

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

IN RE: DANIEL VAZQUEZ¹ : APPEAL NO. C-070714
 : TRIAL NO. F04-336
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 : *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.²

Ten-year-old Daniel Vazquez had been placed in the interim custody of Hamilton County Jobs and Family Services (“HCJFS”) on January 30, 2004. He had been adjudicated dependent and had been committed to the temporary custody of HCJFS on April 13, 2004. Appellant Tinamaria Vazquez (“Vazquez”) is Daniel’s mother. Daniel’s father lives in Mexico and is not involved in these proceedings. HCJFS’s temporary custody was extended on January 31, 2005. On June 30, 2005, HCJFS filed a motion to modify temporary custody to permanent custody. The trial court modified the pending motion to a final extension of temporary custody to pursue placement with Daniel’s maternal grandmother in California. Apparently, the grandmother was not interested in assuming custody of Daniel. On December 14, 2005, HCJFS filed a second motion for permanent custody. After a series of hearing, the magistrate granted HCJFS permanent

¹ The name “Vasquez” appears on some documents.
² See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

custody of Daniel. The trial court overruled the objections and adopted the decision of the magistrate. Vazquez has appealed.

The sole assignment of error alleges that the trial court's decision to grant permanent custody of Daniel to HCJFS was against the manifest weight of the evidence.

The decision to terminate parental rights must be supported by clear and convincing evidence.³ Clear and convincing evidence is evidence sufficient to produce in the mind of the trier of fact a firm belief or conviction as to the facts sought to be established.⁴ "Once the clear and convincing standard has been met to the satisfaction of the juvenile court, a reviewing court 'must examine the record and determine if the trier of fact had sufficient evidence before it to satisfy the burden of proof.' "⁵ A judgment supported by some competent, credible evidence going to all the essential elements of the case will not be reversed by a reviewing court as being against the manifest weight of the evidence.⁶

The magistrate found by clear and convincing evidence that it was in Daniel's best interest to be placed in HCJFS's custody, that Daniel could not be placed with his mother within a reasonable time, and that he should not be placed with her.⁷ Following a review of the record, we hold that it contains sufficient evidence to support the trial court's judgment.

The evidence showed that Vazquez had been a drug and alcohol abuser and that she had relapsed several times. Vazquez had been diagnosed with posttraumatic stress disorder ("PTSD") and bipolar disorder. She also had displayed manic symptoms.

³ See *In re Adoption of Holcomb* (1985), 18 Ohio St.3d 361, 481 N.E.2d 613; *In re Harris*, 1st Dist. No. C-020512, 2003-Ohio-672.

⁴ See *id.*

⁵ See *In re Harris*, *supra*, citing *In re Kinney*, 1st Dist. No. C-020067, 2002-Ohio-2310.

⁶ See *In re Harris*, *supra*.

⁷ See R.C. 2151.414(B), (D), and (E).

Vazquez had been prescribed psychotropic medications, which she sometimes had not taken.

Vazquez had been victimized by questionable characters whom she had allowed into her life and her home. She had been raped and stabbed. Vazquez had reported that people had broken into her home and had left drugs there. The magistrate rightly questioned some of these reports, including reports of people breaking into the window of her fourth-floor apartment by use of a forty-foot ladder. Vazquez had continued to associate with drug users, drug dealers, and people whom she had met at Alcoholics Anonymous meetings who were in varying stages of “recovery.”

Daniel has been diagnosed with PTSD. He had been traumatized by the assaults and rapes committed against his mother. Daniel’s mother had brought him into contact with violent individuals, and he had been present on at least one occasion when his mother had been assaulted. Daniel had also been traumatized by his mother’s continuing reports of victimization. Daniel believed that he had to protect his mother, and this caused him anxiety. To cope with his anxiety, Daniel disconnected with reality and acted like a cat. He had built a safe “cat castle” in his mind that “bad people” could not enter. Daniel’s foster family and trusted teachers, professionals, and friends could “stay in” the “cat castle,” but his mother could not because she might “bring bad people with her.” Daniel had wanted to hire a guard for his mother. Daniel had stated that his foster home was safe and that his mother’s home was not. When Daniel had been taken to visit his mother, he had exhibited regressive behavior, including acting like a cat and acting like a baby.

Daniel loves his mother and worries about her, but it is clear that his mother’s home environment is harmful to Daniel. HCJFS proved that Vazquez was unwilling or unable to provide a safe environment for Daniel. The assignment of error is overruled.

Therefore, the judgment of the trial court is affirmed.

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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.

SUNDERMANN, P.J., DINKELACKER and WINKLER, JJ.

RALPH WINKLER, retired, from the First Appellate District, sitting by assignment.

To the Clerk:

Enter upon the Journal of the Court on February 6, 2008
per order of the Court _____.
Presiding Judge