

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

IN RE: S.M. and N.B. : APPEAL NO. C-180065
 : TRIAL NO. F11-1240Z
 :
 : *JUDGMENT ENTRY.*

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Appellant Letitia Bratcher appeals the judgment of the juvenile court granting custody of S.M. and N.B. to Jacqueline Jones in a dependency proceeding. Bratcher's sole assignment of error argues that the trial court abused its discretion in awarding legal custody of the children to Jones.

The trial court can award legal custody under R.C. 2151.353(A) where it finds, by a preponderance of the evidence, that legal custody is in the children's best interest. *See In re A.W. and T.W.*, 1st Dist. Hamilton No. C-140142, 2015-Ohio-489, ¶ 8-9; R.C. 2151.415(B). In determining whether an award of legal custody to a nonparent is in the children's best interest, the factors in R.C. 2151.414(D) can offer guidance, even though those factors apply to permanent-custody motions. *See In re A.W. and T.W.* at ¶ 8. An appellate court reviews a trial court's decision to grant legal custody under R.C. 2151.353 for an abuse of discretion. *Id.* at ¶ 10. An abuse of

discretion is more than an error of law or judgment, and it implies that the trial court's decision was unreasonable, arbitrary, or unconscionable. *Id.*, citing *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983). A juvenile court's decision regarding children's best interest in a legal-custody proceeding is not unreasonable if it is supported by competent, credible evidence. *In re A.W. and T.W.* at ¶ 10.

Bratcher received custody of S.M., N.B., and their two siblings in May 2014, after the children had been adjudicated abused and dependent. In March 2015, Hamilton County Job and Family Services ("HCJFS") received an abuse allegation against Bratcher's husband concerning one of the siblings in Bratcher's care, D.B. HCJFS filed an abuse-and-dependency complaint for all of the children in Bratcher's care. The juvenile court adjudicated S.M. and N.B. dependent and placed them in the temporary custody of HCFJS. In March 2016, the juvenile court approved a case plan placing D.B. with Jones, and Jones eventually received legal custody of D.B. in February 2017.

In March 2017, HCJFS moved to terminate its temporary custody of S.M. and N.B. and award legal custody of them to Jones. The court approved a case plan to transition S.M. and N.B. to Jones's home. In October 2017, the juvenile court held a trial on the custody matter pertaining to S.M. and N.B. The caseworker testified that the children had thrived in Jones's care. Jones had been meeting the children's special needs, and the children had bonded with Jones. Jones testified that the children had been doing well in her care, and that she desired to have the children live with her. The magistrate recommended awarding legal custody of S.M. and N.B. to Jones.

The juvenile court held a hearing on Bratcher's objections, where a counselor testified that she had engaged Bratcher and D.B. in therapy, and that Bratcher had been unable to acknowledge D.B.'s abuse. As a result, therapy had been terminated. Bratcher testified that she had engaged in family therapy with all of the children, and that she had completed parenting classes. Bratcher also raised concerns regarding Jones's relationship with a male individual. According to Bratcher, the children had told her that this man lived in Jones's home with them. Bratcher raised her concerns to HCJFS, but Bratcher felt that HCJFS had not properly investigated Jones's relationship.

The juvenile court considered the relevant factors in R.C. 2151.414(D), and determined that although Bratcher had completed parenting classes and had engaged in visitation with the children, S.M. and N.B. had experienced trauma in Bratcher's care. Bratcher had minimized the abuse to D.B., which then led the counselor to terminate therapy. The children had bonded with Jones and had been doing well in her care. The trial court also determined that the evidence Bratcher presented regarding Jones's alleged romantic relationship had fallen short of proving that such a relationship existed.

Based on a review of the record, we determine that the juvenile court's best-interest determination is supported by competent, credible evidence, and therefore, the court did not abuse its discretion in awarding custody of S.M. and N.B. to Jones.

We overrule the assignment of error and affirm the judgment of the trial court.

Further, 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.

OHIO FIRST DISTRICT COURT OF APPEALS

MYERS, P.J., CROUSE and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on March 13, 2019

per order of the court _____.
Presiding Judge