

[Cite as *In re N.J.*, 2021-Ohio-2525.]

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

IN RE N.J., ET AL. :
Minor Children :
[Appeal by B.M., Mother] : No. 110302
:

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: July 22, 2021

Civil Appeal from the Cuyahoga County Court of Common Pleas
Juvenile Division
Case Nos. AD-18907307, AD-18907308, AD-18907309,
AD-18907310, and AD-18907311

Appearances:

Gregory T. Stralka, *for appellant.*

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

SEAN C. GALLAGHER, P.J.:

{¶ 1} Appellant, B.M. (“Mother”), appeals from the decision of the Cuyahoga County Court of Common Pleas, Juvenile Division (“juvenile court”) that granted permanent custody of her five children to the Cuyahoga County Division of Children and Family Services (“CCDCFS” or “the agency”) and terminated her parental rights. Upon review, we affirm.

Background

{¶ 2} On June 7, 2018, CCDCFS filed a complaint for neglect and dependency and requested a disposition of temporary custody of the children to CCDCFS. CCDCFS filed a motion for predispositional temporary custody, which was denied in each case. Upon subsequent motion in October 2018, D.J. was committed to the predispositional temporary custody of CCDCFS. Following a hearing held on October 31, 2018, one of the children, N.J., was adjudicated neglected and the other children were adjudicated dependent. The children were committed to the temporary custody of CCDCFS by entries journalized in early November 2018. After one extension of temporary custody, CCDCFS filed a motion to modify temporary custody to permanent custody in the case of each child on November 18, 2019. The motion for permanent custody was set for trial and continued twice.

{¶ 3} The cases proceeded to trial on January 25, 2021. Mother and Father, N.J., failed to appear, and the juvenile court denied the oral requests for a

continuance made by their respective counsel. The juvenile court heard testimony and accepted evidence that revealed the following facts.

{¶ 4} A social worker assigned to the case testified that the permanency plan was reunification with Mother and that a case plan was filed. The objectives of Mother's case plan concerned stable housing, substance abuse, and mental health. The social worker testified that she "engaged mom in treatment services or attempted to and she didn't follow through." Mother was told about the assessments when the referrals were made, but she never took the assessments. Mother was informed of the services that were needed. The social worker attempted to speak with Mother once or twice a month. Although Mother had issues with her phone, the social worker was successful texting Mother. The social worker contacted Mother the morning of trial and was informed that Mother was in Florida for work.

{¶ 5} In regard to housing, the address on file for Mother was "a senior living facility, one bedroom to the grandfather of one of her children" that was not an appropriate form of housing for the children. The social worker testified that Mother informed her she was living there, and a prior social worker on the case verified that Mother was living there. The agency linked Mother with a community collaborative ("collab") that would assist her with finding adequate housing. The social worker testified that the collab attempted to call Mother's phone several times. When the social worker spoke to Mother, Mother indicated she would call the collab. Mother had disclosed that she did not make enough money to have stable housing and was unable to find a home large enough to accommodate all the children. The

social worker testified that Mother was employed at Family Dollar and that Mother had indicated she was in training to be a manager at a Family Dollar. Mother's lack of adequate housing remained a major issue regarding reunifying the children with Mother.

{¶ 6} In regard to substance use, referrals were made to three facilities: New Visions, Recovery Resources, and Catholic Charities. Mother completed an assessment with one of the programs, but she never followed through and was discharged for nonparticipation. In October 2020, Mother informed the agency that she had appointments, but when the agency followed up to verify, it was discovered this was untrue. Mother, who had tested positive for marijuana in February 2020, submitted a negative screen in May 2020 and August 2020. However, Mother did not comply with requests for random weekly urine screens. The social worker testified that she did follow up with Mother and that Mother will "always say she's going," but she never goes. Mother also was asked during one of the telephonic court calls to "drop," but she did not comply. As the social worker testified, because Mother failed to engage in case-plan services, it was not known if Mother "is positive or negative for substance abuse."

{¶ 7} In regard to mental health, Mother was referred to Moore Counseling, but she did not complete mental health services. Mother never followed through with a subsequent referral to Catholic Charities for a mental health assessment in October 2020. The social worker testified she had a discussion with Mother and that Mother indicated she would call them back. Any mental health diagnosis was

unknown, and it did not appear Mother was required to take any medications for mental health. However, Mother never completed the assessment to determine if further services were needed.

{¶ 8} The social worker “did review with [Mother] the case plan and the case plan services.” The last time the social worker spoke to Mother in November 2020, she discussed the upcoming court dates, the requirements of the case plan, and the need to complete some case-plan services. The social worker testified that “[Mother’s] response is always okay. Just okay. It’s just very nonchalant.” Mother never reached out to indicate she wanted to get the services completed. At the time of trial, concerns remained for Mother with regard to housing, her financial stability, her substance abuse, and the lack of current information as to Mother’s mental health. When asked if the agency expectations for Mother were a little too high, the social worker indicated “[Mother] had this case open for a very long time, some of these things could have been addressed.”

{¶ 9} Mother had visitation with the children every other Saturday until November 2020, and then she agreed to virtual visitation in which there was an “open door” for Mother to call or the children could call her. Despite having no time limit on the virtual visitation, Mother would only talk for “about five minutes.” She had not called in the last three weeks or more before trial.

{¶ 10} Father’s case-plan services also included substance abuse and stable housing, but he did not engage in any services. Father went to only two visits with the children, one of which did not go forward, and he called only once since

November 2020. The social worker indicated Father “has [an] explosive behavior.” The social worker spoke with Father in September 2020 about getting back into treatment, but Father indicated previous treatments did not work and he could not go sit in a class and listen. Contact information was exchanged with Father, but the agency was unsuccessful in its efforts to contact Father. Letters were sent to Father asking him to drop for urine screens, apparently to no avail.

{¶ 11} The children, who were ages two through eight, were “thriving” in their foster-to-adopt placements, and their needs were being met. Four of the children were placed in the same foster home. The two oldest children were engaged in counseling. D.J., who is a medically fragile child, was placed in a separate foster home for medically fragile children and was receiving services through Help Me Grow. Although the social worker did not inform Mother about medical appointments, Mother did not inquire about them either and “doesn’t even ask about [D.J.]”

{¶ 12} CCDCFS attempted to identify family members or family friends as potential caregivers, but was unsuccessful. At least three individuals, including a paternal grandmother, maternal grandmother, and family friend, were investigated and denied for placement, with noted concerns on the record. No other individuals came forward, and no motions for legal custody were filed.

{¶ 13} In November 2019, the agency filed a motion for permanent custody in each child’s case. The social worker indicated that no progress had been made in order for the children to return home, that the children had been in custody for a

long time, and that the children could not be returned to either parent. None of the children were old enough for a planned permanent living arrangement. The agency believed permanent custody was in the children's best interest in order for them to be stable and to ensure their basic needs are met.

{¶ 14} The guardian ad litem ("GAL") for the children testified that the children wished to be reunified with family. However, she also represented that she was torn because she wanted "an outcome for these children where they're placed with family members," but despite her requests for continuances, the family kept letting her and the children down. The GAL recommended permanent custody to the agency for only D.J. The GAL noted D.J.'s significant medical issues, his superior bonding with the foster parent who provides "excellent care for him," and his lack of bonding with Mother or Father. The GAL recommended a denial of permanent custody for the other four children because she was "concerned that we are penalizing [Mother] in particular for being poor," she recognized Mother "has been trying to do what she sees is the goal to getting the children back, which is obtaining suitable housing," she did not believe Mother received enough support from the GAL or the agency to obtain suitable housing, and the children wished to go home to their mother. The GAL opined that there were no significant issues with Mother except for housing and expressed her belief that there were options that had not been explored, such as Mother moving into the maternal grandmother's home or staggering the children back into Mother's home. The maternal grandmother had been denied custody because another granddaughter who has a record was living in

the home, and the grandmother was not truthful with information about the granddaughter living in the home, at first stating she did not live there and then stating she would be moving when she did not. The GAL focused on advocating for “taking the children’s wishes into consideration here.”

{¶ 15} Counsel for Mother argued that the agency did the bare minimum to assist Mother and advocated for the denial of the agency’s motion. Counsel for the oldest two children concurred with the GAL’s recommendation and indicated that those children wished to be placed back in the custody of their mother.

{¶ 16} Trial counsel for CCDCFS appreciated the argument of the GAL, but indicated the agency was bound by statute. The agency was not able to ask for custody or legal custody to the persons who had been identified. Counsel indicated that anyone else on the case could have asked for legal custody to a person, but no motions were filed, that the children had been in custody for longer than two years, and that the agency could not seek any further extensions in the case. Also, there had been very little case-plan compliance. Counsel also responded to the argument that CCDCFS had not done enough to assist Mother: “All of these different case-plan objectives and referrals were given to [Mother]. The worker testified that she was told about these things, they reached out to Mother and then it was confirmed whether or not she had gotten ahold of them and they indicated that she hadn’t.” Counsel continued: “They would talk to [Mother] about it, she said she would call them and she never did. * * * Mother does not engage. * * * That’s why we’re here two and a half years later because she still hasn’t taken those opportunities. She still

hasn't availed herself. She says I'm going to do it * * * [and] I'm going to finish, but she doesn't start."

{¶ 17} As argued by trial counsel for CCDCFS, "[t]he fact of the matter is these children have been in custody for longer than two years and we're out of extensions," and despite recommendations and referrals being made to Mother, "[Mother] still hasn't completed [the case plan] to satisfaction" and questions remained regarding Mother's mental health and substance use, as well as her lack of adequate housing for the children. Counsel for CCDCFS argued the requirements of R.C. 2151.414(D)(2)(a) through (d) were met, which mandates a determination that an award of permanent custody is in the children's best interest.

{¶ 18} The juvenile court acknowledged that "these decisions are obviously never easy" and that there was a lot, including the wishes of the children, that the court needed to take into consideration when determining the best interest of the children. Although there were issues regarding the agency's handling of the matter, the juvenile court also recognized Mother's accountability in the matter. The court noted the testimony that Mother did not even ask about D.J., the virtual visits lasting only five minutes, and Mother's failure to visit for three weeks. The court also recognized that this was the third time the case had been set for trial and Mother failed to appear all three times.

{¶ 19} The juvenile court found R.C. 2151.414(B)(1)(a) and (d) applied and determined by clear and convincing evidence that the factors under R.C. 2151.414(E)(1), (E)(4), and (E)(16) were met. The juvenile court considered all of

the best interest factors under R.C. 2151.414(D)(1) and found that it was in the best interest of the children to grant permanent custody to the agency. Additionally, the juvenile court found all of the factors under R.C. 2151.414(D)(2) had been met, and therefore, the court was required to commit the children to the permanent custody of CCDCFS.

{¶ 20} On October 28, 2020, the juvenile court entered a detailed decision in each child's case that granted permanent custody to CCDCFS and terminated all parental rights. The juvenile court set forth findings that are consistent with the record, made the relevant considerations and found a number of factors to exist, and determined an award of permanent custody to CCDCFS was in the best interest of each child. Mother timely filed this appeal.

Law and Analysis

{¶ 21} Mother raises three assignments of error for our review. Under her first assignment of error Mother claims the juvenile court's denial of her request for a continuance was an abuse of discretion.

{¶ 22} Pursuant to R.C. 2151.414(A)(2), the juvenile court is to hold the permanent-custody hearing no later than 120 days after the agency files its motion for permanent custody, "except that for good cause shown," the court may grant a reasonable continuance, and the court is to dispose of the motion for permanent custody no later than 200 days after the agency files its motion. Additionally, pursuant to Juv.R. 23, "[c]ontinuances shall be granted only when imperative to secure fair treatment for the parties" and pursuant to Loc.R. 35(C) of the Cuyahoga

County Court of Common Pleas, Juvenile Division, “[n]o case will be continued on the day of trial or hearing except for good cause shown, which cause was not known to the party or counsel prior to the date of trial or hearing * * *.”

{¶ 23} Generally, the decision to grant or deny a motion for continuance is within the sound discretion of the trial court and will not be reversed absent an abuse of discretion. *State v. Unger*, 67 Ohio St.2d 65, 67, 423 N.E.2d 1078 (1981), citing *Ungar v. Sarafite*, 376 U.S. 575, 589, 84 S.Ct. 841, 11 L.Ed.2d 269 (1964). “There are no mechanical tests for deciding when a denial of a continuance is so arbitrary as to violate due process. The answer must be found in the circumstances present in every case, particularly in the reasons presented to the trial judge at the time the request is denied.” *Id.*, quoting *Ungar* at 589.

{¶ 24} We recognize that “[b]iological parents have a constitutionally protected right to be present at a permanent custody hearing.” *In re A.W.*, 8th Dist. Cuyahoga No. 109239, 2020-Ohio-3373, ¶ 25, citing *In re Sears*, 10th Dist. Franklin No. 01AP-715, 2002-Ohio-368, ¶ 11. “While courts must ensure that due process is provided in parental termination proceedings, ‘a parent facing termination of parental rights must exhibit cooperation and must communicate with counsel and with the court in order to have standing to argue that due process was not followed in a termination proceeding.’” *In re C.K.*, 8th Dist. Cuyahoga No. 108313, 2019-Ohio-4167, ¶ 20, quoting *In re Q.G.*, 170 Ohio App.3d 609, 2007-Ohio-1312, 868 N.E.2d 713, ¶ 12 (8th Dist.).

{¶ 25} The record shows that Mother’s trial counsel requested a continuance on the day of trial when Mother failed to appear. Counsel represented that he was “recently” informed that Mother was in Florida for work, that she was not aware of the hearing, and that he was requesting a continuance “to secure her presence now that I do know her location and where she is * * *.” Although Mother’s appellate counsel argues that Mother was in Florida for work training, was not present during the prior court hearing due to illness, and never received notice of the new trial date, the record shows that Mother failed to communicate with counsel and that notice was properly sent. The record reflects that notice was sent to Mother’s trial counsel, which complied with Juv.R. 20(B) and Civ.R. 5(B), and that notice also was sent to Mother’s last known address, where prior notices had been sent. The social worker in the case testified that when she first got the case in August 2020, this was the address where Mother indicated she was living and the prior social worker on the case had verified the address. There was no indication that this was no longer a valid address or that Mother had moved to Florida, only that she was receiving work training in Florida.

{¶ 26} Our review reflects that good cause was not shown for failing to request a continuance prior to the date of trial and that it was not in the best interest of the children to delay their need for permanency. At the time of trial, two prior continuances had already been granted and the motion for permanent custody had been pending for over a year. After examining the record in this case, we conclude

that the juvenile court did not abuse its discretion in denying the requested continuance. Mother's first assignment of error is overruled.

{¶ 27} Under her second assignment of error, Mother claims CCDCFS failed to establish that permanent custody should be granted under the provisions of R.C. 2151.414(E). Under her third assignment of error, Mother claims the juvenile court's decision to grant CCDCFS's motion for permanent custody was contrary to the best interest of the children and is against the manifest weight of the evidence.

{¶ 28} It is well recognized that "[t]he right to parent one's child is a fundamental right." *In re C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, 862 N.E.2d 816, ¶ 28, citing *Troxel v. Granville*, 530 U.S. 57, 66, 120 S.Ct. 2054, 147 L.Ed.2d 49 (2000); *In re Hayes*, 79 Ohio St.3d 46, 48, 679 N.E.2d 680 (1997). However, ultimately, the natural rights of a parent are always subject to the ultimate welfare of the child, which is the controlling principle to be observed. *In re B.C.*, 141 Ohio St.3d 55, 2014-Ohio-4558, 21 N.E.3d 308, ¶ 20, citing *In re Cunningham*, 59 Ohio St.2d 100, 106, 391 N.E.2d 1034 (1979). Because of the fundamental interests involved, the authority to terminate parental rights is carefully circumscribed by statute in Ohio. *See In re K.H.*, 119 Ohio St.3d 538, 2008-Ohio-4825, 895 N.E.2d 809, ¶ 41-42.

{¶ 29} Pursuant to R.C. 2151.414(B), permanent custody of a child may be awarded to a children services agency if the court finds, by clear and convincing evidence, that (1) it is in the best interest of the child to grant permanent custody of the child to the agency, and (2) any of the grounds listed in R.C. 2151.414(B)(1)(a)-

(e) apply. This court will not reverse a juvenile court’s award of permanent custody as being against the manifest weight of the evidence when the record contains competent, credible evidence by which the court could have found that the essential statutory elements for an award of permanent custody have been established. *In re E.M.B.T.*, 8th Dist. Cuyahoga No. 109479, 2020-Ohio-4308, ¶ 20, citing *In re B.P.*, 8th Dist. Cuyahoga Nos. 107732 and 107735, 2019-Ohio-2919, ¶ 22.

{¶ 30} In the case of each child, the juvenile court found that the condition under R.C. 2151.414(B)(1)(d) was met. The court recognized the date on which the child was committed to the temporary custody of CCDCFS and recognized that “[t]he child has been in temporary custody of a public children services agency * * * for twelve or more months of a consecutive twenty-two-month period.” This finding, which is not disputed by the parties, is supported by the record. Permanent custody may be granted to an agency where R.C. 2151.414(B)(1)(d) is met and permanent custody is in the best interest of the child. *In re N.M.P.*, 160 Ohio St.3d 472, 2020-Ohio-1458, 159 N.E.3d 241, ¶ 22. Although no further grounds were required under R.C. 2151.414(B)(1), the juvenile court additionally found relative to R.C. 2151.414(B)(1)(a) 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,” and the court made findings in relation to R.C. 2151.414(E)(1), (4), and (16), which we find are supported by competent, credible evidence in the record. We further discuss the R.C. 2151.414(E) factors later in this opinion.

{¶ 31} Next, the juvenile court considered all relevant best-interest factors set forth under R.C. 2151.414(D)(1). Under subsection (D)(1), in determining the best interest of a child in a permanent-custody hearing, a trial court is to consider all relevant factors, including, but not limited to, the factors specifically listed under that subsection.

{¶ 32} In conducting a best-interest analysis under R.C. 2151.414(D)(1), “[t]he court must consider all of the elements in R.C. 2151.414(D) as well as other relevant factors. 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. Moreover, “[R.C. 2151.414(D)(1)] requires a weighing of all the relevant factors * * * [and] requires the court to find the best option for the child * * *.” *Id.* at ¶ 64. “Although family unity is an important factor to consider, the paramount consideration is the best interest of the child.” *In re E.M.B.T.*, 8th Dist. Cuyahoga No. 109479, 2020-Ohio-4308, at ¶ 32, quoting *In re J.S.*, 8th Dist. Cuyahoga No. 108406, 2019-Ohio-4467, ¶ 14. As this court has repeatedly explained, “[a] child’s best interests require permanency and a safe and secure environment.” *In re A.R.*, 8th Dist. Cuyahoga No. 103450, 2016-Ohio-1229, ¶ 22, quoting *In re Holyak*, 8th Dist. Cuyahoga No. 78890, 2001 Ohio App. LEXIS 3105 (July 12, 2001).

{¶ 33} Here, in determining whether a grant of permanent custody to CCDCFS was in the best interest of each child, the juvenile court considered the relevant factors under R.C. 2151.414(D)(1)(a) through (e), which were listed in each

of the juvenile court's decisions. The juvenile court noted the GAL's recommendation in each child's case. With regard to the four children for which the GAL had recommended a denial of the motion for permanent custody, the juvenile court recognized in each case that the child is in a foster home with three other siblings who were all well-bonded and that each child had been in the temporary custody of the agency for over two years. In the case of D.J., the juvenile court recognized that D.J. is in a foster home that is trained to take care of medically fragile children, that D.J. is bonded with his current caregiver, that D.J. is too young to express his wishes, that D.J. had been in the agency's custody for the majority of his life, and that the GAL had recommended permanent custody to CCDCFS. Also, in each child's case, the juvenile court recognized the child "deserves a safe and stable environment" where all needs can be met, that this could not be achieved with Mother because she had failed to engage in, complete, and/or benefit from case-plan services, that Father failed to engage in case-plan services, and that no other relative placement had been identified as willing or appropriate to care for the child. The juvenile court determined by clear and convincing evidence that a grant of permanent custody was in the best interest of each child.

{¶ 34} Insofar as the GAL had argued that CCDCFS did not reconsider placement with the maternal great-grandmother or explore other options to keep the children with family, no alternative recommendations were made and no motion for legal custody was filed. "[R.C. 2151.414(D)] does not make the availability of a placement that would not require a termination of parental rights an all-controlling

factor. The statute does not even require the court to weigh that factor more heavily than other factors.” *In re Schaefer* at ¶ 64. Also, although the juvenile court was required to consider the recommendation of the GAL, it was not required to follow the recommendation of the GAL. *In re T.S.*, 8th Dist. Cuyahoga No. 92816, 2009-Ohio-5496, ¶ 34, citing *In re P.P.*, 2d Dist. Montgomery No. 19582, 2003-Ohio-1051, ¶ 24; see also *In re M.W.*, 2017-Ohio-8580, 101 N.E.3d 95, ¶ 24 (8th Dist.) (citations omitted). “As this court has recognized, however, neglected and dependent children are entitled to stable, secure, nurturing and permanent homes in the near term, are not required to ‘languish’ in legally insecure placements for years while natural parents are unwilling or unable to correct serious parenting deficiencies, and their best interest is the pivotal factor in permanency case.” *In re T.S.* at ¶ 35, citing *In re Mayle*, 8th Dist. Cuyahoga Nos. 76739 and 77165, 2000 Ohio App. LEXIS 3379 (July 27, 2000).

{¶ 35} Additionally, the juvenile court found all of the factors under R.C. 2151.414(D)(2)(a)-(d) applied in this case. R.C. 2151.414(D)(2) provides as follows:

- (2) If all of the following apply, permanent custody is in the best interest of the child, and the court shall commit the child to the permanent custody of a public children services agency or private child placing agency:
 - (a) The court determines by clear and convincing evidence that one or more of the factors in division (E) of this section exist 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.
 - (b) The child has been in an agency’s custody for two years or longer, and no longer qualifies for temporary custody pursuant to division (D) of section 2151.415 of the Revised Code.

(c) The child does not meet the requirements for a planned permanent living arrangement pursuant to division (A)(5) of section 2151.353 of the Revised Code.

(d) Prior to the dispositional hearing, no relative or other interested person has filed, or has been identified in, a motion for legal custody of the child.

{¶ 36} When all the above factors apply, R.C. 2151.414(D)(2) necessitates a determination that “permanent custody is in the best interest of the child” and requires that the court “shall commit the child to the permanent custody of a public children services agency * * *.” The juvenile court made all the requisite findings, which are supported by competent, credible evidence in the record. The court also included explicit findings under R.C. 2151.414(E)(1), (4), and (16) and determined by clear and convincing evidence 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.”

The juvenile court specifically found as follows:

(1) 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.

(4) The parent 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.

(16) Any other factor the Court finds relevant: Mother and Father were not present for today’s hearing. Mother has not visited with the child in over 3 weeks. Father went to 1 visit in September-October and has not visited since.

{¶ 37} Mother argues that CCDCFS did not meet its statutory duty to make “diligent efforts” to assist the parents. She claims that only one housing referral was made in the case and that CCDCFS did not inform the service providers that the only meaningful way to contact her was by text message. She argues CCDCFS delegated its obligation to provide visitation to the foster family. She maintains CCDCFS effectively eliminated Mother from the lives of her children even though the stated goal was for reunification. She further takes issue with the findings of the trial court. We are not persuaded by these or other arguments Mother raises.

{¶ 38} The trial court recognized the efforts that were made in this case, stating in part:

The Court further finds that reasonable efforts were made to prevent the removal of the child from the home, or to return the child to the home and finalize a permanency plan, to wit: reunification. Relevant services provided to the family include: The Mother was referred for Substance Abuse, Mental Health and Housing Services. Mother has not engaged in, completed, and/or benefitted from case plan services. Mother has not followed through with a Mental Health Assessment, failed to complete multiple Substance Abuse Assessments and failed to follow through with services as recommended by one of the Substance Abuse Assessments that she did complete. Mother does not currently have appropriate housing to care for the Child. * * *

{¶ 39} Our review of the transcript reflects that CCDCFS referred Mother to a community collaborative to assist Mother and Mother indicated she would contact them, but she failed to avail herself of their services. Mother was also referred to three separate facilities for substance abuse. Mother informed the social worker she had scheduled an appointment, but when the agency followed up with the provider, it was discovered no appointment was scheduled. Appellant failed to submit to

random, weekly drug screens. She failed to follow through with a referral to a dual-diagnosis facility that would have been able to address both substance abuse and mental health. The social worker discussed with Mother the case-plan objectives and referrals that were given, but Mother repeatedly failed to avail herself of the services. There also is evidence that despite an open-door arrangement for virtual visitation, Mother spoke to the children only for five minutes during the virtual visitation, she did not contact them at all in the three weeks prior to trial, and she did not even inquire about D.J. Mother failed to appear for the permanent-custody hearing. Finally, despite the claims of counsel and the GAL, the record does not reflect that this was a case of penalizing Mother for being poor or for her efforts to advance her position at work to earn more income. There is ample evidence demonstrating that the children could not be placed with either parent within a reasonable time.

{¶ 40} Upon careful review, we find there is competent, credible evidence to support the juvenile court's determination that all the factors under R.C. 2151.414(D)(2) apply. Therefore, permanent custody was necessarily in the best interest of the children and the juvenile court was required to grant permanent custody to CCDCFS. "There is no doubt that when parental rights are terminated, the goal is to create 'a more stable life for the dependent children and to facilitate adoption to foster permanency for children.'" *In re M.W.*, 2017-Ohio-8580, 101 N.E.3d 95, at ¶ 25, quoting *In re N.B.*, 8th Dist. Cuyahoga No. 101390, 2015-Ohio-314, ¶ 67.

{¶ 41} We overrule the second and third assignments of error.

Conclusion

{¶ 42} We conclude the juvenile court did not abuse its discretion in denying Mother's motion for continuance of trial. After a thorough and careful review, we find the record contains competent, credible evidence from which the court could have found the essential statutory elements for an award of permanent custody were established, and the juvenile court's decision to grant permanent custody to CCDCFS and the termination of Mother's parental rights is not against the manifest weight of the evidence.

{¶ 43} 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.

SEAN C. GALLAGHER, PRESIDING JUDGE

EILEEN T. GALLAGHER, J., and
EMANUELLA D. GROVES, J., CONCUR