



**OHIO FIRST DISTRICT COURT OF APPEALS**

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In May 2019, HCJFS moved for permanent custody, over 15 months after D.P.'s placement in temporary custody. After a hearing, a magistrate granted the motion. Mother filed a weight-of-the-evidence objection, which the juvenile court overruled. The court entered a judgment adopting the magistrate's decision and granting the agency's motion for permanent custody. In granting the motion for permanent custody, the court applied the two-prong analysis of R.C. 2151.414(B)(1).

Mother challenges the decision to grant permanent custody in one assignment of error. We first reject the claim of error based on the assertion that permanent custody was the initial disposition for the child, because the assertion is inaccurate.

Mother additionally argues that the decision to grant permanent custody was not supported by sufficient evidence and was against the manifest weight of the evidence. Mother does not challenge the juvenile court's finding that the length of temporary custody met the "12-of-22 month" requirement to satisfy the first prong of the R.C. 2151.414(B)(1) analysis. *See* R.C. 2151.414(B)(1)(d). She does challenge the trial court's alternate finding that the child cannot be placed with her within a reasonable time and should not be placed with her, *see* R.C. 2151.414(B)(1)(a) and (E)(1), and the second-prong finding that permanent custody was in the child's best interest. *See* R.C. 2151.414(D)(1)(a)-(e).

The juvenile court discussed the challenged statutory findings and related factors in detail. Mother contends the finding that she is not able to provide a safe, permanent home for the child is based on speculation, because she testified that she was no longer involved with father, and the evidence showed she had finally moved to a different home and there had been no incidents of violence since March 2019. But father had remained incarcerated since that 2019 assault, so mother's resolve was untested. And the evidence established a dangerous pattern of domestic violence that

was coupled with continued concern over mother's mental health and self-medication with marijuana. The threat of harm to the child is "not speculative but is grounded in the facts," leaving D.P. "unprotected in the future." See *In re B/K Children*, 1st Dist. Hamilton No. C-190681, 2020-Ohio-1095, ¶ 34.

The record supports the juvenile court's other determinations that weigh in favor of permanent custody. The child is doing well in foster care, and his foster parents desire to adopt him. He is a toddler who needs a permanent home. No relatives have come forward to seek custody of the child. The child is too young to express his wishes, but his GAL supports an award of permanent custody to the agency.

The juvenile court recognized that mother had a positive bond with the child, but did not find that fact determinative. The court found more compelling the amount of time that the child had spent in the temporary custody of the agency due to mother's continuous and repeated failure, despite the provision of services, to substantially remedy the conditions that led to the removal, including the domestic-violence issue.

Ultimately, D.P. must be adopted to provide him with a permanent and stable home. The juvenile court's judgment granting permanent custody to the agency was supported by clear and convincing evidence and was not against the manifest weight of the evidence. See R.C. 2151.414(B)(1). We overrule the assignment of error and affirm the juvenile 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.

**MOCK, P.J., BERGERON and WINKLER, JJ.**

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To the clerk:

Enter upon the journal of the court on August 26, 2020

per order of the court \_\_\_\_\_.

Presiding Judge