

**OHIO COURT OF APPEALS, TWELFTH APPELLATE DISTRICT, BUTLER
COUNTY**

In re Z.C.

2014-Ohio-3290 (Ohio Ct. App. 2014) · No. CA2014-02-049; CA2014-02-050 · Decided July 28, 2014

SUMMARY

The Twelfth District Court of Appeals of Ohio affirmed a Butler County juvenile court judgment granting permanent custody of two children to a children services agency. The court held that clear and convincing evidence supported the finding that permanent custody was in the children's best interests, based on the parents' inconsistent progress, unsafe and unstable home conditions, and failure to implement case-plan services. The court also upheld the determination that the children's grandmother was not an appropriate alternative placement.

CASE DETAILS

COURT	Ohio Court of Appeals, Twelfth Appellate District, Butler County
WRITING FOR THE COURT	Piper, J.; S. Powell, P.J.; M. Powell, J.
JURISDICTION	Ohio
DECIDED	July 28, 2014
DOCKET	CA2014-02-049; CA2014-02-050
DISPOSITION	affirmed
PROCEDURAL POSTURE	The biological mother appealed a juvenile court judgment granting permanent custody of her two children to a children services agency and denying legal custody to the mother and grandmother.
STANDARD OF REVIEW	An appellate court reviews a juvenile court's permanent-custody decision to determine whether sufficient credible evidence supports the decision. A finding supported by clear and convincing evidence will be reversed only when there is a sufficient conflict in the evidence.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	T.W. v. Butler County Children's Services

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the juvenile court's determination that permanent custody with the children services agency was in the children's best interest was supported by clear and convincing evidence.
2. Whether the juvenile court's permanent-custody judgment was against the manifest weight of the evidence.
3. Whether the grandmother provided an appropriate alternative placement such that permanent custody could be granted without terminating the parents' rights.

HOLDINGS

1. The juvenile court properly applied the two-part permanent-custody test by finding that the children had been in agency custody for at least 12 months of a consecutive 22-month period and that permanent custody with the agency was in their best interest.
2. The permanent-custody judgment was supported by the record and was not against the manifest weight of the evidence.
3. The juvenile court properly determined that the grandmother was not an adequate alternative placement and that a legally secure placement could not be achieved without granting permanent custody to the agency.

KEY QUOTATIONS

“Before a natural parent's constitutionally protected liberty interest in the care and custody of her child may be terminated, the state is required to prove by clear and convincing evidence that the statutory standards for permanent custody have been met.” (¶ 17)

“Pursuant to R.C. 2151.414(B)(1), a court may terminate parental rights and award permanent custody to a children services agency if it makes findings pursuant to a two-part test.” (¶ 18)

“However, after a thorough review of all the evidence submitted in this case, we find the trial court's decision is supported by the record and is not against the manifest weight of the evidence.” (¶ 36)

FACTUAL BACKGROUND

The children services agency became involved after repeated reports that the family's home contained animal feces, insects, dirty diapers, inadequate food, and other unsafe conditions, and after concerns arose regarding the children's developmental and behavioral needs. Although the parents received services, including parenting instruction, counseling, and family therapy, their improvements were inconsistent and they failed to consistently implement the skills taught. The children remained in the same foster home from their removal, where their behavior and developmental functioning improved. At the permanent-custody hearing, the parents lacked stable housing and income, and the proposed grandmother placement was unsupported by a completed home study or a legal-custody motion.

PROCEDURAL HISTORY

The Butler County Department of Job and Family Services filed a dependency and neglect complaint after persistent sanitation, housing, parenting, and child-safety concerns. The juvenile court adjudicated the children neglected and dependent, placed them in foster care, and later granted the agency's motion for permanent custody after a magistrate hearing. The trial court overruled objections and adopted the magistrate's decision; the mother appealed, arguing that the judgment was against the manifest weight of the evidence and unsupported by clear and convincing evidence.

DISPOSITION

affirmed

CASES CITED

- Santosky v. Kramer, 455 U.S. 745, 759, 102 S.Ct. 1388 (1982)
- In re Starkey, 150 Ohio App.3d 612, 2002-Ohio-6892, ¶ 16 (7th Dist.)
- In re Rodgers, 138 Ohio App.3d 510, 520 (12th Dist. 2000)
- In re E.B., 2010-Ohio-1122, ¶ 22