

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

IN RE: T.D. AND K.D. : APPEAL NOS. C-170643
C-170652
: TRIAL NO. F05-1845Z
: *JUDGMENT ENTRY.*

We consider these appeals on the accelerated calendar, and this judgment entry is not an opinion of the court. See Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

The mother and father of T.D. and K.D. appeal the juvenile court's grant of permanent custody to the Hamilton County Department of Job and Family Services ("HCJFS"). The children's guardian ad litem ("GAL") and HCJFS ask this court to affirm the juvenile court's judgment.

Mother and father each raise a single assignment of error, arguing that the juvenile court's decision granting permanent custody was contrary to the weight of the evidence and based upon insufficient evidence.

Under R.C. 2151.414(B)(1), a juvenile court may grant permanent custody to a children's services agency if it finds by clear and convincing evidence that it is in the child's best interest and that one of the conditions in (B)(1) applies. *In re W.W.*, 1st Dist. Hamilton Nos. C-110363 and C-110402, 2011-Ohio-4912, ¶ 48. In this case, the court determined in accordance with R.C. 2151.414(D)(1) that the children's best interest would be served by awarding permanent custody to HCJFS. In addition, the court found that the children could not be placed with either parent within a

reasonable time or should not be placed with their parents. *See* R.C. 2151.414(B)(1)(a). This finding required the court to determine by clear and convincing evidence that one or more of the factors in R.C. 2151.414(E) existed as to each parent.

The record contains sufficient evidence to support the juvenile court's finding under R.C. 2151.414(E) that the children cannot be placed with either parent within a reasonable time and should not be placed with either parent. *See In re W.W.* at ¶ 46. Mother failed to demonstrate that, notwithstanding the prior involuntary terminations of her parental rights with respect to two siblings of T.D. and K.D., she could provide a legally secure permanent placement and adequate care for the health, welfare, and safety of T.D. and K.D. *See* R.C. 2151.414(E)(11). In addition, mother was homeless and failed to remedy her mental-health, domestic-violence, and substance-abuse issues. *See* R.C. 2151.414(E)(4), (14), and (16).

In addition, father lacked appropriate housing for the children. He lived with his mother, who struggled with opiate and marijuana abuse, and two adult brothers who were regular marijuana users. *See* R.C. 2151.414(E)(4). More concerning to the juvenile court was that father failed to internalize his parenting education and would allow mother to have unsupervised access to the children despite mother's history of erratic behavior and violent displays of anger. Notwithstanding the efforts of HCJFS, father continued to demonstrate a lack of protective capacity for the children due to his lack of insight into the severity of mother's mental-health issues. *See* R.C. 2151.414(E)(4) and (16).

In addition, we conclude that the juvenile court did not err in determining that an award of permanent custody to HCJFS was in the children's best interest. The court considered that the GAL supported an award of permanent custody; that

T.D. had been in agency custody since November 2015, and K.D., since her birth in August 2016; that the children needed a legally secure permanent placement; and that mother's parental rights had previously been involuntarily terminated for two of her older children. *See* R.C. 2151.414(D)(1).

After reviewing the record, we hold that the court's findings as to the R.C. 2151.414(B)(1)(a) factor and as to the best-interest factors in R.C. 2151.414(D)(1) were supported by sufficient evidence and were not against the manifest weight of the evidence. *See In re C.F.*, 1st Dist. Hamilton Nos. C-150454 and C-150469, 2015-Ohio-4706, ¶ 12. Therefore, we hold that competent and credible evidence supported the juvenile court's award of permanent custody to HCJFS. *See In re W.W.*, 1st Dist. Hamilton Nos. C-110363 and C-110402, 2011-Ohio-4912, at ¶ 48. We overrule the assignments of error and affirm the juvenile court's judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MOCK, P.J., CUNNINGHAM and MYERS, JJ.

To the clerk:

Enter upon the journal of the court on February 14, 2018
per order of the court _____.
Presiding Judge