

HCJFS filed the instant motion to modify temporary custody to permanent custody in August 2019. The matter proceeded to trial. The record shows that D.S. had been in the custody of his maternal grandparents his entire life until HCJFS received custody of him in 2018. D.S.'s mother suffers from schizophrenia and lived in a group home at the time of trial. Mother did not appear at trial, and the magistrate permitted mother's counsel to withdraw. Father likewise did not appear at the permanent-custody trial; however, father's attorney participated. HCJFS caseworkers testified that they had facilitated three visits between father and D.S. during HCJFS's involvement. Nevertheless, father had not participated in a diagnostic assessment as requested by HCJFS, and therefore HCJFS had limited sources of information regarding father, who had never been a caretaker for D.S.

The magistrate granted permanent custody of D.S. to HCJFS. Father filed an objection to the magistrate's decision. The juvenile court overruled the objection, and it entered a judgment adopting the magistrate's decision and granting the agency's motion for permanent custody.

In his sole assignment of error, father argues that the juvenile court erred in granting permanent custody of D.S. to HCJFS. D.S.'s guardian ad litem supports an award of permanent custody to HCJFS.

Father first takes issue with the juvenile court's finding of abandonment. The juvenile court determined that D.S. could not be placed with either parent within a reasonable time or should not be placed with his parents. *See* R.C. 2151.414(B)(1)(a). In doing so, the juvenile court determined that father had abandoned D.S. for a period of 90 days or more. *See* R.C. 2151.414(E)(10) and 3127.01(B)(1); *In re P & H Children*, 1st Dist. Hamilton No. C-190309, 2019-Ohio 3637, ¶ 47. The record supports the juvenile court's determination that father had no contact with D.S. for

most of 2019. The facility where D.S. lives would not permit father to visit D.S, because of father's criminal background. The record also shows that father was incarcerated during part of 2019.

In addition to the abandonment finding, however, the juvenile court also provided two, independent bases upon which it determined that D.S. should not be placed with father. First, the juvenile court determined that father had failed to substantially remedy the conditions causing D.S. to be placed outside the home. *See* R.C. 2151.414(E)(1). Father never completed his diagnostic assessment as requested by HCJFS, and father appeared to be living with his girlfriend, despite ongoing domestic-violence concerns at her house. Second, the juvenile court determined that father demonstrated a lack of commitment toward D.S. *See* R.C. 2151.414(E)(4). Father had never been a caretaker for D.S. at any time during D.S.'s life, nor had father ever provided any support to D.S. emotionally or financially.

The juvenile court also determined that D.S.'s best interests would be served by a grant of permanent custody. *See* R.C. 2151.414(D)(1)(a)-(e). The record shows that D.S.'s needs are being met at the residential facility, where staff members are specially trained to deal with D.S.'s challenging behaviors and needs. D.S. has also been showing signs of progress since his treatment began at the facility. Nothing in the record would support the notion that father is capable of meeting D.S.'s special needs.

Father also takes issue with the juvenile court's characterization of father as a "sex offender." The exhibits admitted at the permanent-custody hearing, however, indicate that father was required to register as a sex offender as a result of his rape conviction. Moreover, the juvenile court referenced father's offender status only with

OHIO FIRST DISTRICT COURT OF APPEALS

regard to father's inability to visit D.S. at the residential facility, and not as a means to unfairly label father.

In sum, the juvenile court's judgment granting permanent custody of D.S. to HCJFS was supported by clear and convincing evidence and was not against the manifest weight of the evidence. *See In re S.G.*, 1st Dist. Hamilton No. C-200261, 2020-Ohio-5244, ¶ 38. We overrule father's assignment of error.

We affirm the judgment of the juvenile court.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

ZAYAS, P.J., MYERS and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on December 9, 2020,
per order of the court _____.
Presiding Judge