

[Cite as *In re B.B.S.*, 2023-Ohio-2486.]

**COURT OF APPEALS OF OHIO**

**EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA**

IN RE B.B.S.	:	
	:	No. 112164
Minor Child	:	
	:	
[Appeal by T.H., Mother]	:	
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**JOURNAL ENTRY AND OPINION**

**JUDGMENT: AFFIRMED**  
**RELEASED AND JOURNALIZED: July 20, 2023**

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Civil Appeal from the Cuyahoga County Court of Common Pleas  
Juvenile Division  
Case No. AD-22904878

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***Appearances:***

Wegman Hessler Valore and Michael J. Gordillo, *for appellant.*

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

SEAN C. GALLAGHER, J.:

{¶ 1} Appellant, T.H. (“Mother”), appeals the decision of Cuyahoga County Court of Common Pleas, Juvenile Division (“juvenile court”), that granted permanent custody of her child B.B.S. to the Cuyahoga County Division of Children

and Family Services (“CCDCFS” or “the agency”) and terminated her parental rights. Upon a careful review of the record, we affirm the juvenile court’s decision.

### **Background<sup>1</sup>**

{¶ 2} On May 10, 2022, CCDCFS filed a complaint for dependency and permanent custody of B.B.S. to CCDCFS. The action was brought when B.B.S. was approximately six months old. Mother had an extensive history with the agency, having had three other children who were placed in the permanent custody of the agency because of Mother’s mental health issues, cognitive ability, and parenting practices. The agency had continued concerns that these issues interfered with Mother’s ability to provide appropriate care and supervision for B.B.S. The alleged father did not express any interest in the child or become involved in the matter. B.B.S. had been in the care of the alleged paternal grandmother since he was two days old.

{¶ 3} In the course of the proceedings, B.B.S. was committed to the predispositional temporary custody of CCDCFS, was adjudicated dependent, and was placed in a foster home with his three siblings. A dispositional hearing was held on October 20, 2022.

{¶ 4} Testimony was provided regarding the relevant history involving Mother’s other children and regarding the current developments in this case. Following the dispositional hearing, the juvenile court issued a journal entry on

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<sup>1</sup> We have thoroughly reviewed the record and provide only a brief overview herein.

October 26, 2022, that granted permanent custody of B.B.S. to the agency and terminated all parental rights. The juvenile court engaged in the proper analysis, set forth findings that are consistent with the record, considered the relevant best-interest factors, and made the requisite statutory determinations for awarding permanent custody to the agency as supported by clear and convincing evidence in the record.

{¶ 5} Mother timely appealed.

### **Law and Analysis**

{¶ 6} It is well recognized that parents have a fundamental liberty interest in the care, custody, and control of their children. *In re B.C.*, 141 Ohio St.3d 55, 2014-Ohio-4558, 21 N.E.3d 308, ¶ 19-20, citing *Troxel v. Granville*, 530 U.S. 57, 65, 120 S.Ct. 2054, 147 L.Ed.2d 49 (2000). However, that interest is always subject to the ultimate welfare of the child. *Id.* at ¶ 20, citing *In re Cunningham*, 59 Ohio St.2d 100, 106, 391 N.E.2d 1034 (1979).

{¶ 7} Under her sole assignment of error, Mother claims the juvenile court's termination of her parental rights is against the manifest weight of the evidence. Among other arguments, Mother challenges CCDCFS's reliance on Mother's history relating to her other children, argues CCDCFS failed to show that Mother could not provide appropriate care and an adequate home for B.B.S., and

claims there was a lack of evidence to prove by clear and convincing evidence that an award of permanent custody to the agency was in the child's best interest.<sup>2</sup>

**{¶ 8}** As was the case herein, an agency may request permanent custody as part of its original abuse, neglect, or dependency complaint under R.C. 2151.353(A)(4). *In re A.R.*, 8th Dist. Cuyahoga No. 109482, 2020-Ohio-5005, ¶ 30. Pursuant to R.C. 2151.353(A)(4), “[i]f a child is adjudicated an abused, neglected, or dependent child,” the court may make an order of disposition that “[commits] the child to the permanent custody of a public services agency or private child placing agency,” if the court (1) “determines in accordance with [R.C. 2151.414(E)] 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 (2) “determines in accordance with [R.C. 2151.414(D)(1)] that the permanent commitment is in the best interest of the child.” In this matter, the juvenile court made each of these determinations, as supported by clear and convincing evidence.

**{¶ 9}** With regard to the first requirement, pursuant to R.C. 2151.414(E), “[i]f the court determines, by clear and convincing evidence, \* \* \* that one or more of the [enumerated factors] exist as to each of the child’s parents,” then “the court shall enter a finding that the child cannot be placed with either parent within a

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<sup>2</sup> Insofar as Mother takes issue with the basis for removal of B.B.S., we note that “an appeal of an adjudication order of abuse, dependency, or neglect of a child and the award of temporary custody to a children services agency pursuant to R.C. 2151.353(A)(2) must be filed within 30 days of the judgment entry pursuant to App.R. 4(A).” *In re K.K.*, 170 Ohio St.3d 149, 2022-Ohio-3888, ¶ 58, quoting *In re H.F.*, 120 Ohio St.3d 499, 2008-Ohio-6810, 900 N.E.2d 607, ¶ 18.

reasonable time or should not be placed with either parent[.]” The Supreme Court of Ohio has recognized that the juvenile court only needs to find that one factor applies to support its holding under R.C. 2151.414(E). *In re C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, 862 N.E.2d 816, ¶ 50, citing *In re William S.*, 75 Ohio St.3d 95, 661 N.E.2d 738 (1996), syllabus. Here, the juvenile court made multiple findings under R.C. 2151.414(E). Specific to Mother, the juvenile court determined as follows:

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.

Mother has a chronic mental illness, with a diagnosis of bipolar disorder and post-traumatic stress disorder as well as a current history of explosive outbursts that are so severe that it makes the parent unable to provide an adequate permanent home for the child at the present time and, as anticipated, within one year after the Court holds the hearing in this matter.

Mother and alleged father have had parental rights terminated involuntarily with respect to a sibling of the child.

**{¶ 10}** The juvenile court’s findings under R.C. 2151.414(E) were supported by the record. The record herein clearly reflects that Mother had her parental rights terminated involuntarily with respect to all three siblings of B.B.S. due to her mental health issues, developmental disabilities, and parenting practices. Contrary to Mother’s argument, this history was properly considered by the juvenile court in this case. The record also demonstrates these were ongoing concerns that Mother had not sufficiently addressed. The testimony reflects Mother had been unwilling to sign releases for information about her mental health services, the agency could not

confirm her progress, there were reported incidents relating to Mother's parenting behavior with B.B.S., and Mother engaged in a very aggressive incident at a hospital in August 2022 that led to her arrest. Further, the testimony reveals that Mother had not completed and/or benefitted from relevant services and that there were concerns with her parenting skills. It was observed that Mother demonstrated little bonding with the child during visitations and an inability to soothe the child. Other valid concerns were noted by the caseworker and the child's guardian ad litem ("GAL") in this matter.<sup>3</sup> The GAL noted that "[t]his GAL has not witnessed a beneficial change in [Mother's] conduct and behaviors since the granting of Permanent Custody of [Mother's] three other children." The GAL believed that Mother had "not sufficiently addressed her extensive mental health concerns, and \* \* \* continues to be involved in incidents that are very concerning." Upon our review, we find the juvenile court's findings under R.C. 2151.414(E) were properly supported by the record.

**{¶ 11}** With regard to the second requirement, the juvenile court properly considered the relevant best-interest factors under R.C. 2151.413(D)(1), which are set forth in the opinion, and determined "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." A juvenile court is not required to expressly discuss each

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<sup>3</sup> Additional details regarding Mother's behavior are contained in the record and addressed in the briefs of the parties.

of the best-interest factors, *In re A.M.*, 166 Ohio St.3d 127, 2020-Ohio-5102, 184 N.E.3d 1, ¶ 31, and “[t]here 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. “[T]he best interests of the child are paramount in any custody case,” and courts are to liberally interpret the statutes under R.C. Chapter 2151 “to provide for the care and protection of the child \* \* \*.” *In re A.B.*, 110 Ohio St.3d 230, 2006-Ohio-4359, 852 N.E.2d 1187, ¶ 32, citing R.C. 2151.01(A).

{¶ 12} In this matter, there was testimony that Mother did not have an observable bond with the child, whereas the child was bonded with his siblings and with his caregivers, who ensured his basic needs were being met. The juvenile court noted the testimony and the written report of the GAL, who recommended that it was in the best interest of the child to grant permanent custody to the agency. The juvenile court also considered the custodial history of the child, found the child could not be placed with child’s parents within a reasonable time or should not be placed with either parent, and found no relatives were able to provide substitute care. Additionally, the juvenile court was permitted to consider all material and relevant evidence in rendering its disposition, including the relevant history concerning Mother’s other children as well as the ongoing concerns related to her ability to provide appropriate care and an adequate home for B.B.S. There was no abuse of discretion by the juvenile court, and its best-interest determination is supported by the record.

{¶ 13} We are not persuaded by any other argument raised. The juvenile court properly found that the essential statutory elements for an award of permanent custody were established. After thoroughly reviewing the record, we conclude the juvenile court's decision to award permanent custody of B.B.S. to the agency was not against the manifest weight of the evidence. The sole assignment of error is overruled.

{¶ 14} Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court, juvenile division, to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

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SEAN C. GALLAGHER, JUDGE

KATHLEEN ANN KEOUGH, P.J., and  
EMANUELLA D. GROVES, J., CONCUR