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

IN RE: B.R.	:	APPEAL NOS. C-220104 C-220126
	:	TRIAL NO. F14-1809Z
	:	*JUDGMENT ENTRY.*

We consider these appeals on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Father appeals the trial court's grant of permanent custody of his children to the Hamilton County Department of Job and Family Services ("HCJFS"). We affirm. Mother appealed, but has not filed an appellate brief, so we dismiss the appeal numbered C-220126.

In one assignment of error, father contends that the trial court erred by granting HCJFS's motion for permanent custody. He first argues that the manifest weight of the evidence demonstrated that B.R. could be placed with father within a reasonable time.

A juvenile court's determination on a motion for permanent custody must be supported by clear and convincing evidence. *In re D.M.*, 1st Dist. Hamilton No. C-200043, 2020-Ohio-3273, ¶ 23. Clear and convincing evidence "is evidence sufficient to 'produce in the mind of the trier of fact[ ] a firm belief or conviction as to the facts sought to be established.' " *In re W.W.*, 1st Dist. Hamilton Nos. C-110363 and C-110402, 2011-Ohio-4912, ¶ 46, quoting *In re K.H.*, 119 Ohio St.3d 538, 2008-Ohio-

4825, 895 N.E.2d 809, ¶ 42. When reviewing a challenge to the manifest weight of the evidence, we must review the record to determine whether the trial court lost its way and committed such a manifest miscarriage of justice that its judgment must be reversed. *Id.*

R.C. 2151.414(B)(1) requires a finding that the child cannot be placed with either of his parents within a reasonable time or should not be placed with his parents. *See* R.C. 2151.414(B)(1)(a). To make such a finding, the juvenile court must examine R.C. 2151.414(E) and determine whether any of the factors apply. If the court finds that a factor applies, "the court shall enter a finding that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent." R.C. 2151.414(E).

Here, the trial court found that under R.C. 2151.414 (E)(11), father had had his parental rights involuntarily terminated with respect to other children and failed to prove by clear and convincing evidence that he could provide a legally secure placement and adequate care for B.R. The court also concluded under R.C. 2151.414(E)(1) that father had not addressed the issues and concerns that caused the child to be removed from the home because father fails to understand the risks posed by mother by the ongoing domestic-violence and substance-abuse concerns.

Father argues that there is not clear and convincing evidence of domestic violence to support this finding. With respect to mother's violence, criminal charges had recently been filed against mother for damaging father's television and kicking the door to father's apartment, in addition to the lengthy history of domestic-violence issues. Moreover, father refused to acknowledge any concerns regarding mother's ability to parent and reported that they had a co-parenting relationship.

Based on this record, clear and convincing evidence supports the juvenile court's determination that B.R. could not and should not have been placed with father under R.C. 2151.414(B)(1)(a).

Next, father contends that the failure to provide a six-month term of temporary custody was an abuse of discretion and a violation of substantive due process. Essentially, father argues that the determination that no reasonable efforts were required was arbitrary.

However, father never challenged the magistrate's determination that no reasonable efforts were required via objections. A party's failure to file objections to a magistrate's decision waives all but plain error. *See* Juv.R. 40(D)(3)(b)(iv); *In re A.P.*, 2d Dist. Montgomery No. 28023, 2019-Ohio-139, ¶ 10, citing *In re Etter*, 134 Ohio App.3d 484, 731 N.E.2d 694 (1st Dist.1998).

When a parent has had parental rights involuntarily terminated with respect to a sibling, "the court shall make a determination that the agency is not required to make reasonable efforts to prevent the removal of the child from the child's home, eliminate the continued removal of the child from the child's home, and return the child to the child's home." R.C. 2151.419(A)(2)(e).

In this case, it was uncontroverted that mother and father had had their parental rights involuntarily terminated prior to the birth of this child. Because both mother and father previously had their parental rights involuntarily terminated, the trial court was required by R.C. 2151.419(A)(2)(e) to find that HCJFS was not required to make reasonable efforts at reunification. Based on this record, father could not establish plain error.

Father does not expressly present a manifest-weight challenge to the trial court's decision that clear and convincing evidence exists that granting HCJFS's request for

permanent custody is in B.R.'s best interest. Reviewing the record developed in the trial court, there was competent, credible evidence to support the trial court's conclusion that granting the motion for permanent custody would be in the best interest of B.R.

We overrule the sole assignment of error and affirm the trial court's judgment in the appeal numbered C-220104. The appeal numbered C-220126 is dismissed.

Further, 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.

ZAYAS, P.J., CROUSE and **BOCK, JJ.**

To the clerk:

Enter upon the journal of the court on **June 24, 2022**,

per order of the court _____.

Administrative Judge