

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

IN RE: C.C. : APPEAL NOS. C-150298
 : C-150313
 : TRIAL NO. F07-0465Z
 : *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 that granted permanent custody of C.C., a minor, to the Hamilton County Department of Job and Family Services (“HCJFS”). We affirm the judgment below.

Seven-year-old C.C. has been in the custody of HCJFS since she was a few days old. When C.C. was seven months old, she was adjudicated dependent and placed in the temporary custody of HCJFS. In June 2010, HCJFS moved to modify temporary custody to permanent custody. Following a hearing, the magistrate denied the motion. The trial court adopted the magistrate’s decision, and this court affirmed the judgment. *See In re C.C.*, 1st Dist. Hamilton Nos. C-110712 and C-110731 (June 28, 2013). We held that the juvenile court could reasonably have found that the parents had substantially complied with a reunification plan and had satisfactorily remedied the original concerns that led to the removal of C.C. *Id.*

Immediately following our decision, C.C.’s parents signed voluntary agreements for the care of C.C. On July 25, 2013, HCJFS filed a complaint alleging that C.C. was a neglected and dependent child. C.C. was again placed in the interim custody of HCJFS. On December 20, 2013, C.C. was adjudicated a dependent child.

On June 4, 2014, HCJFS moved to modify temporary custody to permanent custody. On December 3, 2014, following evidentiary hearings, the magistrate granted the motion. The trial court overruled the parents' objections and adopted the magistrate's decision.

C.C.'s parents appealed. Each parent has assigned as error the trial court's grant of permanent custody to HCJFS as being against the weight of the evidence.

R.C. 2151.414, the statute governing motions for permanent custody, has been amended twice recently. Therefore, we will apply the version of the statute that was in effect on June 4, 2014, the date the motion for permanent custody was filed. *See In re K.G.*, 1st Dist. Hamilton Nos. C-150013 and C-150014, 2015 Ohio App. LEXIS 1720 (May 8, 2015), citing *In re C.E.1*, 1st Dist. Hamilton No. C-140674, 2015 Ohio App. LEXIS 1170 (Mar. 20, 2015).

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 conditions listed in R.C. 2151.414(B) is met. R.C. 2151.414(B)(1) and (D)(1); *In re W.W.*, 1st Dist. Hamilton Nos. C-110363 and C-110402, 2011-Ohio-4912, ¶ 48. In reviewing the juvenile court's determination on a motion for permanent custody, we will not substitute our judgment for that of the juvenile court where some competent and credible evidence supports the determination. *In re W.W.* at ¶ 46.

In this case, there was no dispute that R.C. 2151.414(B)(1)(d) was met. That section requires the juvenile court to find that the child was in the custody of HCJFS for more than 12 months of a consecutive 22-month period when HCJFS filed its motion for permanent custody. When HCJFS filed its motion, C.C. had been in the custody of HCJFS for more than five years.

In addition, the juvenile court's determination that permanent custody was in C.C.'s best interest was supported by clear and convincing evidence. The court considered

the best-interest factors in R.C. 2151.414(D)(1). The court found that C.C.'s parents were not immediately able to care for her because her father was incarcerated and her mother was homeless, and that both parents had important issues to resolve with respect to income, housing and treatment before they could appropriately care for C.C. *See* R.C. 2151.414(D)(1)(a). The guardian ad litem had recommended that a grant of permanent custody to HCJFS was in the best interest of the child. *See* R.C. 2151.414(D)(1)(b). The court considered that C.C. had been in foster care all of her life; that she was progressing well in her current foster home of more than two years; and that she was attached to her foster parents. *See* R.C. 2151.414(D)(1)(c). The court also found that C.C.'s need for permanency could not be achieved without granting permanent custody to HCJFS. *See* R.C. 2151.414(D)(1)(d). In addition, the court determined that the factors in R.C. 2151.414(E)(9), (11), (14) and (16) applied. *See* R.C. 2151.414(D)(1)(e). We conclude that competent, credible evidence supported the trial court's best-interest findings.

Accordingly, we overrule the assignments of error and affirm the judgment of the juvenile 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 July 17, 2015
per order of the court _____.

Presiding Judge