[Cite as *In re A.T.*, 2021-Ohio-4032.]

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
HIGHLAND COUNTY

In the Matter of A.T. and J.T.,	:	
	:	Case Nos. 21CA11
Adjudicated Dependent Children.	:	21CA12
	:	
	:	DECISION AND JUDGMENT
	:	ENTRY
	:	
	:	**RELEASED: 11/05/2021**

APPEARANCES:

Dennis Kirk, Hillsboro, Ohio, for Appellant.

Anneka P. Collins, Highland County Prosecutor, and Molly Bolek, Highland County Assistant Prosecutor, Hillsboro, Ohio, for Appellee.

Wilkin, J.

{¶1} Appellant, L.L. ("Mother"), appeals a decision of the Highland County Court of Common Pleas, Juvenile Division, granting permanent custody of her two biological children, 12-year-old A.T. and 8-year-old J.T., to appellee, the Highland County Department of Job and Family Services (the "agency"). In her sole assignment of error, appellant asserts that the trial court's decision is against the manifest weight of the evidence. We disagree with appellant's argument. The record contains ample, clear and convincing evidence to support the court's decision to grant the agency permanent custody of the children. Therefore, we affirm the trial court's judgment.

FACTS AND PROCEDURAL BACKGROUND

{¶2} On October 2, 2019, the agency sought and received an emergency grant of temporary custody of the children. On that same date, the agency also filed a complaint that alleged A.T., J.T., and a third child not involved in this appeal are abused, neglected, and dependent children. The complaint averred that the agency received a report that appellant and her paramour had been using "meth and marijuana." The complaint stated that on October 1, 2019, an agency caseworker located appellant, her paramour, and the three children staying in a motel room. The caseworker observed that the motel room appeared "cluttered with clothing and other items lying through out [sic] the room." The caseworker relayed the agency's concerns to appellant, and appellant admitted she used "meth less than a week ago." The caseworker attempted to "make a safety plan" with appellant, but appellant could not reach anyone who could care for the children. The complaint asked the court to grant the agency emergency temporary custody of the children.

{¶3} On November 4, 2019, the trial court found the children dependent and dismissed the remaining allegations. Appellant waived her right to a separate dispositional hearing and agreed to place the children in the agency's temporary custody until October 2, 2020.

{¶4} The agency developed a case plan for the family to follow. The case plan required appellant to undergo an alcohol and drug assessment and to follow treatment recommendations, to submit to random drug screens, and to refrain from using illegal substances. The case plan further indicated that the children need to receive mental health counseling to learn to cope with the trauma that

appellant and her paramour's conduct inflicted upon them and that appellant would need to obtain appropriate housing for the children.

{¶5} The agency later learned that A.T. had disclosed that appellant's paramour, Richard E. McCoy, III, had sexually abused the child. McCoy later was convicted of one count of rape.

{¶6} Appellant was indicted for endangering children, in violation of R.C. 2919.22(A). Appellant later entered a guilty plea in the court of common pleas. On October 8, 2020, the common pleas court sentenced appellant to three years of community control and further ordered that she not have contact with any child except as permitted under a court order.

{¶7} In December 2020, the agency updated the case plan to indicate that the appellant has "made significant progress in completing the case plan goals." Appellant was "active[l]y engaged in her services" and she was seeking a stable home for the children. Appellant was visiting with her children one time per week, unsupervised. The case plan, further, continued to list the children's mental health and the trauma that they suffered as a concern.

{¶8} In January 2021, the court ended appellant's unsupervised visitation with the children after her 16-year-old child, who is not involved in this appeal, tested positive for marijuana.

{¶9} On March 10, 2021, the agency filed a motion that requested the court to place the children in the agency's permanent custody. The agency alleged that the children have been in its temporary custody for 12 or more

months of a consecutive 22-month period and that granting the agency permanent custody is in the children's best interests.

{¶10} On May 12, 2021, the court held a hearing to consider the agency's motion for permanent custody. Delores Colville, a visitation monitor at the Highland County Family Advocacy Center, testified that appellant attended 33 out of 40 visits that the agency offered. Colville explained that appellant failed to confirm five of the visits, and that the rest were canceled for legitimate reasons. Colville did not notice any concerning interactions between appellant and the children and indicated that appellant's interactions with the children were appropriate.

{¶11} Highland County Sheriff's Detective Sergeant Vincent Antinore testified that the agency reported that A.T. had disclosed that McCoy had sexually abused the child. A.T. also stated that A.T. had witnessed appellant and McCoy engage in sexual activity.

{¶12} Sergeant Antinore explained that he interviewed McCoy, and McCoy admitted that he had A.T. "perform oral sex on him and masturbate him [sic] and sexually abuse [A.T.]." The detective also spoke with appellant about the allegations. Detective Antinore asked appellant about A.T.'s statement that A.T. had witnessed appellant and McCoy engaging in sexual activity. Appellant indicated "that she couldn't remember that specific event" and "that she was high most of that time." Appellant further related to the detective that "she knew [A.T.] had witnessed [appellant] and [McCoy] having sex in the past."

{¶13} Caseworker Jamie Green testified that the case plan required appellant to complete substance abuse and mental health counseling, to obtain housing, and to maintain adequate income. Green stated that appellant currently lives in her father-in-law's two-bedroom condominium with her husband, Travis Leathly. Green explained that Travis recently was released from prison after serving a four-year prison sentence for heroin possession. Green further indicated that the father-in-law's residence does not have furniture to accommodate the children. Green stated that the agency "would like to see a more permanent plan for [appellant] and the children."

{¶14} Green reported that appellant has remained employed throughout the pendency of the case with a fleeting period of unemployment. Green also explained that appellant successfully completed substance use disorder counseling services and that appellant still engages in mental health services. Green further revealed, however, that when she asked appellant to complete a drug screen in August 2020, appellant "asked [Green] to leave her home and threw the drug screen at [Green]." Green stated that appellant subsequently tested positive for "THC" in September, October, and December of 2020, as well as in January and April of 2021.

{¶15} Green testified that appellant had some unsupervised visits with the children, but in January 2021, the visits returned to supervised visits at the Family Advocacy Center when appellant's 16-year-old child tested positive for marijuana.

{¶16} Green explained that the children live in separate foster homes because A.T. "started displaying sexualized behaviors." Green stated that both children are "very bonded" with their foster parents and they refer to each of them as "mom" and "dad." Additionally, J.T. and A.T. are "very bonded" to each other.

{¶17} Green agreed that the children also "are very bonded" with appellant, and that appellant interacts appropriately with the children. She additionally explained, however, that A.T. became upset with appellant after visits returned to the Family Advocacy Center in January 2021. A.T. had stated that appellant "did not protect him" and "that caused a lot of issues to the point where * * *[A.T.] did not want to go to visits for a couple of weeks after that incident."

{¶18} On cross-examination, Green stated that appellant still needs to find a suitable place to live with the children, to stop using marijuana and marijuana-related products, and to engage in family counseling with the children.

{¶19} J.T.'s foster mother testified that in October 2019, J.T. and A.T. were placed in her home. She stated that J.T. has lived in her home since that time, but in June 2020, A.T. had to be placed in a different home after he started exhibiting sexualized behaviors. The foster mother explained that in April 2020, she learned that A.T. had been drawing pictures of a sexual nature. Additionally, the other children reported that A.T. had been asking them "to touch and suck his penis and asking to touch them in their private areas also." The foster mother indicated that she maintains contact with A.T.'s foster parents and that they allow the children to have frequent contact.

{¶20} The foster mother stated that when J.T. first entered her home, the child described himself "as sick and ugly." She explained that J.T. initially displayed aggressive behaviors and that he "choked [her] a few times." J.T. also experienced nightmares. The foster mother related that J.T. no longer exhibits these same behaviors.

{¶21} The foster mother testified that J.T. sees a psychiatrist at Cincinnati Children's Hospital and receives treatment for "ADHD, anxiety, depression, [and] PTSD." She explained that J.T. will begin seeing "a new psychologist, a trauma informed counselor, to help him continue to process and move forward."

{¶22} The foster mother stated that she and her husband "would love to" adopt J.T. if the option becomes available.

{¶23} A.T.'s foster mother testified that A.T. has been in her home since September 2020. She stated that A.T. attends counseling once a week. The foster mother indicated that she and her husband are interested in adopting A.T. if the option becomes available.

{¶24} The guardian ad litem testified. She explained that she spoke with J.T. and J.T. stated that he wants to stay with the foster family—"in his mind that is his home." The GAL related that J.T. "was very clear about, that that's where he wants to be."

{¶25} The GAL stated that A.T. also wants to remain in his current foster home. She indicated that A.T. is "very comfortable there."

{¶26} On May 18, 2021, the trial court granted the agency permanent custody of the two children. The court found that the children have been in the

agency's temporary custody for 12 or more months of a consecutive 22-month period. The court additionally determined that the father has abandoned the children by failing to visit or maintain contact with the children for more than 90 days.

{¶27} The court next found that placing the children in the agency's permanent custody is in their best interest. The court noted that (1) the children appear to interact appropriately with appellant and their respective foster families, (2) A.T. stated that he would like to live with the foster family but also stated that he would be sad if he could not see his biological parents, and (3) the guardian ad litem stated that both children wish to live with their foster families.

{¶28} The court concluded:

> This case presents yet another parent who has said the right things but has been unwilling to make the right choices for her children in order to reunify with them. She has not shown the ability or desire to provide a "legally secure placement" for her children in the past or for the foreseeable future. She has chosen not to obtain adequate housing and is currently residing with a convicted felon.

{¶29} The court thus granted the agency permanent custody of the children. This appeal followed.

ASSIGNMENT OF ERROR

> THE TRIAL COURT ERRED IN FINDING THAT PERMANENT CUSTODY WAS IN THE BEST INTERESTS OF THE CHILDREN. THE COURT'S BEST INTEREST ANALYSIS WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶30} In her sole assignment of error, appellant argues that the trial court's decision to grant the agency permanent custody of the children is against the manifest weight of the evidence. Appellant contends that the evidence fails to

clearly and convincingly show that terminating her parental rights is in the children's best interest. Appellant asserts that she shares a "clear bond" with the children and that she appropriately interacted with them during visits. She further claims that she had made progress on her case plan and that the only remaining goals appellant needed to complete were to find suitable housing, abstain from using THC, and continue family counseling. She additionally asserts that the trial court should have allowed her more time to fully complete the case plan goals.

STANDARD OF REVIEW

{¶31} Generally, a reviewing court will not disturb a trial court's permanent custody decision unless the decision is against the manifest weight of the evidence. *E.g., In re B.E.*, 4th Dist. Highland No. 13CA26, 2014-Ohio-3178, ¶ 27; *In re R.S.*, 4th Dist. Highland No. 13CA22, 2013-Ohio-5569, ¶ 29.

{¶32} When an appellate court reviews whether a trial court's permanent custody decision is against the manifest weight of the evidence, the court " ' "weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the [finder of fact] clearly lost its way and created such a manifest miscarriage of justice that the [judgment] must be reversed and a new trial ordered." ' " *Eastley v. Volkman*, 132 Ohio St.3d 328, 2012-Ohio-2179, 972 N.E.2d 517, ¶ 20, quoting *Tewarson v. Simon*, 141 Ohio App.3d 103, 115, 750 N.E.2d 176 (9th Dist. 2001), quoting *State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997), quoting *State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1st Dist. 1983). We further observe, however, that issues relating to the credibility of

witnesses and the weight to be given the evidence are primarily for the trier of fact. As the court explained in *Seasons Coal Co. v. Cleveland*, 10 Ohio St.3d 77, 80, 461 N.E.2d 1273 (1984):

> The underlying rationale of giving deference to the findings of the trial court rests with the knowledge that the trial judge is best able to view the witnesses and observe their demeanor, gestures and voice inflections, and use these observations in weighing the credibility of the proffered testimony.

Moreover, deferring to the trial court on matters of credibility is "crucial in a child custody case, where there may be much evident in the parties' demeanor and attitude that does not translate to the record well." *Davis v. Flickinger*, 77 Ohio St.3d 415, 419, 674 N.E.2d 1159 (1997); *accord In re Christian*, 4th Dist. Athens No. 04CA 10, 2004-Ohio-3146, ¶ 7.

{¶33} The question that an appellate court must resolve when reviewing a permanent custody decision under the manifest weight of the evidence standard is "whether the juvenile court's findings * * * were supported by clear and convincing evidence."

{¶34} "Clear and convincing evidence" is:

> the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the allegations sought to be established. It is intermediate, being more than a mere preponderance, but not to the extent of such certainty as required beyond a reasonable doubt as in criminal cases. It does not mean clear and unequivocal.

In re Estate of Haynes, 25 Ohio St.3d 101, 103-04, 495 N.E.2d 23 (1986).

{¶35} In determining whether a trial court based its decision upon clear and convincing evidence, "a reviewing court will examine the record to determine whether the trier of facts had sufficient evidence before it to satisfy the requisite

degree of proof." *State v. Schiebel*, 55 Ohio St.3d 71, 74, 564 N.E.2d 54 (1990); *accord In re Holcomb*, 18 Ohio St.3d 361, 368, 481 N.E.2d 613 (1985), citing *Cross v. Ledford*, 161 Ohio St. 469, 120 N.E.2d 118 (1954) ("Once the clear and convincing standard has been met to the satisfaction of the [trial] court, the reviewing court must examine the record and determine if the trier of fact had sufficient evidence before it to satisfy this burden of proof.")

{¶36} Thus, if a children services agency presented competent and credible evidence upon which the trier of fact reasonably could have formed a firm belief that permanent custody is warranted, then the court's decision is not against the manifest weight of the evidence. *In re R.M.*, 2013-Ohio-3588, 997 N.E.2d 169, ¶ 62(4th Dist.); *In re R.L.*, 2d Dist. Greene Nos. 2012CA32 and 2012CA33, 2012-Ohio-6049, ¶ 17, quoting *In re A.U.*, 2d Dist. Montgomery No. 22287, 2008-Ohio-187, ¶ 9 ("A reviewing court will not overturn a court's grant of permanent custody to the state as being contrary to the manifest weight of the evidence 'if the record contains competent, credible evidence by which the court could have formed a firm belief or conviction that the essential statutory elements * * * have been established.' ").

{¶37} Once a reviewing court finishes its examination, the judgment may be reversed only if it appears that the factfinder, when resolving the conflicts in evidence, " 'clearly lost its way and created such a manifest miscarriage of justice that the [judgment] must be reversed and a new trial ordered.' " *Thompkins*, 78 Ohio St.3d at 387, 678 N.E.2d 541, quoting *State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1st Dist.1983). A reviewing court should find a trial court's

permanent custody decision against the manifest weight of the evidence only in the "'exceptional case in which the evidence weighs heavily against the [decision].' " *Id.*, quoting *Martin*, 20 Ohio App.3d at 175, 485 N.E.2d 717; *accord State v. Lindsey*, 87 Ohio St.3d 479, 483, 2000-Ohio-465, 721 N.E.2d 995.

FUNDAMENTAL NATURE OF PARENTAL RIGHTS

{¶38} We recognize that "parents' interest in the care, custody, and control of their children 'is perhaps the oldest of the fundamental liberty interests recognized by th[e United States Supreme] Court.' " *In re B.C.*, 141 Ohio St.3d 55, 2014-Ohio-4558, 21 N.E.3d 308, ¶ 19, quoting *Troxel v. Granville*, 530 U.S. 57, 65, 120 S.Ct. 2054, 147 L.Ed.2d 49 (2000). Indeed, the right to raise one's "child is an 'essential' and 'basic' civil right." *In re Murray*, 52 Ohio St.3d 155, 157, 556 N.E.2d 1169 (1990). Thus, "parents who are 'suitable' have a 'paramount' right to the custody of their children." *In re B.C.* at ¶ 19, quoting *In re Perales*, 52 Ohio St.2d 89, 97, 369 N.E.2d 1047 (1977), citing *Clark v. Bayer*, 32 Ohio St. 299, 310 (1877); *In re Murray*, 52 Ohio St.3d at 157, 556 N.E.2d 1169.

{¶39} A parent's rights, however, are not absolute. *In re D.A.*, 113 Ohio St.3d 88, 2007-Ohio-1105, 862 N.E.2d 829, ¶ 11. Rather, " 'it is plain that the natural rights of a parent * * * are always subject to the ultimate welfare of the child, which is the polestar or controlling principle to be observed.' " *In re Cunningham*, 59 Ohio St.2d 100, 106, 391 N.E.2d 1034 (1979), quoting *In re R.J.C.*, 300 So.2d 54, 58 (Fla.App.1974). Thus, the state may terminate parental

rights and grant permanent custody to a children services agency when a child's best interest demands it. *In re D.A.* at ¶ 11.

PERMANENT CUSTODY PROCEDURE

{¶40} Before a court may award a children services agency permanent custody of a child, R.C. 2151.414(A)(1) requires the court to hold a hearing. The primary purpose of the hearing is to allow the court to determine whether the child's best interests would be served by permanently terminating the parental relationship and by awarding permanent custody to the agency. R.C. 2151.414(A)(1). Additionally, when considering whether to grant a children services agency permanent custody, a trial court should consider the underlying purposes of R.C. Chapter 2151: "to care for and protect children, 'whenever possible, in a family environment, separating the child from the child's parents only when necessary for the child's welfare or in the interests of public safety.' " *In re C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, 862 N.E.2d 816, ¶ 29, quoting R.C. 2151.01(A).

{¶41} A children services agency may obtain permanent custody of a child by (1) requesting it in an abuse, neglect or dependency complaint under R.C. 2151.353, or (2) filing a motion under R.C. 2151.413 after obtaining temporary custody. In this case, the agency sought permanent custody of the children by filing a motion under R.C. 2151.413. When an agency files a permanent custody motion under R.C. 2151.413, then the court is required to conduct a hearing pursuant to R.C. 2151.414(A).

{¶42} R.C. 2151.414(B)(1) permits a trial court to grant permanent custody of a child to a children services agency if the court determines, by clear and convincing evidence, that the child's best interest would be served by the award of permanent custody and, applicable here, "the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two month period ending on or after March 18, 1999." R.C. 2151.414(B)(1)(d).

A. R.C. 2151.414(B)(1)(d)

{¶43} In the case at bar, the trial court found that the children have been in the agency's temporary custody for 12 or more months of a consecutive 22-month period. Appellant does not dispute the trial court's R.C. 2151.414(B)(1)(d) finding, so we do not address it.

B. BEST INTEREST

{¶44} R.C. 2151.414(D) directs a trial court to consider "all relevant factors," as well as specific factors, to determine whether a child's best interest will be served by granting a children services agency permanent custody. The listed factors include: (1) the child's interaction and interrelationship with the child's parents, siblings, relatives, foster parents and out-of-home providers, and any other person who may significantly affect the child; (2) the child's wishes, as expressed directly by the child or through the child's GAL, with due regard for the child's maturity; (3) the child's custodial history; (4) the child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency; and (5) whether

any factors listed under R.C. 2151.414(E)(7) to (11) apply. In the case at bar none of the factors listed in R.C. 2151.414(E)(7) to (11) were identified in the record.

{¶45} Deciding whether a grant of permanent custody to a children services agency will promote a child's best interest involves a delicate balancing of "all relevant [best interest] factors," as well as the "five enumerated statutory factors." *In re C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, 862 N.E.2d 816, ¶ 57, citing *In re Schaefer*, 111 Ohio St.3d 498, 2006-Ohio-5513, 857 N.E.2d 532, ¶ 56. However, none of the best interest factors requires a court to give it "greater weight or heightened significance." *In re C.F.* at ¶ 57. Instead, the trial court considers the totality of the circumstances when making its best interest determination. *In re K.M.S.*, 3d Dist. Marion Nos. 9-15-37, 9-15-38, and 9-15-39, 2017-Ohio-142, ¶ 24; *In re A.C.*, 9th Dist. Summit No. 27328, 2014-Ohio-4918, ¶ 46. In general, "[a] child's best interest is served by placing the child in a permanent situation that fosters growth, stability, and security." *In re C.B.C.*, 4th Dist. Lawrence Nos. 15CA18 and 15CA19, 2016-Ohio-916, ¶ 66, citing *In re Adoption of Ridenour*, 61 Ohio St.3d 319, 324, 574 N.E.2d 1055 (1991).

{¶46} In the case at bar, we believe that the record contains ample, clear and convincing evidence to support the trial court's decision that placing the children in the agency's permanent custody is in their best interest. The record does not support a finding that the trial court committed a manifest miscarriage of justice. Therefore, the trial court's judgment is not against the manifest weight of the evidence.

1. Child's Interactions and Interrelationships

{¶47} Appellant and the children are "very bonded," according to the agency caseworker. However, neither child wishes to return to appellant's custody.

{¶48} Moreover, appellant's drug use interfered with her ability to consistently parent her children and to protect them from harm. A.T. experienced sexual abuse at the hands of appellant's paramour, and he witnessed appellant engaging in sexual activity with her paramour. A.T. expressed frustration with appellant's inability to protect him. Appellant did not elevate her children's well-being and emotional health over her own self-interest in abusing drugs.

{¶49} Neither child has an interest in living with appellant again. Instead, both would like to remain in their current foster homes. The children are bonded to their respective foster families and are recovering from the trauma experienced while living with appellant.

{¶50} Thus, even if appellant's superficial interactions with the children are appropriate, the underlying tensions and the children's desire to live with their foster families demonstrate that the children do not share a healthy relationship with appellant. Additionally, the mere existence of a bond between a parent and child is not controlling factor. *In re A.M.*, 2018-Ohio-646, 105 N.E.3d 389, ¶ 94 (4th Dist.), citing *In re L.D.*, 2017-Ohio-1037, 86 N.E.3d 1012, ¶ 38 (8th Dist.) (noting that while a loving relationship is beneficial and important for child's overall development, "mere existence of a good relationship is insufficient" and that "mother's bond with her children is not weighed more heavily than the other

statutory best interest factors") (citations and internal quotations omitted). Instead, "neglected and dependent children are entitled to stable, secure, nurturing and permanent homes in the near term * * * and their best interest is the pivotal factor in permanency case[s]." *In re T.S.*, 8th Dist. Cuyahoga No. 92816, 2009-Ohio-5496, ¶ 35. Thus, the existence of a parent-child bond may be an important consideration, but it is not controlling when assessing a child's best interest. *See In re J.B.*, 8th Dist. Cuyahoga Nos. 98566 and 98567, 2013-Ohio-1706, ¶ 163; *In re S.S.*, 4th Dist. Athens No. 17CA44, 2018-Ohio-1349, ¶ 76 (reinforcing that existence of biological relationship not controlling and that focus in permanent custody proceeding is upon child's best interest).

2. Child's Wishes

{¶51} Both children wish to remain in their current foster homes.

3. Custodial History

{¶52} During the year before the agency removed the children from appellant's custody, the children lived in a motel room with appellant and her paramour. At the time the agency filed its permanent custody motion, the children had been in the agency's temporary custody for more than 12 months of a consecutive 22-month period.

4. Legally Secure Permanent Placement

{¶53} "Although the Ohio Revised Code does not define the term, 'legally secure permanent placement,' this court and others have generally interpreted the phrase to mean a safe, stable, consistent environment where a child's needs will be met." *In re M.B.*, 4th Dist. Highland No. 15CA19, 2016-Ohio-793, ¶ 56,

citing *In re Dyal*, 4th Dist. Hocking No. 01CA12, 2001 WL 925423, *9 (Aug. 9, 2001) (implying that "legally secure permanent placement" means a "stable, safe, and nurturing environment"); *see also In re K.M.*, 10th Dist. Franklin Nos. 15AP-64 and 15AP-66, 2015-Ohio-4682, ¶ 28 (observing that legally secure permanent placement requires more than stable home and income but also requires environment that will provide for child's needs); *In re J.H.*, 11th Dist. Lake No. 2012-L-126, 2013-Ohio-1293, ¶ 95 (stating that mother unable to provide legally secure permanent placement when she lacked physical and emotional stability and that father unable to do so when he lacked grasp of parenting concepts); Thus, "[a] legally secure permanent placement is more than a house with four walls. Rather, it generally encompasses a stable environment where a child will live in safety with one or more dependable adults who will provide for the child's needs." *In re M.B.* at ¶ 56.

{¶54} In the instant case, clear and convincing evidence supports the trial court's finding that the children need a legally secure permanent placement that cannot be achieved without granting the agency permanent custody of the children. At the time of the permanent custody hearing, appellant still had not obtained appropriate housing for the children. Instead, she lives in a two-bedroom condominium with her father-in-law and her husband, who recently completed a four-year prison sentence for heroin possession. The residence does not have any furniture to accommodate the children.

{¶55} Moreover, appellant had not completed family counseling with the children, and the family relationship remains strained. We again note that neither

child wishes to live with appellant. Additionally, appellant has failed to address her drug abuse issues and she continues to test positive for THC, as recent as April of 2021.

{¶56} On the other hand, the evidence shows that the children are doing well in their current foster homes and are bonded with their foster families. The foster families provide the children with a safe environment where the children are not at risk of exposure to any illegal activity or other negative influences that could jeopardize their welfare. The foster families give the children the stability and security that will help nurture their continued growth and help them heal from the emotional trauma suffered while living in appellant's care. Additionally, the foster parents plan to adopt the children if the court grants the agency permanent custody of the children. Thus, granting the agency permanent custody of the children will allow the children to attain a legally secure permanent placement.

{¶57} For all of the foregoing reasons, we disagree with appellant that the trial court should have given her five more months to complete all of the case plan goals. Appellant's past conduct has caused emotional harm to her children. The children are recovering from that trauma and making progress. Prolonging the uncertainty regarding their permanency situation is not in their best interests. *See In re King*, 4th Dist. Adams No. 99CA671, 1999 WL 624536, *4 (Aug. 11, 1999) (explaining that "children should not be forced to remain in 'foster care drift' any longer than absolutely necessary").

{¶58} Consequently, we do not believe that the trial court's judgment granting the agency permanent custody of the children is against the manifest weight of the evidence.

CONCLUSION

{¶59} Having overruled appellant's sole assignment of error, we affirm the trial court's judgment.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT BE AFFIRMED and costs be assessed to Appellant.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Highland County Common Pleas Court, Juvenile Division, to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Abele, J. and Hess, J.: Concur in Judgment and Opinion.

For the Court,

BY: _____
Kristy S. Wilkin, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.