[Cite as *In re L.M.*, 2024-Ohio-1435.]

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

In the Matter of:	:	
	:	Case No. 23CA14
L.M. (02-21-13)	:	
S.M. (05-18-14)	:	
C.M. (10-07-17)	:	DECISION AND JUDGMENT
	:	ENTRY
	:	
	:	**RELEASED: 04/08/2024**

APPEARANCES:

Steven H. Eckstein, Washington Court House, Ohio, for appellant.

Laina Fetherolf Rogers, Jackson, Ohio, for appellee.

Wilkin, J.

{¶1} Appellant, Jennifer Murphy, appeals a decision of the Jackson County Court of Common Pleas, Juvenile Division, that overruled appellant's objections to the magistrate's decision and granted Jackson County Department of Job and Family Services ("the agency") permanent custody of her three children: L.M., S.M., and C.M. (ages nine, eight, and four, respectively). Appellant raises one assignment of error that asserts that the trial court's decision to place the children in the agency's permanent custody is against the manifest weight of the evidence. After our review of the record and the applicable law, we do not find any merit to appellant's assignment of error. Therefore, we affirm the trial court's judgment.

FACTS AND PROCEDURAL BACKGROUND

{¶2} On October 6, 2020, the agency filed a complaint that alleged the three children are abused, neglected, and dependent. The complaint alleged the following. On August 19, 2020, an agency caseworker responded to the family's residence after

receiving a report of emergency neglect "due to housing conditions and caretaker going to jail." Upon arrival, the caseworker "observed the apartment to be unsanitary and a danger to the children." The caseworker indicated that "[t]he apartment had roaches, old food and trash throughout" and "a brown substance smeared on the walls." The caseworker also reported that "[d]ebris blocked access to the stairs, the upstairs bedrooms and the kitchen[.]"

{¶3} The children's father advised the caseworker that appellant "does not assist him around the home and he was overwhelmed." He further informed the caseworker that on August 10, 2020, appellant had been arrested for showing up to court and testing positive for drugs.

{¶4} On August 19, 2020, the father was arrested "due to a warrant for failure to appear" on a drug-possession charge. On that same date, the agency caseworker drug tested the father, and the test returned positive for methamphetamine, amphetamine, and marijuana. The caseworker also reported that "[l]ocal law enforcement notes that they have responded to overdoses at the [family's] residence."

{¶5} The father was charged with three counts of child endangering due to the living conditions in the home. He later entered guilty pleas to two of the counts, and the third count was dismissed. On September 29, 2020, the father agreed to a safety plan under which the children would stay with neighbors while he cleaned the home.

{¶6} On September 2, 2020, appellant was released from jail. On September 27, 2020, she was arrested and incarcerated again for assault and domestic violence. According to the father, appellant had punched a neighbor and had tried to run the father over with a car. On October 5, 2020, appellant was released from jail.

{¶7} On October 5, 2020, the family was evicted from the home, and on that same date, the trial court granted (via telephone) the agency emergency ex parte custody of the children.

{¶8} On December 30, 2020, pursuant to the parties' agreement, the trial court adjudicated the children neglected and placed the children in the agency's temporary custody.

{¶9} On August 30, 2021, the agency filed a motion to modify the disposition to permanent custody.

{¶10} On November 30, 2021, the court converted the agency's request for permanent custody into a request for an extension of temporary custody "[o]ut of an abundance of caution" and to correct any procedural deficiencies that may have occurred regarding the semi-annual review hearing. The court thus continued the children in the agency's temporary custody and dismissed the agency's August 30, 2021 motion without prejudice.

{¶11} On March 2, 2022, the agency filed a motion to modify the disposition to permanent custody.

{¶12} On May 2, 2022, James Peek and Cynthia Sexton, the children's maternal grandparents, filed a motion to intervene and a motion that asked the court to place the children in their temporary custody. They also filed a motion for legal custody of the children.

{¶13} On May 18, 2022, the court denied the grandparents' motion to intervene and found that their motions for temporary custody and legal custody were moot.

{¶14} On August 19, 2022, the court held a hearing to consider the agency's permanent custody motion. At the hearing, Brittany Downard Lowe testified that she had been the family's caseworker between October 2020 and September 2021. She stated that most of the time, the parents did not comply with their case plan services. They missed appointments and were dismissed from service providers due to noncompliance.

{¶15} Tammy Gray, a counselor with a drug-treatment center, testified that appellant never appeared for her scheduled assessment.

{¶16} Kyle Darby, a court liaison with another drug-treatment center, stated that appellant entered the treatment program but left, against staff advice, after six days.

{¶17} Gina Campbell, a counseling assistant with PRISM Behavioral Healthcare, testified that on August 2, 2021, appellant appeared for an assessment. The assessment indicated that appellant should undergo weekly counseling and drug screens. Appellant attended most of her counseling sessions, and she remains engaged in counseling. Appellant's drug screens consistently returned positive for methamphetamine, occasionally for THC, and sometimes for cocaine metabolites.

{¶18} Caseworker Ashley Darling testified as follows. She started working with the family in June 2021. She identified the primary concerns as housing, mental health, and substance abuse. Darling related that the father had passed away while the case was ongoing. His cause of death was "cardiac (inaudible) due to methamphetamine use."

{¶19} Appellant currently resides with her mother, her mother's boyfriend, and appellant's adult daughter. She stated that the home is appropriate, "but there [were]

some issues just about the functioning of the people in the home that we did not find appropriate." Appellant's mother's boyfriend owns the home, and he has "had multiple charges," including aggravated menacing and driving while intoxicated. He also recently had been incarcerated after entering a courthouse while drunk. Furthermore, during home visits, caseworkers observed "beer kind of everywhere." Thus, the agency did not deem this residence suitable for the children. Plus, the parents had been living in this home and the agency's policy is that the parents cannot "reside in the placement that we're looking at a potential placement provider for." The agency had informed appellant's mother that if she wanted "to be considered for a kinship caregiver," then appellant and the father could not reside in her home. Appellant's mother responded that she did not "care" and that she would let appellant live in her home.

{¶20} The agency considered appellant's sister and mother as potential placements, but "neither of those was able to work out successfully."

{¶21} Darling further discussed the children's wishes and their current placements. She explained that given C.M.'s young age and L.M.'s disabilities, she mostly talked to S.M. about her wishes. Darling stated that "[u]p until about the last three months, [S.M.]'s desire was as soon as mommy gets a house, I get to go home." However, during the last few visits, S.M. stated that she would like to remain in the foster home, but when appellant "gets better," she would like appellant to be able to move in the basement and live with her. Still, S.M. "loves her mom." Darling related that L.M. has developmental issues and does not "quite understand the full aspect of everything," but "he definitely * * * wanted to be home with his parents."

{¶22} S.M. and C.M. have been in their current placement for almost five months, and this placement has "been wonderful." The children have made much "progress since the previous placement," and they are "very actively involved in outside activities."

{¶23} Darling reported that although appellant has complied with some of the case plan services, she has not been able to maintain sobriety. Darling testified that the children "are very vulnerable children who do need a safe and sober adult to protect them." Darling thus believes that placing the children in the agency's permanent custody is in their best interests.

{¶24} The children's GAL testified that he reviewed the previous GAL's file and attempted to meet with appellant but was unable to do so. He explained that they had a date scheduled in May 2022, but then, right before the meeting was set to occur, appellant stated that she needed to cancel because she was planning to enter drug treatment. The GAL never heard back from appellant. As the permanent-custody hearing approached, he contacted appellant's mother to ask if he could visit the home, and appellant's mother indicated that appellant had left for vacation and that appellant would contact the GAL when she returned. The GAL again did not hear back from appellant.

{¶25} The GAL met with the children. L.M. lives in a residential facility and "has a lot of issues." The other children are "thriving" in their current placement. He believes that placing the children in the agency's permanent custody is in their best interests. The foster parents have expressed interest in adopting the two girls, S.M. and C.M. The girls miss seeing their brother, however. The girls have stated that they want to remain living in the foster home, and they "really like the current placement."

{¶26} Appellant testified that she would like to reunify with her children and that if reunification is not possible, then she would like the agency to consider her mother and her oldest daughter as placements. Appellant agreed that the agency had told her that as long as she remained living in her mother's home, the agency could not consider her mother as a potential placement. Appellant stated that she told the agency that she could leave and that she has "a place to go."

{¶27} On October 13, 2022, the court entered an order that found the agency has used reasonable efforts to return the children to their parents' custody. The court noted that the children's father had passed away in April 2022, and that the agency attempted each month to engage appellant in services.

{¶28} The next filing in the record is a March 7, 2023 case plan. This case plan stated that reunification remained the goal.

{¶29} On June 23, 2023, the agency filed a status update and pointed out that although the court had held a permanent-custody hearing in August 2022, it had yet to issue a decision.

{¶30} On July 17, 2023, the trial court granted the agency permanent custody of the three children. The court determined that the children have been in the agency's temporary custody for 12 or more months of a consecutive 22-month period and that placing them in the agency's permanent custody is in their best interest.

{¶31} The court considered the children's wishes and noted that it had interviewed S.M. S.M. advised the court that she refers to the foster parents "as mom and dad" and that she "enjoys her current living situation." She expressed "a desire to see her mother," but "she did not indicate a desire to live with her mother." The court

found that the other two children lacked the maturity to convey their wishes. The court noted, however, that "C.M. has expressed a desire to also be maintained in her current placement."

{¶32} The court indicated that "S.M. and C.M. are excelling in their current foster placement, have developed a strong bond with the foster family, and are accepted as part of the family." L.M., however, "is struggling in his current placement and has been diagnosed with ADHD, PTSD and other behavioral conditions." The court stated that L.M. requires "continued professional treatment" that appellant cannot provide. The court explained that appellant "is unable to appropriately care for her own health needs" and cannot "be expected to provide appropriate care for the needs of L.M."

{¶33} The court further found that children "have spent a significant amount of time during their lives outside the care" of appellant. The court noted that the children have not lived with appellant in nearly two years. Throughout that time, appellant has made some attempts to comply with her case plan, but she has not made any "serious attempts to achieve sobriety." For that reason, "there has been no real interrelationship between the children" and appellant.

{¶34} The court determined that the children need a legally secure permanent placement and that they cannot achieve this type of placement without granting the agency permanent custody. The court stated that no suitable relative or kinship provider "was produced to the Court as an alternative to permanent custody." The court also found that appellant "is unable to provide a legally secure placement at this time or at any time in the near future." The court thus granted the agency permanent custody of the three children. This appeal followed.

ASSIGNMENT OF ERROR

THE TRIAL COURT'S GRANT OF PERMANENT CUSTODY TO THE JACKSON COUNTY JOBS AND FAMILY SERVICES CHILDREN'S DIVISION WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶35} In her sole assignment of error, appellant argues that the trial court's decision to award the agency permanent custody of the children is against the manifest weight of the evidence. More particularly, appellant asserts that the trial court improperly shifted the burden of proof to her by finding that "no suitable relative or kinship provider was produced to the Court as an alternative to permanent custody." Appellant further contends that the agency failed to demonstrate, by clear and convincing evidence, that the children could not achieve a legally secure permanent placement without granting the agency permanent custody. She charges that the agency did not eliminate her mother as a possible relative or kinship placement.

STANDARD OF REVIEW

{¶36} 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; *accord In re Z.C.*, 2023-Ohio-4703, ¶ 1. 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. 04CA10, 2004-Ohio-3146, ¶ 7.

{¶37} 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." *In re K.H.*, 119 Ohio St.3d 538, 2008-Ohio-4825, 895 N.E.2d 809, ¶ 43. "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).

{¶38} 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.").

{¶39} 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.' "). 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].' " *Thompkins*, 78 Ohio St.3d at 387, 678 N.E.2d 541, quoting *Martin*, 20 Ohio App.3d at 175, 485 N.E.2d 717.

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).

R.C. 2151.414(B)

{¶41} 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, as relevant here, one of the following circumstances applies:

> (d) 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, or 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 and, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state.

{¶42} In the case before us, appellant does not dispute the trial court's finding that the children have been in the agency's temporary custody for 12 or more months of a consecutive 22-month period. Therefore, we do not address this factor.

BEST INTEREST

{¶43} 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.

{¶44} 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." *C.F.* at ¶ 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." *Id.* 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).

{¶45} In the case at bar, appellant has not challenged any of the trial court's best interest findings, except its finding that the children cannot achieve a legally secure permanent placement without awarding the agency permanent custody. We limit our review accordingly.

{¶46} Appellant contends that the record does not contain clear and convincing evidence to support the trial court's finding that the children cannot achieve a legally secure permanent placement without granting the agency permanent custody. She claims that the trial court improperly placed the burden of proof upon her by stating that "no suitable relative or kinship provider was produced to the Court as an alternative to permanent custody." Appellant further asserts that the court failed to consider her mother as an alternate placement for the children.

{¶47} "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 was unable to provide legally secure permanent placement when she lacked physical and emotional stability and that father was unable to do so when he lacked a 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.

{¶48} In the case before us, clear and convincing evidence supports the trial court's finding that the children need a legally secure permanent placement and that they can only achieve this type of placement by granting the agency permanent custody. Appellant does not have a legally secure permanent placement for the three children. She has not yet been able to overcome her addiction despite having nearly two years of agency involvement. None of the children can be placed in appellant's custody, and they desperately need "stability and security * * * to become productive and well-adjusted members of the adult community." *Ridenour*, 61 Ohio St.3d at 324. Their best interests will be "served by placing them 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 *Ridenour*.

{¶49} Moreover, we do not agree with appellant that the trial court incorrectly shifted the burden of proof to her by stating that "no suitable relative or kinship provider was produced." A trial court that is evaluating a child's need for a legally secure permanent placement does not have a duty to "find by clear and convincing evidence that no suitable relative was available for placement." *Schaefer* at ¶ 64. Instead, R.C.

2151.414 "requires a weighing of all the relevant factors," and it "does not make the availability of a placement that would not require a termination of parental rights an all-controlling factor." *Id.* Because the trial court did not have any duty to "find by clear and convincing evidence that no suitable relative was available for placement," when evaluating the children's best interests, it did not improperly shift any burden of proof to appellant. *Id.*

{¶50} While we recognize appellant's concern that the trial court did not adequately consider alternate placements for the children, we point out that a trial court need not determine that terminating parental rights is "the only option" or that no suitable person is available for placement before it may place a child in an agency's permanent custody. *Id.* Rather, R.C. 2151.414 requires the court to weigh "all the relevant factors * * * to find the best option for the child." *Id.* Additionally, as we noted above, R.C. 2151.414 "does not make the availability of a placement that would not require a termination of parental rights an all-controlling factor." *Id.* Furthermore, "[t]he statute does not even require the court to weigh that factor more heavily than other factors." *Id.* Therefore, courts are not required to favor relative or non-relative placement if, after considering all the factors, it is in the child's best interest for the agency to be granted permanent custody. *Id.*; *e.g.*, *In re M.M.*, 4th Dist. Pike No. 20CA907, 2021-Ohio-2287, ¶ 56; *In re V.C.,* 8th Dist. Cuyahoga No. 102903, 2015–Ohio–4991, ¶ 61 (stating that relative's positive relationship with child and willingness to provide an appropriate home did not trump child's best interest). We also observe that "[i]f permanent custody is in the child's best interest, legal custody or placement with [a

parent or other relative] necessarily is not." *In re K.M.,* 9th Dist. Medina No. 14CA0025–M, 2014–Ohio–4268, ¶ 9.

{¶51} Here, although appellant has not challenged the trial court's best interest finding as a general matter, we briefly point out that the record contains ample, clear and convincing evidence that placing the children in the agency's permanent custody is in their best interest. The two girls are thriving in their current placement and have stated that they would like to remain in this home. The foster parents are interested in adopting them. L.M. could be in a better placement, but he is receiving professional treatment. All three children have been in the agency's temporary custody for 12 or more months of a consecutive 22-month period.

{¶52} Additionally, the GAL recommended that the court grant the agency permanent custody of the children. *C.F.,* 113 Ohio St.3d 73, ¶ 55 (R.C. 2151.414 "unambiguously gives the trial court the choice of considering the child's wishes directly from the child or through the guardian ad litem"); *In re S.M.*, 4th Dist. Highland No. 14CA4, 2014-Ohio-2961, ¶ 32 (recognizing that R.C. 2151.414 permits juvenile courts to consider a child's wishes as child directly expresses or through the GAL). Moreover, S.M. informed the court that she is happily living in the foster home, and C.M. stated that she wished to remain with the foster family.

{¶53} Based upon all of the foregoing reasons, the trial court could have firmly believed that placing the children in the agency's permanent custody is in their best interests. Therefore, we do not believe that the trial court's permanent-custody decision is against the manifest weight of the evidence.

{¶54} Accordingly, based upon the foregoing reasons, we overrule appellant's sole assignment of error.

CONCLUSION

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

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS AFFIRMED and appellant shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Jackson 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.

Smith, P.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.