

cooperation with Father and history of alienating him from Z.W. The magistrate also implemented a visitation schedule that allowed Z.W. to spend essentially equal time with both Father and Mother.

Representing herself, Mother objected to the magistrate's decision. While she took issue with Father's testimony, she raised no specific legal issues in her objections. Mother subsequently obtained new counsel, who filed a supplemental objection on her behalf. The supplemental objection contended that the juvenile court improperly granted custody to Father because the parties agreed prior to trial to seek shared parenting. Mother supported her supplemental objection with two affidavits—her own and her trial attorney's—both of which suggest that neither party expected the magistrate to decide the question of custody at trial.

The juvenile court overruled Mother's objections and adopted the magistrate's decision. In its judgment, the juvenile court observed that, where one parent has submitted a proposed shared parenting plan, R.C. 3109.41(A)(1) compels the court to determine first whether shared parenting is in the child's best interest. If it is not, the statute requires that one parent be awarded primary custody of the child. The juvenile court therefore concluded that the magistrate acted in accordance with R.C. 3109.41(A)(1) in awarding legal custody to Father.

Ineffective Assistance of Counsel

On appeal, Mother raises a single assignment of error in which she claims that she received ineffective assistance of counsel. Mother did not advance this argument in either her initial or supplemental objections. Mother's failure to argue ineffective assistance of counsel in her objections below is fatal to our review on appeal.

Pursuant to Juv.R. 40(D)(3)(b)(ii), "[a]n objection to a magistrate's decision shall be specific and state with particularity all grounds for objection." "Except for a

claim of plain error, a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion . . . unless the party has objected to that finding or conclusion as required by" this rule. Juv.R. 40(D)(3)(b)(iv). Thus, the failure to raise an issue in an objection to the juvenile court forfeits all argument as to that issue except for plain error. *See In re G.W.*, 2024-Ohio-1551, ¶ 24 (1st Dist.). An appellate court need not advance a plain-error argument that a party fails to raise on appeal. *Id.*

By failing to adequately raise ineffective assistance of counsel in the juvenile court, Mother forfeited all but plain error on this issue. Mother raises no plain error argument for the court's resolution on appeal, and we decline to advance one for her. *See In re G.W.* at ¶ 24. Mother's assignment of error is accordingly overruled.

But even if the court were to review the merits of Mother's assignment of error, Mother's argument would still fail. Parties in civil matters, including a custody proceeding between unwed parents, do not ordinarily have a right to an attorney and thus "are not entitled to attack the judgment based on ineffective assistance of counsel." *In re Adoption of L.B.R.*, 2019-Ohio-3001, ¶ 2; *In re Caputo*, 1998 Ohio App. LEXIS 1519, *10 (12th Dist. Apr. 13, 1998) ("there is no statutory or constitutional right to counsel in a proceeding to change legal custody between parents"). The right to counsel does exist, however, when a parent faces termination of parental rights in a permanent custody proceeding. *See In re L.A.*, 2024-Ohio-1241, ¶ 12 (3d Dist.). Mother claims she fits within this category, but her argument rests on a mistaken assumption about the judgment she appeals.

The juvenile court's judgment did not arise from a permanent custody proceeding under R.C. 2151.414, and Mother's parental authority has not been terminated. Rather, Father was designated the residential parent and legal custodian

under R.C. 3109.41(F)(1). Unlike a permanent custody order, which is the family law equivalent of the death penalty, *see In re D.A.*, 2007-Ohio-1105, ¶ 10, the juvenile court's order awarding custody to Father may be modified if circumstances change. R.C. 3109.04(E)(1)(b). Thus, while the legal custody order was against Mother's wishes, it does not permanently sever her parental status, and Mother has no right to counsel. *See In re Caputo* at *10. She therefore cannot claim ineffective assistance of counsel. *See In re Adoption of L.B.R.* at ¶ 2. We accordingly affirm the juvenile court's judgment.

The court further orders that 1) a copy of this Judgment constitutes the mandate, 2) the mandate be sent to the trial court for execution under App.R. 27, and 3) costs shall be taxed under App.R. 24.

KINSLEY, P.J., BOCK and MOORE, JJ.

To the clerk:

Enter upon the journal of the court on 7/30/2025 per order of the court.

By:  _____
Administrative Judge