

finding must be supported by clear and convincing evidence. R.C. 2151.414(B)(1). Before awarding permanent custody to an agency, the court must also find that the children cannot be placed with either parent within a reasonable time or should not be placed with either parent. R.C. 2151.414(B)(2). We must affirm the court's grant of permanent custody if it was supported by some competent and credible evidence. *In re: S.D.*, 1st Dist. Nos. C-110607 and C-110608, 2011-Ohio-6630, ¶ 3.

Father argues that the trial court's finding that it is in the children's best interest to grant permanent custody to HCJFS was not supported by clear and convincing evidence and, relatedly, that the evidence was insufficient to support an award of permanent custody to HCJFS. This argument is not well-taken. Beginning in July 2006, J.B. and F.B. were taken temporarily from the custody of Father and mother after Father had left them in a hot car while he had drunk alcohol in a bar. Father was convicted of attempted child endangering as a result. After Banks and the mother made progress in supervised parenting visits, the court remanded custody to them. Meanwhile, mother gave birth to another child—I.B.

In June 2008, HCJFS again moved for temporary custody after a HCJFS worker discovered bruising on F.B.'s upper arms, left forearm, and both sides of his ribcage, which HCJFS concluded had been the result of abuse by Father. Father was convicted of child endangering as a result and ordered to stay away from his children for five years. In the fall of 2009, Father was convicted of trafficking in drugs and a probation violation. Father was released from prison in November 2010, and by this time, the children had been in out-of-home placement for the majority of their young lives, they each had speech and developmental delays, and they were placed in the same foster home where their needs were being met. Moreover, the children's

mother supported an award of permanent custody to HCJFS given her inability to care for them while also caring for two other young children. Therefore, the trial court's determination that is in the best interest of the children for HCJFS to be granted permanent custody is supported by competent, credible evidence.

Father also argues that the trial court's findings that HCJFS made reasonable efforts to reunify him with his children and that the children could not be placed with him within a reasonable time were not supported by sufficient evidence. This argument is also not well-taken. At the time that the trial court's decision was issued, Father had not seen his children for more than two years because of the terms of his probation and his repeated incarceration. Moreover, Father failed to complete court-ordered mental-health and substance-abuse counseling. Thus, the trial court's finding that the children could not be placed with Father within a reasonable time or should not be placed with Father was supported by some competent, credible evidence that met the clear-and-convincing standard. *See* R.C. 2151.414(E). Moreover, the record shows that HCJFS had made attempts to reunify Banks with his children prior to his incarceration in the fall of 2009. Thus, the trial court's finding with respect to reunification was supported by sufficient evidence that met the clear-and-convincing standard.

The trial court did not err in granting permanent custody of J.B., F.B., and I.B. to HCJFS. Father's sole assignment of error is overruled, and the judgment of the trial court is affirmed.

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.

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

OHIO FIRST DISTRICT COURT OF APPEALS

To the clerk:

Enter upon the journal of the court on September 19, 2012

per order of the court _____.

Presiding Judge