

COURT OF APPEALS OF OHIO, TENTH APPELLATE DISTRICT

In re B.N.

2026-Ohio-419 · No. 23AP-681 · Decided February 10, 2026

SUMMARY

The Tenth District Court of Appeals of Ohio reviews an order granting permanent custody of B.N., Jr. to Franklin County Children Services. The appeal raises issues concerning the Indian Child Welfare Act, the sufficiency and manifest weight of the evidence, the guardian ad litem’s investigation of the child’s wishes, and testimony concerning drug-screen results. The decision states that the appellate court will affirm and begins its analysis of the ICWA assignment of error.

CASE DETAILS

COURT	Court of Appeals of Ohio, Tenth Appellate District
WRITING FOR THE COURT	Jamison, J.; Boggs, P.J.; Dingus, J.
JURISDICTION	Court of Appeals of Ohio, Tenth Appellate District
DECIDED	February 10, 2026
DOCKET	23AP-681
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a Franklin County Court of Common Pleas judgment granting Franklin County Children Services permanent custody of B.N., Jr.
STANDARD OF REVIEW	Unpreserved claims were reviewed for plain error, which in the civil context applies only in extremely rare cases involving a serious effect on the fairness, integrity, or public reputation of the judicial process. Permanent-custody determinations are reviewed for clear-and-convincing evidentiary support; sufficiency is reviewed de novo, while manifest weight requires consideration of the entire record, witness credibility, and whether the trial court clearly lost its way.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	B.N., Sr. v. Franklin County Children Services

TOPICS

termination of parental rights

child custody

indian child welfare act

preservation of error

standard of review

PRACTICE AREAS

family law

juvenile law

child welfare

appellate procedure

evidence

QUESTIONS PRESENTED

1. Whether the trial court plainly erred in conducting its inquiry under the Indian Child Welfare Act and related regulations.
2. Whether the grant of permanent custody to FCCS was supported by clear and convincing evidence and was not against the manifest weight of the evidence.
3. Whether the trial court plainly erred by finding that the three-year-old child was too young to express his wishes and by allegedly failing to require the guardian ad litem to investigate those wishes.
4. Whether the trial court plainly erred by admitting the caseworker's testimony concerning appellant's drug-screen and hair-follicle-test results.

HOLDINGS

1. The trial court did not plainly err in conducting its ICWA inquiry because the mother denied Native American tribal membership, counsel were given an opportunity to provide contrary information, appellant never alleged Native American heritage, and the record did not show a manifest miscarriage of justice.
2. The trial court's grant of permanent custody to FCCS was supported by clear and convincing evidence and was not against the manifest weight of the evidence.
3. The trial court did not plainly err in finding that the three-year-old child was too young to express his wishes for purposes of the best-interest analysis or in relying on the guardian ad litem's reports and testimony.
4. Even assuming the trial court erred by admitting the caseworker's testimony regarding appellant's drug-screen results, the error was not plain error because the remaining evidence overwhelmingly supported permanent custody.

KEY QUOTATIONS

“In the civil context, an appellate court only applies the plain error doctrine in ‘extremely rare cases’ when the asserted error ‘seriously affects the basic fairness, integrity, or public reputation of the judicial process, thereby challenging the legitimacy of the underlying judicial process itself.’” (¶ 38)

“Permanent termination of parental rights has been described as ‘the family law equivalent of the death penalty in a criminal case.’” (¶ 39)

“Although we have found no plain error in this matter with regards to ICWA, we would be remiss not to emphasize the importance of strictly complying with the statute’s requirements.” (¶ 52)

FACTUAL BACKGROUND

B.N., Jr. was born with cocaine exposure and withdrawal symptoms, and FCCS obtained emergency and then temporary custody shortly after his birth. The child never lived with appellant, who was never established as the legal father, and remained in FCCS custody for approximately three and a half years before the permanent-custody hearing. Although appellant consistently attended supervised visitation and completed some case-plan services, the evidence showed unstable housing, unresolved domestic-violence and substance-abuse concerns, lack of documented stable income, and no progression beyond supervised visitation. The child was bonded with his foster parents and older sister, and the foster parents were interested in adoption.

PROCEDURAL HISTORY

Franklin County Children Services filed a dependency, neglect, and abuse complaint after the child's birth. The trial court adjudicated the child abused, granted FCCS temporary custody, and later granted FCCS's motion for permanent custody after the child had remained in agency custody for more than twelve months of a consecutive twenty-two-month period. The alleged father appealed, asserting plain error concerning ICWA, the sufficiency and weight of the evidence, the guardian ad litem's investigation of the child's wishes, and testimony concerning drug-screen results.

DISPOSITION

affirmed

CASES CITED

- H.C. v. R.C., 2016-Ohio-668, ¶ 9 (10th Dist.)
- Goldfuss v. Davidson, 1997-Ohio-401, ¶ 24
- In re K.S., 2025-Ohio-1381, ¶ 24 (10th Dist.)
- In re A.S., 2022-Ohio-1861, ¶ 54 (10th Dist.)
- M.S.K. v. C.K., 2016-Ohio-5046, ¶ 8 (10th Dist.)
- In re Murray, 52 Ohio St.3d 155, 157 (1990)
- In re Hoffman, 2002-Ohio-5368, ¶ 14
- In re Smith, 77 Ohio App.3d 1, 16 (6th Dist. 1991)
- In re S.C., 2022-Ohio-356, ¶ 34 (10th Dist.)
- In re B.L., 2005-Ohio-1151, ¶ 7 (10th Dist.)
- In re W.J.T., 2019-Ohio-3051, ¶ 41 (12th Dist.)
- In re G.W., 2019-Ohio-1586, ¶ 53 (12th Dist.)
- In re J.T., 2012-Ohio-2818, ¶ 8 (10th Dist.)
- In re P.G., 2012-Ohio-469, ¶ 37 (10th Dist.)
- In re H.D., 2014-Ohio-228, ¶ 8
- In re K.L., 2013-Ohio-3499, ¶ 14 (10th Dist.)
- In re J.V., 2012-Ohio-4961, ¶ 3

- In re K.A., 2016-Ohio-7911, ¶ 10 (12th Dist.)
- In re T.P., 2016-Ohio-72, ¶ 19 (12th Dist.)
- In re K.M., 2024-Ohio-2137, ¶ 34 (10th Dist.)
- In re Brown, 2004-Ohio-3314, ¶ 11 (10th Dist.)
- In re S.R., 2006-Ohio-4983, ¶ 38 (10th Dist.)
- In re A.H., 2021-Ohio-1040, ¶ 30
- In re L.W., 2025-Ohio-2236 (10th Dist.)
- In re S.M., 2025-Ohio-34, ¶ 15 (9th Dist.)
- In re K.Y., 2025-Ohio-1117, ¶ 35 (5th Dist.)
- In re L.T., 2025-Ohio-1719, ¶ 15 (5th Dist.)
- Adoptive Couple v. Baby Girl, 570 U.S. 637, 648 (2013)
- In re A.M., 2025-Ohio-2993, ¶¶ 27-28 (10th Dist.)
- In re K.C., 2024-Ohio-2081, ¶ 46 (10th Dist.)
- In re Williams, 2001 Ohio App. LEXIS 1247, *9-10 (10th Dist. Mar. 20, 2001)
- In re Swisher, 2003-Ohio-5446, ¶ 50 (10th Dist.)
- In re C.M., 2008-Ohio-2977, ¶¶ 62-64 (10th Dist.)
- In re Salsgiver, 2003-Ohio-6412, ¶ 27 (11th Dist.)