

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

IN RE: A.K., A.M., Z.K., S.K., AND P.K. : APPEAL NO. C-240206  
: TRIAL NO. F19-380Z  
:  
: *JUDGMENT ENTRY.*

We consider this appeal 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); Loc.R. 11.1.

Appellant mother appeals from the judgment of the juvenile court awarding permanent custody of her five children, A.K., A.M., Z.K., S.K., and P.K. (“the children”), to the Hamilton County Department of Job and Family Services (“HCJFS”). Mother argues that HCJFS failed to make reasonable efforts to resolve the conditions that led to the children being removed from their home, and that the court should have remanded custody to mother when it did not grant HCJFS’s second motion to extend temporary custody. For the following reasons, we affirm the judgment of the juvenile court.

In April 2019, HCJFS obtained emergency custody of the children following a report from the Cincinnati Police Department that the children were living in deplorable conditions. The children were living with their mother in a recreational vehicle that had no running water and a broken stove. The porch by the vehicle had baskets filled with urine and feces. The children were sleeping on shelves in the vehicle. The school-aged children had not been to school since January 2019, when mother withdrew them from school.

In August 2019, the court adjudicated the children abused, neglected, and dependent. The children were placed in the temporary custody of HCJFS. The court noted that HCJFS had provided chemical-dependency assessment, supervised visitations, psychological evaluations, and parenting education for mother. In addition to granting HCJFS temporary custody of the children, the court ordered HCJFS to refer mother for individual counseling.

In January 2020, HCJFS filed its first motion to extend temporary custody. In March 2020, the court granted the extension. The court noted that all parties, including mother, agreed to the extension. The court found that HCJFS’s efforts to assist with reunification included mental-health counseling at Talbert House, regular visitation, and assistance in making repairs to mother’s mobile home.

In August 2020, HCJFS filed its second motion to extend temporary custody. Mother opposed the motion. The court held hearings on the motion on October 21, 2020, December 1, 2020, and January 12, 2021. At the January hearing, HCJFS indicated, in unsworn statements to the court, that things had taken a turn for the worse. Overnight visits with mother had not gone well, and mother's home did not have running water. HCJFS also had concerns about some of the people who had been around the children at mother's home during the overnight visits.

At the conclusion of the January hearing, the magistrate noted that none of the material presented had been under oath, and that it would all be "considered anew once the agency determines what they want to file." The magistrate stated, "The pending Motion to Extend prevents expiration of the custody status, so I'll simply record that the agency intends to file or is giving consideration to an alternative filing." The magistrate then asked mother's counsel, "Do you believe it would be best to reserve comment on today's date?" Mother's counsel replied, "Yeah. I think we need to have a hearing with sworn testimony regarding what was just stated." The court entered findings consistent with HCJFS's statements, along with a notation that, "Although the current motion to extend was not granted it does keep the temporary custody status from expiring."

The children's guardian ad litem ("GAL") filed a motion to grant permanent custody to HCJFS, while HCJFS filed a motion to remand custody to mother. Several weeks later, HCJFS withdrew its motion and instead filed its own motion for permanent custody. Various other motions for custody were filed and withdrawn over the next two years.

After the juvenile court assigned the case to a different magistrate, a new hearing was scheduled on the GAL's and HCJFS's pending motions for permanent custody. In October 2023, the magistrate issued a decision awarding permanent custody of the children to HCJFS. Mother subsequently filed objections to the magistrate's decision. The juvenile court heard arguments on the objections in February 2023. In March 2023, the court entered judgment overruling mother's objections. This appeal timely followed.

In two assignments of error, mother argues that HCJFS failed to meet its burden to make reasonable efforts to reunite the children with her and that the juvenile court was required to remand custody to her when it did not grant HCJFS's second motion to extend temporary custody following the January 2021 hearing.

Because mother raises both of these issues for the first time on appeal, this court reviews the juvenile court's judgment for plain error. *In re M.*, 1st Dist. Hamilton No.

C-210470, 2022-Ohio-673, ¶ 20; *In re J.M.* at ¶ 30. “A plain error is one that is ‘obvious and prejudicial although neither objected to nor affirmatively waived which, if permitted, would have a material adverse effect on the character and public confidence in judicial proceedings.’” *In re J.M.*, 12th Dist. Clermont No. CA2006-11-096, 2007-Ohio-4219, ¶ 30, quoting *Schade v. Carnegie Body Co.*, 70 Ohio St.2d 207, 209, 436 N.E.2d 1001 (1982). The plain-error doctrine is disfavored and “may be applied only in the extremely rare case involving exceptional circumstances where error, to which no objection was made at the trial court, seriously affects the basic fairness, integrity, or public reputation of the judicial process, thereby challenging the legitimacy of the underlying judicial process itself.” *Goldfuss v. Davidson*, 79 Ohio St.3d 116, 679 N.E.2d 1099 (1997), syllabus.

In her first assignment of error, mother argues that the court erred in granting permanent custody of the children to HCJFS because HCJFS had not made reasonable efforts toward remedying the conditions that led to the children being removed from the home. If HCJFS failed to make reasonable efforts, mother argues, then the court must remand custody to mother.

According to R.C. 2151.419(A)(1), HCJFS must make “reasonable efforts \* \* \* to make it possible for the child to return safely home.” “In a reasonable efforts determination, the issue is not whether the agency could have done more, but whether it did enough to satisfy the reasonableness standard under the statute.” *In re J.L.*, 1st Dist. Hamilton No. C-210586, 2022-Ohio-2885, ¶ 16, quoting *In re Wayne Y.*, 6th Dist. Lucas No. L-07-1259, 2008-Ohio-245, ¶ 19. “The juvenile court’s reasonable efforts finding ‘will not be overturned as against the manifest weight of the evidence, if the record contains competent, credible evidence by which the court could have formed a firm belief or conviction that the essential statutory elements for a termination of parental rights have been established.’” *Id.*, quoting *In re Wayne Y.* at ¶ 18.

During trial on the permanent-custody motion, the HCJFS caseworker testified that HCJFS provided mother with six months<sup>1</sup> of financial assistance which she could use to get a job or get certifications. The caseworker also testified that HCJFS provided mother with financial assistance to stop an eviction in August 2020, as well as junk removal services when mother faced a fine from the city due to clutter outside her home. The caseworker further testified that HCJFS provided mother with individual therapy through Talbert House, drug

---

<sup>1</sup> There is some dispute in the record as to whether HCJFS provided six months or 36 months of financial assistance. We find the difference immaterial to a plain-error review of the juvenile court’s reasonable-efforts finding.

screens, and case management. Testimony also established that HCJFS facilitated visitation through the Family Nurturing Center (“FNC”).

Following the permanent-custody trial, the magistrate found that HCJFS had made reasonable efforts to eliminate the conditions that led to the removal of the children from their home. The record reflects the efforts that HCJFS undertook to help mother maintain stable housing and obtain mental-health treatment. On the record before us, we find no obvious and prejudicial error in the juvenile court’s determination that HCJFS made reasonable efforts at reunification. The first assignment of error is overruled.

In her second assignment of error, mother argues that the juvenile court denied HCJFS’s second motion to extend custody, and therefore temporary custody should have ended and the children should have been returned to mother following the January 2021 hearing on the temporary-custody motion.

The magistrate’s order stated, “Although the current motion to extend [temporary custody] was not granted[,] it does keep the temporary custody status from expiring.” At the hearing on the motion, it was clear that the court intended to take sworn testimony and that the pending motion was being deferred to allow the parties to present sworn testimony. All parties, including mother, agreed to set the matter for an additional hearing after HCJFS filed a new, dispositive motion.

On a plain-error review, we disagree with mother’s claim that the magistrate denied HCJFS’s motion for temporary custody and that the court was required to remand custody to her. We find that the magistrate did not deny the motion, as mother argues, but rather deferred his decision on the motion. Accordingly, under R.C. 2151.353(F)(1), the juvenile court retained jurisdiction until it entered a dispositive order. We therefore overrule mother’s second assignment of error.

Having overruled both of mother’s assignments of error, we affirm the judgment of the juvenile court.

The court further orders that 1) a copy of this Judgment constitutes the mandate, and 2) the mandate be sent to the trial court for execution under App.R. 27.

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

**To the clerk:**

**Enter upon the Journal of the Court on 7/12/2024 per Order of the Court.**

By: *Ginger S. Bock*  
**Administrative Judge**