

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

IN RE: A.G-L1 and A.G-L2  
: APPEAL NO. C-170560  
: TRIAL NO. F-07-701Z  
: *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.

Mother appeals the judgment of the Hamilton County Juvenile Court terminating her parental rights and granting permanent custody of her children, A.G-L1 and A.G-L2 to the Hamilton County Department of Job and Family Services (HCJFS).

In a single assignment of error, she contends that the juvenile court's judgment was contrary to the manifest weight of the evidence.

Termination of parental rights is governed by R.C. 2151.414. Before a juvenile court may terminate parental rights, it must engage in a two-part test. First, it must find one of the conditions listed in R.C. 2151.414(B)(1). Then, it must find that it is in the children's best interests to be placed in the custody of the moving agency. *See* R.C. 2151.414(B)(1) and (D). The juvenile court must find that both parts of the test are supported by clear and convincing evidence. *In re C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, 826 N.E.2d 816, ¶ 23-27.

“In reviewing a challenge to the weight of the evidence, [this court must] weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether in resolving conflicts in the evidence, the trial court clearly lost its way, and created such a manifest miscarriage of justice that the judgment must be reversed and a new trial ordered.” *In re A.B.*, 1st Dist. Hamilton Nos. C-150307 and C-150310, 2015-Ohio-3247, ¶ 16. “But, [i]n weighing the evidence, we [remain] mindful of the presumption in favor of the finder of fact.” *Id.*, quoting *Eastley v. Volkman*, 132 Ohio St.3d 328, 2012-Ohio-2179, 972 N.E2d 517, ¶ 21.

We first review the juvenile court’s finding that one of the conditions in R.C. 2151.414(B)(1) applies. HCJFS sought permanent custody of mother’s children pursuant to R.C. 2151.414(B)(1)(a). Thus, we must determine if the weight of the evidence supports a finding under R.C. 2151.414(B)(1)(a) that A.G-L1 and A.G-L2 cannot be placed with mother within a reasonable time or should not be placed with mother. That provision is satisfied if the juvenile court determines that any of the conditions in R.C. 2151.414(E) apply. *In re William S.*, 75 Ohio St.3d 95, 661 N.E.2d 738 (1996), syllabus.

The juvenile court’s finding under 2151.414(B)(1)(a) is not contrary to the manifest weight of the evidence. Despite mother’s arguments to the contrary, the record supports the juvenile court’s findings under R.C. 2151.414(E)(1),(2), and (4) that mother suffers from chronic mental illness, mother has failed to remedy the conditions that had caused the children to be removed from her care, and she had demonstrated a lack of commitment to the children by failing to visit with them during the course of the proceedings.

Mother argues that if she was given more time and the opportunity to complete behavioral therapy, the children could be placed with her. The record reflects, however, that mother has a long history of failing to engage in mental-health services and that she did not consistently follow through with mental-health services in her case plan to achieve stability with her mental-health and anger issues. Mother refused to submit to a diagnostic assessment until eight months after the order that she engage in services, and at the time of trial she had not completed the recommended services. The HCJFS caseworker testified that mother had demonstrated no behavior or lifestyle changes. Mother had at times denied having mental-health problems, blamed others for these problems, and refused to take medication, even though she had admitted to past diagnoses of depression, bipolar disorder, and anxiety.

Mother has a long history of engaging in impulsive and aggressive behavior that has placed her children in unsafe situations. Mother's two oldest children were removed from her care and placed in the legal custody of maternal grandmother. Mother's oldest child was removed from her care in March 2007 due to substantiated physical abuse by mother. When mother's second child was born, HCJFS obtained custody after mother failed to comply with mental-health and substance-abuse services. Mother admitted to engaging in threatening behaviors with the HCJFS caseworkers during the proceedings involving her two older children.

Mother was convicted of child endangering in 2015, for driving under the influence of alcohol with A.G-L1 in the back seat of her vehicle. Mother admitted to chasing a friend with whom she had just had an argument. Mother was arrested in February 2016, for shattering the windshield of maternal grandmother's vehicle. She admitted to damaging the vehicle out of anger while A.G-L1 was present.

Shortly thereafter, mother was terminated from her probation. Upon learning the news, mother began shouting obscenities at her probation officer and had to be escorted from the building by security. At her court appearance for the probation violation, mother brought eight-week-old A.G-L2 with her. She made no prior arrangements for A.G-L2, so when the trial court found that she had violated her probation, the trial court judge and his staff had to provide care for the infant until a social worker could arrive. When the social worker spoke with mother, she was being held in the psychiatric unit of the justice center, and presented as hysterical. The HCJFS caseworker testified that following mother's release from incarceration in August 2016, mother's behavior had escalated to the point where she could not reason with her.

Between mother's incarceration in May 2016 and the permanent-custody trial in March 2017, mother visited with A.G-L1 and A.G-L2 only one time, even though mother had been offered supervised visitation. Mother refused to visit because she did not like the transportation arrangements. Mother testified that she had no concerns about missing visitation during this time.

Next, we review the juvenile court's conclusion that granting permanent custody to HCJFS was in the best interests of the children. Based on our review of the record, we cannot conclude that the trial court's findings are contrary to the manifest weight of the evidence. Mother has a long history of struggling with mental-health and anger issues that has negatively impacted her ability to parent the children. Her decision to stop visiting with the children for over a year due to transportation issues and her failure to comply with case-plan services demonstrates her unwillingness to maintain a relationship with the children. The record reflects that A.G-L1 has been in temporary custody since December 2015, and for long

periods of time prior to this occasion of temporary custody. A.G-L2 has been in HCJFS custody since May 2016.

Both children have been living with their maternal grandmother, who also has custody of mother's two older children. Maternal grandmother is not seeking legal custody because she does not feel safe around mother. Maternal grandmother wishes to adopt the children and has completed foster-to-adopt classes. A grant of permanent custody would not only allow A.G-L1 and A.G-L2 to grow up with their two older siblings, but also provide them with the stability that mother has been unable to provide them because of her ongoing mental-health issues. The children's guardian ad litem also supported a grant of permanent custody.

Consequently, having reviewed the record, mother's arguments, and the applicable law, we hold that the trial court's judgment awarding permanent custody of A.G-L1 and A.G-L2 to HCJFS was not against the manifest weight of the evidence. We, therefore, overrule mother's sole assignment of error and affirm the judgment of the juvenile 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.

**MYERS, P.J., MILLER and DETERS, JJ.**

To the clerk:

Enter upon the journal of the court on December 20, 2017

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