



Assignment of Error One

THE TRIAL COURT ABUSED ITS DISCRETION IN NOT PERMITTING APPELLANT TO BE PRESENT FOR THE PCC TRIAL.

Assignment of Error Two

APPELLANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF COUNSEL.

{¶2} FCCS was granted temporary custody of all four of J.L.'s children in April 2007. A motion for permanent custody was filed in September 2008. After numerous continuances, a trial finally began in April 2010. On the date the trial began, J.L. had been returned to prison for violating the terms of her post-release control, specifically by possessing and using cocaine.

{¶3} J.L. has a long history of involvement with the criminal courts because of her use of drugs of abuse and her selling controlled substances. Her older children were well aware of her illegal activities and wished to avoid being involved in them. J.L.'s illegal activity has caused the children to be in and out of placement for over a decade.

{¶4} With the motion for permanent custody pending, J.L. returned to using marijuana and cocaine. She had to know that the drug screens which were routinely administered as a part of her post-release control would pick upon her drug use. She gave up any say in where she was to be when the motion for permanent custody was set for a final hearing. After the permanent custody case being repeatedly continued and held pending for over two and one-half years, the trial judge was well within her discretion

to refuse to delay the proceedings any longer. The children deserved some certainty in their lives and could have none with the motion pending longer and longer.

{¶5} The first assignment of error is overruled.

{¶6} We see no basis for finding that trial counsel for J.L. was ineffective. Counsel could not know where to subpoena the persons in control of J.L. in hopes of having them bring J.L. to court. J.L. was apparently transferred from Franklin County Corrections Center II to the Women's Reformatory at Marysville shortly before trial of the permanent custody motions. J.L. was also apparently scheduled for return to Franklin County for processing through the Women's Pre-Release Center.

{¶7} J.L.'s use of drugs of abuse puts her in the situation that she could not make a legitimate argument that, some day in the near future, she would be able to properly care for her children. Over a period of 12 years, she had only provided care for her children for 11 months. Counsel could not change that fact. Using cocaine and marijuana was obviously very important to J.L. Counsel could not change that fact either.

{¶8} The second assignment of error is overruled.

{¶9} Both assignments of error having been overruled, the judgment of the Franklin County Court of Common Pleas is affirmed.

*Judgment affirmed.*

BROWN and KLATT, JJ., concur.

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