

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

IN RE E.L. :
A Minor Child : No. 110171
[Appeal by A.A., Mother] :

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: April 29, 2021

Civil Appeal from the Cuyahoga County Court of Common Pleas
Juvenile Division
Case No. AD19901112

Appearances:

Dale M. Hartman, *for appellant.*

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Joseph C. Young, Assistant Prosecuting Attorney, *for appellee* Cuyahoga County Division of Children and Family Services.

EILEEN T. GALLAGHER, J.:

{¶ 1} Appellant-mother, A.A. (“Mother”), appeals the juvenile court’s decision terminating her parental rights and granting permanent custody of her child, E.L., to the Cuyahoga County Division of Children and Family Services (“CCDCFS”). She raises the following assignment of error for review:

The verdict was against the manifest weight of the evidence, sufficiency of the evidence, and was contrary to law.

{¶ 2} After careful review of the record and relevant case law, we affirm the juvenile court's judgment.

I. Procedural and Factual History

{¶ 3} In January 2019, CCDCFS filed a complaint alleging that E.L., born July 20, 2015, was an abused and dependent child, alleging as follows:

1. On or about January 12, 2019, Mother and alleged Father, [M.L.], were found unresponsive in their car while pumping gas. The gas hose was in the car at the time and syringes were found in the car. E.L. was in the back seat.
2. Mother and alleged Father have pending charges for endangering a child and possession of drug abuse instruments in Berea Municipal Court. See Case No. 19CrB0075.
3. The child was previously adjudicated abused due to Mother's testing positive for heroin at the birth of the child. The child was committed to the protective supervision of CCDCFS. See Case No. AD15913696.
4. Mother has a substance use disorder related to heroin. Mother has completed treatment in the past.
5. Alleged Father has a substance use disorder related to heroin. Father has completed treatment in the past.
6. Alleged Father has failed to establish paternity for the child.
7. Alleged Father, John Doe, has failed to establish paternity and has failed to support, visit, or communicate with the child since birth.

{¶ 4} The complaint was subsequently amended to reflect that E.L. was the named victim in Cuyahoga C.P. No. 19-CRB-0075, and that M.L. ("Father") had submitted to a paternity test and was awaiting results. The amended complaint

further mandated that Mother and Father were required to complete a substance abuse assessment “to determine treatment needs and follow all recommendations.”

{¶ 5} The adjudication and disposition hearing was held in April 2019. Finding the allegations of the amended complaint were proven by clear and convincing evidence, the court found E.L. to be abused and dependent and committed the child to the temporary custody of CCDCFS.

{¶ 6} A case plan was developed and amended as appropriate to assist Mother in addressing her substance and parenting issues, as well as her ability to provide for the child’s basic needs. The case plan required Mother to complete a drug assessment and attend, participate, and successfully complete any recommended treatment and/or aftercare. Mother’s drug support services also required her to provide scheduled and random drug screens and to sign a release of information as requested. Finally, Mother’s case plan required her to participate and complete an agreed upon parenting program.

{¶ 7} In December 2019, CCDCFS filed a motion to modify temporary custody to an order of permanent custody. The motion was supported by the affidavit of CCDCFS social worker, Sabrina Jones (“Jones”), who averred that Mother (1) refused to sign releases of information, (2) failed to submit to random drug testing, (3) failed to benefit from the parenting program, (4) had inappropriate visits with the child, and (5) refused to allow Jones to complete an assessment of her home.

{¶ 8} The court held a hearing on the motion for permanent custody in November 2020. At the hearing, Jones testified that she was assigned to this case in May 2019. Jones stated that she met with Mother in June 2019, and reviewed the requirements of Mother’s plan for reunification. With respect to the parenting requirements of Mother’s case plan, the agency referred Mother to the West Side Community House (“WSCH”) for completion of a parenting program. Jones testified that Mother attended the parenting program in July 2019, but failed to complete the program at that time. Mother was referred to an additional parenting program. While she did complete that program, there were concerns with Mother’s involvement in the classes. Jones explained that Mother engaged in verbal altercations, fell asleep during classes, and failed to demonstrate that she benefited from the program as required by her case plan. (Tr. 18-21.)

{¶ 9} Regarding Mother’s substance abuse issues, Mother was required to complete an alcohol and drug assessment, obtain a sponsor, and follow any additional recommendations of the assessment. In January 2019, Mother was referred for assessment to Cleveland Cares, but failed to complete the assessment as scheduled. Mother reported that she did not complete the assessment because she was receiving services through Cleveland Treatment Center. In July 2019, Mother revoked the release of information she had previously signed, thereby preventing the agency from viewing the results of her drug screens at Cleveland Treatment Center. In April 2020, Mother was referred to Ohio Guidestone. At that time, Mother signed a new release of information form, but tested positive for

“amphetamines, benzos, fentanyl, and opiates” in February 2020. In addition, Jones testified that although she requested that Mother directly provide the agency with urine screens twice a month, Mother only provided Jones with a single urine test during the pendency of this case.

{¶ 10} In April 2020, Mother again refused to sign a release of information to allow the agency to receive urinalysis reports from Cleveland Treatment Center. Thereafter, Mother signed the necessary release in September 2020, revealing that she had tested positive for “elicit drugs, amphetamines, benzos, [and] opiates.” Mother last tested positive for elicit drugs in September 2020, and did not provide the agency with a subsequent drug sample despite Jones’s request in October 2020. As of the date of trial, Mother had no established date of sobriety.

{¶ 11} Jones testified that E.L. was placed in the care of her maternal grandfather and his wife in September 2019. The child has bonded with her caregivers who have expressed a willingness to provide her a permanent home. Mother has weekly visitation with E.L. Jones testified that “E.L. loves her parents and her parents show their love as well.” (Tr. 52.)

{¶ 12} At the conclusion of her testimony, Jones reiterated that CCDCFS was requesting permanent custody, stating:

Neither parent has provided six months of sobriety. They have been noncompliant with the random urine screens. Mother has reported consistent with her treatment, but the results do not reflect a sober caregiver and that goes with Father. Father has been inconsistent with his IOP treatment and his results say that he is not sober. And right now the agency feels that we need to get permanency for [E.L.].

(Tr. 53.)

{¶ 13} Rhonda Mays (“Mays”) testified that she is employed as a family advocate with CCDCFS. Her role is to support families and assist parents with obtaining necessary resources. Mays testified that she worked with Mother and Father to address their substance abuse issues. Mays opined, however, that in the last five months leading up to the permanent custody hearing, Mother did not consistently show improvements with her substance abuse treatment.

{¶ 14} Donniecia Worley (“Worley”) testified that she is a coordinator at WSCH, which is a service provider for CCDCFS. Worley stated that Mother took parenting classes at WSCH. According to Worley, Mother enrolled in the parenting class on two separate occasions. However, Mother did not receive a certificate of completion due to her inconsistent attendance and lack of participation. Worley explained that Mother often fell asleep during classes and did not benefit from either of the parenting classes that she had attended.

{¶ 15} Kelly Antel (“Antel”) testified that she is married to E.L.’s grandfather and that the child was placed in her home in September 2019. Antel stated that she has observed all virtual visits with Mother and Father. She opined that “more than not you could tell [Mother and Father] are high.” (Tr. 126.) For instance, Antel testified that in May 2020, Mother was “out of it,” “slurring her words,” and unable to keep her eyes open during the visit. *Id.*

{¶ 16} At the conclusion of the hearing, the child’s guardian ad litem, Dean A. Colovas (“GAL”), recommended that permanent custody be granted in favor of CCDCFS.

{¶ 17} In December 2020, the juvenile court granted the agency’s motion for permanent custody, finding, in relevant part:

Pursuant to R.C. 2151.414, the Court finds that the allegations of the motion have been proven by clear and convincing evidence. It is therefore ordered that the Motion to Modify Temporary Custody to Permanent Custody is hereby granted.

The Court finds that:

The child is not abandoned or orphaned or has not 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.

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 interests 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 that:

Following the placement of the child outside the child’s 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 to be placed outside the home, the parent has failed

continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home.

The chronic mental illness, chronic emotional illness, intellectual disability, physical disability, or chemical dependency of the parent 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.

{¶ 18} Mother now appeals from the juvenile court's judgment.

II. Law and Analysis

{¶ 19} In the sole assignment of error, Mother argues the juvenile court's judgment was not supported by sufficient evidence and was against the manifest weight of the evidence.

{¶ 20} CCDCFS may obtain permanent custody by first obtaining temporary custody of a child and then filing a motion for permanent custody under R.C. 2151.413. *See In re M.E.*, 8th Dist. Cuyahoga No. 86274, 2006-Ohio-1837. There is no dispute that the proper procedure occurred here. When CCDCFS files a permanent custody motion under R.C. 2151.413 after obtaining temporary custody, the guidelines and procedures set forth under R.C. 2151.414 apply.

Courts apply a two-pronged test when ruling on permanent custody motions. To grant the motion, courts first must find that any of the factors in R.C. 2151.414(B)(1)(a)-(e) apply. Second, courts must determine that terminating parental rights and granting permanent custody to the agency is in the best interest of the child or children using the factors in R.C. 2151.414(D).

In re De.D., 8th Dist. Cuyahoga No. 108760, 2020-Ohio-906, ¶ 16.

{¶ 21} "An appellate court will not reverse a juvenile court's termination of parental rights and award of permanent custody to an agency if the judgment is

supported by clear and convincing evidence.” *In re M.J.*, 8th Dist. Cuyahoga No. 100071, 2013-Ohio-5440, ¶ 24. “Clear and convincing evidence’ is that quantum of evidence that instills in the trier of fact a firm belief or conviction as to the allegations sought to be established.” *In re T.S.*, 8th Dist. Cuyahoga No. 109957, 2021-Ohio-214, ¶ 23, quoting *In re Y.V.*, 8th Dist. Cuyahoga No. 96061, 2011-Ohio-2409, ¶ 13. If the grant of permanent custody is supported by clear and convincing evidence, we will not reverse that judgment. *In re J.J.*, 8th Dist. Cuyahoga No. 108564, 2019-Ohio-4984, ¶ 30.

{¶ 22} With regard to a challenge based upon manifest weight of the evidence, the Supreme Court of Ohio has explained:

“Weight of the evidence concerns ‘the inclination of the greater amount of credible evidence, offered in a trial, to support one side of the issue rather than the other. It indicates clearly to the [factfinder] that the party having the burden of proof will be entitled to their [judgment], if, on weighing the evidence in their minds, they shall find the greater amount of credible evidence sustains the issue which is to be established before them. Weight is not a question of mathematics, but depends on its effect in inducing belief.”

Eastley v. Volkman, 132 Ohio St.3d 328, 2012-Ohio-2179, 972 N.E.2d 517, ¶ 12, quoting *State v. Thompkins*, 78 Ohio St.3d 380, 678 N.E.2d 541 (1997).

{¶ 23} When conducting a manifest weight review, this court “weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the [finder of fact] clearly lost its way and created such a manifest miscarriage of justice that the [judgment] must be reversed and a new trial ordered.” *Eastley* at ¶ 20. “In weighing the

evidence, the court of appeals must always be mindful of the presumption in favor of the finder of fact.” *Id.* at ¶ 21, citing *Seasons Coal Co., Inc. v. Cleveland*, 10 Ohio St.3d 77, 461 N.E.2d 1273 (1984).

{¶ 24} Therefore,

[t]he discretion which a trial court enjoys in custody matters should be accorded the utmost respect, given the nature of the proceeding and the impact the court’s determination will have on the lives of the parties concerned. *In re Satterwhite*, 8th Dist. Cuyahoga No. 77071, 2001-Ohio-4137. The knowledge a trial court gains through observing the witnesses and the parties in a custody proceeding (i.e., observing their demeanor, gestures and voice inflections and using these observations in weighing the credibility of the proffered testimony) cannot be conveyed to a reviewing court by a printed record. *Id.*, citing *Trickey v. Trickey*, 158 Ohio St. 9, 13, 106 N.E.2d 772 (1952).

In re C.T., 8th Dist. Cuyahoga No. 87159, 2006-Ohio-1944, ¶ 15.

A. Evidentiary Challenge

{¶ 25} On appeal, Mother does not dispute that CCDCCFS presented substantial testimony regarding her history of substance abuse. Nevertheless, Mother initially asserts that by permitting Jones to testify about her positive drug screens, the juvenile court’s judgment ignored constitutional safeguards and rules of evidence commonly afforded to criminal defendants. Specifically, Mother argues that the drug-test results were not credible in the absence of authenticating documentation and testimony regarding the testing procedures, the method of collection, and the chain of custody for the samples.

{¶ 26} After careful review, we are unpersuaded by Mother’s position. In this case, counsel for Mother failed to object to the testimony of the social worker on

grounds that her discussion of Mother's positive drug test results violated her constitutional rights to due process and confrontation. Similarly, while Mother argues that no witness properly authenticated the test results prior to their admission into evidence as required by Evid.R. 901, the record reflects that counsel for Mother did not raise an objection on this specific basis. (See tr. 23-24, 34.) Rather, counsel for Mother raised a continuing objection to the introduction of hearsay testimony, which was predicated on testimony concerning the contents of the agency's case file and was unrelated to the results of Mother's drug tests at Cleveland Treatment Center. Thus, Mother has forfeited her right to raise these issues on appeal absent a claim of plain error.

{¶ 27} Crim.R. 52(B) provides that “[p]lain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court.” Plain error “may be applied only in the extremely rare case involving exceptional circumstances where error, to which no objection was made at the trial court, seriously affects the basic fairness, integrity, or public reputation of the judicial process, thereby challenging the legitimacy of the underlying judicial process itself.” *Goldfuss v. Davidson*, 79 Ohio St.3d 116, 122-123, 679 N.E.2d 1099 (1997).

{¶ 28} In this case, we cannot find plain error as the record contains ample evidence that Mother failed to comply with her case plan objectives for reunification. Independent of Jones's testimony that Mother failed a drug test as late as September 2020, we find the testimony introduced at the hearing demonstrated that Mother

failed to complete any of the referred services, failed to document her sobriety by refusing to submit to random drug screens upon request, and engaged in behavior indicative of drug use during virtual visits with the child. We further note that counsel for Mother stipulated, both at the onset of the permanent custody hearing and in Mother's proposed findings of fact, that Mother "tested positive for illegal substances in September of 2020" and "has somewhere in the neighborhood of about a month [of] sobriety at this point." (Mother's proposed findings of fact and conclusions of law, ¶ 6; tr. 8.)

{¶ 29} Collectively, Mother's behavior and pattern of conduct demonstrated by clear and convincing evidence that Mother did not remedy or could not remedy in a reasonable time, the substance abuse issues that caused E.L. to be removed from her home. Under these circumstances, we are unable to conclude that Jones's reference to Mother's test results from Cleveland Treatment Center, standing alone, impaired the basic fairness, integrity, or public reputation of the judicial process.

{¶ 30} Having determined that the juvenile court did not err by failing to sua sponte limit Jones's testimony regarding test results, we now address the juvenile court's application of R.C. 2151.414.

B. R.C. 2151.414(B)(1) Factors

{¶ 31} As stated, R.C. 2151.414(B) provides a two-pronged analysis the juvenile court is required to apply when ruling on a motion for permanent custody. R.C. 2151.414(B)(1) states permanent custody may be granted to a public or private agency if the juvenile court determines by clear and convincing evidence at a hearing

held pursuant to division (A) of R.C. 2151.414, that it is in the best interest of the child and any of the following apply:

(a) The child is not abandoned or orphaned, has not 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 has not 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 if, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state, and the 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.

(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 twelve or more months of a consecutive twenty-two-month period, or the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period and, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state.

(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.

{¶ 32} In this case, the juvenile court found, pursuant to R.C. 2151.414(B)(1)(a), that E.L. is not abandoned or orphaned, and has not 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. The court

further found, by clear and convincing evidence, that E.L. could not be placed with Mother or Father within a reasonable time or should not be placed with Mother or Father.

{¶ 33} On appeal, Mother does not dispute the court's finding that E.L. had not been in the custody of the agency for 12 or more months of a consecutive 22-month period at the time the motion for permanent custody was filed in this case. Rather, Mother 's argument under R.C. 2151.414(B)(1)(a) is limited to the court's determination that the child could not, or should not, be placed with either parent within a reasonable time.

{¶ 34} When assessing whether a 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 under R.C. 2151.414(B)(1)(a), a juvenile court must consider the factors outlined in R.C. 2151.414(E). *In re A.V.*, 8th Dist. Cuyahoga No. 101391, 2014-Ohio-5348, ¶ 58; *In re R.M.*, 8th Dist. Cuyahoga Nos. 98065 and 98066, 2012-Ohio-4290, ¶ 14; *In re B.P.*, 8th Dist. Cuyahoga Nos. 107732 and 107735, 2019-Ohio-2919, ¶ 13. A juvenile court is only required to find that one of these factors is met in order to properly find that a child cannot or should not be placed with a parent. *In re Ca.T.*, 8th Dist. Cuyahoga No. 108969, 2020-Ohio-579, ¶ 27, citing *In re V.C.*, 8th Dist. Cuyahoga Nos. 102903, 103061, and 103367, 2015-Ohio-4991, ¶ 42.

{¶ 35} In this case, the juvenile court found, pursuant to R.C. 2151.414(E)(1), that

[f]ollowing the placement of the child outside the child's 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 to be placed outside the home, the mother and father have failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home.

{¶ 36} In addition, the court found, pursuant to R.C. 2151.414(E)(2), that
Mother and Father's

chemical dependency * * * 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.

{¶ 37} In challenging the forgoing findings, Mother argues that there was "simply no proof that E.L. could not be placed with either parent within a reasonable time or should not be placed with the child's parents." Mother disputes the juvenile court's determination that she did not remedy the condition causing E.L. to be removed from her home, claiming that "competent evidence failed to establish any ongoing drug problem." We disagree.

{¶ 38} After a thorough review of the record, we conclude that the juvenile court's findings pursuant to R.C. 2151.414(E)(1) and (2) were supported by clear and convincing evidence. In this case, the child was removed from Mother's custody due to issues with substance abuse and parenting. Social worker Jones provided extensive testimony regarding the case plan created to remedy the issues that caused E.L.'s removal. As discussed, however, the record reflects that Mother failed to complete any of the referred substance abuse services, failed to document her sobriety by refusing to submit random drug screens upon request, and engaged in

behavior indicative of drug use during virtual visits with the child. Jones further testified that the agency was unable to consistently confirm whether Mother was successfully completing substance abuse services because she often revoked her release-of-information authorization at various stages of this case. In addition, while Mother attended parenting classes, the testimony presented at the hearing demonstrated that she failed to benefit from the parenting program. Jones and Worley explained that attendance was an issue and that Mother often failed to participate during classes. Thus, Mother failed to complete the two requirements set forth in her case plan.

{¶ 39} Under these circumstances, we find that there is competent credible evidence to support the juvenile court's findings pursuant to R.C. 2151.414(E)(1) and (2) that E.L. could not be returned to Mother's custody within a reasonable time or should not be placed with Mother. While Mother suggests that the agency failed to connect her substance abuse issues to her ability to parent, her position ignores testimony concerning the circumstances that led to the filing of the initial complaint, including allegations that Mother was found unconscious in a vehicle with E.L. sitting unsupervised in the back seat.

C. R.C. 2151.414(D)(1) Best-Interest Factors

{¶ 40} We review a juvenile court's determination of a child's best interests under R.C. 2151.414(D) for abuse of discretion. *In re D.A.*, 8th Dist. Cuyahoga No. 95188, 2010-Ohio-5618, ¶ 47. An abuse of discretion implies that the court's

decision was unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983).

{¶ 41} In determining the best interests of a child at a hearing held pursuant to R.C. 2151.414(A)(1), the juvenile court must consider all relevant factors, including, but not limited to, 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.

R.C. 2151.414(D)(1).

{¶ 42} Although a juvenile court is required to consider each relevant factor under R.C. 2151.414(D)(1) in making a determination regarding permanent custody, "there 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. We have previously 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 Children*, 85 Ohio App.3d 683, 621 N.E.2d 426 (3d Dist.1993).

{¶ 43} In this case, the court considered the following when assessing the child's best interests:

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 * * *.

{¶ 44} With respect to these considerations, the court specifically found under subsection (a) that E.L. has a positive relationship with her caregivers and that the caregivers are willing to provide a permanent home. In addition, the court noted under subsection (b) the child was too young to express her wishes, but the GAL recommended that the court commit E.L. to the permanent custody of CCDCFS. Finally, in regard to E.L.'s need for a legally secure placement and whether that could be achieved without a grant of permanent custody, the court found under subsection (d) that the child "cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent."

{¶ 45} Based on this record, we do not find that the juvenile court abused its discretion in determining that permanent custody was in the child's best interests. Contrary to Mother's argument on appeal, the testimony elicited at trial conclusively demonstrated that Mother has not satisfied the objectives of her case plan and has

not proven that she can provide a permanently stable environment for her child. Accordingly, we conclude that the juvenile court's termination of parental rights and award of permanent custody of the child to CCDCFS is supported by clear and convincing evidence in the record.

{¶ 46} Mother's sole assignment of error is overruled.

{¶ 47} 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.

EILEEN T. GALLAGHER, JUDGE

EILEEN A. GALLAGHER, P.J., and
MICHELLE J. SHEEHAN, J., CONCUR