[Cite as *In re R.G.*, 2021-Ohio-2775.]

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

IN RE R.G.	:	
	:	No. 110335
A Minor Child	:	
	:	
[Appeal by S.A., Mother]	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: August 12, 2021

Civil Appeal from the Cuyahoga County Court of Common Pleas
Juvenile Division
Case No. AD-17907988

Appearances:

The Law Office of R. Tadd Pinkston, L.L.C., and R. Tadd Pinkston, *for appellant*.

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

LISA B. FORBES, J.:

{¶ 1} S.A. ("Mother") appeals the juvenile court's decision to terminate her parental rights and award permanent custody of her child R.G. to the Cuyahoga County Division of Children and Family Services ("CCDCFS"). Mother argues that CCDCFS "did not demonstrate by clear and convincing evidence that permanent

custody was in the best interest of R.G." After reviewing the facts of the case and pertinent law, we affirm the juvenile court's judgment.

I. Procedural History

{¶ 2} R.G. was born prematurely in 2016, has special medical needs, and has been in CCDCFS's temporary custody since June 15, 2017, when he was released from a 10-month hospitalization in the neonatal intensive care unit ("NICU"). R.G. never lived with Mother and went straight from the hospital to a family in Ashland, Ohio, with a therapeutic foster care license. On April 6, 2018, CCDCFS filed a motion for permanent custody. On April 11, 2019, the juvenile court awarded permanent custody of R.G. to CCDCFS. S.A. appealed, and this court reversed and remanded on May 21, 2020, finding "insufficient evidence to support the first prong of the required showing for termination of parental rights" under R.C. 2151.414(B)(1)(a)-(e). *In re R.G.*, 8th Dist. Cuyahoga No. 108537, 2020-Ohio-3032, ¶ 39 ("*In re R.G. I*"). Specifically, this court found that 12 months had not passed between the date CCDCFS was awarded temporary custody of R.G. and the date CCDCFS filed its motion for permanent custody. A detailed history of the facts of this case is found in *In re R.G. I*, and the instant appeal focuses on the postremand proceedings.

{¶ 3} On June 29, 2020, CCDCFS filed another motion for permanent custody. The court held a hearing on the motion, and on February 2, 2021, the court terminated Mother's parental rights and granted permanent custody of R.G. to CCDCFS. It is from this order that Mother appeals.

II. Hearing Testimony

{¶ 4} Marci Jacobs ("Jacobs") testified that she is a Pediatric Occupational Therapist/Clinical Specialist at University Hospitals Cleveland Medical Center. Jacobs began working with R.G. once a week starting in September 2020. Jacobs testified as follows about her sessions with R.G.:

> [He] is a very involved individual so I am working on keeping his body safe, interacting with his environment, including toys, limiting self-injurious behaviors and trying to increase his developmental skills.
>
> * * *
>
> As far as I understand, [R.G.'s] got significant medical needs. He is tube fed. He has cognitive delays. He's got motor delays. He moves through increased muscle tone, has poor safety limits and I believe he has newly diagnosed seizure/epilepsy disorder.

{¶ 5} Jacobs testified that typically, R.G.'s foster father takes R.G. to the therapy sessions. According to Jacobs, Mother attended two therapy sessions and arrived late for both. Mother arrived on time for a third session but was sent home due to Covid-19 protocols. At the two sessions Mother attended, Jacobs

> tried to explain to her what the purpose of our sessions [is] and how [R.G.'s] functioning and doing towards those goals and what should be exercised at home for our home program.
>
> * * *
>
> Well, I have not got[ten] a lot of feedback. She has not asked any questions or involved herself in the actual session. When she has attended, she's looking for him to greet her and that's what she's been focusing on.
>
> She starts by saying, hi, [R.G.]. Hi. Hi. And doesn't really involve in the situation that's happening in the room.

{¶ 6} Jacobs testified that Mother was "asking [R.G.] to greet her back." R.G. is nonverbal and does not "have any functional means of communication," so Jacobs just continued with the session. Jacobs explained to Mother "what I was doing, why I was doing it, and what I was looking for as a response." Jacobs testified in more detail as follows:

> [R.G.] does not have finger isolation to manipulate objects in his environment so I brought this toy out, this is what I'm working on, and this is why.
>
> I'm looking for him to be able to point so if he gets a communication device, he would be able to isolate his finger to communicate.
>
> * * *
>
> The goal of therapy is to teach the parent what to do at home so that the child gets repeated exposure and practice in a natural environment where it matters to help his learning.
>
> I don't believe I specifically told them, hold his hand, that type of thing, but I explained what I was looking for, what I wanted in response to help him accomplish it, and that these are things that could be worked on at home.

{¶ 7} Jacobs further testified that R.G. has physical therapy and speech therapy following the occupational therapy appointment. The back-to-back-to-back appointments were scheduled to make it easier for Mother and the foster caregivers to attend. Additionally, R.G.'s appointments were moved to the hospital's main campus to make it easier for Mother to attend because she lives in the Cleveland area.

{¶ 8} Pediatric pulmonologist Dr. Amy DiMarino ("Dr. DiMarino") testified that she works at University Hospitals Rainbow Babies & Children's and

takes care of "children who have lung conditions." She has been R.G.'s pulmonologist since he was discharged from the NICU, which was three-and-a-half years before the date of the hearing at issue. Dr. DiMarino testified as follows about her treatment of R.G.:

> When I first met [R.G.] he had a chronic cough and wheezing and was on oxygen and had very abnormal chest imaging including chest x-rays and CTS of his chest, and we have been very aggressively treating his lungs to treat disease from prematurity since then.
>
> * * *
>
> [R.G.] has both scarring and mucous in his lungs related to his prematurity. He also has a floppy airway, so he isn't able to clear mucous out of his lungs appropriately, and this is all things we see related to prematurity.
>
> He also has asthma and we've been treating him with inhalers and other medications to help improve his airway spasticity.
>
> * * *
>
> [R.G.] has feeding difficulties and requires a feeding tube to provide him with his nutrition as he takes very little by mouth.
>
> He also has cerebral palsy. He had difficulty with developmental delay and walking and talking.
>
> He also has some neurological problems, recent onset of seizures that I'm aware of, and he has some gut issues where he doesn't absorb his food very well related to his prematurity a[s] well.

{¶ 9} According to Dr. DiMarino, in the three-and-a-half years that she has been treating R.G., she has seen Mother twice. Mother attended one appointment when R.G. was approximately one year old, and she attended one pre-op appointment when R.G. was less than two years old. By missing most of the appointments, Mother did not learn "how to administer respiratory treatments,

including inhalers, devices, and we provide a plan of care, how to contact us if the child is ill, what medications to administer if they are having certain symptoms such as cough or wheezing * * *." Dr. DiMarino testified that she has "never * * * had concerns about the foster parents missing an appointment."

{¶ 10} As to the level of care R.G. requires, Dr. DiMarino testified as follows:

> Well, he requires assistance with activities with daily living, and because of his complexity of his medical problems, it's in the child's best interest to have more than one or two caregivers in the home, and especially if there's other children in the home.
>
> * * *
>
> I mean, he cannot feed himself. He cannot walk. He's diapered. He is not developmentally appropriate for his age; therefore, he requires trained assistance for his care.
>
> * * *
>
> Well, he received vest treatment which helps mobilize mucous in his chest. That's one of the things I prescribe. He receives inhalers. He receives nebulized treatments as well when he is ill.
>
> He receives feeding through a tube which requires some trained assistance, and then he has a lot of therapy-type assistance that he receives.

{¶ 11} On October 2, 2020, Dr. DiMarino provided a letter "on behalf of [R.G.] with my recommendations regarding home visits with his biological family." These included

> that he had people present who have expertise in his care and knowing how to administer medications and all of his medical equipment and respiratory treatments. * * * He needs to receive his nutrition. He needs to receive his medications through his feeding tube and his respiratory treatments. If he goes without them or his symptoms go unrecognized, he could potentially become ill.

{¶ 12} Dr. DiMarino testified that regardless of who R.G. lives with, additional medical and caregiver assistance would be needed in the home.

{¶ 13} Donna L. Scott ("Scott") testified that she works for CCDCFS as an Early Childhood Mental Health Resource and Training Coordinator. Scott "coordinates or directly provides resources and therapeutic services and parenting services to children and families involved with" CCDCFS. Scott became involved with R.G.'s case in September 2020. Her role was to "reach mom and assess mom, you know, what kind of supports mom thought she might need to get to know [R.G.] a little bit and his medical and developmental needs, and then just make sure that mom in that short-term period understood what his needs were."

{¶ 14} Scott's first goal with Mother was to join in some of her virtual visits with R.G. and attend some of his therapy sessions "so that [Scott] would have a better understanding of [R.G.'s] needs and then be able to provide that." Scott made several attempts to communicate with Mother, but Mother did not follow through to allow Scott to join any virtual visits. As to the regularly scheduled therapy sessions, Scott attended three. She left messages for Mother regarding which sessions she planned to attend, but she never saw Mother there. On January 7, 2021, Scott sent Mother a letter explaining that she had been trying to connect with Mother and reminding Mother of the available services. Ultimately, Scott concluded that her services were not wanted.

{¶ 15} Tara Hughes ("Hughes") testified that she is a registered nurse for the Foster Care Agency at Ohio Guidestone. Asked what her job entails, Hughes

answered, "I visit the foster families of our program once a month and I offer them medical support and resources." She also attends some of the child's medical appointments with the foster family. She began working with R.G. and his foster family in April 2019. Hughes testified as to R.G.'s medical needs:

> My understanding of his medical needs is he has cerebral palsy, so that affects his muscle tone, his movement. So he needs a wheelchair.
>
> They need to make sure that he's like properly positioned in bed and I know he has a history of asthma, respiratory disorders, so he receives breathing treatments.
>
> His medications are very extensive. He has some feeding issues as well. He gets fed through a G-tube four times a day and they're starting to offer him pureed foods, so his medical needs are quite extensive.

{¶ 16} Hughes testified that she only met Mother one time at the "goodbye visit," which "is a final visit for the bio parent and the foster child" after permanent custody has been granted to CCDCFS. Hughes testified that although Mother was present for the goodbye visit, Hughes did not "feel there was a connection between the mom and [R.G.]." Hughes observed the foster family's interaction with R.G. on several occasions and stated that their "consistency and care" for R.G. is "very, very important just due to the number of diagnoses that he has."

> I do believe that is why he's thrived so much up until now is because of the strict schedule that the [foster family has].
>
> They make sure that he attends all his appointments. They have his day all scheduled out. They send me a schedule every single month.
>
> From the time he wakes up they tell me this is what they do until this is their bedtime routine. So consistency, it could be a matter of life or death for this child. Like that's now important it is.

> It's very important he gets his medications on time. It's very important he attends therapies. It's a part of him thriving, so it's very important.

{¶ 17} Gary Gerwig ("Gerwig") testified that he has been R.G.'s foster father since June 2017. From the beginning, he and his wife knew that R.G. was "a special-needs medically-fragile child." He and his wife had special training to learn how to use R.G.'s feeding and oxygen machines. According to Gerwig, R.G.'s care includes the services of 14 medical professionals with weekly doctor appointments, therapy sessions, and school services. R.G. has been admitted to the hospital "six or seven times" since he has been placed with the Gerwigs. Mother appeared for "short visits" in the hospital twice but left before "the doctors came down to tell us what they had found, what was going on and what the next step was."

{¶ 18} According to Gerwig, approximately six months after R.G. was placed with his family, Mother would come to their house for in-person visits with R.G. The visits were scheduled for once a week. Gerwig testified that Mother attended the visits "maybe a dozen times." She attended approximately nine out of 26 virtual visits after Covid-19 changed protocols. Mother attended two therapy sessions and attempted to attend a third session. Most of the time Mother attended visits or therapy sessions, she arrived late. Mother would try to talk to R.G., but R.G. is nonverbal. Gerwig testified that Mother never asked him, his wife, or any of the health care providers any questions about R.G.

{¶ 19} Cynthia Hurry ("Hurry") testified that she is a social worker for CCDCFS, and she became involved with R.G.'s case on June 15, 2017. When Hurry

received the case, she learned that in 2015 Mother's parental rights were terminated regarding her four-year-old daughter, who is R.G.'s sister. *See In re R.G.*, Cuyahoga C.P. Dom. Rel. No. AD-14-900409. "It was a similar situation is my recollection * * * failure to provide for the medical needs of the child. * * * The child was diagnosed with failure to thrive and the mother did not follow through with the medical appointments." In that case, CCDCFS "had problems with engaging the mother in services."

{¶ 20} Hurry testified that both R.G. and his sister allegedly have the same father, although paternity has not been established. She attempted to contact the alleged father multiple times, but he did not respond to the efforts.

{¶ 21} According to Hurry, R.G. "had been hospitalized for his first ten months of life [and Mother] had very little participation with him * * *." R.G. was born in August 2016, and Mother did not engage in any services until May 2017. Asked why CCDCFS filed for permanent custody of R.G., Hurry testified as follows:

> Well, we had a lot of concerns about the ability of the mother to be consistent in meeting the child's care, consistent in doing the services even that we felt were recommended for her.
>
> There was just a lack of engagement, follow-through historically and at the time.
>
> Visitation was set up for him. It was a difficult thing to try and come up with a setting for him, so we did have the benefit of the foster parents being willing to open their home, but unfortunate situation of it being out of county, and so mother's engagement with visitation during the first review period of the case was not great.
>
> She did have transportation and she did go down a couple of times, but did identify hardship at some point within the first six months and so

> we transitioned over to provide her with cab vouchers to be taken down so that she could engage better in the visitation and the services.

{¶ 22} Hurry testified that Mother had the opportunity to participate in all three types of R.G.'s therapy sessions, as well as in-person and virtual visitations with R.G. Mother had "two successful visits at the foster home and one unsuccessful visit at the foster home. There was a lot of inconsistency in mom actually going down" to visit. According to Hurry, "when mother was there and when she was participating in the service, she was just basically present so we could see that there wasn't a lot of benefit happening from the services."

{¶ 23} Mother's case plan services include "parenting services, mental health services, case plan type things to deal with her transportation issues, employment issues and things of that nature." Mother "has a history of being in counseling, mental health services." As part of her case plan, Mother had a mental-health assessment in August 2017, and she was diagnosed and indicated for services. However, Mother did not engage in any services after the 2017 assessment, and Hurry had Mother get another mental-health assessment in August 2020. Mother was again diagnosed and indicated for services. Mother's diagnosis is "dysthymic disorder," which is a depressive mood disorder. Hurry testified that Mother claims to have attended three counseling sessions, but "[a]s of today I have no independent confirmation from the provider that those sessions have taken place."

{¶ 24} Parenting, and particularly "nurturing parenting," is part of Mother's case plan "to try to help facilitate some bond with [R.G.]. There had been a period

of almost a year and a half that the child was in permanent custody and there was no communication." Mother attended most of the individual appointments with the parenting instructor. However, Mother was ultimately "unsuccessfully discharged from the program" because she did not meet the group session requirement. Additionally, Mother "was telling [the instructor] things that were quite inaccurate * * * about how she was visiting frequently and she really has not been visiting frequently."

{¶ 25} As to whether Mother can provide for R.G.'s basic needs, Hurry testified that Mother has her own housing although Mother was unable to provide a lease, and "[t]he cleanliness of the home is largely improved." The apartment is furnished, and all the utilities are turned on. According to Mother, "family members" help pay her rent. Hurry also testified that the apartment was a third-floor walkup, which would not work for R.G., because he is in a wheelchair.

{¶ 26} According to Hurry, Mother said that "she had two jobs, but she wasn't earning an income." Mother explained that for one job she is a nurse's aide with no current assignment. Mother said her second job was at a shoe store. Hurry spoke with a representative from the shoe store, who said "[t]hey weren't aware of [Mother] being employed there." Asked to explain, Mother said "there was something funky there. She was hired, but she was never put on the schedule and she did acknowledge that she had never worked there."

{¶ 27} Hurry testified that she informed Mother of R.G.'s medical and therapy appointments that the Gerwigs reported to her. "Currently I inform her in

writing via email. That seems to be the way that she responds quickest and most often is via email." CCDCFS and the Gerwigs tried to make it easy for Mother to engage with R.G. by scheduling three therapy sessions followed by a visitation on Wednesdays. All of these things occurred in Cleveland, which is where Mother lives. "The thinking that because there is a lack of consistency, we wanted to try and keep — if we can keep it all on one day, there's more likelihood that we can get a full engagement."

{¶ 28} Hurry testified that the most "concerning" thing about Mother is that "we still are at a place where there seems to be a lack of understanding about how severe the conditions are and how fragile that [R.G.] is." For example, Hurry testified that Mother attended one orthopedic appointment and asked a question about the "bracing" for R.G.'s legs. However, Hurry could not recall any other medical appointments that Mother attended or took interest in. During Hurry's testimony, she was asked about Mother's attendance at critical medical appointments where Mother could learn the skills required to care for R.G. The following colloquy took place:

> A: I also had a conversation with her about the very important nature of her making that first visit on the Wednesday where they did that long assessment so that at that appointment she would have had a very detailed view of all of the diagnoses that they say they're treating, how they expect to treat it and what these outcomes are supposed to be, and it was a critical appointment.
>
> And I let her know that beforehand and she missed it. And afterwards I communicated with her and sent her an email to try and gain a little bit of answer about what happened. Let's have come accountability here now.

> We have had this big important thing, and then we reviewed the element of the case plan because I wrote very specifically in there that if you on this occasion of this new case plan, if you are unable to meet these appointments that are given to you, you're unable to get there, you still have a responsibility to contact those providers and find out what happened and see what you missed and kind of keep current and communicate, start opening that door to all of these providers and doctors that you don't know so that you can get familiar.
>
> Q: Okay. And to your knowledge did mom ever, if you know, did she ever call any of the doctors?
>
> A: I have no knowledge that she ever called any of the physicians.

{¶ 29} Hurry testified that "permanent custody and keeping [R.G.] where he is, allowing the Gerwigs to finish their process, to provide him with permanency is in his best interest."

{¶ 30} R.G.'s guardian ad litem ("the GAL") placed the following recommendation on the record:

> It is a very sad case * * * [b]ut unfortunately in this case it happened that [R.G.] was born with so many health issues and I know that his mom loves him very much. I do believe that this is true. She's very sincere in her feelings.
>
> But unfortunately, maybe something is out of her control as well. She is not able to take care of him because I agree with the Agency that she hasn't been consistent with visiting, his appointments, learning about his health issues, how to take care of him and stuff like that.
>
> I think that she's overwhelmed with all the appointments and other responsibilities that she has as an individual, and it would be nicer if somebody would guide her and manage and help her through the process, but there is no person for her like this to help her with the planning and making sure that she comes to the appointments on time.
>
> I have to say that I personally had to schedule home visits with her four or five times. Every time that I would need to come out, something would appear whether under her control or not under her control, but I could handle it. I can reschedule.

> It wasn't a matter of life or death, but for this specific child it could be a matter of life and death if you do not make a quick and proper decision on his care.
>
> Therefore, I have to say that it's in the best interest of [R.G.] to grant the Agency's motion for permanent custody.

III. Law and Analysis

A. Standard of Review — Permanent Custody

{¶ 31} "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. "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.

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

{¶ 32} In its February 2, 2021 journal entry granting permanent custody of R.G. to CCDCFS, the court found that, pursuant to R.C. 2151.414(B)(1)(d), R.G. has been in "custody since June 2017," which is more than 12 months of a consecutive 22-month period. The court additionally found that R.G.'s "continued residence in or return to the home of [Mother] would be contrary to the child's best interest." The court further found that CCDCFS made "reasonable efforts * * * to return [R.G.] to the home * * *." Services provided included "Parenting, Mental Health, and Basic

Needs/Case Management Services. Alleged Father was to establish paternity. Child receives occupational therapy, physical therapy, and speech therapy."

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

{¶ 33} Also in the February 2, 2021 journal entry, the court considered several best-interest factors under R.C. 2151.414(D)(1) as follows:

{¶ 34} Under subsection (a), which concerns the relationship of the children with their family and foster caregivers, the court found: "The Child is well bonded with caregivers and their family. This is the only home the child has been in since birth."

{¶ 35} Under subsection (b), which concerns the wishes of the children, the court found: "Child is too young to express his wishes. GAL recommends permanent custody."

{¶ 36} Under subsection (c), which concerns the custodial history of the child, the court found: "Child has been in Agency custody for over 3 years and has been in the same foster placement since his release from the hospital and entering Agency custody."

{¶ 37} Under subsection (d), which concerns the child's need for a legally secure placement, the court found:

> Child deserves a safe and stable environment where his basic needs and medical needs can be met and he can thrive. This cannot be achieved with either parent as Alleged Father has not established paternity and has not had any contact with the Agency or the child. Mother continues to lack consistency with engaging in services, with the Agency, and with the child.

{¶ 38} Under subsection (e), which concerns whether any of the factors in R.C. 2151.414(E)(7) to (11) apply, the court found that (E)(10) and (11) apply. These subsections state that "[t]he parent has abandoned the child" and "[t]he parent has had parental rights involuntarily terminated with respect to a sibling of the child * * * and the parent has failed to provide clear and convincing evidence to prove that * * * the parent can provide a legally secure permanent placement and adequate care for the health, welfare, and safety of the child."

{¶ 39} Next, the court found that "with respect to the best interests of the child, * * * pursuant to * * * R.C. 2151.414(D)(2), * * * all of the following apply":

> (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. (E)(1), (4), (10), (11), and (16).
>
> (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. Child has bee[n] in Agency custody for 3.5 years.
>
> (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. Child is 4 years of age.
>
> (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.

{¶ 40} Next, the court found "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, pursuant to" R.C. 2151.414(E), based on the following factors.

{¶ 41} Under subsection (1), which covers whether "the parent has failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home," the court found: "Mother fails to attend the child's medical appointments, despite receiving notification of all of them and when she does attend, she fails to engage with the providers. Mother has failed to engage in, complete, and/or benefit from case plan services. Mother still has a 3rd floor walk-up apartment."

{¶ 42} Under subsection (4), which covers whether the "parent has demonstrated a lack of commitment toward the child," the court found:

> Mother isn't currently employed and her rent is paid for by family members. Mother fails to regularly visit the child, despite having a weekly standing visitation order. Mother fails to appropriately engage the child when she does visit with him. Mother fails to attend the child's medical appointments and when she does attend, she does not engage with the providers so that she can learn how to care for the child's medical needs.

{¶ 43} Under subsection (10), which concerns whether the parent has abandoned the child, the court found: "The parent (Alleged Father) has abandoned the child."

{¶ 44} Under subsection (11), which concerns whether the parent has had parental rights involuntarily terminated with respect to other children, the court found: "Mother has another child that was placed in Legal Custody of a relative in AD 14900409."

{¶ 45} Under subsection (16), which concerns any other relevant factors, the court found: "Mother has had 3.5 years to remedy the conditions that led to the

removal of the child. Mother was provided a second chance to work towards reunification and has shown little to no effort in doing so."

{¶ 46} The court concluded that "by clear and convincing evidence * * * a grant of Permanent Custody is in the best interest of the child."

D. Clear and Convincing Evidence Supports the Trial Court's Findings

{¶ 47} Upon review, we find that the juvenile court's judgment is supported by clear and convincing evidence in the record. The court's findings under R.C. 2151.414(B)(1)(d) are supported by clear and convincing evidence in the record that R.G. was first placed in emergency custody of CCDCFS in June 2017, and CCDCFS filed the current motion for permanent custody in June 2020, which is a consecutive three-year period.

{¶ 48} Furthermore, the evidence in the record shows that CCDCFS outlined various case plan objectives for Mother, but she was unable to make substantial progress on them. For example, and most importantly in the case at hand, there was overwhelming evidence that Mother was not capable of ensuring that R.G.'s special medical needs were met. This concept was corroborated by testimony from: healthcare providers Dr. DiMarino, Jacobs, and Hughes; CCDCFS employees Scott and Hurry; the foster father Gerwig; and the GAL.

{¶ 49} Evidence in the record showed that Mother was unable to provide for R.G.'s basic needs. Additionally, CCDCFS was unable to verify Mother's income, how she paid for her housing, and whether she was following through with her mental-health case plan services.

{¶ 50} Turning to R.C. 2151.414(D) and (E), we find that the juvenile court's analysis of the relevant factors is likewise supported by clear and convincing evidence in the record. Mother failed to interact with R.G. for the first nine months of his life. She became involved in her case plan services approximately one month prior to his release from the NICU. Evidence in the record showed that she began visiting with R.G., but she failed to engage with him during the visits. Mother became inconsistent in attending visitation and therapy appointments as time passed. Testimony was presented that R.G. is thriving in his foster home. There is overwhelming evidence that Mother does not appreciate the severity of R.G.'s special needs and is unable to properly provide for his basic needs.

{¶ 51} Furthermore, R.G.'s GAL recommended permanent custody to CCDCFS, because she did not think Mother was able provide for his special medical needs. Hurry, who is the CCDCFS case worker, recommended permanent custody to CCDCFS, because keeping R.G. with the Gerwigs is in his best intertest. Dr. DiMarino, who did not give an ultimate opinion on custody, testified that she had concerns over Mother not learning how to care for R.G.'s special medical needs.

{¶ 52} In reviewing permanent custody proceedings, we are mindful that "the power of the trial court to exercise discretion is peculiarly important. The knowledge obtained through contact with and observation of the parties and through independent investigation cannot be conveyed to a reviewing court by printed record." *Trickey v. Trickey*, 158 Ohio St. 9, 13, 106 N.E.2d 772 (1952). This court has additionally held that the "discretion which the juvenile court enjoys in

determining whether an order of permanent custody is in the best interest of a child 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 Awkal*, 95 Ohio App.3d 309, 316, 642 N.E.2d 424 (8th Dist.1994).

{¶ 53} Accordingly, we find the court acted within its discretion, as shown by clear and convincing evidence in the record, when it terminated Mother's parental rights and granted custody of R.G. to CCDCFS. Mother's sole assignment of error is overruled.

{¶ 54} 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 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.

LISA B. FORBES, JUDGE

SEAN C. GALLAGHER, P.J., and
EMANUELLA D. GROVES, J., CONCUR