

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

IN RE: J.E.C. : APPEAL NO. C-130771
 : TRIAL NO. Fo8-2385XA
 :
 : *JUDGMENT ENTRY.*

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Appellant mother appeals the judgment of the Hamilton County Juvenile Court adopting the magistrate’s decision granting legal custody of the parties’ minor child, J.E.C., to appellee father. Advancing one assignment of error, mother challenges the weight of the evidence supporting the juvenile court’s judgment. Because we conclude that the trial court’s judgment is supported by competent, credible evidence, we affirm.

Custody proceedings involving the minor child, J.E.C., born on July 4, 2006, began in August of 2011 when father filed a motion for custody and visitation of J.E.C. J.E.C. had been in mother’s care since his birth. At that time, mother had contact with the Hamilton County Department of Jobs and Family Services (“HCJFS”) because she had tested positive for marijuana when she gave birth to J.E.C.

Shortly after father filed for custody, mother signed a voluntary agreement for the care of J.E.C. and his older sister, C.T., after C.T. had reported to a therapist sexual abuse by mother’s boyfriend. Mother, who had known the boyfriend for a number of years, began a relationship with him and had permitted him ongoing contact with the children,

notwithstanding that she knew he was a registered sex offender. During the night of the incident, mother, J.E.C., and C.T. were sleeping in the same bed with the boyfriend at a local motel. Mother had taken an excessive amount of prescribed medication that night and had passed out.

On October 18, 2011, HCJFS filed a complaint and motion for interim custody of J.E.C. and C.T. After the juvenile court granted interim custody to HCJFS, and following a brief placement in foster care, J.E.C. was placed with his father in December of 2011 and has resided with him at his Kentucky residence since that time. Father had been approved by the Kentucky Cabinet for Health and Family Services following a home study as an appropriate custodian for J.E.C.

On April 6, 2012, the juvenile court adopted the magistrate's decision adjudicating J.E.C. dependent, neglected, and abused because he was endangered by his mother when she placed him in contact with a known sex offender at an age when J.E.C. could not protect himself. This contact included at least two occasions when mother, J.E.C., and C.T. had slept in the same bed with him. On one of the occasions, mother was so impaired she had passed out, and thus was unable to provide care and protection for J.E.C. Objections to the decision were not filed, and the case proceeded to a dispositional hearing under R.C. 2151.353 before an assigned magistrate. HCJFS requested a disposition of custody to father.

During a lengthy trial over a period from July of 2012 through December of 2012, the magistrate heard extensive testimony regarding the best interests of J.E.C., including the guardian ad litem's recommendation that J.E.C. be placed in father's legal custody. In addition, the magistrate conducted an in camera interview of the minor child during which J.E.C. expressed his wish to remain in his father's care. The evidence also revealed

that mother had a history of substance abuse and mental-health issues. Mother's case plan recommended treatment for these troubling issues.

During the pendency of the proceedings, mother gave birth to a child who, due to high levels of mother's prescription pain medication in his system, required continued hospitalization in a neonatal intensive care unit for a period of six days. The child was placed in mother's custody under interim protective orders.

After submission of the evidence and argument of counsel, the magistrate ultimately determined that an award of legal custody to father, under orders of protective supervision until February 4, 2014, was in J.E.C.'s best interests. Mother objected to the decision. Upon conducting an independent review of the objected matter and considering the record, the juvenile court overruled mother's objections and adopted the magistrate's decision.

Under R.C. 2151.353, the juvenile court is to determine to whom the care, custody, and control of a minor child shall be awarded, giving paramount consideration to the best interests of the child. *See In re Allah*, 1st Dist. Hamilton No. C-040239, 2005-Ohio-1182. We will not disturb the trial court's decision in custody proceedings absent an abuse of discretion. The term "abuse of discretion" suggests more than an error of law or of judgment; it implies that the court's attitude is unreasonable, arbitrary or unconscionable. *Body Power, Inc. v. Mansour*, 1st Dist. Hamilton No. C-130479, 2014-Ohio-1264, ¶ 28, citing *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 218, 450 N.E.2d 1140 (1983). But when, as here, the trial court's judgment exhibits a sound reasoning process supported by competent, credible evidence, this court will not reverse the judgment as being against the manifest weight. *See Davis v. Flickinger*, 77 Ohio St.3d 415, 418, 674 N.E.2d 1159 (1997).

After reviewing the entire record, we conclude that the juvenile court did not err in weighing the evidence and determining that it is in J.E.C.'s best interests that he be

placed in the legal custody of his father. Here, the juvenile court did not lose its way and create such a manifest miscarriage of justice that the judgment must be reversed and a new trial ordered. *See Eastley v. Volkman*, 132 Ohio St.3d 328, 2012-Ohio-2179, 972 N.E.2d 517.

Therefore, we affirm the trial 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.

CUNNINGHAM, P.J., HENDON and FISCHER, JJ.

To the clerk:

Enter upon the journal of the court on December 19, 2014
per order of the court _____.
Presiding Judge