

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

IN RE M.S.	:	
	:	No. 108445
A Minor Child	:	
	:	
[Appeal by B.S., Father]	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: October 10, 2019

Civil Appeal from the Cuyahoga County Court of Common Pleas
Juvenile Division
Case No. AD-17909375

Appearances:

Eric L. Foster, *for appellant.*

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Andrea J. Latessa and Cheryl Rice, Assistant Prosecuting Attorneys, *for appellee.*

FRANK D. CELEBREZZE, JR., P.J.:

{¶ 1} Appellant, B.S. (“appellant”), brings the instant appeal challenging the trial court’s judgment granting permanent custody of his minor child, M.S. (“Mi.S.” or “child”), to the Cuyahoga County Department of Children and Family Services (hereinafter “CCDCFS” or “agency”). Specifically, appellant argues that permanent

custody was not in the child's best interest. After a thorough review of the record and law, this court affirms.

I. Factual and Procedural History

{¶ 2} The instant appeal pertains to the trial court's custody determination with respect to minor child, Mi.S.,¹ who was nine years old at the time of the permanent-custody hearing in March 2019.² Appellant is purportedly the child's father. The child's mother passed away in February 2016, and the child had been in appellant's custody since that time.

{¶ 3} CCDCFS became involved with the family in June 2017 when appellant was arrested and extradited to the state of New York. Appellant was arrested on June 15, 2017. On the same day, law enforcement personnel removed the child from appellant's custody pursuant to R.C. 2151.31(A)(6)(a) and Juv.R. 6(A)(3).

{¶ 4} CCDCFS filed a complaint alleging that the child was neglected and dependent on June 16, 2017. Along with its complaint, the agency requested an order of predispositional temporary custody. On June 21, 2017, the trial court granted predispositional temporary custody to CCDCFS. Subsequently, on November 14, 2017, the trial court granted temporary custody of Mi.S. to CCDCFS.

{¶ 5} CCDCFS developed a case plan for appellant. Appellant's case plan included objectives for parenting and stable housing.

¹ Mi.S. goes by the nickname "B," which was often used to identify the child at issue in the present case to distinguish her from her older sibling, Ma.S., who was also involved in the custody proceedings below. Mi.S. and Ma.S. share the same mother.

² We note at the outset of our analysis that both the agency and the trial court acknowledged during the proceedings below that appellant had not established paternity.

{¶ 6} CCDCFS filed a motion to modify temporary custody to permanent custody on June 5, 2018. Around the same time, appellant was released from prison and was residing at a halfway house in the state of New York.

{¶ 7} The trial court held a hearing on the agency's motion to modify on March 11, 2019. During the permanent-custody hearing, CCDCFS Social Worker David Torres testified. The child's guardian ad litem, Carla Golubovic ("GAL") supplemented her written report and recommendation with an oral recommendation.

{¶ 8} On March 15, 2019, the trial court issued a judgment entry granting permanent custody of the child to CCDCFS. It is from this judgment that appellant filed the instant appeal on April 16, 2019. Appellant assigns one error for review:

I. The trial court erred in determining that it was in the best interest of [Mi.S.] to grant permanent custody to CCDCFS and terminate [appellant's] parental rights.

II. Law and Analysis

{¶ 9} In his sole assignment of error, appellant challenges the trial court's judgment awarding permanent custody of the child to CCDCFS.

A. Paternity

{¶ 10} As an initial matter, and as noted above, it is undisputed that appellant had not established paternity for the child at the time of the March 2019 permanent-custody hearing. The parties also acknowledged during oral arguments that appellant still has not established paternity, and that it is unusual that the paternity issue has not been resolved at this point in the proceedings.

{¶ 11} In the event that paternity has not been established at the time CCDCFS becomes involved with a family, the agency will typically include establishing paternity as part of a parent’s case plan. *See generally In re T.J.*, 8th Dist. Cuyahoga No. 107304, 2019-Ohio-875, ¶ 5. For whatever reason, establishing paternity was not included as an objective in appellant’s case plan.

{¶ 12} The issue of standing was not raised by either party in briefing or during oral arguments. For purposes of this appeal, we will assume that appellant has standing to assert parental rights with respect to the child and to challenge the trial court’s custody determination.

B. Standard of Review

{¶ 13} Parents have a constitutionally protected interest in raising their children. *In re M.J.M.*, 8th Dist. Cuyahoga No. 94130, 2010-Ohio-1674, ¶ 15, citing *Santosky v. Kramer*, 455 U.S. 745, 753, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982). That interest, however, is “always subject to the ultimate welfare of the child.” *In re M.J.M.* at *id.*, quoting *In re B.L.*, 10th Dist. Franklin No. 04AP-1108, 2005-Ohio-1151, ¶ 7.

{¶ 14} A juvenile court’s termination of parental rights and award of permanent custody to an agency is not reversed unless the judgment is unsupported by clear and convincing evidence. *In re Dylan C.*, 121 Ohio App.3d 115, 121, 699 N.E.2d 107 (6th Dist.1997); *In re N.B.*, 8th Dist. Cuyahoga No. 101390, 2015-Ohio-314, ¶ 48. “Clear and convincing evidence’ is evidence that ‘will produce in the mind of the trier of facts a firm belief or conviction as to the allegations sought to be

established.” *In re T.B.*, 8th Dist. Cuyahoga No. 99931, 2014-Ohio-2051, ¶ 28, quoting *Cross v. Ledford*, 161 Ohio St. 469, 477, 120 N.E.2d 118 (1954). The evidence must be more than a preponderance, but it does not rise to the level of certainty that is required beyond a reasonable doubt in criminal cases. *Cross at id.*

{¶ 15} R.C. 2151.414 sets forth a two-prong analysis to be applied by a juvenile court in adjudicating a motion for permanent custody. R.C. 2151.414(B). First, it authorizes the juvenile court to grant permanent custody of a child to the public agency if, after a hearing, the court determines, by clear and convincing evidence, that any of the following factors apply: (a) the child is not abandoned or orphaned, but the child cannot be placed with either parent within a reasonable time or should not be placed with the child’s parents; (b) the child is abandoned; (c) the child is orphaned, and there are no relatives of the child who are able to take permanent custody; (d) the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-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). *In re J.G.*, 8th Dist. Cuyahoga No. 100681, 2014-Ohio-2652, ¶ 41. Only one of the factors must be present for the first prong of the permanent-custody analysis to be satisfied. *In re L.W.*, 8th Dist. Cuyahoga No. 104881, 2017-Ohio-657, ¶ 28.

{¶ 16} Second, when any one of the above factors exists, the trial court must analyze whether, by clear and convincing evidence, it is in the best interest of the children to grant permanent custody to the agency pursuant to R.C. 2151.414(D). *Id.*

C. R.C. 2151.414(B) Factors

{¶ 17} Appellant concedes that the first prong of the permanent-custody analysis was satisfied in this case.

{¶ 18} The trial court determined that the conditions set forth in R.C. 2151.414(B)(1)(b) and (d) were satisfied. The trial court found, in relevant part,

The child is abandoned [mother is deceased].

The child has been in temporary custody of a public children services agency or private child placing agency for twelve or more months of a consecutive twenty-two month period.

{¶ 19} After review, we find that the record clearly and convincingly supports the trial court's findings under R.C. 2151.414(B). Accordingly, we find that the first prong of the permanent-custody analysis has been satisfied.

D. Best Interest of the Child

{¶ 20} Appellant's challenge to the trial court's judgment pertains exclusively to the second R.C. 2151.414 prong. Appellant argues that permanent custody was not in the child's best interest.

{¶ 21} Once the juvenile court determines that one of the factors listed in R.C. 2151.414(B)(1) applies, then the court must determine, by clear and convincing evidence, whether permanent custody is in the best interest of the child. *In re E.C.*, 8th Dist. Cuyahoga No. 103968, 2016-Ohio-4870, ¶ 29.

{¶ 22} We review a trial court’s determination of a child’s best interest under R.C. 2151.414(D) for an abuse of discretion. *In re J.F.*, 2018-Ohio-96, 102 N.E.3d 1264, ¶ 55 (8th Dist.), citing *In re D.A.*, 8th Dist. Cuyahoga No. 95188, 2010-Ohio-5618, ¶ 47. “A trial court’s failure to base its decision on a consideration of the best interests of the child constitutes an abuse of discretion.” *In re J.F.*, quoting *In re N.B.*, 8th Dist. Cuyahoga No. 101390, 2015-Ohio-314, at ¶ 60.

{¶ 23} In determining the best interest of a child at a permanent-custody hearing, R.C. 2151.414(D)(1) mandates that the juvenile court consider all relevant factors, including the following:

(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, as expressed directly by the child or through the child’s guardian ad litem, with due regard for the maturity 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) of this section apply in relation to the parents and child.

{¶ 24} While the trial court must consider all best-interest factors, only one of the factors enumerated in R.C. 2151.414(D) needs to be resolved in favor of the

award of permanent custody in order for the court to terminate parental rights. *In re N.B.* at ¶ 53; *In re Z.T.*, 8th Dist. Cuyahoga No. 88009, 2007-Ohio-827, ¶ 56.

{¶ 25} In the instant matter, we find that the trial court considered the relevant statutory factors. The trial court's journal entry granting permanent custody of the child to CCDCFS provides, in relevant part,

The Court finds that the child's continued residence in or return to the home of [appellant, the child's alleged father] will be contrary to the child's best interest.

* * *

The Court further finds that reasonable efforts were made to prevent the removal of the child from her home, or to return the child to the home, and to finalize the permanency plan, to wit: reunification. Relevant services provided to the family and the reasons those services were not successful. Mother is deceased and alleged father [appellant] has only complied with part of his case plan by completing the parenting classes; however, he has not complied with obtaining stable housing for the child. [Appellant] has been incarcerated and once released he was placed in a homeless shelter, that was not appropriate for the child and now he is currently in a half-way home in New York; therefore, [appellant] could not provide stable adequate housing for the child.

The Court further finds that the child has been in the agency's custody for two years and no longer qualifies for temporary custody pursuant to division (b) of section 2151.415 of the Revised Code;

That one or more of the factors in division (E) of section 2151.414 of the Revised Code exist and the child cannot be placed with one of the child's parents within a reasonable period of time or should not be placed with either parent;

* * *

Therefore it is in the best interest of the child to be placed in the permanent custody of the Cuyahoga County Division of Children and Family Services;

Upon considering the interaction and interrelationship of the child with the child's parents, siblings, relatives, and foster parents; the wishes of the child; the custodial history of the child, including whether the child has been in temporary custody of a public children services agency or private child placing agency under one or more separate orders of disposition for twelve or more months of a consecutive twenty-two month period; 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; and, the report of the Guardian ad Litem, the Court finds by clear and convincing evidence that a grant of permanent custody is in the best interest of the child and the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent.

The Court further finds:

[Appellant] has demonstrated a lack of commitment toward the child by failing to regularly support, visit, or communicate with the child when able to do so, or by other actions showing an unwillingness to provide an adequate permanent home for the child.

The Court further finds that:

The mother is deceased and alleged father [appellant] has not established paternity and [appellant] had no compliance with case plan services that he could provide stable and adequate housing for the child.

{¶ 26} After reviewing the record, we find that the evidence supports the trial court's reliance on the factors set forth in R.C. 2151.414(D) and determination that permanent custody with CCDCFS is in the best interest of the child.

{¶ 27} Appellant acknowledges that the primary issue before the trial court in making its best-interest determination was "whether [appellant] could obtain stable housing." Appellant's brief at 6.

{¶ 28} In this appeal, appellant concedes that he failed to complete the case plan's housing objective: "[a]dmittedly, [appellant] did not present the strongest

case for meeting the stable housing requirement of his case plan. No, he did not present a detailed plan of where he was intending to stay upon his release from the halfway house. No, he did not have it all figured out.” Appellant’s brief at 7. Nevertheless, appellant argues that his failure to complete the housing objective “is not really the point [in this case]. The point is about what is in [the child’s] best interest. It was in [the child’s] best interest to grant [appellant] more time to create a housing plan which the case worker could investigate and support.” *Id.* Appellant’s argument is misplaced and unsupported by the record.

{¶ 29} Initially, regarding the issue of paternity, social worker Torres testified that appellant was identified as the child’s alleged father. However, paternity for the child had not been established during the pendency of the custody proceedings. During the permanent-custody hearing, the trial court opined that it was necessary for appellant to establish paternity, particularly because the agency requested him to do so.

{¶ 30} CCDCFS developed a case plan for appellant that included objectives for parenting and housing. It is undisputed that appellant complied with the parenting objective. Torres asserted that appellant addressed the parenting objective by completing a parenting class and providing a certification of completion to the agency. The parenting objective was not a concern for CCDCFS at the time of the permanent-custody hearing. The trial court acknowledged during the permanent-custody hearing that appellant complied with the parenting component of his case plan.

{¶ 31} The agency’s primary concern at the time of the permanent-custody hearing was the case plan’s housing objective. Torres testified that appellant did not have stable housing when he was assigned to the case. When he was assigned to the case, appellant was incarcerated. Appellant was released from prison in or around June 2018, roughly eight or nine months before the permanent-custody hearing. As a condition of his parole, appellant was not permitted to leave the state of New York. During this time period, Torres stated that appellant was “staying at the halfway shelter house upon his parole. His parole set him up with that.” Torres opined that the halfway house was not appropriate or suitable for a child of Mi.S.’s age. Appellant did not have stable and independent housing to provide for the child at the time of the permanent-custody hearing.

{¶ 32} Regarding the housing objective in appellant’s case plan, social worker Torres testified that the housing objective in appellant’s case plan required appellant “[t]o have some type of stable housing *for at least six months.*” (Emphasis added.) (Tr. 13.) Torres explained why CCDCFS uses the six-month time period as a measure of whether a housing arrangement is stable: “We try to give at least six months of stable housing. That way it just gives him time to consistently pay their bills, pay their rent, the utilities and electrical.”³ (Tr. 15.)

³ In custody cases involving parents with substance abuse issues, the agency also uses a six-month time period and considers increasing visitation time after a parent has maintained sobriety for six months. *See In re R.B.*, 8th Dist. Cuyahoga No. 107709, 2019-Ohio-1656, ¶ 65.

{¶ 33} Torres asserted that he spoke with appellant on the day of the permanent-custody hearing, and appellant was still living at the halfway house. Appellant did not inform Torres that he had any plan to locate or obtain housing; rather, appellant “was just asking for more time, probably [to] receive some type of Section 8 housing as far as that goes.” (Tr. 15.)

{¶ 34} Finally, Torres testified that even if appellant obtained housing on the date of the permanent-custody hearing, the agency would first have to investigate the residence to determine whether it was appropriate for the child. Even if the housing was determined to be appropriate for the child, appellant would not be able to demonstrate that the housing was stable and consistent. The two-year statutory time limit for temporary custody was set to expire in June 2019, three months after the permanent-custody hearing. As noted above, the agency typically considers housing to be stable and consistent after a parent has resided in the same location for six months. Even if appellant obtained and maintained appropriate housing from March to June 2019, this time period would be insufficient, based on CCDCFS’s six-month measure, to demonstrate the stability contemplated by CCDCFS and the housing objective in appellant’s case plan.

{¶ 35} On redirect examination, Torres confirmed that appellant did not have stable and independent housing of his own at any point between June 2017 and March 2019 during the agency’s involvement with the family. (Tr. 38.)

{¶ 36} Torres opined that (1) the child should not be returned to appellant’s custody, (2) appellant is not able to safely provide for the child, (3) appellant would

not be able to secure stable and appropriate housing that the agency could approve in the three-month time period between the hearing and the expiration of the statutory time limit for temporary custody, and (4) it was in the child's best interest to be placed in the permanent custody of CCDCFS.

{¶ 37} Torres testified that there were no relatives of appellant that had been approved as placement options for the child.

{¶ 38} Torres testified that the child is residing in a foster home where she is "fairly doing very well. She has her moments, good days and bad days." (Tr. 19.) Regarding the child's performance in school, Torres explained, [s]he's doing fair. She feels like she gets bullied a lot, but she's doing fair." (Tr. 19.)

{¶ 39} Torres testified that when the child was in appellant's custody prior to his arrest, the child had not been attending school on a regular and consistent basis. Torres explained, "[t]he child would miss several days of school and the child was residing with a maternal aunt and she was not taking [the child] to school even though the school was across the street[.]" (Tr. 36.) At the time of appellant's arrest, he and the child were living in a homeless shelter after the aunt kicked them out of her house. Torres confirmed that the child was not attending school on a consistent basis and would miss several days of school when she was in appellant's custody.

{¶ 40} Torres testified that the agency did not permit phone contact between the child and appellant. The agency concluded that it was not in the child's best interest to have phone contact with appellant "because of her mental health issues and past traumatic experiences[.]" (Tr. 37.) Regarding the child's traumatic

experiences, Torres explained, “[the child] stated [appellant] was very mean to her, you know, verbally abusive towards her, and she just did not feel comfortable around him.” (Tr. 37.) Torres confirmed that the child was uncomfortable communicating with appellant.

{¶ 41} Torres testified that the child’s foster mother does not want or plan to adopt the child. (Tr. 20.) However, the foster family is willing to maintain the child in their home. (Tr. 23.)

{¶ 42} The GAL submitted a report and recommendation to the trial court. During the permanent-custody hearing, the GAL supplemented the written report and recommendation, and orally recommended that the child be placed in the permanent custody of CCDCFS.

{¶ 43} The GAL testified that the child is “adjusting as well as can be expected” in the foster home. (Tr. 43.) The GAL explained that the child has been involved in counseling since appellant’s arrest. During the child’s counseling, “some repressed memories are surfacing about life with [appellant] and as her child custody has continued, she has become less and less desirous of reacquainting with [appellant].” (Tr. 43.) The GAL explained that the child has mental health issues: “[s]he does struggle in school. She doesn’t always have the ability to relate well with peers, ergo what [Torres] was talking about being bullied.” (Tr. 43-44.) The GAL opined that “it’s in [the child’s] interest to have permanency, and I don’t believe that [appellant], her only living parent, can afford her that stability and permanency.” (Tr. 44.) The GAL testified that appellant was “a fugitive from justice” for

approximately five years before his arrest in 2017. She investigated the relatives identified by appellant as placement options, and determined that none of the relatives were appropriate to take custody. Finally, the GAL recommended that the child be placed in the permanent custody of CCDCFS.

{¶ 44} At the close of evidence, the trial court emphasized that appellant failed to fulfill the case plan's housing objective, and opined that the housing "was even more of an issue" than parenting. (Tr. 56.) The trial court asserted that neither halfway houses nor homeless shelters were appropriate settings for a child. The trial court explained that there was no evidence that appellant engaged in reasonable efforts to secure housing. For instance, there was no evidence that appellant was involved in a program or placed on any waiting list for housing or to receive a housing voucher, or that he had a list of properties that had been inspected.

{¶ 45} The trial court concluded that it was "highly unlikely" that appellant would be able to obtain and maintain appropriate housing in the three months after the permanent-custody hearing, particularly because he failed to make any progress towards obtaining housing during the eight months after being released from prison.

{¶ 46} Finally, the trial court emphasized that the child deserves permanency. The child is able to remain with the same foster family until she reaches the age of majority. The trial court explained that it would "creat[e] a lot of instability for [the child]" to extract her from her foster home and place her in New

York with appellant, particularly because of her special needs and mental health issues.

{¶ 47} After reviewing the record, we find that the trial court’s factual findings and best-interest determination are supported by competent and credible evidence in the record. Regarding the best-interest factor set forth in R.C. 2151.414(D)(1)(a), the record reflects that there had been no contact between appellant and the child between June 2017 and the hearing in March 2019. The child did not feel comfortable communicating with or being around appellant. On the other hand, the child was bonding with her foster family, attending school on a more consistent basis, and receiving counseling services to address her mental health issues and special needs. The trial court concluded that there was a bond and agreement between the child and her foster family, and that there was no evidence that the child was bonded with appellant. In fact, the child “may have some animosity, some anxiety * * * [and] is against having any type of contact with [appellant].” (Tr. 59-60.)

{¶ 48} Finally, appellant contends that an extension of temporary custody, rather than granting permanent custody to CCDCFS, was in the child’s best interest. We disagree.

{¶ 49} During closing arguments, appellant’s counsel requested an extension of temporary custody: “[w]e are asking for more time in order for [appellant] to obtain housing.” (Tr. 51.) In his appellate brief, appellant argues that it was

unreasonable for CCDCFS or the trial court to expect him to “have it all figured out in only eight months” after his release.

{¶ 50} R.C. 2151.415(D)(4), governing extensions of temporary custody, provides,

No court shall grant an agency more than two extensions of temporary custody pursuant to division (D) of this section and the court *shall not order an existing temporary custody order to continue beyond two years* after the date on which the complaint was filed or the child was first placed into shelter care, whichever date is earlier, regardless of whether any extensions have been previously ordered pursuant to division (D) of this section.

(Emphasis added.)

{¶ 51} The trial court’s judgment entry granting permanent custody to CCDCFS provides, in relevant part, “[t]he Court further finds that the child has been in the agency’s custody for two years and no longer qualifies for temporary custody pursuant to division (b) of section 2151.415 of the Revised Code.”

{¶ 52} Accordingly, pursuant to R.C. 2151.415(D)(4), the trial court lacked authority to grant an extension of temporary custody beyond June 15, 2019. Furthermore, the record does not support appellant’s argument that an extension of temporary custody was in the child’s best interest.

{¶ 53} Appellant had not demonstrated any significant history of stable housing, nor did he identify any prospective housing arrangements or a plan to obtain housing. As the trial court recognized, “[appellant] has not completed the primary purpose of the case plan services, and that was to establish housing, stable housing for himself and for [the child.]” (Tr. 62.) Finally, contrary to appellant’s

assertion that it was unreasonable for the court to require him to “have it all figured out in only eight months” after his release, the record reflects that appellant’s failure to maintain appropriate and stable housing was not the only basis upon which the trial court granted permanent custody to CCDCFS. Social worker Torres and the trial court both acknowledged that appellant also had not identified any prospective housing arrangements or developed any kind of plan to do so.

{¶ 54} Although appellant claims the trial court should have continued temporary custody to allow him the opportunity to engage in and complete case plan services, specifically the housing objective, the best-interest determination focuses upon the child, not the parent. “[A] juvenile court is not required to extend temporary custody if it finds that a child’s best interest would not be served by an extension[.]” *In re Da.B.*, 8th Dist. Cuyahoga No. 105886, 2018-Ohio-689, ¶ 17.

{¶ 55} For all of the foregoing reasons, we find no basis upon which to conclude that the trial court abused its discretion in determining that permanent custody was in the child’s best interest. The testimony and evidence demonstrated that appellant had not visited with the child because of his incarceration, and had not communicated with the child after her removal because she was uncomfortable doing so. Appellant had not demonstrated any significant history of stable and independent housing before the agency became involved in June 2017, and he failed to obtain stable and independent housing during the eight-month period between his release from prison and the permanent-custody hearing. Furthermore, appellant failed to identify any prospective housing arrangements he was

considering or present any plan for obtaining stable housing. Both the social worker and the GAL opined that an award of permanent custody to CCDCFS was in the child's best interest. Appellant's failure to establish paternity for the child, despite CCDCFS's request for him to do so, was undoubtedly a factor that the trial court considered in awarding permanent custody to the agency. *See In re J.C.*, 8th Dist. Cuyahoga No. 96269, 2011-Ohio-3842, ¶ 21-22.

{¶ 56} The trial court made a number of factual findings pertaining to appellant that were supported by the record. The child is in need of a legally secure placement. The child was receiving appropriate care in her foster home, and was bonded with the foster family. Upon investigation, no appropriate relatives were identified to provide care for the child. The record before this court contains competent, credible evidence supporting the trial court's best-interest determination.

{¶ 57} For all of these reasons, we cannot conclude that the trial court's judgment awarding permanent custody of the child to CCDCFS was unreasonable, arbitrary, or unconscionable. Appellant's sole assignment of error is overruled.

III. Conclusion

{¶ 58} After thoroughly reviewing the record, we affirm the trial court's judgment granting permanent custody of the child to CCDCFS. The trial court considered all relevant statutory factors, and the trial court's determination that permanent custody is in the child's best interest is supported by clear and convincing evidence in the record.

{¶ 59} 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 be sent to said court 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.

FRANK D. CELEBREZZE, JR., PRESIDING JUDGE

**KATHLEEN ANN KEOUGH, J., CONCURS;
EILEEN A. GALLAGHER, J., CONCURS IN JUDGMENT ONLY WITH
SEPARATE OPINION**

EILEEN A. GALLAGHER, J., CONCURRING IN JUDGMENT ONLY:

{¶ 60} As paternity has never been established for the minor child, Mi.S., it is my opinion that appellant has no standing in this matter.

{¶ 61} Regardless of whether or not the parties failed to raise this issue, it is unconscionable that the Cuyahoga County Department of Children and Family Services and the trial court allowed this matter to proceed to judgment.