

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

IN RE: D.R. and D.W. : APPEAL NO. C-160921  
 : TRIAL NO. F14-1109  
 :  
 : *JUDGMENT ENTRY.*  
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We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* R.Rep.Op. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

The mother of D.R. and D.W. appeals the trial court’s grant of permanent custody to the Hamilton County Department of Job and Family Services (“JFS”). In a single assignment of error, she contends that the trial court’s judgment was against the manifest weight of the evidence. We are unpersuaded.

The termination of parental rights is governed by R.C. 2151.414. Before a juvenile court may terminate parental rights, it must first find that it is in the child’s best interests to be placed in the permanent custody of the moving agency. R.C. 2151.414(B)(1) and (D). It must also find one of the four conditions listed in R.C. 2151.414(B)(1). The court must find both prongs by clear and convincing evidence. We will not substitute our judgment for that of the trial court where some competent and credible evidence supports the essential elements of the case. *See, e.g., In re W.W.*, 1st Dist. Hamilton Nos. C-110363 and C-110402, 2011-Ohio-4912, ¶ 46.

Here, the trial court found that children cannot be placed with either of the children's parents within a reasonable time. Under her assignment of error, mother argues that the trial court's finding that the children cannot be placed with her because of her cognitive disability is not supported by competent, credible evidence where her diagnostic assessment and psychological evaluation indicated that those delays did not justify a termination of her parental rights.

The mother's psychological evaluation indicated that mother was "profoundly impaired" in her overall cognitive abilities and that she would have significant difficulty making parenting decisions without assistance from others. Although the report indicated that mother's cognitive disability does not justify the removal of her children from her custody, the report also noted that her disability indicates a need for various supports in her life. The report stated that "[t]his may include someone who is able to make decisions to help [mother] provide for the safety of her children; for example, JFS's concern with mother's boyfriend's sexual and physical abuse history. Mother's limited cognitive function may interfere with her ability to foresee risks towards her children from past behavioral patterns of individuals."

Unfortunately, mother has no family or friends to help her in this regard. Although the mother has an in-home care worker from Hamilton County Development Disabilities Services ("DDS") for eight hours each week, this is not enough to remedy the problems that initially caused the children to be removed from the home. The record indicates that the home remains messy; that mother has difficulty remembering to take her life-saving medication; that mother is either late or misses appointments; and that mother was fired from her job for failing to show up even though DDS would provide her with transportation. Further, mother failed to complete services offered through JFS such as the parenting program, and has

allowed people she does not know well to live with her, which at one point caused her to be evicted from her home.

Although mother clearly loves her children, she cannot take care of them without the constant assistance of someone else because of her permanent cognitive disability. When mother visited with the children at the Family Nurturing Center, she needed constant redirection in order to keep the children safe. For example, she had to be reminded “to not give [D.W.] foods she was allergic to, such as peanuts.”

Given the foregoing and the fact that the children’s fathers are not involved in their lives, we hold that there was competent and credible evidence to support the trial court’s finding that the children cannot be placed with either parent in a reasonable time.

Additionally, we hold that the trial court’s finding that a grant of permanent custody is in the best interest of the children was also supported by competent, credible evidence. The guardian ad litem recommended that the children be placed in the permanent custody of JFS. The record demonstrates that the children are bonded with the foster mother, who loves them and can properly care for their specific medical needs. The foster mother wishes to adopt the children. *See* R.C. 2151.413(D).

In conclusion, we overrule the single assignment of error, and affirm the trial court’s judgment.

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

**MOCK, P.J., CUNNINGHAM and MILLER, JJ.**

**OHIO FIRST DISTRICT COURT OF APPEALS**

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To the clerk:

Enter upon the journal of the court on May 12, 2017

per order of the court \_\_\_\_\_.

Presiding Judge