

OHIO FIRST DISTRICT COURT OF APPEALS

Father does not in any way present a challenge to N.J.'s initial removal or adjudication. Notably, the adjudication did not become a final, appealable order until entry of the dispositional order at issue in this appeal. *See generally, e.g., In re L.K.*, 2023-Ohio-4495, ¶ 14 (1st Dist.), citing *In re K.M.*, 2011-Ohio-3632, ¶ 22 (1st Dist.), and *In re Murray*, 52 Ohio St.3d 155, fn. 1 (1990) (“To be final and appealable, an adjudication order in a dependency case must be accompanied by an order of disposition.”); *In re G.S.*, 2021-Ohio-2804, ¶ 19 (3d Dist.), citing *In re Murray* (“In sum, the trial court’s judgment entry finding the children dependent does not become final and appealable within the meaning of R.C. 2505.02 until after the court also issues a ‘disposition.’”). Yet, father does not raise any challenge to N.J.’s adjudication of dependency based on the stipulated-to facts in the complaint. Thus, the only matter at issue in this appeal is the disposition.

Father presents two overall challenges to the juvenile court’s disposition of permanent custody to the agency. First, he argues that the juvenile court’s finding under R.C. 2151.414(B)(1)(a) and (E)(1) was not supported by the record where, although it might have been difficult for mother and father to *articulate* their understanding of N.J.’s needs at the hearings, the testimony about their visits clearly demonstrated their understanding of N.J.’s needs.

Next, he argues that the trial court’s best-interest finding under R.C. 2151.414(D) was not supported by the record where the evidence demonstrated that there was a bond between N.J. and them, N.J. was only two years old, and the parents are able to provide N.J. with a legally secure placement. Regarding a legally secure placement, father argues that the record shows that mother and father “were able to meet both the basic and special needs of [N.J.], along with utilizing the community supports available to them.” Notably, father argues, “The issues that caused the

OHIO FIRST DISTRICT COURT OF APPEALS

removal were attributable to mother rather than him, but as the additional issue of medical concern arose, he jumped in fully with not only the case plan services, but also attending medical appointments and visitations consistently to both learn and apply treatments for his child.”

As an initial matter, father asserts that the juvenile court erred in finding that R.C. 2151.414(B)(1)(a) is applicable. To an extent, father is correct because this provision is only applicable when an agency files a motion for permanent custody under R.C. 2151.413. Thus, this provision is not applicable to the instant case, and the magistrate did mention this provision in the dispositional entry. Nevertheless, it appears that the discussion of this provision was boilerplate language and a review of the substance of the magistrate’s decision—which was adopted by the juvenile court—shows that the juvenile court did make findings under the correct provisions, which are R.C. 2151.353(A)(4), 2151.414(E) (could-not-and-should-not), and 2151.414(D)(1) (best-interest).

More specifically, the juvenile court made a could-not-and-should-not finding under R.C. 2151.353(A)(4) and 2151.414(E) based on its finding that R.C. 2151.414(E)(1) was established. R.C. 2151.414(E)(1) is applicable where the court finds, by clear and convincing evidence, that

Following the placement of the child outside the child’s home and notwithstanding reasonable case planning and diligent efforts by the agency to assist the parents to remedy the problems that initially caused the child to be placed outside the home, the parent has failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child’s home. In determining whether the parents have substantially remedied those conditions, the

OHIO FIRST DISTRICT COURT OF APPEALS

court shall consider parental utilization of medical, psychiatric, psychological, and other social and rehabilitative services and material resources that were made available to the parents for the purpose of changing parental conduct to allow them to resume and maintain parental duties.

Courts look to the adjudicatory decision to determine the cause of the child's removal. *See, e.g., In re D.M.*, 2020-Ohio-3273, ¶ 26 (1st Dist.), citing *In re M.P.*, 2015-Ohio-4417, ¶ 17 (9th Dist.) Here, the concerns regarding father that can be derived from the adjudication are housing and past allegations of sexual abuse. Yet, neither concern seemed to be at issue at the dispositional hearing. In fact, there was no dispute that father had stable housing and the sex-offender diagnostic assessment completed by father indicated that he was a low risk. Instead, the case plan indicated "ongoing concerns about [mother] and [father]'s ability to protect and provide the basics for [N.J.]" The case plan then required that mother and father (1) sign any/all required releases of information, (2) obtain/maintain stable housing and provide proof, (3) keep their home consistently clean, safe, and free of hazards, (4) develop a plan to obtain/maintain stable income to support themselves and their children and provide proof of income, (5) provide the caseworker with their weekly schedule so that the caseworker can schedule services/home visits, and (6) obtain diagnostic assessment of functioning through Family Access to Integrated Recovery.

There does not seem to be any dispute that father, and mother, complied with these requirements. In fact, the caseworker testified as such and said that mother and father were always "very willing to engage," and never created any barriers. She said that mother and father had stable and appropriate housing, income, food, utilities, a room for N.J., and "toys in excess." Mother and father also attended parenting class

OHIO FIRST DISTRICT COURT OF APPEALS

and were consistent with visitation. Further, several witnesses testified to mother's and father's attendance and engagement at N.J.'s appointments. Several witnesses also testified that mother and father addressed any concerns that were raised to them.

Nevertheless, the caseworker testified that JFS remained concerned about mother's and father's understanding of N.J.'s cerebral palsy diagnosis. Notably, there is no evidence of any *specific services* that were offered by JFS to assist mother or father with obtaining a more in-depth understanding of N.J.'s diagnosis. Rather, the caseworker indicated that mother and father attending N.J.'s medical appointments was the important tool for obtaining the necessary understanding.

It seems to be undisputed that mother and father were now consistently attending N.J.'s appointments. Notably, none of the treatment providers had anything negative to say about mother or father. Rather, the consensus seemed to be that mother and father were receptive to information and feedback. First, N.J.'s physical therapist said that mother and father were receptive to feedback and information. Further, she said that father asks good questions and seems to understand the process and exercises. Next, N.J.'s speech therapist testified that she engaged with mother and father to "educate them," and mother and father show a willingness to participate. Further, the visitation facilitator testified about how mother and father are receptive and quick to incorporate her feedback.

Beyond that, the visitation supervisor did not raise any concerns about mother and father's interactions with N.J. and had nothing but positive things to say about their interactions. While the record does reflect that mother and father struggled to answer questions during their testimony about N.J.'s specific needs, the record does not reflect that they would not have the ability to learn and develop a more in-depth understanding of N.J.'s specific requirements.

OHIO FIRST DISTRICT COURT OF APPEALS

Notably, this was an initial disposition, and mother and father appeared to be making significant progress toward remedying any concerns about their ability to care for N.J. However, mother did not appeal from the juvenile court’s judgment, and this presents a challenge in this appeal as this court cannot address mother and father as one collective unit. In other words, although each parent’s testimony was taken separately and they were examined separately, the case was—in actuality—only treated as considering the combination of mother’s and father’s efforts when it came to the actual day-to-day care of the child.

It is true that father lives with mother, works, and based on his testimony, relies on mother’s assistance to care for N.J. Nevertheless, R.C. 2151.353(A)(4) and 2151.414(E) require a finding that the child cannot be placed with *one* of the parents within a reasonable time or should not be placed with *either* parent. Thus, the juvenile court should have also made findings as to whether N.J. could be placed with father, independently, within a reasonable time. Notably, the juvenile court has the ability to ultimately enter orders requiring father to *independently* care for N.J. if the court determines that N.J. may be placed with father within a reasonable time absent mother’s involvement. *See* R.C. 2151.353(A)(1) and (D); R.C. 2151.415(A)(2).

Yet, the juvenile court only addressed mother and father as a collective unit, and the statutory provision relied on does not allow the juvenile court to do so without considering each parent’s individual rights. *See generally Rowell v. Smith*, 2012-Ohio-4313, ¶ 13 (“A juvenile court may exercise jurisdiction only if expressly granted the authority to do so by statute.”); R.C. 2151.414(E) (“If the court determines, by clear and convincing evidence, . . . that one or more of the following exist *as to each of the child’s parents*, 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[.]”

OHIO FIRST DISTRICT COURT OF APPEALS

(Emphasis added.)). This error is made apparent on appeal where, because mother did not appeal from the juvenile court’s determination, this court is prevented from similarly addressing the parents as one collective unit and there is no independent bases as to father in the juvenile court’s judgment that this court could meaningfully review as to why father is unable to independently care for N.J. within a reasonable time or should not care for N.J. See *In re Allbery* 2005-Ohio-6529, ¶ 14 (4th Dist.) (“Without any evidence that the trial court engaged in the proper analysis for an award of permanent custody, the judgment cannot withstand scrutiny as we cannot conduct a meaningful review.”).

“[I]t is axiomatic that the trial court’s judgment entry must show that it considered the appropriate factors and engaged in the appropriate analysis.” *Id.* at ¶ 13. To ensure meaningful appellate review, we sustain the assignment of error, reverse the judgment of the juvenile court, and remand this matter to the juvenile court to make appropriate findings as to whether father can *independently* care for N.J. within a reasonable time, or should not care for N.J., keeping in mind that—despite the extended pendency of this case—this is an initial disposition and JFS must make reasonable efforts to “to eliminate the continued removal of the child from the child’s home, or to make it possible for the child to return safely home.” See *generally* R.C. 2151.419(A)(1).¹

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.

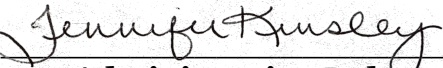
NESTOR and MOORE, JJ., concur.

¹ We note that, because mother did not appeal, the juvenile court’s findings as to her remain the law of the case on remand.

OHIO FIRST DISTRICT COURT OF APPEALS

To the clerk:

Enter upon the journal of the court on 6/10/2026 per order of the court.

By: 
Administrative Judge