[Cite as *In re B.J.*, 2026-Ohio-3712.]

STATE OF OHIO	)	IN THE COURT OF APPEALS
	)ss:	NINTH JUDICIAL DISTRICT
COUNTY OF SUMMIT	)	

IN RE: B.J.	C.A. No. 31884
	APPEAL FROM JUDGMENT ENTERED IN THE COURT OF COMMON PLEAS COUNTY OF SUMMIT, OHIO CASE No. DN 24 01 0042

DECISION AND JOURNAL ENTRY

Dated: September 23, 2026

MANNING, Judge.

{¶1} Appellant, A.S. ("Mother"), appeals from a judgment of the Summit County Court of Common Pleas, Juvenile Division, that terminated her parental rights to her minor child and placed the child in the permanent custody of Summit County Children Services Board ("CSB"). This Court affirms.

I.

{¶2} Mother is the biological mother of B.J., born January 19, 2024. The child's father ("Father") did not participate in the trial court proceedings and did not appeal the trial court's judgment.

{¶3} Mother and Father have three older children who are not parties to this appeal, but the family's extensive history with CSB is relevant to this case. Mother's oldest three children, D.J., D.S., and G.J., were born in April 2020, April 2021, and November 2022. The Summit County Juvenile Court removed each child from Mother's custody when they were infants and

adjudicated them dependent because of Mother's long history of cocaine use, including during her pregnancies; her failure to engage in consistent mental health treatment for her diagnosed schizophrenia; and her ongoing relationship with Father, who had repeatedly perpetrated violence against Mother and had an extensive criminal history, including convictions of violent and drug-related offenses; and Mother's history of allowing other adults to take advantage of her and expose her to unsafe situations. Mother sporadically worked on case plans in the prior cases, but she eventually voluntarily relinquished her parental rights to each child.

{¶4} CSB filed the dependency complaint pertaining to B.J. shortly after the child's birth, while the dependency case with G.J. was still pending. At that time, Mother was engaging in mental health and drug treatment pursuant to the case plan in G.J.'s case, but CSB was concerned about her ability to maintain sobriety and stability, particularly given her ongoing relationship with Father.

{¶5} Mother waived her right to a contested adjudicatory hearing and agreed that B.J. was a dependent child under R.C. 2151.04(B) and (C). B.J. was initially allowed to remain in Mother's custody under an order of protective supervision. Less than three months later, the trial court placed B.J. in the temporary custody of CSB because Mother twice tested positive for cocaine and allowed Father and other inappropriate adults to have contact with the child.

{¶6} As in her older children's cases, the court-ordered case plan in this case required Mother to consistently engage in mental health and substance abuse treatment, obtain and maintain stable income and housing, and demonstrate that she could provide for the basic needs of her child. At the beginning of this case, Mother was enrolled in the juvenile court's Family Reunification through Recovery Court (FRRC) program, and she made sporadic progress in drug treatment. By September 2024, however, Mother was regularly testing positive for cocaine, yet she insisted that

she had not used the drug. Mother claimed that she had been exposed to drug residue in her home, but a forensic expert would later inform CSB that Mother's explanation was not plausible because cocaine cannot be absorbed through the skin but must be ingested. The caseworker also informed Mother that if she was knowingly associating with drug users or allowing them into her home, she was threatening her own sobriety and her chances of reunifying with her child.

{¶7} During October 2024, the juvenile court terminated Mother from the FRRC program. Not long afterward, Mother surrendered her parental rights to her older child, G.J. The caseworker observed that, after losing custody of G.J., Mother became less motivated to work on the case plan in B.J.'s case. Mother continued to test positive for cocaine for more than a one-year period, yet she refused to admit that she was using the drug. Mother continued to associate with other drug users and failed to achieve stability in her life.

{¶8} On April 12, 2025, CSB moved for permanent custody of B.J. Mother alternatively moved for legal custody or a six-month extension of temporary custody. The case eventually proceeded to a final hearing. Following the hearing, the trial court terminated Mother's parental rights and placed B.J. in the permanent custody of CSB. Mother appeals and raises one assignment of error.

II.

ASSIGNMENT OF ERROR

> THE TRIAL COURT ERRED AND ABUSED ITS DISCRETION BY TERMINATING MOTHER'S PARENTAL RIGHTS AND GRANTING PERMANENT CUSTODY OF THE CHILD[] TO [CSB].

{¶9} Mother asserts that the trial court's permanent custody decision was against the manifest weight of the evidence. In considering whether the juvenile court's judgment is against the manifest weight of the evidence, this Court "weighs the evidence and all reasonable inferences,

considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the [finder of fact] clearly lost its way and created such a manifest miscarriage of justice that the [judgment] must be reversed and a new [hearing] ordered." (Internal quotations and citations omitted.) *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 20. When weighing the evidence, this Court "must always be mindful of the presumption in favor of the finder of fact." *Id*. at ¶ 21.

{¶10} Before a juvenile court may terminate parental rights and award permanent custody of a child to a proper moving agency, it must find clear and convincing evidence of both prongs of the permanent custody test: (1) that the child is abandoned; orphaned; has been in the temporary custody of the agency for at least 12 months of a consecutive 22-month period; the child or another child of the same parent has been adjudicated abused, neglected, or dependent three times; or that the child cannot be placed with either parent, based on an analysis under R.C. 2151.414(E); and (2) that the grant of permanent custody to the agency is in the best interest of the child, based on an analysis under R.C. 2151.414(D)(1). R.C. 2151.414(B)(1) and 2151.414(B)(2); *see also In re William S*., 75 Ohio St.3d 95, 98-99 (1996).

{¶11} On the first prong of the permanent custody test, the trial court found that CSB had proven two grounds pertaining to Mother: the child had been in the temporary custody of CSB for more than 12 months of a consecutive 22-month period; and that the child could not or should not be returned to Mother's custody because she failed to remedy the conditions that caused the child to remain placed outside the home. *See* R.C. 2151.414(B)(1)(a) and (d); R.C. 2151.414(E)(1).

{¶12} Mother argues that CSB "did not produce evidence to support a factor set forth in [R.C.] 2151.414(B)(1)," but she does not specifically challenge either of the trial court's first prong findings. R.C. 2151.414(B)(1) provides that the first prong of the permanent custody test is satisfied if the trial court finds clear and convincing that "any" of the five factors set forth in R.C.

2151.414(B)(1)(a)-(e) apply in this case. Because those first prong factors are alternative findings, CSB was required to prove only one of those grounds to support its motion for permanent custody. *In re K.D.*, 2026-Ohio-1361, ¶ 16 (9th Dist.), citing *In re J.B.*, 2018-Ohio-244, ¶ 9 (9th Dist.), *In re A.W.*, 2017-Ohio-7786, ¶ 17 (9th Dist.), and *In re E.M.*, 2015-Ohio-5316, ¶ 12 (9th Dist.).

{¶13} Because only one of the trial court's first prong findings was required to uphold the judgment, this Court will focus on its "12 of 22" finding under R.C. 2151.414(B)(1)(d), because that finding was supported by the undisputed evidence in the record. The trial court initially permitted B.J. to remain in Mother's custody under an order of protective supervision, but it later removed her from the home because Mother had again tested positive for cocaine and was violating a court order by permitting the B.J. to have contact with Father and the maternal grandmother. The trial court placed B.J. in CSB's temporary custody on April 12, 2024. CSB moved for permanent custody of B.J. on July 16, 2025, more than 15 months later. Therefore, the trial court heard clear and convincing evidence to establish that B.J. had been in CSB's temporary custody for more than 12 months of a consecutive 22-month period.

{¶14} Next, the trial court found that permanent custody was in the best interest of the child. When reviewing the trial court's best interest determination, this Court focuses primarily on the specific factors set forth in R.C. 2151.414(D). *In re M.S.*, 2023-Ohio-1558, at ¶ 25 (9th Dist.). The trial court was required to consider the statutory best interest factors, which include: the interaction and interrelationships of the child, her wishes and custodial history, the child's need for permanence and whether that can be achieved without a grant of permanent custody, and whether any of the factors outlined in R.C. 2151.414(E)(7)-(11) apply. R.C. 2151.414(D)(1)(a)-(e); *see also In re R.G.*, 2009-Ohio-6284, ¶ 11 (9th Dist.). None of the factors set forth in R.C. 2151.414(E)(7)-(11) are relevant in this case.

{¶15} Mother's best interest argument focuses primarily on her position that she had "made a great deal of progress on her case plan." "This Court has repeatedly held that, although case plan compliance may be relevant to the best interest of the child, it is not dispositive." *In re M.S.*, 2023-Ohio-1558, ¶ 24 (9th Dist.), quoting *In re K.C.*, 2022-Ohio-2851, ¶ 17 (9th Dist.). Moreover, Mother did not make substantial case plan progress during this case. Although she submitted negative drugs screens early in this case, she tested positive for cocaine for the next 18 months and continued to deny that she had used any drugs. It was not until the end of 2025, more than six months after CSB moved for permanent custody, that Mother again began to submit negative drug screens. By the time of the hearing, Mother did not have steady employment, had moved out of her apartment and was living temporarily in a homeless shelter in Medina County, and was not actively engaged in case planning services.

{¶16} A review of the best interest factors set forth in R.C. 2151.414(D)(1) supports the trial court's conclusion that permanent custody was in the best interest of B.J. After B.J. was removed from Mother's home in April 2024, their interaction was limited to supervised visits because of Mother's ongoing drug use. Mother attended visits regularly, and witnesses observed a bond between Mother and B.J., but the caseworker observed that Mother sometimes appeared to be under the influence of drugs during the visits.

{¶17} Throughout this case, B.J. lived in a stable kinship placement along with her older sibling, G.J. The kinship caregiver, C.A., had also served as G.J.'s kinship caregiver and adopted G.J. after CSB received permanent custody. B.J. and G.J. had developed a strong sibling bond. C.A. is a close friend of the maternal aunt who adopted Mother's oldest two children. C.A. and the aunt worked together to arrange visitation between all four siblings and planned to maintain that contact.

{¶18} Because B.J. was only two years old at the time of the hearing and too young to express her wishes, the guardian ad litem spoke on her behalf. She recommended that B.J. be placed in the permanent custody of CSB. Although she recognized that Mother was trying to improve her parenting ability, Mother had not made much progress during the two years of case planning in this case. Mother continued to lack suitable income and housing, and she had not demonstrated a sustained period of sobriety or stable mental health.

{¶19} The guardian ad litem also emphasized that B.J. was too young to protect herself, and that Mother struggled to protect herself from "abuse and being taken advantage of" by adults with extensive substance abuse and/or criminal histories. She gave several examples of situations in which Mother had been unable to prevent unsuitable adults from entering or staying in her home without her permission or causing her physical or financial harm. The guardian ad litem and the caseworker both testified about their attempts to offer Mother advice and, although Mother listened to their suggestions and seemed to want to improve her situation, she did not follow through with making the changes necessary to be reunified with her child.

{¶20} B.J. resided in Mother's custody for less than three months after she was born. By the time of the hearing, the child had resided in the temporary custody of CSB for nearly two years. As the child had spent most of her short life in custodial limbo, she needed a legally secure permanent placement. Mother was not prepared to provide B.J. with a stable home and CSB had been unable to find any suitable relatives who were willing to take legal custody of the child. The trial court reasonably concluded that a legally secure permanent placement would be achieved by granting CSB's motion for permanent custody so that B.J. could be placed for adoption.

{¶21} Mother has failed to demonstrate that the trial court lost its way by terminating Mother's parental rights and placing B.J. in the permanent custody of CSB. Mother's assignment of error is overruled.

III.

{¶1} Mother's assignment of error is overruled. The judgment of the Summit County Court of Common Pleas, Juvenile Division, is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

NATHAN MANNING
FOR THE COURT

FLAGG LANZINGER, P. J.
STEVENSON, J.
CONCUR.

APPEARANCES:

WESLEY A. JOHNSTON, Attorney at Law, for Appellant.

ELLIOT KOLKOVICH, Prosecuting Attorney, and HEAVEN R. DIMARTINO, Assistant Prosecuting Attorney, for Appellee.

BETH ANN BLACKMORE, Guardian ad Litem.