

Z.W. The grandmother contends that the trial court erred by denying the requested injunction.

{¶ 2} We conclude that the trial court did not err by denying the requested injunction, since all of the issues raised therein are barred by the doctrine of res judicata.

{¶ 3} Accordingly, the order from which this appeal is taken is Affirmed.

I

{¶ 4} In 2009, the Montgomery County Common Pleas Court, Juvenile Division, entered an order terminating the parental rights of K. W. to her minor child, Z.W. The mother appealed from that order, and we affirmed. *In the Matter of Z.W.*, Montgomery App. No. 23657, 2010-Ohio-1619.

{¶ 5} As noted in our opinion in that case, the grandmother had been involved in the juvenile court proceedings despite the fact that she never filed a motion for custody during the more than three years the matter was pending. Ultimately, the trial court determined that the child should not be placed with the grandmother because she had not shown “vigor” in assuming custody, had limited housing available for the child, and had failed to file for custody. *Id.* at ¶14. The grandmother did not appeal from that decision. But the mother’s appeal centered on her contention that the Juvenile Court erred by failing to place the child with the grandmother. *Id.*

{¶ 6} Thereafter, the child was placed for adoption by the agency while the appeal from the Juvenile Court was pending. On March 24, 2010, a Petition for Adoption of the child was filed by A.B. On March 25, 2010, the probate court entered an order setting the

adoption for hearing on May 14, 2010. Our judgment affirming the decision of the Juvenile Court was rendered on April 9, 2010.

{¶ 7} On May 13, 2010, after our appellate judgment affirming the termination of parental rights, and on the day before the hearing on the adoption petition, counsel for the grandmother filed a “Request for Preliminary Injunction” seeking to “temporarily enjoin [Montgomery County Department of Jobs and Family Services] from finalizing the pending adoption of [the child].” The memorandum in support of the request for injunction set forth an argument attacking the actions of the Montgomery County Department of Jobs and Family Services related to the grandmother’s attempts to seek custody of the child. In the memorandum, the grandmother claimed that the agency did not make any reasonable attempt to place the child with her or to provide services facilitating a placement with her. She further claimed that the testimony of the agency employees, at the hearing on permanent custody before the Juvenile Court, lacked credibility. The Request for Preliminary Injunction sought to have the Probate Court “examine the actions of the agency in the adoption of [the child].” It went on to state that the grandmother believed that the agency had acted improperly in placing the child for adoption while the appeal of the Juvenile Court case was still pending.

{¶ 8} On May 14, 2010, the probate court entered an order denying the request for preliminary injunction. On that same date, the probate court entered a separate order, titled “Final Decree of Adoption,” granting the adoption petition filed by A.B.

{¶ 9} The grandmother filed her notice of appeal, which specifies that she is “appealing the Entry Denying Preliminary Injunction decision entered by said trial court on the 14th day of May, 2010.” The grandmother has not appealed from the Final Decree of

Adoption.

{¶ 10} The grandmother, who is appealing pro se, has failed to comply with any of the provisions of App.R. 16(A), including the requirement that she make a statement of the assignments of error and issues for review. The grandmother has also failed to comply with our Local Rule 5.1, which requires that briefs be legibly typewritten or printed. Nevertheless, in the interests of justice, we shall do our best to address her appeal on the merits.

II

{¶ 11} We infer the grandmother's sole assignment of error to be:

{¶ 12} "THE PROBATE COURT ERRED BY DENYING GRANDMOTHER'S REQUEST FOR A PRELIMINARY INJUNCTION."

{¶ 13} It appears, after reviewing the handwritten letter submitted by the grandmother as her sole brief in this court, that her argument is based upon a claim that the Probate Court should have granted her a preliminary injunction in order that it could review the actions of the agency related to her attempts to gain custody of the child. While the grandmother's request for injunction states that the agency should not have placed the child for adoption while the appeal of the Juvenile Court judgment was pending,¹ her argument in support thereof was focused solely upon the actions of the agency occurring prior to the Juvenile Court's order awarding permanent custody of the

¹Of course, the order approving the adoption was entered on May 14, 2010, *after* we had affirmed the order of the Juvenile Court terminating parental rights, by our appellate judgment rendered April 9, 2010.

child to the agency – an order from which she did not appeal. The child’s mother did appeal from that order. In view of the fact that the mother’s arguments on appeal centered upon the alleged failure to consider the grandmother as an alternative placement, the grandmother was a real party in interest in that appeal. In any event, that appeal resulted in our affirmance of the order terminating parental rights and placing the child with the agency, and no one, as far as we know, has appealed from our judgment in the prior appeal.

{¶ 14} In her appellate brief, the grandmother contends that the agency did not take the appropriate actions in dealing with her as a possible placement for the child. She also attacks the credibility of the agency employees with regard to their testimony at the Juvenile Court hearing on the permanent custody issue.

{¶ 15} We note that all the issues raised in the grandmother’s request for injunction and in her appellate brief were litigated in the Juvenile Court proceeding, which has resulted in a final adjudication. Despite the claims made by the grandmother, the Juvenile Court determined that the child’s best interests would be better served by awarding custody to the agency. The mother’s appeal from that determination raised the issues now being raised. This court found no error in the decision of the Juvenile Court or in the actions of the agency. *In the Matter of Z.W.*, supra.

{¶ 16} “A valid, final judgment rendered upon the merits bars all subsequent actions based on any claims arising out of the transaction or occurrence that was the subject matter of the previous action.” *Grava v. Parkman Township*, 73 Ohio St.3d 379, 1995-Ohio-331, at syllabus. The bar applies, as noted by the Ohio Supreme Court, “to all claims which were or might have been litigated in a first lawsuit.” *Id.* at 382.

{¶ 17} The issues raised herein were raised in the Juvenile Court case, were raised by the mother in her appeal, and could have been appealed by the grandmother following the order in the Juvenile Court. Therefore, we conclude that the Probate Court did not err in denying the requested injunction, since the claims asserted by the grandmother in support of injunctive relief are barred by the doctrine of res judicata.

{¶ 18} In reaching this conclusion, we find it unnecessary to address the agency's argument that the grandmother's appeal from the denial of her request for a preliminary injunction is moot, in view of the fact that the adoption proceedings she unsuccessfully sought to enjoin have subsequently resulted in an order approving the adoption, from which no appeal has been taken.

{¶ 19} The grandmother's sole assignment of error is overruled.

III

{¶ 20} The grandmother's sole assignment of error having been overruled, the order of the Probate Court from which this appeal is taken is Affirmed.

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DONOVAN, P.J., and GRADY, J., concur.

Copies mailed to:

- Mathias H. Heck
- John Cumming
- C.W. (the grandmother)
- Hon. Alice O. McCollum