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

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IN RE: D CHILDREN

APPEAL NO. C-210618 TRIAL NO. F12-2097X

JUDGMENT ENTRY.

The court sua sponte removes this case from the regular calendar and places it on the court's accelerated calendar, 1st Dist. Loc.R. 11.1(C), 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.

Father appeals the juvenile court's decision denying his motion for custody of S.D. In February 2016, legal custody of S.D. was granted to Janet Peck. On July 1, 2021, father filed a motion for custody. The magistrate issued a decision denying the motion because father failed to present any evidence of a change in circumstances. Father objected but did not file transcripts. Because father did not file transcripts for the juvenile court to review, the court accepted the magistrate's factual findings and determined that the magistrate appropriately applied the law. *See* Civ.R. 53(D)(4)(d).

"This court's review of the trial court's decision is limited to whether the trial court's application of the law to its factual findings constituted an abuse of discretion." *Hammond v. Hammond*, 1st Dist. Hamilton No. C-180292, 2019-Ohio-1219, ¶ 14.

Father's motion to modify custody was governed by R.C. 3109.04(E)(1)(a), which provides in relevant part that the trial court shall not modify a prior custody

determination unless it finds that a change has occurred in the circumstances of the child, or the child's residential parent.

Here, the court determined that father submitted no evidence to establish a change in circumstances. Accordingly, the trial court reasonably concluded that the evidence was insufficient to establish a change of circumstances, and we cannot find that the trial court abused its discretion.

We overrule the sole assignment of error and affirm the trial court's judgment.

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., BERGERON and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on May 17, 2023

per order of the court _____

Administrative Judge