

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

IN RE: N.M. and A.M.	:	APPEAL NO. C-210674
	:	TRIAL NO. F12-0001X
	:	
	:	<i>JUDGMENT ENTRY.</i>

The mother of N.M. and A.M. appeals the trial court’s grant of permanent custody of her children to the Hamilton County Department of Job and Family Services (“HCJFS”). N.M.’s alleged father and A.M.’s father have not filed an appellate brief. Mother’s guardian ad litem, the children’s guardian ad litem, and HCJFS have filed briefs in support of affirming the grant of permanent custody to the agency. We affirm.

The record shows the agency has a long history with the family primarily due to concerns of domestic violence between mother and A.M.’s father, and A.M.’s father and N.M., and the lack of a safe, secure and stable home for the children. The current case relates to interim custody awarded to the agency in October 2015, when N.M. was four years old, and A.M. was three years old. The children were subsequently adjudicated dependent. The agency was awarded temporary custody. In August 2017, well over the 12-of-22-month standard of R.C. 2151.414(B)(1)(d), the agency filed a motion requesting permanent custody. The trial court granted that motion, but this court reversed and remanded for a new trial due to a defect in mother’s waiver of her right to counsel. *See In re M Children*, 1st Dist. Hamilton No. C-180564, 2019-Ohio-484.

Following a second permanent-custody trial in 2021, the magistrate issued a decision granting HCJFS's motion requesting permanent custody of the children. The magistrate made the necessary findings under both prongs of the permanent-custody analysis set forth in R.C. 2151.414(B)(1) to support the award of permanent custody. Mother filed objections. Upon review, the trial court determined the magistrate had properly applied the law and determined the facts. The court overruled mother's objections and entered a judgment incorporating the magistrate's decision with the court's supplemental analysis.

In one assignment of error, mother argues the trial court erred by granting the motion for permanent custody. She does not challenge the trial court's determination with respect to the first prong of the permanent-custody analysis. Mother argues, however, that the evidence does not support the second-prong finding that, after consideration of the relevant factors, the grant of permanent custody is in the children's best interest. *See* R.C. 2151.414(D)(1)(a)-(e).

According to mother, the trial court failed to accord due weight to her testimony that she has remedied the conditions that led to the children's removal from the home and is now a "suitable" parent. We disagree. The trial court was permitted to devalue mother's testimony where mother prevented the agency or any out-of-state agency from confirming her claim that her current living conditions in Florida would provide a safe and stable home environment for the children. Further, the evidence at trial showed that despite the continuing threat of violence during the case and the lack of parenting opportunities, mother failed to complete a domestic-violence assessment and return to parenting classes. Moreover, other evidence in the case suggested that mother remained

in a relationship with A.M.'s father and continued to minimize the effects of domestic violence.

The trial court applied the correct analysis, and the court's finding that the children's best interest is served by a grant of permanent custody to the agency, so the children may be adopted by the foster family with whom they have bonded and with whom they wish to remain, is supported by clear-and-convincing evidence. The record wholly supports the trial court's determination that mother abandoned the children and the children cannot be returned to her within a reasonable time. The children have been in substitute care for more than half their lives, have not seen their mother since June of 2019, and are in need of stability.

Mother also claims the trial court erred by finding that the agency made reasonable efforts as contemplated by R.C. 2151.419(A)(1) when the agency did not initiate an interstate compact for the placement of children ("ICPC") after she moved to Florida. Mother argues, consistent with her testimony, that she was unaware that she "had the ability to continue to fight for her children" after moving to Florida in early 2020.

Mother raised the reasonable-efforts argument in her objections to the magistrate's decision. When overruling mother's objections, the trial court accurately noted that the magistrate was not even required to make a reasonable-efforts finding because reasonable efforts findings had been made throughout the case without any objection by mother. *See In re C.F.*, 113 Ohio St.3d 73, 2007-Ohio-1104, 862 N.E.2d 816, ¶ 43. The trial court additionally noted that mother's lack-of-reasonable-efforts argument was misplaced because mother's lack of cooperation precluded the timely

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completion of an ICPC in the case. The trial court's analysis is sound and is supported by the law and the evidence. *See* R.C. 2151.415(D)(4).

Ultimately, mother has failed to demonstrate that the trial court erred by granting HCJFS's motion for permanent custody. Accordingly, we overrule the assignment of error and affirm the trial court's judgment.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**BERGERON, P.J., WINKLER and BOCK, JJ.**

To the clerk:

Enter upon the journal of the court on March 16, 2022,

per order of the court\_\_\_\_\_.

Administrative Judge