

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

IN RE S.C., ET AL.	:	
	:	No. 108036
Minor Children	:	
	:	
[Appeal by N.R., Mother]	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: September 12, 2019

Civil Appeal from the Cuyahoga County Court of Common Pleas
Juvenile Division
Case Nos. AD17909367, AD17909368, AD17909369,
AD17909370, AD17909371, and AD17909372

Appearances:

Erin R. Flanagan, *for appellant.*

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Adam R. Waller, Assistant Prosecuting Attorney, *for appellee.*

MARY J. BOYLE, P.J.:

{¶ 1} Appellant, N.R. (“mother”), appeals the trial court’s judgment granting permanent custody of her six children, S.C. (d.o.b. August 9, 2002, 17 years old), Nark. N. (d.o.b. December 27, 2008, 10 years old), Narih. N. (d.o.b. March 7, 2010, 9 years old), Nario. N. (d.o.b. May 14, 2011, 8 years old), Jo. N. (d.o.b. October

31, 2014, 4 years old), and Ja. N. (d.o.b. June 6, 2017, 2 years old), to the Cuyahoga County Department of Children and Family Services (“CCDCFS” or “the agency”).

Mother raises three assignments of error for our review:

(1) The trial court’s permanent custody findings on R.C. 2151.414(B)(1)(d) grounds were plainly erroneous.

(2) The trial court’s award of permanent custody to CCDCFS was not supported by clear and convincing evidence and was against the manifest weight of the evidence.

(3) The trial court erred to appellant’s prejudice by relying on the guardian ad litem’s report and recommendation where the evidence demonstrated that her investigation failed to meet the basic requirements of Loc.R. 18 and Rule 48 of the Rules of Superintendence.

{¶ 2} Finding no merit to her arguments, we affirm.

I. Procedural History and Factual Background

A. Removal, Adjudication, and Disposition

{¶ 3} On June 15, 2017, the children were removed from mother’s care pursuant to an ex parte telephonic order after mother tested positive for opiates at the birth of Ja. N., although Ja. N. did not test positive for opiates. At the time of the emergency removal, CCDCFS already had protective supervision of the two oldest children, S.C. and Nark. N., after they were adjudicated neglected due to the failure of mother to ensure the children’s educational needs were met (mother was not sending the school-age children to school).¹ Although the agency had protective

¹ At this time, CCDCFS also had temporary custody of mother’s older daughter, D.N. (d.o.b. April 11, 2001), who was placed in foster care in Canton, Ohio. D.N. is not part of the present case. In May 2018, D.N. was placed in a permanent planned living arrangement (“PPLA”). Mother also has two other children who have already aged out of the system because they are over 18 years old.

supervision of S.C. and Nark. N., mother still had legal custody of them.² When CCDCFS filed its complaint for temporary custody the following day, alleging that the children were neglected and dependent, it informed the court that it would move to terminate its protective supervision of S.C. and Nark. N.

{¶ 4} In addition to filing a complaint for temporary custody of the children, CCDCFS simultaneously moved for predispositional temporary custody. CCDCFS alleged in the complaint that mother had substance abuse issues for nine years, tested positive for opiates in 2011 at the birth of Narrio. N., and tested positive for marijuana in 2008 at the birth of Nark. N. According to CCDCFS's complaint, mother had "never participated in treatment to address her drug use." CCDCFS did note in the complaint that mother told a social worker that she had used Percocet at the time of Ja. N.'s birth that had been prescribed to her in October 2016.

{¶ 5} CCDCFS further alleged that mother's home was inadequate and unsafe, stating that there was a hole in the front door where a lock should be, there was no hot water, there were 14 people living in the home without sufficient beds, and the home had "repeatedly been observed with garbage on the floor." A social worker further averred that mother (1) has consistently been unable to meet the children's basic needs and had no provisions for the newborn child, (2) has been diagnosed with anxiety "and has only recently begun treatment," (3) has consistently

² The record reveals, however, that mother had just recently been given back custody of S.C. S.C. had been placed in the legal custody of her maternal aunt, S.G., but was removed from S.G. as well due to educational neglect. The record also reveals that S.G. had legal custody at one point of D.N. and one of the older children as well.

failed to meet the older children's educational needs, and (4) the alleged fathers of the children were either in prison, had not established paternity, or were unknown.

{¶ 6} After a hearing was held on June 16, 2017, the juvenile court found that there was probable cause to remove the children and granted CCDCFS emergency temporary custody (also referred to as predispositional custody). The trial court appointed a guardian ad litem ("GAL") for the children. Three of the children were placed in a foster home in Mount Vernon, Ohio, and three were placed in a foster home in Newark, Ohio.

{¶ 7} On June 26, 2017, mother moved to set aside the order granting emergency temporary custody to the agency, arguing that the evidence did not support the removal of the children. The trial court overruled mother's motion.

{¶ 8} A magistrate held an adjudication hearing on August 24, 2017. At the hearing, CCDCFS moved to amend the complaint, which the magistrate allowed. Mother stipulated to the amended allegations. The trial court approved and adopted the magistrate's decision on September 11, 2017, and adjudicated the children neglected and dependent.

{¶ 9} The magistrate held a dispositional hearing on September 11, 2017, recommending temporary custody to the agency. The trial court approved and adopted the magistrate's decision on September 27, 2017, granting CCDCFS temporary custody of the children. Although mother was not present at the hearing, mother stipulated through counsel to the agency receiving temporary custody.

{¶ 10} On February 12, 2018, CCDCFS moved to modify temporary custody to permanent custody pursuant to R.C. 2151.414(B)(1)(a). At the time of this filing, CCDCFS stated that mother had failed to complete any of her case-plan objectives.

{¶ 11} On June 18, 2018, the agency moved for a review hearing and for a finding of reasonable efforts to finalize a permanency plan pursuant to R.C. 2151.417(C)(1), as well as a request for specific findings.

{¶ 12} On July 18, 2018, the GAL moved for appointment of counsel for S.C., Nark. N., and Narrio. N. The GAL stated that her recommendation regarding what was in the best interests of the children was in conflict with their wishes. The court granted the GAL's motion and appointed counsel for the three children.

{¶ 13} On September 25, 2018, the trial court approved and adopted the magistrate's decision entered on September 11, 2018, that found it was contrary to the children's best interests to be returned to mother. It further found that CCDCFS made reasonable efforts to prevent the removal of the children and that relevant services were provided to mother. The trial court also found that the agency made reasonable efforts to finalize the permanency plan of reunification.

B. Case Plan and Semiannual Administrative Reviews

{¶ 14} Under her case plan, mother was required to (1) complete a drug and alcohol assessment, provide the assessor with true and accurate information, attend and participate in recommended treatment, and provide random drug screens, (2) complete a psychological assessment and follow through with all recommendations, (3) enroll her school-age children in school, ensure that their educational needs were

being met, including participating in school activities such as conferences, planning, and homework assistance, and (4) demonstrate an ability to meet her children's basic needs, including food, clothing, housing, and nurturing by using her own income and community resources. The permanency goal was reunification.

{¶ 15} The agency filed the first semiannual administrative review ("SAR") on October 20, 2017. It filed another SAR in April 2018. It completed a third SAR on October 31, 2018, just before the permanent custody hearing, which is the one that we will focus on because it summarized mother's ongoing participation throughout her case plan.³

{¶ 16} Regarding mother's case-plan objectives, the social worker reported in the SAR that mother had made insufficient progress regarding her ability to meet the children's basic and educational needs. While mother made "some progress" with respect to her substance abuse and mental health objectives, the social worker concluded that reunification was not recommended due to mother not successfully completing her case-plan objectives.

{¶ 17} According to the October 2018 SAR, mother had remained sober since July 2018. She admitted to relapsing in the summer and taking Percocet due to stress. However, mother was expected to graduate from an intensive outpatient program ("IOP") at New Visions on November 1, 2018. Mother had also started receiving Vivitrol shots, which is an opiate blocker, instead of going to inpatient

³ The October 31, 2018 SAR was not filed until November 13, 2018, the day of the permanent custody hearing.

substance abuse treatment that had been recommended. She received the shot monthly at New Visions. Mother told the social worker that her “sober date was 8/11/18.” Mother’s substance abuse provider gave the social worker “good reports.” Mother reportedly planned to get a sponsor and attend meetings, but had not yet done so.

{¶ 18} Mother shared her “goodbye letter to her drug of choice (Percocet)” with the social worker. Mother told the social worker how life was different being sober and mother now recognized “that she was not functioning well nor meeting her children’s needs while using.” Mother admitted to her addiction and described how she had needed Percocet to get through a day. Mother stated that after she began to open up during her intensive outpatient sessions, she “felt a lot better and underst[ood] communicating her past struggles [was] a key component to recovery/sobriety efforts.”

{¶ 19} Regarding mother’s mental health objective, mother had been linked with Ohio Guidestone but was discharged due to nonengagement. As of the date of the SAR, mother did not have a mental health provider. Mother reported, however, that she planned to return to Ohio Guidestone, where she was “one year ago.” The social worker stated that mother would need an updated assessment since it had been so long. However, the social worker recognized that mother was “openly communicating and engaging with counseling through her IOP” at New Visions. The social worker stated that she observed mother’s “overall attitude and mood to be more upbeat and positive.”

{¶ 20} As for mother's housing, she had been evicted in 2017 and had not obtained independent housing. She still resided with two of her sisters, which was not appropriate for the children. Both of her sisters' children lived in the home, six in total. Mother's elderly mother also lived in the home. Mother admitted that this was not a "healthy, supportive environment." Mother stated that her family does not support her and does not believe that she will remain sober. They call her "pill head." Mother admitted that this does not help her recent sobriety. Further, mother's family members "continue to use despite her recovery, which is an additional stressor." The social worker referred mother to Eden for housing. The social worker also referred mother to Cosgrove shelter for rapid rehousing programs and University Settlement Neighborhood Collaborative and gave mother lists of online searches regarding available houses for rent in desired areas. Mother reported that she was "looking on her own" for a new place to live and had "at least one lead."

{¶ 21} Regarding parenting, the social worker reported that she referred mother to University Settlement for parenting classes. Mother completed one or two sessions in September 2017, but did not complete the program. The social worker referred mother to Supportive Visitation, but that never occurred due to scheduling conflicts. The social worker also referred mother to Nurturing Parents, which mother had not yet started because she was awaiting on "supportive services to assign." The social worker reported, however, that mother had the opportunity

to complete multiple parenting programs in the past, dating back to 2014, and none had “appeared” to benefit mother.

{¶ 22} Regarding the children’s educational needs, the social worker stated that mother had not played an active role. In October 2018, mother participated via telephone conference in Narrih. N.’s IEP meeting. But the meeting did not go well because mother “was not engaged and was unresponsive to the team during the conference.” Plus, during the meeting, a male was heard yelling and using profanity on mother’s phone, and the meeting had to be stopped by the principal. Mother did sign consents for Narrih. N. to be tested and asked about Narrio. N.’s educational needs. Other than those “few instances,” mother had not “regularly communicated with the schools, foster parents, or children regarding their academics.” Mother did not demonstrate a “strong capability of meeting her children’s special education needs due to non-involvement.”

{¶ 23} With respect to meeting the children’s basic needs, the social worker reported that mother had not demonstrated an ability to do so. Mother was unemployed. In addition to housing concerns, mother did not have a strong support system, and the social worker was not sure mother could “manage all six children independently.” Mother had expressed “being overwhelmed in the past.” Further, mother was the primary caregiver to her elderly mother. Mother had “limited appropriate alternate caregivers that could be utilized when needed.” S.C. and Narrih. N. “were primarily parentified while in mother’s care and took on the role of

caregiver to their younger siblings.” Since they had “entered care, they have enjoyed being typical kids with little to no responsibility.”

{¶ 24} The social worker reported that the younger children, Ja. N., Jo. N., and Narrio. N., were vulnerable because of their ages. The older children, S.C., Nark. N. and Narrih. N., are able to “self protect,” although Narrih. N. was only eight years old and still “vulnerable.” Ja. N. had vision concerns due to being a low-weight, premature baby (mother had not had any prenatal care when she was pregnant with Ja. N.). All of the children were “significantly behind their peers” and also had special needs, educationally and medically.

{¶ 25} Mother had still been visiting the children two hours every week at the Boys and Girls Club in the Cleveland area. The visits were going “OK.” Mother made an effort to “manage all seven children [D.N. attended the visits as well] and give them each attention.” According to the social worker, the children had difficulty with the travel distance from their foster homes to Cleveland to visit their mother. All of the children “struggle[d] to get back to their normal routines and behaviors in foster homes after visits.” It was also reported that mother had been lying to the children, telling them that they would be able to come home before Thanksgiving, even though she had been advised that this was not going to happen. Mother denied telling the children this.

{¶ 26} The social worker further reported that S.C., Jo. N., and Ja. N. were still in a foster home together. S.C. was 16 years old and in the eighth grade. She was “having some teenage difficulties.” S.C. was no longer “the same positive,

happy[-]go[-]lucky, bubbly, out-going, social personality.” She did not want to be reunified because “she and her mom clash.” During visits to her paternal grandmother’s home in Cleveland, S.C. was sneaking away to see her boyfriend. Because of her dishonest and “unsafe/risky behaviors,” the agency suspended the visits with paternal grandmother. S.C. was doing well in school, however, and had good grades and attendance. Although S.C.’s educational team had considered moving her to a higher grade because of her age, they decided not to because they were “afraid that it [would] have a negative impact on her education.” S.C. was going to start counseling. S.C. also had completed a life-skills assessment at House of New Hope.

{¶ 27} The social worker reported that Jo. N. continued to make progress. His foster parents were working on “potty training.” He was on a wait list at Head Start, but he needed to be “potty trained” first. He may need speech therapy.

{¶ 28} Ja. N. was doing well. She was repeating words and talking. She was very close to learning to walk. She was happy and healthy. Neurology discharged her, but she still saw an eye doctor due to having nystagmus. She also had to wear an eye patch, but was expected to finish her eye treatment by January 2019.

{¶ 29} Nark. N., Narrih. N. and Narrio. N. were also still in the same foster home. Nark. N. was doing well. He was in the second grade at ten years old. He was more “outgoing,” “on target developmentally,” and doing well educationally (despite being two grades back). He was receiving community psychiatric supportive treatment with House of New Hope, and his behavior had improved. He

was struggling, though, because he thought he was going home to his mother (after mother allegedly lied to them and told them they were coming home soon), but his counselors were addressing it. He took medication for bedwetting.

{¶ 30} Narrih. N. was doing well. She was held back at the end of the last school year and was thriving in first grade at eight years old. She still struggled to retain information she learned. She was receiving speech intervention at school and was improving, but she was being assessed for an IEP. She was also receiving community psychiatric supportive treatment with House of New Hope. She had anxiety around visits with mother. Narrih. N. wished to be adopted.

{¶ 31} Narrio. N. struggled with “multiple areas of development and education.” He was behind academically. Despite being nine years old, he was only in the first grade. He still needed speech therapy. The school had not addressed his delays and had not timely implemented services for him. He still needed to be assessed for an IEP. The social worker contacted the agency’s education liaison to try to expedite the process, and planned to also contact Legal Aid. He was receiving community psychiatric supportive treatment with House of New Hope. He took medication for bedwetting.

{¶ 32} The social worker stated that the risk of returning the children to mother remained high because of the fact that there were six children, mother had a history with CCDCFS, she was a single parent, and she had “moderate case plan participation.” Mother “still needed to demonstrate ongoing sobriety and to obtain stable housing.”

C. GAL'S Final Report and Recommendation

{¶ 33} The GAL submitted her final report on November 6, 2018. She reported that mother continues to reside in a two-bedroom apartment with two other adults, which lacked adequate space for the children.⁴ The GAL stated that mother had “talked to the neighborhood collaborative seeking assistance with furniture and housing.” She further reported that mother no longer received public assistance because the children had not been in her care, but she still received SSI and SSA. The GAL stated that mother began engaging in mental health services with Ohio Guidestone and that mother’s therapist met with mother every couple of weeks in her home.⁵ The GAL stated that mother was not prescribed medication.

{¶ 34} The GAL further reported that mother admitted using marijuana and acknowledged that she needed to get help. The GAL stated that mother began intensive outpatient treatment in late June 2018 at New Visions. However, mother had missed some treatment sessions and tested positive for Percocet. The GAL stated that mother said she had a prescription for Percocet, but did not provide one.

⁴ This was incorrect. Mother’s sister’s house, where mother was living at that time, was a four-bedroom house, and there were four adults living there and six children. However, it was still not appropriate because, among other reasons, there were already ten people living there.

⁵ This was also incorrect. Mother had not been receiving in-home therapy sessions for over a year at this point.

Mother's progress was "poor" due to the fact that she was only attending one out of three sessions per week.⁶

{¶ 35} Regarding the children, the GAL stated that all six children were still in foster homes in Mount Vernon and Newark, Ohio, but that S.C., Jo. N., and Ja. N. had been moved to a new foster home and that the change was positive. The GAL reported that Nark. N. and Narrio N. wished to be returned to mother, but Narrih. N. did not. S.C. did not want to be adopted. S.C. preferred to be placed in the legal custody of her paternal grandmother or placed in PPLA.

{¶ 36} The GAL's final report included four paragraphs about the children that were identical to her August 28, 2017 report, including that (1) all of the children love their mother and have a strong bond with her; (2) mother engages with her children during the visits; (3) mother was developing a bond with Ja. N.; (4) S.C., Nark. N., Narrih. N., and Narrio. N. were enrolled in school; (5) S.C. was enrolled in 7th grade, but her foster parents were working to get her moved to the 9th grade; (6) S.C. wanted to attend school and obtain her high school diploma; (7) although the children were healthy and "on medical care," Nark N. and Narrih. N. needed glasses; (8) S.C. wanted to be placed with her paternal grandmother, but S.C. had been placed with her in the past and there were issues; and (9) S.C. also wished to be placed with her aunt, but this was "not a viable option either" because of the fact that

⁶ This fact also seems to be from an earlier time because at that point, mother was attending more than one session per week.

the aunt had failed to ensure the children attended school when she had legal custody of them in the past.

{¶ 37} The GAL opined that it was in the children's best interests to be placed in the permanent custody of CCDCFS.

D. Permanent Custody Hearing

{¶ 38} The social worker testified that she was assigned to mother's case in March 2017, but explained that mother had an open case with the agency since September 2013, involving mother's older children. When the social worker received the case, she reviewed mother's extensive history. The current case, however, began in June 2017, when mother tested positive for opiates at the birth of her ninth child. At that time, mother had just received legal custody back of S.C., who had been in the legal custody of her maternal aunt.

{¶ 39} The social worker testified that mother completed a substance abuse assessment at New Visions in August 2017. She was diagnosed with severe opioid and cannabis disorder. New Visions recommended that mother get into an intensive outpatient program. Mother began treatment, but was discharged in November 2017 due to nonengagement of services and continuing to test positive. According to the social worker, mother re-engaged in April 2018, but continued to test positive for marijuana and alcohol.

{¶ 40} On July 16, 2018, mother tested positive for opiates. Mother admitted to relapsing and taking a Percocet. Mother was placed on a "no-use contract and recommended for residential" treatment in August 2018, but chose to remain in

intensive outpatient treatment. Mother stated that her sobriety date was August 11, 2018. The social worker stated that with mother's extensive history, mother needed to "follow through with completing what was recommended" before reunification could occur. The social worker did not receive a certificate of completion for mother from New Visions, but as of October 29, 2018, mother was "expected to graduate IOP and aftercare on November 1, 2018." Mother told the social worker at the last SAR that she did not have a sponsor nor was she attending meetings.

{¶ 41} Despite mother completing her IOP, the social worker stated that she still had concerns about mother maintaining sobriety. Mother still lived with her sisters, which mother agreed was not a healthy environment for her because her family was not supportive of her. Mother also had not identified a sponsor or engaged in meetings. The social worker also requested mother to complete a hair follicle test and urine screen the week before trial, which mother had not done.

{¶ 42} With respect to mother's housing, the social worker explained that ten people already lived in the home where mother was residing. The social worker said there was no hot water in the house. The social worker did not know where mother slept in the house and said that mother did not have beds for her children. Plus, there were issues with trash on the floor, and it had been "reported that there [was] an infestation of cockroaches." The social worker said that trash had historically been an issue with mother's housing. Mother was also taking care of her elderly mother, which added stress to her life. Mother also admitted that taking care of her mother may impact her ability to care for her six children.

{¶ 43} The social worker discussed housing services that she had recommended to mother, including University Settlement, a “collab” that could assist mother with housing. The social worker had also referred mother to Eden, which she explained offered low-income housing to individuals with mental health issues, substance abuse issues, or disabilities. The social worker had spoken to the director of Eden because she believed mother would be eligible. The social worker said that she believed mother did call, but mother “was directed to go to central intake” at Cosgrove and had not gone. Mother stated at the last SAR, however, that she would be willing to go. But the social worker stated that despite encouraging mother to go, mother did not do so. Mother told the social worker that she had \$650 saved and had been looking at houses in Newburgh Heights.

{¶ 44} Regarding mother’s mental health concerns, the social worker had also referred mother to Family Preservation, but mother was discharged for being unresponsive. The social worker then referred mother to Ohio Guidestone in August or September 2017. Mother completed an assessment and was diagnosed with anxiety and depression. Mother was referred to outpatient treatment for counseling. Mother was linked with a counselor and completed a couple of “in-home sessions,” but her case was closed due to nonengagement. This was around the time that mother was evicted and moved in with her sister, after which she did not follow through with her counselor. At the last SAR, mother stated that she would be willing to re-engage with her counselor. The social worker said that since it had been over a year, mother would probably have to have another assessment.

{¶ 45} The social worker explained, however, that she encouraged mother to re-engage with mental health services through her counselor at IOP, and “so it was kind of like dual services.” The social worker said that mother “was meeting her mental health and substance abuse, because it kind of goes hand in hand.” The social worker stated that because mother is “more open and more engaging and communicates, she feels a lot better having those sober supports and being able to talk to somebody.” But New Visions did not intend on continuing counseling with mother, so the social worker stated that mother would benefit from counseling somewhere else. Mother was receiving a Vivitrol shot once a month at New Visions.

{¶ 46} The social worker testified, however, that she could not say that mother completed her mental health component of her case plan. While mother did not complete a mental health program, the social worker acknowledged that the fact that mother did not have a certificate was not the real issue. Rather, the social worker explained that it was because mother had not shown that she benefitted from the services and demonstrated that her mental health was no longer a concern.

{¶ 47} The social worker testified that mother’s visits with the children were “chaotic at times.” Mother “typically will tend to the younger children,” while the older children play on their phones, mom’s phone, or the computer. The older children visit with their cousins. Further, “it was reported” that mother told the children that they would be returning home before the holidays. Mother denied saying it, but the children were “very confused.” The social worker said that she told mother that before reunification could occur, there were steps that had to happen.

First, mother needed to complete her case plan, then there would be overnight visits, and then extended visits. The agency never considered letting mother have overnight visits, let alone extended visits. The social worker stated that mother could barely manage the six children at supervised visits. Plus, there was an incident that was “indicated” where it was reported that mother’s older son had brought marijuana to a visit and had given it to mother and the oldest daughter (D.N., not subject to this case).

{¶ 48} The social worker testified that since the children have been in foster care, mother has not really been involved with the school districts regarding her children’s education. The social worker said that mother had recently signed some consents so that Narih. N. and Nario. N. could receive testing for IEPs. The social worker further described an incident where mother was on the phone for Narih. N.’s meeting. The social worker said she was “disappointed with mother’s engagement.” There was a lot of background noise and profanity and “there were times when [mother] was not responsive.” The principal had to tell mother to end the call or put the phone on mute, and mother did not respond.

{¶ 49} The social worker discussed the children’s medical and educational issues that she had reported in the SAR. The social worker said that mother never called her to check on the welfare of the children. The social worker stated that although all of the children have educational delays, they were doing well in foster care. The children were happy in foster care, with the exception of S.C., who was 16 years old and was having some “teen” issues.

{¶ 50} The social worker stated that even if mother had another six months, CCDCFS would not likely be able to return the children to her. Mother already had approximately 16 months to meet her case-plan objectives. Mother knew what she had to do and did not do it. But the social worker stated that mother's involvement with the agency had really been going on since 2013, and mother had not been able to maintain her children throughout that time. The older children had not been in mother's care for five years. The younger children had special needs, and mother had not demonstrated an ability to meet those needs. Further, mother's sobriety was "doubtful."

{¶ 51} On cross-examination, the social worker explained the agency had been offering mother services since 2013. The agency had the same concerns about mother back then, including housing, mental health, education, basic needs, and substance abuse. The social worker further stated that mother had an older case from 2008 where neglect had been substantiated because mother's 8-year-old son (now an adult) had never been to school. Mother had reported that she was homeschooling him, but he was so far behind that he was placed in first grade instead of third grade. Mother also had two other school-aged children who were not in school at that time. Now, S.C. is 16 years old and is in the seventh grade. The younger children are also all behind where they should be in school.

{¶ 52} The social worker further explained that the younger children's IEP testing had been delayed due to the school's refusal to test them right away because the school officials believed the children's "poor performance was due to lack of

attendance.” But now since the children had been in school for a year, the schools were starting to test them.

{¶ 53} The social worker agreed that when mother found a two-bedroom apartment, she told mother that it would not be good enough. The social worker stated that mother told her that she wanted her older son to live there too, as well as her elderly mother and her six children.

{¶ 54} The social worker stated that although mother had been sober since August 11, 2018, she did not believe mother could successfully complete her case-plan objectives even if they extended the agency’s custody for another six months. Mother does not work, but she receives social security for one of her eyes and for her father’s death. The social worker explained that although mother has two sources of income and does not pay rent, mother had only saved \$650 for a down payment. But the social worker stated that mother needed to save enough for the first month’s rent and a security deposit.

{¶ 55} The social worker said that she did not move for PPLA for S.C. because she was not mature enough. S.C. needed more stability and supervision. The attorney for S.C. reported that she did not want to be adopted. She wanted to be placed with her paternal grandmother or be placed in PPLA. The two boys who were also his clients, Nark. N. and Nario N., wished to be returned to their mother.

{¶ 56} The GAL testified that she had been involved with the family since 2016. The GAL said that mother’s struggle with her “dual diagnosis” was very real. The GAL stated that she had a hard time with this recommendation. She testified

that she applauded mother's efforts in the last five months, but said that mother had been struggling for at least five years. The GAL opined that had the children been going to school, they might not need IEPs. The GAL reported that Narih. N. struggles at school, has difficulty with math and reading, and had to repeat first grade. Nario N. passed kindergarten, but his foster parents think that he should have been held back a year. Nark. N. was two grades behind, but was doing well where he was. Nark. N., Narih. N., and Nario. N. were in counseling. The GAL explained that Nark. N. and Nario. N. did not want to go home until mother started telling them that she was doing well and that they were going to come home.

E. Trial Court's Judgment

{¶ 57} The trial court stated after considering the evidence and the GAL's recommendation, CCDCFS had established by clear and convincing evidence that the children could not be placed with mother because they had been in the temporary custody of CCDCFS for 12 or months of a consecutive 22-month period, since September 7, 2017.

{¶ 58} The court then found with respect to mother:

Following the placement of the child[ren] outside [their] home and notwithstanding reasonable case planning and diligent efforts by the agency to assist the parents to remedy the problems that initially caused the child[ren] to be placed outside the home, the parents have failed to continuously and repeatedly to substantially remedy the conditions causing the child[ren] to be placed outside the child[ren's] home.

Mother has a chronic mental illness and chemical dependency that is so severe that it makes her unable to provide an adequate, permanent

home for the child[ren] at the present time and, as anticipated, within one (1) year after the court holds the hearing in this matter.

Mother has neglected the child[ren] between the date of the original complaint filed and the date of the filing of this motion by her failure to regularly send child[ren] to school.

Mother has demonstrated a lack of commitment toward the child[ren] by failing to regularly support or by her actions, has shown an unwillingness to provide an adequate, permanent home for the child[ren].

Mother is unwilling to provide shelter and other necessities for the child[ren].

{¶ 59} The court then found that the children’s continued residence with or return to mother would be contrary to the children’s best interests and that “reasonable efforts were made to prevent the removal of the child[ren] from [the] home, or to return the child[ren] to the home, and to finalize the permanency plan, to wit, reunification.” The court granted the agency permanent custody of all six children and terminated mother’s parental rights. It is from this judgment that mother now appeals.

II. Permanent Custody Determination

{¶ 60} Parents have a basic and fundamental interest in the care, custody, and management of their children. *Troxel v. Granville*, 530 U.S. 57, 65, 120 S.Ct. 2054, 147 L.Ed.2d 49 (2000). The Ohio Supreme Court recognizes this right as well. *In re Murray*, 52 Ohio St.3d 155, 157, 556 N.E.2d 1169 (1990); *In re C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, 862 N.E.2d 816, ¶ 28. Parental rights, however, are not absolute, and a parent’s natural rights are always subject to the ultimate welfare of

the child. *In re K.M.*, 10th Dist. Franklin No. 15AP-64, 2015-Ohio-4682, ¶ 15, citing *In re Cunningham*, 59 Ohio St.2d 100, 391 N.E.2d 1034 (1979).

{¶ 61} The termination of parental rights is governed by R.C. 2151.414. *In re M.H.*, 8th Dist. Cuyahoga No. 80620, 2002-Ohio-2968, ¶ 22. R.C. 2151.414 sets forth a two-part test courts must apply when deciding whether to award permanent custody to a public services agency. Under the first prong, a court must find by clear and convincing evidence one of the following five factors:

(a) * * * [T]he child cannot be placed with either of the child's parents within a reasonable time or should not be placed with the child's parents [in making this determination, the trial court must consider the factors set forth in R.C. 2151.414(E), which are set forth in the analysis below];

(b) The child is abandoned;

(c) The child is orphaned and no relatives are able to take permanent custody of the child;

(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

(e) The child or another child in the custody of the parent or parents from whose custody the child has been removed has been adjudicated an abused, neglected, or dependent child on three separate occasions by any court in this state or another state.

R.C. 2151.414(B)(1)(a)-(e).

{¶ 62} The second prong requires the court to find, also by clear and convincing evidence, that granting permanent custody of the child to the agency is in the best interest of the child under R.C. 2151.414(D)(1). These factors include:

(a) The interaction and interrelationship of the child with the child's parents, siblings, relatives, foster caregivers and out-of-home providers, and any other person who may significantly affect the child;

(b) The wishes of the child * * *;

(c) The custodial history of the child, including whether 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 * * *;

(d) 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;

(e) Whether any of the factors in divisions (E)(7) to (11) apply in relation to the parents and child.

A. The First Prong

{¶ 63} In mother's first assignment of error, she argues the trial court erred when it found that R.C. 2151.414(B)(1)(d) applied — that the children had been in the agency's custody for 12 or more months of a 22-consecutive-month period. Mother maintains that children had only been in the agency's custody for "fewer than five months" when CCDCFS filed its motion. Mother asserts that the trial court's finding was "plain error" because the trial court was not permitted to count the time between the filing of the motion for permanent custody and the time of the permanent custody hearing to satisfy the 12-month period.

{¶ 64} Mother is correct that the trial court erred when it made the "12 of 22" finding. It is well settled that R.C. 2151.414(B)(1)(d) "clearly provides parents with 12 months to demonstrate their ability and fitness to care for their child before an agency can move for permanent custody on R.C. 2151.414(B)(1)(d) grounds." *In re*

C.W., 104 Ohio St.3d 163, 2004-Ohio-6411, 818 N.E.2d 1176, ¶ 25. Moreover, “the time that passes between the filing of a motion for permanent custody and the permanent-custody hearing does not count toward the 12-month period set forth in R.C. 2151.414(B)(1)(d).” *Id.* at ¶ 26.

{¶ 65} In this case, the trial court found that the children had been in CCDCFS’s temporary custody since September 7, 2017. Mother claims that the children were not in temporary custody until the disposition judgment was entered on September 27, 2017. Both are incorrect.

{¶ 66} For purposes of calculating temporary custody for purposes of the “12 of 22” provision, R.C. 2151.414(B)(1) states that “a child shall be considered to have entered the temporary custody of an agency on the earlier of the date the child is adjudicated pursuant to section 2151.28 of the Revised Code or the date that is sixty days after the removal of the child from home.” In this case, the children were removed from the home on June 15, 2017; 60 days from that date was August 14, 2017. The trial court adjudicated the children neglected and dependent on September 11, 2017. Determining how long the children had been in the agency’s temporary custody for purposes of the “12 of 22” provision, the earlier date of the two was August 14, 2017. The agency moved for permanent custody on February 12, 2018, approximately six months after the children had been in the agency’s temporary custody. Thus, we agree with mother that the trial court erred when it found that the CCDCFS had presented clear and convincing evidence that the

children had been in the agency's temporary custody for "12 of 22" consecutive months.

{¶ 67} CCDCFS argues, however, that when it moved for permanent custody, it did not set forth R.C. 2151.414(B)(1)(d) as the reason. Rather, it relied solely on R.C. 2151.414(B)(1)(a). This was permissible. *See In re C.W.*, 104 Ohio St.3d 163, 2004-Ohio-6411, 18 N.E.2d 1176, at ¶ 27 ("[O]ur holding does not preclude the agency from moving for permanent custody before a child has been in the agency's temporary custody for at least 12 months [i]f a grounds other than R.C. 2151.414(B)(1)(d) exists to support a grant of permanent custody[.].") The prosecutor for CCDCFS also only argued R.C. 2151.414(B)(1)(a) during closing arguments.

{¶ 68} CCDCFS maintains that the trial court's error was harmless because although it "did make findings under R.C. 2151.414(B)(1)(d), the court also made findings under (B)(1)(a)." CCDCFS states that pursuant to R.C. 2151.414(B)(1)(a), "the court found by clear and convincing evidence that the child[ren] cannot be placed with the parents within a reasonable time or should not be placed with the parents for the following reasons pursuant to R.C. 2151.414(E)."

{¶ 69} After a review of the trial court's judgment, CCDCFS is incorrect that the trial court explicitly made the R.C. 2151.414(B)(1)(a) finding. That is, the trial court did not explicitly find that "the child[ren] cannot be placed with either of the child[ren]'s parents within a reasonable time or should not be placed with the child[ren]'s parents." CCDCFS is correct, however, that the trial court made several

R.C. 2151.414(E) findings, which are the factors a trial court must consider when determining whether the agency established that “the child[ren] cannot be placed with either of the child[ren]’s parents within a reasonable time or should not be placed with the child[ren]’s parents.” Indeed, the only reason to make R.C. 2151.414(E) findings is for the purpose of establishing R.C. 2151.414(B)(1)(a).

{¶ 70} R.C. 2151.414(E) states that in determining whether a child cannot be placed with either parent within a reasonable period of time or should not be placed with the parents for purposes of R.C. 2151.414(B)(1)(a), the court shall consider all relevant evidence. In doing so, if a court determines by clear and convincing evidence that one or more of the R.C. 2151.414(E) factors exist with respect to the child’s parents, the court shall enter a finding that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent (the statute then lists the factors). Further, “[i]f one or more of the factors enumerated in R.C. 2151.414(E) is found to be present by clear and convincing evidence, the trial court *shall find* that the child cannot be placed with the parents within a reasonable period of time or should not be placed with the parents.” (Emphasis added.) *In re A. F.*, 3d Dist. Marion No. 9-11-27, 2012-Ohio-1137, ¶ 54.

{¶ 71} In its judgment entry granting CCDCFS permanent custody of the children, the trial court found that the following R.C. 2151.414(E) factors applied:

Following the placement of the child[ren] outside [their] home and notwithstanding reasonable case planning and diligent efforts by the agency to assist the parents to remedy the problems that initially caused the child[ren] to be placed outside the home, the parents have failed to continuously and repeatedly to substantially remedy the

conditions causing the child[ren] to be placed outside the child[ren's] home. [R.C. 2151.414(E)(1).]

Mother has a chronic mental illness and chemical dependency that is so severe that it makes her unable to provide an adequate, permanent home for the child[ren] at the present time and, as anticipated, within one (1) year after the court holds the hearing in this matter. [R.C. 2151.414(E)(2).]

Mother has neglected the child[ren] between the date of the original complaint filed and the date of the filing of this motion by her failure to regularly send child[ren] to school. [R.C. 2151.414(E)(3).]

Mother has demonstrated a lack of commitment toward the child[ren] by failing to regularly support or by her actions, has shown an unwillingness to provide an adequate, permanent home for the child[ren]. [R.C. 2151.414(E)(4).]

Mother is unwilling to provide shelter and other necessities for the child[ren]. [Also R.C. 2151.414(E)(4).]

{¶ 72} We will address whether these findings were supported by clear and convincing evidence in mother's second assignment of error. But for purposes of mother's first assignment of error regarding the first prong of the permanent custody statute, we find that although the trial court did not explicitly make the R.C. 2151.414(B)(1)(a) finding, it implicitly did so because it analyzed the R.C. 2151.414(E) factors and made multiple findings under it. Again, the only reason to make the R.C. 2151.414(E) findings is to support the finding that "the child[ren] cannot be placed with either of the child[ren]'s parents within a reasonable time or should not be placed with the child[ren]'s parents" under R.C. 2151.414(B)(1)(a). Thus, we find that the trial court properly found that that "the child[ren] cannot be placed with either of the child[ren]'s parents within a reasonable time or should not be placed with the child[ren]'s parents," and thus, the fact that the trial court

incorrectly made the “12 of 22” finding under R.C. 2151.414(B)(1)(d) is harmless error.

{¶ 73} Mother’s first assignment of error is overruled.

B. Clear and Convincing Evidence

{¶ 74} In her second assignment of error, mother contends that even if this court disagrees with her that the trial court erred when it made the “12 of 22” finding, the trial court still erred when it granted permanent custody to the agency because permanent custody was not supported by clear and convincing evidence and was against the manifest weight of the evidence. We note, however, that in a permanent custody case, “the ultimate question for a reviewing court is whether the trial court’s findings are supported by clear and convincing evidence.” *In re K.H.*, 119 Ohio St.3d 538, 2008-Ohio-4825, 895 N.E.2d 809, ¶ 43. This is because a juvenile court’s decision to grant permanent custody will not be reversed as being against the manifest weight of the evidence “if the record contains some competent, credible evidence from which the court could have found that the essential statutory elements for permanent custody had been established by clear and convincing evidence.” *In re A.P.*, 8th Dist. Cuyahoga No. 104130, 2016-Ohio-5849, ¶ 16.

{¶ 75} To determine that a child cannot be placed with the parents within a reasonable time or should not be placed with them, the court must find, by clear and convincing evidence, that *at least one of the factors* in R.C. 2151.414(E)(1)-(16) is present. *In re S.W.*, 11th Dist. Ashtabula No. 2017-A-0089, 2018-Ohio-1672, ¶ 47. The trial court in this case made five findings under R.C. 2151.414(E). We must

therefore determine if at least one of these findings is supported by clear and convincing evidence.

{¶ 76} First, the trial court found that R.C. 2151.414(E)(1) applied — mother “failed to continuously and repeatedly to substantially remedy the conditions causing the child[ren] to be placed outside the child[ren’s] home.” After review, we find that clear and convincing evidence supported this finding. The case had been ongoing for 16 months. Mother had yet to find housing and still lived with her sisters, which was not good for her sobriety or her six children. Although mother had, almost a year after her case had begun, engaged in counseling through her substance abuse outpatient treatment at New Visions, that had ended and mother did not have a sponsor nor had she attended any meetings. Further, mother told the social worker at the last SAR that she would re-engage with her counselor at Ohio Guidestone, but had not yet done so. Additionally, the fact that mother still lived with her family, who was not supportive of her sobriety, would not make it easy for her to remain sober. Mother was also taking care of her elderly mother without any help from other relatives, which mother admitted was stressful to her and would impact her ability to take care of her six children.

{¶ 77} The social worker and the GAL also both testified that the agency had been offering mother services for five years and that the agency had the same concerns about mother back when they first opened a case as they do now, including housing, mental health, education, basic needs, and substance abuse issues. Mother had the opportunity to attend several parenting classes from as early as 2014, but

she appeared to have not benefitted from them. The social worker also testified that mother had not really engaged in the children's educational progress since they had been removed from her care. The social worker further explained that although mother receives two sources of income from social security each month, mother reported that she had only saved \$650 towards finding a home after 16 months.

{¶ 78} After review, we find that the agency presented clear and convincing evidence to support the R.C. 2151.414(E)(1) finding that mother failed to "repeatedly and continuously" substantially remedy the conditions that caused the children to be removed from the home.

{¶ 79} The trial court also made a finding under R.C. 2151.414(E)(2), when it found that "[m]other has a chronic mental illness and chemical dependency that is so severe that it makes her unable to provide an adequate, permanent home for the child[ren] at the present time and, as anticipated, within one (1) year after the court holds the hearing in this matter." Mother argues that the social worker and the trial court failed to consider mother's progress regarding these aspects of her case plan or the trial court could not have made this finding. Mother argues that neither issue was "so severe" that it prevented her from providing for the children. Based upon our previous analysis, we disagree.

{¶ 80} The trial court further found that "[m]other has demonstrated a lack of commitment toward the child[ren] by failing to regularly support or by her actions, has shown an unwillingness to provide an adequate, permanent home for the child[ren]" and that "[m]other is unwilling to provide shelter and other

necessities for the child[ren]” under R.C. 2151.41(E)(4). We agree with the trial court that there was clear and convincing evidence to support these findings. Again, mother had 16 months to complete the requirements of her case plan. Mother failed to complete any aspects of her case plan in the first year. And it had only been since April 2018 that mother began to address her substance abuse and mental health issues. She last relapsed by taking Percocet in July 2018. But mother’s housing was still not adequate. Plus, one of the children’s most important necessities was school. In the 16 months that mother’s case was open, she had not engaged in her children’s educational issues at all. Even though the children were attending school a couple of hours from Cleveland, she could have still been involved. Modern technology makes it easier for any parent to be involved with a child’s school progress, no matter where they are in the country, let alone in the same state.

{¶ 81} As the GAL testified, despite mother’s progress in the last five months, mother’s history with the agency was extensive. Mother’s three older children (not part of this case) had not been in mother’s custody for five years. Mother’s oldest child in this case, S.C., was two grades behind. Nark. N. was also two grades behind. Narrih. N. had been held back after first grade. All of the children were “significantly behind their peers” in school.

{¶ 82} We do, however, disagree with the trial court that there was clear and convincing evidence that “[m]other has neglected the child[ren] between the date of the original complaint filed and the date of the filing of this motion by her failure to regularly send child[ren] to school” under R.C. 2151.414(E)(3). Mother did not have

custody of her children from the time of the complaint to the date of the filing of the motion, so she could not send them to school. In fact, her children were placed in foster homes 100 to 150 miles from Cleveland, so mother could not “send her children to school.”

{¶ 83} Even though we disagree with one of the trial court’s R.C. 2151.414(E) findings, it only had to find one. After review, we find that several of the trial court’s R.C. 2151.414(E) findings were supported by clear and convincing evidence. We therefore find that there was clear and convincing evidence that the children could not be returned to mother’s custody within a reasonable time or should not be placed with mother.

C. Best-Interest Factors

{¶ 84} When considering the best-interest factors, “[t]here is not one element that is given greater weight than the others pursuant to the statute.” *In re Schaefer*, 111 Ohio St.3d 498, 2006-Ohio-5513, 857 N.E.2d 532, ¶ 56. This court has stated that only one of these enumerated factors needs to be resolved in favor of the award of permanent custody. *In re Moore*, 8th Dist. Cuyahoga No. 76942, 2000 Ohio App. LEXIS 3958 (Aug. 31, 2000), citing *In re Shaeffer*, 85 Ohio App.3d 683, 621 N.E.2d 426 (3d Dist.1993).

{¶ 85} Mother contends that the trial court failed to reference any best-interest factors under R.C. 2151.414(D)(1)(a) – (d) when it found that it was in the children’s best interest to be placed in the permanent custody of children services. Mother acknowledges that a trial court does not need to list all of the factors it

considered. But mother explains that her argument is not that the trial court failed to list the best-interest factors, but rather, that the record does not support those factors. Mother does not make any specific argument, however, regarding any of the best-interest factors.

{¶ 86} After a review of the record, we conclude that there is clear and convincing evidence in the record to support the trial court's finding that it was in the children's best interest to be placed in the permanent custody of the agency. The children were bonded to mother, but were doing well in foster care and making progress at school despite the fact that they were "significantly behind their peers." The younger children were also receiving counseling and getting their medical needs met through foster care. Although two of the children who were old enough to express their wishes, Nark. N. and Narrio. N., wanted "to go home," they did not want to do so until mother promised them that they would be coming home soon — when that was not the case. Jo. N. and Ja. N. were too young to express their wishes, but Narih. N. wanted to be adopted.

{¶ 87} The social worker also testified that although S.C., who was 16 at the time of the hearing, did not want to go into permanent custody of the agency, she was too immature for a PPLA. S.C. also wanted to be placed with paternal grandmother rather than be placed in permanent custody, but she had previously been placed with paternal grandmother and was removed due to having no supervision while she was there.

{¶ 88} After review, there was clear and convincing evidence to support the trial court's finding that it was in the children's best interest to be placed in the permanent custody of CCDCFS.

{¶ 89} Mother's second assignment of error is overruled.

D. The GAL's Report

{¶ 90} In her third assignment of error, mother argues that the trial court erred when it relied on the GAL's report and recommendations because the report showed that the GAL failed to meet the requirements of Loc.R. 18 of the Court of Common Pleas, Juvenile Division, and Rule 48 of the Rules of Superintendence. Specifically, mother maintains that the GAL's "stale and erroneous information * * * call into question the thoroughness of her investigation and the reliability of her recommendation."

{¶ 91} Rule 48 of the Rules of Superintendence sets forth a GAL's responsibilities, which includes representing "the best interest of the child for whom the guardian is appointed." Sup.R. 48(D)(1). Further, a GAL should make "reasonable efforts to become informed about the facts of the case and to contact all parties." Sup.R. 48(D)(13). The rule then lists what those "reasonable efforts" entail, including, inter alia, meeting with and interviewing the child, parents, foster parents, and "other significant individuals," visiting the child at his or her residence, ascertaining the wishes of the child, interviewing any other relevant persons, reviewing pleadings and other relevant documents, and reviewing criminal, civil,

educational, and administrative records pertaining to the child or the child's family members. Sup.R. 13.

{¶ 92} Loc.R. 18 provides that the GAL report "shall detail the following when disclosure is in the best interests of the child": (1) activities performed, (2) hearings attended, (3) persons interviewed and dates of the interviews, (4) documents reviewed, (5) experts consulted, (6) summary of the case, (7) any special needs of the child, (8) the child's wishes or that the child lacked sufficient maturity to express his or her wishes, (9) dispositional and placement options, (10) specific recommendations, including recommendations of disposition, and the reasons for that position, (11) all other recommendations, suggestions, or concerns regarding the child's best interests, and (12) all other relevant information considered in reaching the recommendations.

{¶ 93} Mother's arguments regarding the GAL's report containing some stale information is correct. The GAL appears to have included a portion of her original report that was no longer accurate. Nonetheless, the GAL's report does contain new information as well. The GAL stated that in writing her report, she interviewed mother, all of the children, the foster parents, the social worker, and various relatives in person. She also completed "an online records check" and reviewed CCDCFS's records.

{¶ 94} The GAL reported that mother had "talked to the neighborhood collaborative seeking assistance with furniture and housing." She further reported that mother no longer received public assistance because the children had not been

in her care, but that she still received SSI and SSA. The GAL reported that mother admitted to using marijuana and acknowledged that she needed to get help. She further reported that in June 2018, mother began intensive outpatient treatment in late June 2018 at New Visions, but that mother had missed some treatment sessions and tested positive for Percocet.

{¶ 95} Regarding the children, the GAL reported that all six children were still in foster homes in Mount Vernon and Newark, Ohio, but that S.C., Jo. N., and Ja. N. had been moved to a new foster home and that the change was positive. The GAL reported that Nark. N. and Narrio N. wished to be returned to mother. Narrih. N. did not wish to be returned to mother. S.C. did not want to be adopted, but she preferred to be placed in the legal custody of her alleged paternal grandmother or in PPLA. The GAL opined that it was in the children's best interest to be placed in the permanent custody of CCDCFS.

{¶ 96} Both the Rules of Superintendence and the local rules allow a GAL to supplement his or her written report with an oral one. Sup.R. 48(F); Loc.R. 18(H). The GAL did that in this case and testified at trial after hearing all of the evidence presented. The GAL's opinion did not change; that is, she still opined that it was in the children's best interest to be placed in the permanent custody of CCDCFS.

{¶ 97} Mother argues that the GAL did not even know the filing date of the case at trial because she testified that it was in March 2017 when it had actually been June 2017. While mother is correct that the GAL got the filing date wrong, it was

likely because the GAL had been involved with the family since 2016. Further, S.C.'s case (with mother's older daughter, D.N.) did begin earlier in 2017.

{¶ 98} Mother further maintains that the GAL's incorrect filing date impacted the trial court's decision on whether to extend the case for another three or six months because it would be easier to transition the children back to mother once the children were out of school. We disagree. Again, the GAL explained that she had been involved with the case since 2016. She further explained the mother had an open case with CCDCFS for five years and had been receiving services during that time but still could not complete the objectives of her case plan.

{¶ 99} Thus, after review, we disagree with mother that any deficiencies in the GAL's report and recommendation prejudiced mother in any way. Indeed, the GAL was permitted to listen to the testimony presented at trial and change her opinion if she wished. She did not do so. Further, mother was given the opportunity to cross-examine the GAL about any deficiencies in her report.

{¶ 100} Mother's third assignment of error is overruled.

{¶ 101} Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the 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.**

MARY J. BOYLE, PRESIDING JUDGE

**ANITA LASTER MAYS, J., and
KATHLEEN ANN KEOUGH, J., CONCUR**