

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

IN RE: J.F. and W.F. : APPEAL NOS. C-140608
 : C-140612
 : TRIAL NO. F10-96
 : *JUDGMENT ENTRY.*

We consider these appeals 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.

These are appeals from a decision of the Hamilton County Juvenile Court, which granted permanent custody of J.F. and W.F. to the Hamilton County Department of Job and Family Services (“HCJFS”). Lisa and Loren, the mother and father of J.F. and W.F., each appealed the court’s decision. We affirm the judgment because the decision was supported by competent and credible evidence.

The juvenile court’s jurisdiction over J.F. and W.F. was initiated in January 2010, when HCJFS filed a complaint that alleged the children were living in a substandard and unhygienic environment. At that time, J.F. was six years old, and W.F. was nearly four months old. The court issued orders of protective supervision, which were extended multiple times over the course of a year.

Things changed in February 2011, when a HCJFS caseworker discovered deplorable conditions in the home. At the urging of the caseworker, Lisa signed a voluntary agreement of custody, allowing the children to be placed in a foster home. HCJFS filed a motion for interim temporary care, which was granted. The children were placed in the interim custody of HCJFS on March 2, 2011, and were adjudicated

dependent, neglected and abused on May 12, 2011. On June 25, 2012, HCJFS filed a motion to modify temporary custody to permanent custody.

Following a hearing, the magistrate issued a decision granting the motion for permanent custody. Lisa and Loren each objected. The juvenile court overruled the parents' objections and adopted the magistrate's decision.

Both Lisa and Loren assert in their assignments of error that the court erred in granting the motion for permanent custody.

Before the juvenile court may terminate parental rights, it must find both that it is in the best interest of the child to be placed in the permanent custody of the moving agency and that one of the four conditions listed in R.C. 2151.414(B) is met. R.C. 2151.414(B)(1) and (D)(1). While the juvenile court must find that both prongs are supported by clear and convincing evidence, we will not substitute our judgment for that of the juvenile court where some competent and credible evidence supports the essential elements of the case. *See In re W.W.*, 1st Dist. Hamilton Nos. C-110363 and C-110402, 2011-Ohio-4912, ¶ 46, *see also In re E.S.*, 1st Dist. Hamilton Nos. C-100725 and C-100747, 2011-Ohio-586, ¶ 3.

There is no question that the R.C. 2151.414(B)(1)(d) condition was met. J.F. and W.F. were in the custody of HCJFS for more than 12 months of a consecutive 22-month period when HCJFS filed its motion for permanent custody. Despite finding that the children met the R.C. 2151.414(B)(1)(d) "12 of 22" condition, the court also made a finding that the children could not "be placed with either of the [children's] parents within a reasonable time[.]" R.C. 2151.414(B)(1)(a). Both parents take issue with this finding.

In making the R.C. 2151.414(B)(1)(a) finding, the court looked at the factors listed in R.C. 2151.414(E). If a court finds clearly and convincingly that one of the R.C. 2151.414(E) factors exists, it "shall enter a finding that the [children] cannot be placed with either parent within a reasonable time[.]" The court found that the R.C.

2151.414(E)(1) factor—failure to remedy the conditions that caused the children to be placed outside the home—to be present because neither parent had obtained the goal of providing the children a safe and secure home environment. Instead, at the time of the hearing, Lisa and Loren were living in a house with Lisa’s father, who was a registered sexual offender and who was hostile to HCJFS’s attempts to monitor the home. Additionally, the parents’ refusal to allow access to all parts of the home and to identify other residents of the home prevented HCJFS from putting safeguards in place to protect J.F. and W.F. We conclude that the court’s R.C. 2151.414(E)(1) finding was supported by the record.

Lisa and Loren also argue that the court’s conclusion that permanent custody was in the best interests of the children was not supported by the evidence. The best-interest determination is guided by R.C. 2151.414(D)(1). With respect to the relationship of the children to their parents, siblings, relatives and foster parents, the court found that both children were bonded with their parents. *See* R.C. 2151.414(D)(1)(a). The court also took into account the length of time the children had been in foster care and that they were flourishing while there. *See* R.C. 2151.414(D)(1)(c). As for R.C. 2151.414(D)(1)(d)—the children’s need for permanency and whether that could be achieved without granting permanent custody to HCJFS—the court found that the amount of time the children had been in foster care—three years at the time of the decision—and that “[f]urther reunification planning provides them with little hope of permanence.” The court did not make a finding about the wishes of the children. *See* R.C. 2151.414(D)(1)(b). It did, however, incorporate into the record the guardian ad litem’s report recommending permanent custody. The findings made by the court were supported by the record.

We therefore conclude that the court’s determinations that permanent custody was in the best interests of J.F. and W.F., and the children could not be placed with either parent were supported by competent, credible evidence. The

OHIO FIRST DISTRICT COURT OF APPEALS

assignments of error of Lisa and Loren are overruled, and we affirm the judgment of the court.

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

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

To the clerk:

Enter upon the journal of the court on January 28, 2015
per order of the court _____.

Presiding Judge