the juvenile court. This Court will focus on the facts pertaining to T.G.

{¶3} During February 2023, CSB filed a complaint to allege that T.G. was a dependent and neglected child because Mother had beaten the oldest child, had not enrolled the school-aged

children in school, and was not meeting the children's basic needs. Mother also was frequently combative with CSB personnel and sometimes exhibited erratic behavior, which raised additional concerns that she was suffering from untreated mental illness.

{¶4} The same day, the trial court removed T.G. from Mother's custody and placed her in the emergency temporary custody of CSB. CSB found a relative caregiver, Grandmother, to care for the child. Although T.G. was briefly removed from Grandmother's home to begin therapy to address some behavioral concerns, she resided in Grandmother's home and continued to engage in regular counseling throughout this case.

{¶5} The juvenile court later adjudicated T.G. as a neglected and dependent child, placed her in the temporary custody of CSB, and adopted the case plan as an order of the court. The original and amended case plans required Mother to obtain mental health, parenting, and psychiatric assessments and follow all treatment recommendations; obtain stable housing and employment; and demonstrate that she could provide for the child's basic needs in a safe and secure environment.

{¶6} Three months later, Mother moved the trial court to return T.G. to her legal custody. After a hearing before a magistrate, the magistrate denied Mother's motion. Mother filed timely objections to the magistrate's decision. During October 2023, before the trial court had ruled on Mother's objections, CSB moved for T.G. to be placed in the legal custody of Grandmother.

{¶7} On November 29, 2023, the trial court overruled Mother's objections to the magistrate's decision that denied her motion for legal custody of T.G. Mother timely appealed from that order. Because the November order pertaining to T.G. was not final and appealable, however, this Court dismissed the first appeal in T.G.'s case for lack of jurisdiction on February 8, 2024. *In re T.G.*, C.A. No. 30966 (9th Dist.).

{¶8} While Mother's appeal C.A. No. 30966 was still pending, however, a hearing commenced before a magistrate on CSB's October 2023 motion for legal custody to Grandmother. After the full hearing, the magistrate granted CSB's motion and placed T.G. in the legal custody of Grandmother. Mother filed objections to the magistrate's decision, which the trial court overruled on April 12, 2024.

{¶9} Mother filed a timely appeal from the April 2024 judgment that overruled her objections and placed T.G. in the legal custody of Grandmother. Although Mother challenged the evidentiary merits of the legal custody decision, this Court explained that it was "compelled to vacate the trial court's judgment" granting legal custody of T.G. because the trial court had acted without jurisdiction by commencing the legal custody hearing while Mother's first appeal in T.G.'s case was still pending. *In re T.G.*, 2024-Ohio-6011, ¶ 11 (9th Dist.). Consequently, this Court vacated the April 2024 judgment granting legal custody of T.G. to Grandmother. *Id*. at ¶ 1, 13.

{¶10} On remand to the trial court, CSB again moved for legal custody to Grandmother and Mother alternatively sought legal custody of the child. Several weeks before the final dispositional hearing, the guardian ad litem notified the trial court of a conflict between her recommendation and the wishes of the child and requested that the trial court appoint separate counsel to represent T.G. at the final hearing. Shortly afterward, the trial court appointed counsel to represent T.G. T.G.'s counsel appeared at the final hearing and advocated on behalf of the child's expressed wishes.

{¶11} After the final hearing, the magistrate decided that T.G. should be placed in the legal custody of Grandmother, as that disposition was in the child's best interest. Mother filed objections to the magistrate's decision, which the trial court overruled. The trial court placed T.G.

in the legal custody of Grandmother and closed the case. Mother appeals and raises two assignments of error.

II.

ASSIGNMENT OF ERROR I

> [THE] TRIAL COURT ERRED IN AWARDING LEGAL CUSTODY OF T.G. TO [GRANDMOTHER] AS BEING AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE AND NOT IN THE BEST INTERESTS OF T.G.

{¶12} Mother's first assignment of error is that the trial court's legal custody judgment was against the manifest weight of the evidence. To determine whether legal custody is in the best interest of a child, the juvenile court is guided by the best interest factors enumerated in R.C. 2151.414(D) relating to permanent custody. *In re B.G.*, 2008-Ohio-5003, ¶ 9 (9th Dist.), citing *In re T.A.*, 2006-Ohio-4468, ¶ 17 (9th Dist.). Those factors include: the interaction and interrelationships of the child, the child's wishes and custodial history, the child's need for permanence and whether that can be achieved without a grant of permanent custody, and whether any of the factors outlined in R.C. 2151.414(E)(7)-(11) apply. R.C. 2151.414(D)(1)(a)-(e); *see also In re R.G.*, 2009-Ohio-6284, ¶ 11 (9th Dist.). None of those R.C. 2151.414(E) factors applied in this case.

{¶13} The juvenile court may also consider the best interest factors in R.C. 3109.04(F)(1). *In re K.A.*, 2017-Ohio-1, ¶ 17 (9th Dist.). While many factors overlap with those set forth in R.C. 2151.414(D)(1), additional factors that are relevant in this case are the child's adjustment to home, school, and community; and the mental and physical health of all parties involved. R.C. 3109.04(F)(1)(d),(e).

{¶14} An award of legal custody will not be reversed if the judgment is supported by a preponderance of the evidence. *In re M.F.*, 2016-Ohio-2685, ¶ 7 (9th Dist.).

> Preponderance of the evidence entails the greater weight of the evidence, evidence that is more probable, persuasive, and possesses greater probative value. In other words, when the best interest of a child is established by the greater weight of the evidence, the trial court does not have discretion to enter a judgment that is adverse to that interest. Thus, our standard of review is whether a legal custody decision is against the manifest weight of the evidence.

(Internal citations and quotations omitted.) *Id.*

{¶15} 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 citations and quotations omitted.) *Eastley v. Volkman*, 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.

{¶16} Mother does not explain why legal custody Grandmother was *not* in the child's best interest. Instead, her argument is that it was in the best interest of T.G. to be returned to her legal custody because she had made "substantial progress" on the reunification requirements of the case plan. This Court has repeatedly emphasized that, while relevant, case plan progress is not dispositive of the child's best interest. *See*, *e.g.*, *In re A.M.*, 2025-Ohio-5029, ¶ 22 (9th Dist.); *In re T.R.*, 2024-Ohio-3092, ¶ 24 (9th Dist.); *In re J.W.*, 2019-Ohio-210, ¶ 15 (9th Dist.). Moreover, although Mother had obtained stable income and housing, she had failed to make progress on the mental health or parenting components of the case plan. Mother completed two separate psychological assessments but did not obtain a psychiatric assessment to determine whether medication was warranted and did not follow through with ongoing counseling. Numerous witnesses testified that Mother's behavior continued to be erratic and combative.

{¶17} A review of evidence pertaining to the statutory best interest factors demonstrates that legal custody to Grandmother, rather than Mother, was in the child's best interest. Beginning with the first factor, the interaction and interrelationship of the child with the two proposed custodians, the evidence was clear that T.G. had a more positive and stable relationship with Grandmother. Both the current caseworker and the guardian ad litem testified that Grandmother and T.G. were closely bonded and that Grandmother was meeting all the child's daily needs. Grandmother ensured that T.G. was regularly attending school and counseling and had taken her on vacation and enrolled her in extracurricular activities. Both witnesses believed that T.G. had adjusted well to Grandmother's home, where she had lived for more than two years, and was thriving there.

{¶18} On the other hand, Mother did not consistently visit T.G. when she had the opportunity. During the first year of this case, Mother attended most of the scheduled weekly visits at the visitation center. Mother did not get along with CSB personnel, however, and did not want to continue to have supervised visits at the visitation center. Consequently, Mother stopped coming to visits and had not visited T.G. in more than one year.

{¶19} Although Mother suggests that CSB created obstacles to her visitation, there is no evidence in the record to support that argument. The evidence was not disputed that Mother had not complied with the mental health component of the case plan, and that she continued to be combative with CSB staff, Grandmother, and her oldest child. CSB and the guardian ad litem insisted that Mother's visits continue to be supervised, and they were unable to find anyone who could provide sufficient supervision outside of the visitation center.

{¶20} The wishes of then seven-year-old T.G. were that she be returned to Mother's custody. The guardian ad litem believed that legal custody to Grandmother was in the child's best

interest. She expressed serious concern that Mother had chosen not to attend any visits with the child for more than one year merely because she did not like the environment at the visitation center. She opined that a devoted parent would visit her child if able, regardless of where the visits were located. The guardian ad litem also believed that Mother still needed treatment to address her mental health and anger issues, yet she had failed to engage in those case plan services.

{¶21} T.G. had been living in custodial limbo for over two years and needed a legally secure permanent placement. Mother was not prepared to provide a permanent home for T.G., as she had not resolved her parenting problems or maintained a relationship with T.G. Grandmother had demonstrated for over two years that she could provide the child with a safe and stable home and was prepared to continue doing so until the child reached the age of majority. The trial court reasonably concluded that legal custody to Grandmother would provide T.G. with a legally secure permanent placement.

{¶22} Therefore, the trial court did not lose its way in concluding that legal custody to Grandmother was in T.G.'s best interest. Mother's first assignment of error is overruled.

ASSIGNMENT OF ERROR II

> REVERSIBLE ERROR EXISTS WHEN A TRIAL COURT FAILS TO APPOINT AN ATTORNEY FOR A CHILD WHOSE WISHES CONFLICT WITH THE RECOMMENDATION OF THE GUARDIAN AD LITEM.

{¶23} Mother's second assignment of error is that the trial court erred by failing to appoint counsel to represent T.G. because the child had consistently expressed a desire to return to Mother's custody, while the guardian ad litem supported CSB's motion for permanent custody as being in the child's best interest. Mother asserts that, because the child had consistently expressed a desire that conflicted with the recommendation of the guardian ad litem, the trial court should have appointed independent trial counsel to represent her. *See, e.g.*, *In re I.F.*, 2026-Ohio-2657,

¶ 13 (9th Dist.); *In re Williams*, 2004-Ohio-1500, syllabus and ¶ 18; Juv.R. 4(C); and *In re A.M.*, 2024-Ohio-1152, ¶15 (9th Dist.). Mother's argument is premised on an apparent misunderstanding of the facts in this case. Specifically, Mother implies that the trial court did *not* appoint independent counsel to represent T.G. in this case, but it did.

{¶24} As explained above, after the guardian ad litem contacted the trial court about a conflict between the child's wishes and her recommendation, the trial court appointed independent counsel to represent the child. The child's counsel appeared at the final hearing, thoroughly questioned witnesses, and advocated on behalf of the child's expressed desire to return to Mother's custody. Because Mother's second assignment of error lacks any merit, it is overruled.

III.

{¶25} Mother's assignments of error are overruled. The judgment of the Summit 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 Summit, 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.

BETTY SUTTON
FOR THE COURT

STEVENSON, J.
MANNING, J.
CONCUR.

APPEARANCES:

NADINE HAUPTMAN, Attorney at Law, for Appellant.

ELLIOT KOLKOVICH, Prosecuting Attorney, and HEAVEN R. DIMARTINO, Assistant Prosecuting Attorney, for Appellee.