

**COURT OF APPEALS OF OHIO**  
**EIGHTH APPELLATE DISTRICT**  
**COUNTY OF CUYAHOGA**

IN RE L.K.	:	
	:	No. 108628
A Minor Child	:	
	:	
[Appeal by T.C., Mother]	:	

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JOURNAL ENTRY AND OPINION

**JUDGMENT: AFFIRMED**  
**RELEASED AND JOURNALIZED: November 21, 2019**

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Civil Appeal from the Cuyahoga County Court of Common Pleas  
Juvenile Division  
Case No. AD17916510

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***Appearances:***

James A. Anzelmo, *for appellant.*

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Rachel Matgouranis, Assistant Prosecuting Attorney, *for appellee.*

MARY J. BOYLE, P.J.:

{¶ 1} Appellant, T.C. (“mother”), appeals the juvenile court’s order granting the Cuyahoga County Department of Children and Family Services (“CCDCFS”) permanent custody of her minor child, L.K. (d.o.b. 10/19/2017). She raises one assignment of error for our review:

Children services failed to establish, by clear and convincing evidence, that it should be given permanent custody of T.C.'s child.

{¶ 2} Finding no merit to her assignment of error, we affirm.

### **I. Procedural History and Factual Background**

{¶ 3} On October 31, 2017, CCDCFS filed a complaint alleging that L.K. was abused and neglected and requesting temporary custody of L.K. based upon his parents' substance-abuse problems. The complaint stated that at L.K.'s birth, mother and L.K. tested positive for cocaine. CCDCFS alleged that mother had a substance-abuse problem with cocaine and heroin, failed to maintain sobriety, and was currently on probation for theft and unauthorized use of property. The complaint also stated that L.K.'s father, W.K. ("father"), "has a substance abuse problem, specifically heroin," "has not participated in treatment and has failed to maintain his sobriety[,] and has "a pending charge" for drug abuse and obstructing official business in Rocky River Municipal Court.

{¶ 4} In addition to its complaint, CCDCFS also moved for emergency pre-dispositional temporary custody, which the magistrate granted after a hearing.

{¶ 5} In November 2017, the trial court appointed Patricia Lanzy as L.K.'s guardian ad litem ("GAL").

{¶ 6} On January 2, 2018, the GAL submitted her report, which stated:

Child is doing well [with paternal grandmother]. \* \* \* Both mother and father are residing with maternal aunt. Both parents are on probation for separate theft charges. Mother was in a substance abuse program through [Community Assessment and Treatment Services ("CATS") Program] but she has relapsed. The parents were court ordered to submit to drug testing by urinalysis on November 20, 2017. Mother

complied with the court order. The tests [sic] results stated mother tested positive for cocaine and fentanyl urine. \* \* \*

I have been unsuccessful in my attempts to contact the parents. Mother's phone number is not working[.] \* \* \*

The case plan has referred the parents to the Lakewood Collab to help them obtain stable housing.

The GAL recommended that it was in L.K.'s best interests to grant CCDCFs temporary custody.

{¶ 7} On January 19, 2018, the magistrate adjudicated L.K. as abused and neglected, and the trial court adopted the magistrate's decision.

{¶ 8} On January 26, 2018, the magistrate awarded temporary custody of L.K. to CCDCFs. The trial court subsequently approved and adopted the magistrate's decision.

{¶ 9} On April 10, 2018, CCDCFs moved to amend mother's case plan, which was approved by the magistrate on April 24, 2018. The case plan stated that mother needed to complete a drug and alcohol assessment to determine treatment needs, follow the recommendations made by the drug assessor, and submit to random drug screenings as requested. The plan noted that mother reported "feelings of depression" and stated that mother had to complete a mental health assessment and follow the service provider's recommendations. Finally, the plan stated that mother needed stable housing and would have to follow the recommendations "made by the neighborhood collaborative in order to secure housing."

**{¶ 10}** On May 24, 2018, CCDCFS filed its semi-annual administrative review (“SAR”), which indicated that “Mother has been in jail for the past month. She was offered a drug treatment/diversion program. However, she refused. She is due to be released on 5/28/18. She reports that she is not [going] for treatment. She was arrested for felony possession of fentanyl.” It stated that mother was “not active” in a mental health program and did not have stable housing because mother’s aunt kicked her out. The review further said that L.K. had a strong bond with paternal grandmother, mother refused to participate in services, mother “has not expressed a true interest in visiting [L.K.],” and mother did not ask about L.K. during phone calls with CCDCFS.

**{¶ 11}** On October 1, 2018, CCDCFS moved to modify temporary custody to permanent custody.

**{¶ 12}** On January 2, 2019, L.K.’s GAL submitted her report and recommendation, which stated:

I have not been successful in communicating with the parents. I have called the various phone numbers that have been given to me by the case worker and paternal grandmother. I have written and mailed letters to various addresses. The parents have not responded. According to the [SAR], the parents are homeless. They stay in motels and with friends. \* \* \* Case worker asked mother to submit a urine screen and hair sample on October 1, 2018. Mother failed to comply. Mother and father have made insufficient progress towards completing case plan services. \* \* \*

Both mother and father have made little progress in maintaining sobriety. The parents do not visit the child on a consistent basis. They have not obtained stable housing.

The report noted that paternal grandmother has a strong bond with L.K. and is willing and able to adopt L.K. and provide for his care. It stated that it was in L.K.'s best interests for the trial court to grant CCDCFS permanent custody.

**{¶ 13}** On April 11, 2019, the magistrate held a hearing on CCDCFS's motion, during which mother, her counsel, father, his counsel, and L.K.'s GAL were present. At the hearing, father stipulated to the allegations contained in CCDCFS's motion to modify temporary custody to permanent custody and to granting CCDCFS permanent custody, and the trial court accepted his stipulation. Mother, through counsel, orally opposed CCDCFS's motion to modify and also moved to extend temporary custody.

**{¶ 14}** The following evidence was then presented at the hearing with respect to mother.

**{¶ 15}** Paternal grandmother testified that at the time of the hearing, L.K. was approximately one and a half years old and had lived with her since he was released from the hospital on October 23, 2017. She said L.K. was doing "amazing," "thriving," and was "where he should be." She said she and L.K. had a very close bond as did L.K. and paternal grandmother's boyfriend, who lived with them.

**{¶ 16}** Paternal grandmother testified that L.K. was diagnosed with asthma and that she was ensuring that all of L.K.'s medical issues were being addressed.

**{¶ 17}** Paternal grandmother said that visits with L.K.'s parents used to take place at mother's aunt's house. On November 23, 2017, however, an "incident" occurred at the aunt's house, and CCDCFS stopped the visits from occurring there.

Subsequent to that, CCDCFS moved the visits to paternal grandmother's home. However, during a visit on January 28, 2018, mother went into the bathroom and did not come back to the living room for "quite some time." Paternal grandmother stated that when father went to check on mother, he found mother unresponsive and cyanotic.<sup>1</sup> Paternal grandmother performed rescue breathing on mother until paramedics arrived and took her to the hospital. Paternal grandmother stated that at the hospital, mother spoke with a narcotics detective, who asked mother if she would be agreeable to going to a treatment center. Paternal grandmother said that although mother agreed, mother left the hospital prior to being placed somewhere.

{¶ 18} Paternal grandmother testified that after those incidents, however, "there was a long period of time where there [were] no visits" because "mother didn't contact the caseworker to set them up." Paternal grandmother also stated that mother was arrested and in jail from February 2018 until May 31, 2018. She said there were not any visits between mother and L.K. from January 2018 until June 13, 2018, and after mother's visit with L.K. in June 2018, mother did not see L.K. again until January 2019.

{¶ 19} Paternal grandmother said since the beginning of January 2019, mother has been more consistent with her visits at paternal grandmother's house

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<sup>1</sup> "Cyanotic" means "marked by or causing a bluish or purplish discoloration (as of the skin and mucous membranes) due to deficient oxygenation of the blood[.]" Merriam-Webster Online Dictionary (2019), *Cyanotic*, <https://www.merriam-webster.com/dictionary/cyanotic> (accessed Oct. 31, 2019).

and at the Lakewood Collaborative, which was the location for the visits beginning in March 2019.

{¶ 20} Paternal grandmother said, “[S]ince the beginning of 2018, the total amount of time [mother] has spent with [L.K.] is approximately 24 hours total, with all the visits together.”

{¶ 21} Paternal grandmother also testified that besides buying L.K. outfits during the last two visits and sending birthday gifts, mother has not provided financial support.

{¶ 22} Nathaniel Martin, the social worker assigned to the case in December 2017, testified that L.K. was removed because mother tested positive for cocaine at birth and “through testing of the child and his meconium, [L.K.] tested positive for cocaine and opiates at birth.” Martin explained that CCDCFS was moving for permanent custody because

over the life of the case there has been several referrals made for drug diagnostic services with both parents, housing for both parents, as well as mental health treatment, and over the whole life of the case, there hasn’t been any consistency with case plan services as well as stability for his housing, basic needs to provide for the child and consistent visitation.

{¶ 23} Martin said mother’s case plan objectives were drug diagnostic services, mental health services, and housing and basic needs. He said that mother’s substance-abuse objectives were based on the fact that mother tested positive for cocaine at L.K.’s birth and because mother was referred to substance-abuse treatment in April 2017 by her probation officer and relapsed during her stay.

{¶ 24} Martin testified that prior to L.K.'s birth and his involvement in the case, mother completed a substance-abuse and mental health assessment on her own in September or October 2017. He said that mother had previously completed the CATS Program and went to Laura's Home, a sober housing location. He said that while mother completed the assessment and was sober for five or six months before L.K.'s birth, she failed to comply with the treatment recommendations and relapsed in early October 2017.<sup>2</sup> He also said that he was not sure if mother was truthful during that initial assessment because she went on her own.

{¶ 25} After L.K.'s birth in October 2017, Martin said that he spoke with both parents in January 2018 and told them to get another assessment, but they never showed up to complete an assessment or a drug screen. He said shortly after that, mother was arrested and placed in jail. He stated mother was released at the end of May 2018 and that mother contacted him to set up a visit with L.K. The visit took place on June 13, 2018.

{¶ 26} Martin said that despite having numerous conversations with mother from June to August 2018 about completing drug screens and an assessment, "mom just wouldn't do it." He said mother finally completed an assessment in September 2018, but said that mother was not truthful about her substance-abuse, telling the assessor that the last time she used opioids or heroin was in October 2017, when, in fact, she had overdosed on heroin in November 2017 and overdosed on an unknown

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<sup>2</sup> The semi-annual review filed by CCDCCFS in May 2018 stated that mother completed CATS in July 2017 and completed a drug assessment at Recovery Resources on November 1, 2017.



substance in January 2018. He said that mother also initially denied using drugs over the summer, but later admitted that she “used twice” and smoked marijuana a couple of times. Martin said that because mother lied to the assessor, the assessment noted that mother’s cocaine use was moderate and in early remission and recommended that mother receive only outpatient treatment. He said mother attended a couple of sessions with a counselor as part of the outpatient treatment, but eventually mother stopped showing up and the counselor discontinued the treatment due to mother’s non compliance in November 2018.

{¶ 27} When asked about other treatment that mother has engaged in since November 2018, Martin said that mother told him that she started with a pain management clinic, but that mother failed to sign a release of information form for Martin so that he could verify that mother was actually receiving treatment. He testified that mother also started receiving the Vivitrol shot from that pain management provider.<sup>3</sup>

{¶ 28} Martin testified that in March 2019, mother informed him that she received a prescription for and was taking Naltrexone on a daily basis.<sup>4</sup> He said that

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<sup>3</sup> Vivitrol is “a prescription injectable medicine [that] \* \* \* prevent[s] relapse to opioid dependence after opioid detox.” Help Reinforce Your Recovery, *Vivitrol*, <https://www.vivitrol.com/content/pdfs/integrated-patient-brochure.pdf> (accessed Oct. 31, 2019).

<sup>4</sup> Naltrexone is “a medication used in medication-assisted treatment (“MAT”) to treat both opioid and alcohol use disorders.” Substance Abuse and Mental Health Services Administration, *Naltrexone*, <https://www.samhsa.gov/medication-assisted-treatment/treatment/naltrexone>, (accessed Oct. 31, 2019).

the only proof he had was the pill bottle itself and that he had no documentation of urine screens or other medical notes.

**{¶ 29}** Martin stated that mother has mostly been non-compliant with respect to drug screens, saying that since 2017, mother only completed four: one hair sample in 2017 and three urine screens in March 2019. He testified that the three recent screens in March were positive for marijuana.

**{¶ 30}** Turning to mother's mental health objectives, Martin said mother had a history of depression. Based on the assessment that mother self-submitted to in September 2018, however, Martin said that mother's counselor told him that mother's post-traumatic stress disorder ("PTSD") was in remission, that mother was no longer depressed, and that the counselor did not recommend any further mental health treatment. He said that besides that assessment, mother has not engaged in mental health services throughout the pendency of this case.

**{¶ 31}** Turning to mother's housing and basic-needs objectives, Martin explained that throughout most of the case, mother and father did not have their own stable housing and had inconsistent employment. He said mother did not have "any basic needs to offer [L.K.]" and did not offer grandmother financial support. He said the only verification of income that he received from mother was in March 2019, when she showed him two pay stubs that were approximately \$200 each.

**{¶ 32}** He said that while mother was living with her aunt at the beginning of the case, mother was forced to leave after overdosing during a visitation with L.K. He said after that, mother made several statements about living with a friend or in

a particular city, but never allowed Martin to come and visit. He said he would “go months” without hearing from mother and that even during the times that mother was not incarcerated, her contact with him was inconsistent.

**{¶ 33}** Martin testified that in March 2019, however, mother finally allowed him to visit the house where she was living, which was with a friend and the friend’s family in LaGrange, Ohio. He stated mother has a room that she pays for and that she has a baby bed and supplies for L.K. in the room.

**{¶ 34}** Martin stated mother has not remedied the conditions that led to L.K.’s removal besides the fact that she has secured a stable living arrangement. He testified that she failed to engage in services, has not demonstrated that she can provide sober care for L.K., and is not able to provide for L.K.’s basic needs. He stated that mother was not in a position to provide appropriate care for L.K. at the time of the hearing. On cross-examination, Martin agreed that mother appeared to be coherent and sober during visits the last two months and that she has been more consistent with visits since the location of the visits was changed from grandmother’s house to Lakewood Collaborative.

**{¶ 35}** Martin testified that L.K. was doing well with paternal grandmother, L.K. was “well cared for,” and paternal grandmother was “on top of everything.” He said L.K. and paternal grandmother have a strong bond and that paternal grandmother was willing to provide a permanent home for adoption. He said that he felt that awarding CCDCFS permanent custody was in L.K.’s best interests. He stated:

[L.K.] will be 2 soon, you know, and this amount of time constantly trying to offer the case plan services to both parents and trying to give them the opportunity to turn things around, and they just haven't, you know.

Mom has done, you know, recently has tried to do some things recently, you know, which I commend her on that, but over the life of the case and what it means to be a parent on a full-time basis and to care for a child successfully and appropriately, this is just too inconsistent and it just doesn't show the commitment to care for a child properly and actually get yourself together and focus on the child. And they have not showed that at all.

**{¶ 36}** CCDCFS rested its case, and mother did not present any witnesses in her defense.

**{¶ 37}** L.K.'s GAL recommended that the court grant CCDCFS permanent custody based upon the above testimony and her investigation. She described her numerous failed attempts to contact mother and how difficult it was to reach her. She stated that L.K. and paternal grandmother have a strong bond and that paternal grandmother finished her "Foster Parent to Adopt" classes.

**{¶ 38}** On May 8, 2019, the trial court granted CCDCFS permanent custody of L.K. The court found that granting CCDCFS permanent custody was in L.K.'s best interests and that L.K. could not be placed with one of his parents within a reasonable time or should not be placed with either parent. It further found that mother "has failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home[;]" "[t]he chronic mental illness, chronic emotional illness, intellectual disability, physical disability, or chemical dependency of [mother] is so severe that it makes [mother] unable to provide an adequate permanent home for the child at the present time and, as

anticipated, within one year[;]” and mother “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.”

{¶ 39} It is from this judgment that mother now appeals.

## II. Law and Analysis

{¶ 40} In her sole assignment of error, mother argues that the trial court erred in granting CCDCFS permanent custody of L.K. because the record does not clearly and convincingly show that L.K. could not be placed with mother within a reasonable time or should not be placed with mother at all and that it is in L.K.’s best interests to be placed in CCDCFS’s permanent custody.

{¶ 41} 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 C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, 862 N.E.2d 816, ¶ 28; *In re Murray*, 52 Ohio St.3d 155, 157, 556 N.E.2d 1169 (1990). 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).

{¶ 42} 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).

**{¶ 43}** 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).

**{¶ 44}** “Clear and convincing evidence” is a higher standard of proof than a mere “preponderance of the evidence,” but a lower standard than “beyond a reasonable doubt.” *In re Awkal*, 95 Ohio App.3d 309, 315, 642 N.E.2d 424 (8th Dist.1994). It is satisfied when the evidence presented “produce[s] in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.”

*Id.*, quoting *Lansdowne v. Beacon Journal Publishing Co.*, 32 Ohio St.3d 176, 512 N.E.2d 979 (1987).

{¶ 45} An appellate court will not reverse a juvenile court's decision awarding permanent custody to an agency if the judgment is supported by clear and convincing evidence. *In re J.M.-R.*, 8th Dist. Cuyahoga No. 98902, 2013-Ohio-1560, ¶ 28. A reviewing court is required to examine the record to determine whether the trier of fact had sufficient evidence to satisfy the clear and convincing standard. *In re T.S.*, 8th Dist. Cuyahoga No. 92816, 2009-Ohio-5496, ¶ 24.

#### **A. L.K. Cannot or Should Not be Placed with Mother**

{¶ 46} Mother first contests the trial court's finding that L.K. could not be placed with one of his parents within a reasonable time or should not be placed with either parent.

{¶ 47} R.C. 2151.414(E) sets forth 16 factors used to determine whether children cannot or should not be placed with their parents. Some of those factors as relevant to this case include whether the parent:

- (1) has failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home[;]
- (2) [has] [c]hronic mental illness \* \* \* or chemical dependency \* \* \* that is so severe that it makes the parent unable to provide an adequate permanent home for the child at the present time and, as anticipated, within one year after the court holds the hearing[;]
- (4) 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[;] \* \* \*

(13) The parent is repeatedly incarcerated, and the repeated incarceration prevents the parent from providing care for the child[;] \* \* \*

(16) [a]ny other factor the court considers relevant.

*Id.* If a trial court finds by clear and convincing evidence that any one of the 16 factors exists, it must find that the child cannot or should not be placed with a parent within a reasonable period of time and award permanent custody to an authorized agency. *In re D.J.*, 8th Dist. Cuyahoga No. 88646, 2007-Ohio-1974, ¶ 64.

{¶ 48} In its journal entry awarding permanent custody to CCDCFS, the trial court found R.C. 2151.414(E)(1), (2), (4), and (13) to apply. We find that the record clearly and convincingly supports the trial court’s findings.

{¶ 49} First, because of mother’s failure to remedy the conditions that led to L.K.’s removal, Martin testified that over the course of the case, mother failed to consistently comply with any of her case plan objectives, including substance-abuse assessments and treatment, mental health assessments, securing stable housing, and providing for L.K.’s basic needs. Further, while the record shows that mother is correct that the assessor stated that mother’s issues with cocaine were in early remission and were not extensive, Martin testified that when mother finally self-submitted to an assessment in September 2018, she lied to the assessor about her drug abuse and failed to follow through with her outpatient treatment. And while mother also points out that she “voluntarily underwent pain management treatment,” Martin testified that he was unable to actually verify that treatment



because mother failed to complete a release of information form. Martin also stated that during the year and a half that he had the case, mother's only verified income was two pay stubs for \$200 each, which he said was not enough to provide for L.K.

**{¶ 50}** Further, the GAL's reports and the SAR submitted by CCDCFS also indicated that mother failed to receive drug abuse treatment, contact or visit L.K. on a regular basis, and failed to secure stable housing during the pendency of the case. The GAL's January 2019 report stated that mother was still homeless as of that date. While Martin testified that mother recently secured a room at a friend's house and had a bed and supplies for L.K., it took mother a year and a half to secure it even though the agency had referred her to Lakewood Collaborative in January 2018 as indicated in the GAL's January 2018 report.

**{¶ 51}** As to mother's chemical dependency, testimony showed that mother failed to comply with her treatment plan and even when she submitted to drug screens, she tested positive for cocaine and fentanyl in November 2017 and marijuana in March 2019. During two of mother's visits with L.K., in November 2017 and January 2018, mother overdosed. And in the GAL's January 2019 report, she stated that mother made little progress in maintaining sobriety.

**{¶ 52}** Evidence showed that mother also demonstrated a lack of commitment towards L.K. Paternal grandmother testified that mother visited L.K. three times between January 2018 and January 2019 and that mother has failed to offer any support besides birthday gifts and two outfits for L.K. Further, the SAR

stated that mother “has not expressed a true interest in visiting [L.K.],” and did not ask about L.K. during phone calls with CCDCFS.

{¶ 53} Finally, the record shows that mother was incarcerated from February 2018 through May 2018 for felony possession of fentanyl. Further, CCDCFS’s complaint stated that mother was on probation for theft and unauthorized use of property in 2017; however, CCDCFS did not present any evidence at the permanent-custody hearing to support its allegation. While it was not “repeated incarceration” as R.C. 2151.414(E)(13) states, and that finding is therefore not supported by clear and convincing evidence, the trial court’s findings under R.C. 2151.414(E)(1), (2), and (4) were supported by clear and convincing evidence.

{¶ 54} We therefore find that there was clear and convincing evidence that L.K. could not be returned to mother’s custody within a reasonable time or should not be placed with mother.

### **B. L.K.’s Best Interests**

{¶ 55} To determine whether a grant of permanent custody is in a child’s best interest, the trial court must consider:

- (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 service

children agencies or private child placing agencies for [12] or more months of a consecutive [22]-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 [R.C. 2151.414](E)(7) to (11)] \* \* \* apply in relation to the parents and child.

R.C. 2151.414(D)(1). Another factor the court may consider is whether “[t]he parent has placed the child at substantial risk of harm two or more times due to alcohol or drug abuse and has rejected treatment two or more times or refused to participate in further treatment two or more times after a case plan issued \* \* \* requiring treatment of the parent was journalized[.]” R.C. 2151.414(E)(9).

{¶ 56} The trial court only needs to find one of the above factors in favor of permanent custody to terminate parental rights. *In re J.S.*, 8th Dist. Cuyahoga Nos. 101991 and 101992, 2015-Ohio-2701, ¶ 51, citing *In re Z.T.*, 8th Dist. Cuyahoga No. 88009, 2007-Ohio-827.

{¶ 57} Testimony at the permanent-custody hearing showed that L.K. had a strong bond with paternal grandmother and has been living with her his entire life. Mother, on the other hand, has inconsistently visited L.K. and only visited him three times from January 2018 through January 2019. Concerning L.K.'s wishes, while L.K. was too young to express his wishes at the hearing, the GAL stated that it was in L.K.'s best interests to grant CCDCFS permanent custody. As to L.K.'s need for a legally secure permanent placement, Martin testified that while mother had recently made an effort to secure housing and visit with L.K., her efforts had been “too

inconsistent” and did not “show the commitment to care for a child properly.” He also testified at length regarding mother’s history of substance-abuse issues and about the two visits in which mother overdosed during visits with L.K.

{¶ 58} After review, there was clear and convincing evidence to support the trial court’s finding that it was in L.K.’s best interest to be placed in the permanent custody of CCDCFS. Accordingly, we overrule mother’s assignment of error.

{¶ 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 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.

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MARY J. BOYLE, PRESIDING JUDGE

FRANK D. CELEBREZZE, JR., J., and  
KATHLEEN ANN KEOUGH, J., CONCUR