

COURT OF APPEALS OF OHIO, TWELFTH APPELLATE DISTRICT,
WARREN COUNTY

In re R.B.

2023-Ohio-3146 (Ohio Ct. App. 2023) · No. CA2023-04-035 · Decided September 7, 2023

SUMMARY

The Ohio Twelfth District Court of Appeals affirmed a juvenile court decision granting Warren County Children Services permanent custody of a child. The court held that the father did not challenge the finding that the child had been in agency custody for at least 12 of 22 consecutive months and concluded that permanent custody was in the child's best interest based on the parents' circumstances and parenting limitations.

CASE DETAILS

COURT	Court of Appeals of Ohio, Twelfth Appellate District, Warren County
WRITING FOR THE COURT	S. Powell, P.J.; Piper, J.; Byrne, J.
JURISDICTION	Ohio
DECIDED	September 7, 2023
DOCKET	CA2023-04-035
DISPOSITION	affirmed
PROCEDURAL POSTURE	Father appealed the Warren County Court of Common Pleas, Juvenile Division's judgment awarding permanent custody of the child to Warren County Children Services.
STANDARD OF REVIEW	The appellate court reviews a permanent-custody decision for whether sufficient credible evidence supports the juvenile court's determination and may reverse if the judgment is against the manifest weight of the evidence. The reviewing court presumes the fact finder's findings are correct, construes evidence susceptible to more than one construction to sustain the judgment, and reverses only when the fact finder clearly lost its way and created a manifest miscarriage of justice.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Father of R.B. v. Warren County Children Services

TOPICS

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parental rights

family law procedure

standard of review

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the juvenile court properly found by clear and convincing evidence that awarding permanent custody to Warren County Children Services was in the child's best interest under R.C. 2151.414(D).
2. Whether the permanent-custody judgment was against the manifest weight of the evidence.

HOLDINGS

1. Only one of the findings listed in R.C. 2151.414(B)(1)(a) through (e) is required to satisfy the second prong of Ohio's two-part permanent-custody test. Because Father did not challenge the juvenile court's finding that the child had been in the Agency's temporary custody for at least 12 months of a consecutive 22-month period, the appellate court did not need to review that issue further.
2. The juvenile court properly found by clear and convincing evidence that awarding permanent custody to the Agency was in the child's best interest.
3. The judgment was supported by clear and convincing evidence and was not against the manifest weight of the evidence.

KEY QUOTATIONS

“Only one of these findings must be met to satisfy the second prong of the two-part permanent custody test.” (¶ 16)

“case plan is merely a means to a goal and not a goal in itself” (¶ 37)

“we find the juvenile court’s decision to grant permanent custody of Roger to the Agency was supported by clear and convincing evidence and was not against the manifest weight of the evidence.” (¶ 40)

FACTUAL BACKGROUND

The child was removed from the parents' care shortly after birth because of concerns about the mother's serious, untreated mental-health conditions and difficulty meeting the child's basic needs. The Agency developed a reunification case plan, and the parents made some progress, but the father remained dependent on the mother for housing and childcare, did not pursue independent visitation or housing, and did not adequately appreciate the mother's mental-health limitations. The child spent more than two years in agency custody and was thriving in a stable foster-to-adopt placement. After a permanent-custody hearing, the juvenile court found that the child needed a legally secure placement that could not be achieved without permanent custody to the Agency.

PROCEDURAL HISTORY

The Agency filed a dependency complaint after the child's birth. The juvenile court granted emergency temporary custody, adjudicated the child dependent, and later awarded the Agency temporary custody while the

parents worked under case plans. After a permanent-custody hearing, the juvenile court granted permanent custody to the Agency. Father appealed, challenging the finding that permanent custody was in the child's best interest.

DISPOSITION

affirmed

CASES CITED

- In re K.W., 12th Dist. Butler No. CA2015-06-124, 2015-Ohio-4315, ¶ 11
- Santosky v. Kramer, 455 U.S. 745, 769, 102 S. Ct. 1388 (1982)
- In re M.B., 12th Dist. Butler Nos. CA2014-06-130 and CA2014-06-131, 2014-Ohio-5009, ¶ 6
- In re L.S., 12th Dist. Brown Nos. CA2019-03-001 and CA2019-03-002, 2019-Ohio-3143, ¶ 17
- In re K.A., 12th Dist. Butler No. CA2016-07-140, 2016-Ohio-7911, ¶ 10
- In re C.S., 12th Dist. Clinton No. CA2020-04-006, 2020-Ohio-4414, ¶ 15
- In re T.P., 12th Dist. Butler No. CA2015-08-164, 2016-Ohio-72, ¶ 19
- In re S.M., 12th Dist. Warren Nos. CA2018-08-088 through CA2018-08-091 and CA2018-08-095 through CA2018-08-097, 2019-Ohio-198, ¶ 16
- Eastley v. Volkman, 132 Ohio St. 3d 328, 2012-Ohio-2179, ¶ 20
- In re M.A., 12th Dist. Butler No. CA2019-08-129, 2019-Ohio-5367, ¶ 15
- In re C.Y., 12th Dist. Butler Nos. CA2014-11-231 and CA2014-11-236 through CA2014-11-238, 2015-Ohio-1343, ¶ 25
- In re G.F., 12th Dist. Butler No. CA2013-12-248, 2014-Ohio-2580, ¶ 9
- In re A.M., 166 Ohio St. 3d 127, 2020-Ohio-5102, ¶ 18
- In re D.K.W., 12th Dist. Clinton No. CA2014-02-001, 2014-Ohio-2896, ¶ 21
- In re C.B., 12th Dist. Clermont No. CA2015-04-033, 2015-Ohio-3709, ¶ 10
- In re A.W., 12th Dist. Fayette No. CA2014-03-005, 2014-Ohio-3188, ¶ 12
- In re G.A., 12th Dist. Butler No. CA2022-06-063, 2022-Ohio-3865, ¶ 43
- In re D.E., 12th Dist. Warren Nos. CA2018-03-035 and CA2018-04-038, 2018-Ohio-3341, ¶ 32
- In re J.C., 12th Dist. Brown No. CA2017-11-015, 2018-Ohio-1687, ¶ 22
- In re B.M., 12th Dist. Clinton Nos. CA2022-11-028 and CA2022-11-029, 2023-Ohio-1112, ¶ 54
- In re Mraz, 12th Dist. Brown Nos. CA2002-05-011 and CA2002-07-014, 2002-Ohio-7278, ¶ 13
- In re S.U., 12th Dist. Clermont No. CA2014-07-047, 2014-Ohio-5166, ¶ 35
- In re Keaton, 4th Dist. Ross Nos. 04CA2785 and 04CA2788, 2004-Ohio-6210, ¶ 61
- In re G.W., 12th Dist. Butler No. CA2019-01-003, 2019-Ohio-1586, ¶ 54
- In re A.J., 12th Dist. Clermont No. CA2018-08-063, 2019-Ohio-593, ¶ 43

