

ORIGINAL

IN THE SUPREME COURT OF OHIO

10-0491

IN RE:

A. Z.

)  
)  
) On Appeal from the Licking  
) County Court of Appeals  
) Fifth Appellate District  
)  
) Court of Appeals  
) Case No. 2009 CA 129  
)  
)  
)

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MEMORANDUM IN SUPPORT OF JURISDICTION  
FOR APPELLANT-MOTHER-S.Z.

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FILED  
MAR 17 2010  
CLERK OF COURT  
SUPREME COURT OF OHIO

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**Proposition of Law No. I:**

**THE COURT ERRED IN DETERMINING THAT COMPETENT, CREDIBLE EVIDENCE EXISTS SUPPORTING THE DECISION THAT PERMANENT CUSTODY OF THE CHILD BE AWARDED TO THE LICKING COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES.**

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**EXPLANATION WHY THIS CASE PRESENTS SUBSTANTIAL CONSTITUTIONAL QUESTIONS AND MATTERS OF PUBLIC AND GREAT GENERAL INTEREST**

The permanent custody termination of parental rights of a child is “the family law equivalent of the death penalty.” *In re Hitchcock* (1996), 120 Ohio App. 3d 88, 101.

A parent's interest and rights in protecting their relationship with a child undeniably warrant constitutional protection. *Lassiter v. Dept. of Soc. Serv.* (1981), 452 U.S. 18, 27 citing *Stanley v. Illinois* (1872), 405 U.S. 645, 651.

State and federal courts have consistently held that it is an essential and basic right of any parent to raise his or her children. “The right of a parent to raise his or her child has been defined as a ‘natural’ right subject to the protections of due process.” *In re Perales* (1977), 52 Ohio St. 2d 89.

In order to terminate Appellant-Mother's rights, the Juvenile Court was required to find by clear and convincing evidence that (1) the child could not be placed with her mother within a reasonable amount of time (O.R.C. §2151.414(B)(2).

The Court is instructed to consider all relevant factors, including but not limited to the following:

- 1) The interaction and interrelationship of the child with the child's parents, siblings, relatives, foster caregivers and out-of-home providers, and any other person who may significantly affect the child;
- 2) The wishes of the child, as expressed directly by the child or through the child's Guardian ad Litem, with due regard for the maturity of the child;
- 3) The custodial history of the child, including whether the child has been in the temporary custody of the agency for twelve or more months;
- 4) The child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency; and
- 5) Whether any of the factors in division (E)(7) to (11) of this section apply.

Ohio Revised Code Section 2151.414(E) provides that:

... the court shall enter a finding that the child cannot be placed with either parent within a reasonable amount of time or should not be placed with either parent:

- (1) 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 this case the Agency's concerns were poor supervision, inability to meet the child's basic needs, medical needs and having inappropriate people in the home who used drugs or alcohol. By the time of the permanent custody hearing many of those needs had been addressed. The people considered to be inappropriate had either died or moved out. The mother had secured the apartment in her own name. She had maintained regular employment throughout the case. She had resolved issues with lice which had prevented visitation and was having regular visitations. She was then able to show stability and slow progress. Further, considering that she suffered from mild retardation, and was slow to grasp the concepts of reunification, she should have been permitted the full time allowed to show her ability to parent. At the time of finding for permanent custody there was time for an additional extension and a reasonable amount of time for reunification to occur.

This case challenges the ability of the State to take permanent custody away from a parent when the parent is mildly retarded has made progress and there is additional time for an extension. It is for these reasons that this case is of great public and great general interest and warrants substantial constitutional questions that the Court should address.

## **STATEMENT OF THE CASE AND FACTS**

On September 17, 2007, the Agency filed a Complaint in the Licking County Court of Common Pleas, Juvenile Division, seeking an order for six-month protective supervision of A.Z. (DOB 09/24/97). The Agency became involved with Mother and A.Z. in August, 2007, due to concerns over poor supervision in the home; Mother's inability to meet A.Z.'s physical and medical needs; and Mother's permitting people to live in the home who were using drugs and alcohol. Within one week of the filing of the Complaint for protective supervision, the trial court placed A.Z. in the emergency shelter case custody of the Agency due to Mother's noncompliance with the Agency's directives. The Agency filed an Amended Complaint, seeking temporary custody of the child.

The magistrate conducted an adjudicatory hearing on December 4, 2007, at which Mother agreed to a finding of dependency. The magistrate proceeded to disposition, finding it would be in A.Z.'s best interest to place her in the temporary custody of the Agency. The Agency developed a case plan for Mother which required her to identify and meet A.Z.'s medical and basic needs, identify non-safe persons living in her home, and provide appropriate care and supervision for A.Z. Mother was also asked to work with a parent mentor to learn how to keep A.Z. safe.

On August 19, 2008, the Agency filed a motion seeking an extension of the trial court's original order of temporary custody in order to give Mother additional time to work on her case plan, and to provide the Agency with an opportunity to explore a relative placement. Via Judgment Entry filed September 4, 2008, the trial court

extended temporary custody until March 17, 2009. The Agency, however, filed a Motion for Permanent Custody on February 13, 2009, as Mother had been unsuccessful in making any progress on her case plan and her home situation had deteriorated. The magistrate conducted a hearing on the Motion for Permanent Custody on May 4, 2009 and a decision rendered May 14, 2009. Objections were filed and the decision upheld by Entry of October 8, 2009. An appeal was then filed and the decision affirmed by entry of February 3, 2010.

The mother argues that there have been significant positive changes in her life and she has accomplished a good deal during the course of this case toward addressing the Agency's concerns so as to warrant an extension of time to complete the case plan. The biggest concern and change has been the fact that at the beginning of the case and through a good portion of the case she lived with "Jack" (Harold Lucas), who was an alcoholic. Jack was Sharon's brother-in-law who helped her, and lived with her after her husband Rex Zook died. Jack has been the caretaker for A.Z. when she was initially removed. Jack ultimately died in February 2009. During his lifetime there was concern that S.Z.'s income would not be spent wisely, because some of her income would be used to support his drinking. Since his death, S.Z. has converted the lease on the apartment, which was in Jack's name, into her own name, (TR pg. 29, L17) and she lives there by herself. The apartment is adequate for S.Z. and A.Z. (TR pg. 30, L 13) S.Z. would need appropriate bedding, which she has. (TR pg. 139, L14) Financially S.Z. has adequate income to provide for her and A.Z. Throughout this case S.Z. has had a steady income from employment at Goodwill. (TR pf. 27, L8) The income is sufficient to provide for S.Z. and A.Z. (TR pg. 148, L9) Although alcohol has been a

theme in this case, there has never been a concern about use of drugs or alcohol by S.Z. (TR pg. 47, L 16)

The Agency has expressed concern about her current boyfriend, Clifford, living with S.Z. Testimony indicates that he now has his own apartment and does not live with S.Z. (TR pg 116, L 6)(TR pg. 146, L 20) Concerns for him include alcohol and his criminal history. S.Z. testified that s far as she knows he is not presently drinking. (TR pg. 143, L 12) S.Z. testified that if A.Z. were returned home she would tell him that only she and A.Z. would be allowed in the home. (TR pg. 138, L 20) It is clear that S.Z. is able to provide for the basic needs of herself and a child and the issue of inappropriate people living in her home has been addressed either through death or removal of inappropriate people.

A second major change has been that S.Z. has been able to maintain a good bond with A.Z. and maintain regular visitations with her. This is despite the fact that there were significant problems with lice at the beginning of the case preventing her from visiting. The continuing lice problem was apparently due to unclean people that S.Z. would allow to stay in her house. This problem was resolved and visitations were consistent and good with her daughter. It is reported that they both enjoy their visits and look forward to them. (TR pg. 32, L 22)

A motion for permanent custody was filed on February 13, 2009 and a permanent custody hearing was held May 4, 2009. At the time of the filing there remained seven (7) months before the sunset time for the case. At the hearing date there remained over four (4) months. It is argued that there have been sufficient positive changes that would warrant against the court in finding that permanent custody

was the appropriate result. There has been substantial compliance with the case plan and ample evidence that S.Z. can meet the needs of A.Z. within the time frame of the case. If given the full time allowed it is reasonable to believe that she would be able to successfully complete the case plan in the foreseeable future.

## APPLICABLE LAW AND ARGUMENT

In a permanent custody case the court's determination that the child cannot be placed with the parent within a reasonable time or should not be placed with them must be supported by sufficient evidence.

Before analyzing the "best interest of the child," the trial court must also determine by clear and convincing evidence that the child cannot be placed with the parent within a reasonable period of time R.C. 2151.414(E) states in pertinent part:

\* \* \* If the court determines, by clear and convincing evidence, at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 [2151.35.3] of the Revised Code 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. \* \* \*

The statute then goes on to list the factors to be considered by the court in making this decision. Included within the list of enumerated factors are the following:

1. 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 parent 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 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;
2. Chronic mental illness, chronic emotional illness, mental retardation, physical disability, or chemical dependency of the parent that is so severe that it makes the parent unable to provide an adequate permanent home for the child at the present time and, as anticipated, within one year after the court holds the hearing \* \* \* for purposes of division (A)(4) of section 2151.353 of the Revised Code;
3. The parent committed any abuse \* \* \* against the child \* \* \* ;

4. The parent has demonstrated a lack of commitment toward the child by failing to regularly support, visit, or communicate with the child when able to do so, or by other actions showing an unwillingness to provide an adequate permanent home for the child;
5. The parent is incarcerated for an offense committed against the child or sibling of the child;

\* \* \*

In the case herein, the record does not support a finding under any one of the factors set forth above. Thus there is not clear and convincing evidence that the conditions and lack of progress is so severe as to adversely affect S.Z.'s ability to raise the child.

The magistrate found that the S.Z. suffers from mild retardation. He found that S.Z. loves her daughter and visits regularly, but otherwise nothing has changed in her life from the beginning of the case. He dismisses her testimony because she reportedly lied about her relationships and dodged the social worker on one occasion.

S.Z. has made progress. S.Z. has struggled with lice but has learned the source of the lice infestation and worked with the health nurse to resolve the issue. S.Z. did allow her son and daughter-in-law, who were inappropriate, to live in the home for a period of time. They, however, vacated prior to the permanent custody hearing. Likewise the principal inappropriate person who lived in the house, Harold "Jack" Lucas, died in February 2009. A subsequent boyfriend, who is deemed inappropriate, visited the home. It is not clear that he lived there because the mother testified that he had his own apartment at the time of the hearing. S.Z. further stated that she would be able to protect her daughter as only she and her daughter would be allowed in the home.

While progress is not what the social worker wanted to see, considering the mother's cognitive impairment and the available time left, the mother should be given the opportunity to be successful.

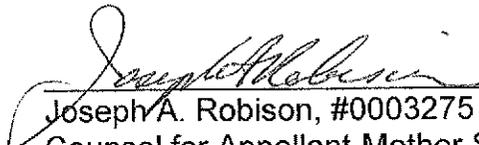
Efforts had been made by the mother and changes had started. It is clear that additional time was available to work on the case plan and should have been allowed to the mother. Considering the serious consequence to the family of granting permanent custody, a parent should be given every opportunity to regain custody. The trial court, therefore, erred in its decision not to allow the mother additional time to work on the case plan.

## **CONCLUSION**

This matter should be reversed in order to grant the Appellant additional time to complete the case plan.

**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing Memorandum in support of Jurisdiction has been served by hand delivery and/or ordinary U.S. mail postage prepaid on this 16 day of March, 2010 upon Erin Welch, Counsel for Appellee, Licking County Children Services, Melinda Seeds, GAL for A. Z. and William B. Sowards, GAL for Appellant-Mother S. Z. to their address of record.

  
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[Cite as *In re A.Z.*, 2010-Ohio-456.]

COURT OF APPEALS  
LICKING COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

IN THE MATTER OF:

A.Z.

JUDGES:

Hon. Julie A. Edwards, P.J.  
Hon. William B. Hoffman, J.  
Hon. John W. Wise, J.

Case No. 2009 CA 129

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Licking County Court of  
Common Pleas, Juvenile Case No.  
F 2007-0700

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

February 3, 2010

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EXHIBIT \_\_\_\_\_

*Hoffman, J.*

{¶1} Appellant Sharon Zook ("Mother") appeals the October 8, 2009 Judgment Entry entered by the Licking County Court of Common Pleas, Juvenile Division, which terminated all of her parental rights with respect to her minor daughter, A.Z., and granted permanent custody of the child to appellee Licking County Department of Job and Family Services, Children Service Division ("the Agency").

#### STATEMENT OF THE CASE AND FACTS

{¶2} On September 17, 2007, the Agency filed a Complaint in the Licking County Court of Common Pleas, Juvenile Division, seeking an order for six-months protective supervision of A.Z. (DOB 9/24/97). The Agency became involved with Mother and A.Z. in August, 2007, due to concerns over poor supervision in the home; Mother's inability to meet A.Z.'s physical and medical needs; and Mother's permitting people to live in the home who were using drugs and alcohol. Within one week of the filing of the Complaint for protective supervision, the trial court placed A.Z. in the emergency shelter care custody of the Agency due to Mother's noncompliance with the Agency's directives. The Agency filed an Amended Complaint, seeking temporary custody of the child.

{¶3} The magistrate conducted an adjudicatory hearing on December 4, 2007, at which Mother agreed to a finding of dependency. The magistrate proceeded to disposition, finding it would be in A.Z.'s best interest to place her in the temporary custody of the Agency. The Agency developed a case plan for Mother which required her to identify and meet A.Z.'s medical and basic needs, identify non-safe persons living

in her home, and provide appropriate care and supervision for A.Z. Mother was also asked to work with a parent mentor to learn how to keep A.Z. safe.

{¶4} On August 19, 2008, the Agency filed a motion seeking an extension of the trial court's original order of temporary custody in order to give Mother additional time to work on her case plan, and to provide the Agency with an opportunity to explore a relative placement. Via Judgment Entry filed September 4, 2008, the trial court extended temporary custody until March 17, 2009. The Agency, however, filed a Motion for Permanent Custody on February 13, 2009, as Mother had been unsuccessful in making any progress on her case plan and her home situation had deteriorated. The magistrate conducted a hearing on the Motion for Permanent Custody on May 4, 2009.

{¶5} Catherine Weber, an ongoing social worker with the Agency, testified she was assigned to work with the family on September 25, 2007, following A.Z.'s removal from the home. Weber discussed the concerns in the home which led to the Agency's initial involvement. Weber explained it had been hard to address issues with Mother because the information Mother provided was either not accurate or not truthful. For example, the Agency tried to assist Mother in budgeting her living expenses, which the Agency calculated based upon one person living in the household. In actuality, four adults were living in the household. The Agency repeatedly informed Mother Harold Lucas was not a safe person to be in the home because of an extensive and severe alcohol problem. Mother, nonetheless, allowed Lucas to remain in the home and supervise A.Z.. Weber and Mother discussed this situation throughout the course of the matter. At the time of the hearing, Lucas was no longer in the home as he had passed away in February, 2009. Mother's boyfriend, Clifford Cessor, was living in the home.

The Agency advised Mother he, too, was an inappropriate caregiver for A.Z. Cessor had a criminal record, including corruption of a minor with drugs for which he was on probation. Although Mother repeatedly denied either of the two men lived with her, when Weber called or arrived unannounced, one or both of the men would be there. Mother's adult son and girlfriend, who had had three of her own children removed, were also living in the home. The couple had problems with domestic violence as well as drug and alcohol use. The couple did not leave the residence until April, 2008. In January, 2009, Weber learned the lease to Mother's apartment was in Lucas's name.

{¶6} Weber expressed her concerned that if A.Z. were returned to the home, Mother would continue to permit inappropriate people to be around the child. Weber believed A.Z. would be left to the mercy of the other adults in the home as Mother was not in a position to protect the child. Due to her cognitive limitations, Mother is unable to identify what is a risk to A.Z.. Mother is a hard worker and has been at the same job for a long time. However, Mother spends her pay on the other adults in the home, leaving her unable to meet A.Z.'s needs. Weber reviewed Mother's budget with her following Lucas's death. Weber showed Mother she had more than enough money coming in to meet her bills. Mother admitted to Weber she had been buying alcohol for Lucas, using her own money. Weber noted this was just one example of Mother not being able to handle her own money appropriately.

{¶7} Throughout the proceedings, Mother resided in a one bedroom apartment which Weber stated would be fine if she were living on her own. However, because Mother never has been the only one living in her home, Weber had extreme concerns A.Z. would not have a place to separate herself from the others. Further, there was

nothing for a child in the home, nor had there been when A.Z. was initially removed. Mother never recognized holidays and birthdays with gifts for A.Z.

{¶8} With respect to visits, Weber testified both Mother and A.Z. enjoy their visits together, and looked forward to them. However, during visits, A.Z. took the parenting role, leading and directing the conversation. A.Z. is very “parentified”, asking Mother if she paid her bills and discussing Mother’s financial situation.

{¶9} Weber recognized Mother’s cognitive delays, but noted Mother knows the difference between a truth and a lie, and the difference between right and wrong. Mother also knows what a rule is and whether such is being followed or not. Mother is simply noncompliant and had been for the entire course of the proceedings. After a year and a half, Mother was still not following the rules. Weber explained this inability to follow the rules would place A.Z. at significant risk, and Mother was still unable to assess risks to the child. Because of Mother’s lack of compliance and cooperation, Weber has been unable to move forward with services.

{¶10} Carla Steiner, a social worker with the agency, supervised Mother’s visits with A.Z. from October, 2007, until October, 2008. Of seventeen visits scheduled between October 3, 2007, and March 28, 2008, Mother was permitted to attend only five visits because of an ongoing issue with lice. During visits, Mother would re-infest A.Z. which resulted in the child missing a significant amount of school. Although Steiner instructed Mother to have the other people in her home checked and treated for lice, Mother never did so.

{¶11} Steiner testified Mother and A.Z. did well together at the visits, and they love each other and are bonded. However, when observing the two at visits, Steiner noted A.Z. took the parental role and Mother permitted the girl to do so. A.Z. would become upset with Mother for not recognizing her birthday or Christmas.

{¶12} Jean Neader, a service coordinator with the Licking County Board of MRDD, testified Mother is one of her clients. Neader explained she typically meets with a client four times per year, although, some individuals need additional assistance. During the last year, Mother had asked Neader for help paying her rent on several occasions. Mother works full time at Goodwill, earning \$8.00/hour, and bringing home slightly over \$500.00 every two weeks. Neader had attempted to speak with Mother about where her money goes, however, Neader has been unable to ascertain such information from Mother.

{¶13} The guardian ad litem rendered her opinion it was in A.Z.'s best interest for the Agency to be granted permanent custody. The magistrate issued his decision on May 14, 2009, recommending Mother's parental rights be permanently terminated, and the Agency be granted permanent custody of the child. Mother filed timely objections to the magistrate's decision.

{¶14} Via Judgment Entry and Decision, both filed October 8, 2009, the trial court overruled Mother's objections to the magistrate's decision, and approved and adopted said decision as order of the court.

{¶15} It is from this judgment entry Mother appeals, raising as her sole assignment of error:

{¶16} "I. THE TRIAL COURT ERRED BY GRANTING PERMANENT CUSTODY OF A.Z. TO THE LICKING COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, BECAUSE ITS FINDING THAT A.Z. COULD NOT BE PLACED WITH HER MOTHER, SHARON ZOOK, WITHIN A REASONABLE AMOUNT OF TIME WAS CONTRARY TO THE MANIFEST WEIGHT OF THE EVIDENCE."

{¶17} This case comes to us on the expedited calendar and shall be considered in compliance with App. R. 11.1(C).

I

{¶18} In her sole assignment of error, Mother contends the trial court's finding A.Z. could not be returned to Mother within a reasonable time was against the manifest weight of the evidence.

{¶19} As an appellate court, we neither weigh the evidence nor judge the credibility of the witnesses. Our role is to determine whether there is relevant, competent and credible evidence upon which the fact finder could base its judgment. *Cross Truck v. Jeffries* (Feb. 10, 1982), Stark App. No. CA5758. Accordingly, judgments supported by some competent, credible evidence going to all the essential elements of the case will not be reversed as being against the manifest weight of the evidence. *C.E. Morris Co. v. Foley Constr.* (1978), 54 Ohio St.2d 279, 376 N.E.2d 578.

{¶20} Furthermore, it is well-established "[t]he discretion which the juvenile court enjoys in determining whether an order of permanent custody is in the best interest of a child should be accorded the utmost respect, given the nature of the proceeding and the impact the court's determination will have on the lives of the parties concerned." *In re*

*Mauzy Children* (Nov. 13, 2000), Stark App.No.2000CA00244, quoting *In re Awkal* (1994), 95 Ohio App.3d 309, 316, 642 N.E.2d 424.

{¶21} R.C. 2151.414 sets forth the guidelines a trial court must follow when deciding a motion for permanent custody. R.C. 2151.414(A)(1) mandates the trial court schedule a hearing, and provide notice, upon filing of a motion for permanent custody of a child by a public children services agency or private child placing agency that has temporary custody of the child or has placed the child in long-term foster care.

{¶22} Following the hearing, R.C. 2151.414(B) authorizes the juvenile court to grant permanent custody of the child to the public or private agency if the court determines, by clear and convincing evidence, it is in the best interest of the child to grant permanent custody to the agency, and that any of the following apply: (a) the child is not abandoned or orphaned, and the child cannot be placed with either of the child's parents within a reasonable time or should not be placed with the child's parents; (b) the child is abandoned; (c) the child is orphaned and there are no relatives of the child who are able to take permanent custody; or (d) the child has been in the temporary custody of one or more public children services agencies or private child placement agencies for twelve or more months of a consecutive twenty-two month period ending on or after March 18, 1999.

{¶23} In determining the best interest of the child at a permanent custody hearing, R.C. 2151.414(D) mandates the trial court must consider all relevant factors, including, but not limited to, the following: (1) the interaction and interrelationship of the child with the child's parents, siblings, relatives, foster parents and out-of-home

providers, and any other person who may significantly affect the child; (2) the wishes of the child as expressed directly by the child or through the child's guardian ad litem, with due regard for the maturity of the child; (3) the custodial history of the child; and (4) the child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody.

**{¶24}** Therefore, R.C. 2151.414(B) establishes a two-pronged analysis the trial court must apply when ruling on a motion for permanent custody. In practice, the trial court will usually determine whether one of the four circumstances delineated in R.C. 2151.414(B)(1)(a) through (d) is present before proceeding to a determination regarding the best interest of the child.

**{¶25}** If the child is not abandoned or orphaned, then the focus turns to whether the child cannot be placed with either parent within a reasonable period of time or should not be placed with the parents. Under R.C. 2151.414(E), the trial court must consider all relevant evidence before making this determination. The trial court is required to enter such a finding if it determines, by clear and convincing evidence, that one or more of the factors enumerated in R.C. 2151.414(E)(1) through (16) exist with respect to each of the child's parents.

**{¶26}** Mother contends she substantially complied with terms of her case plan and should be given additional time in which to remedy the conditions which caused A.Z.'s removal. As set forth in our Statement of the Case and Facts, supra, Mother did not substantially comply with the case plan. Mother was repeatedly instructed to not allow unsafe persons to be around A.Z., however, she continued to let such people live in her home. Mother has cognitive difficulties, however, the testimony revealed she

knows the difference between right and wrong, but chooses not to take appropriate actions.

{¶27} Based upon the foregoing and the entire record in this matter, we find the trial court's finding A.Z. could not be placed with Mother within a reasonable time was not against the manifest weight of the evidence.

{¶28} Mother's sole assignment of error is overruled.

{¶29} The judgment of the Licking County Court of Common Pleas, Juvenile Division, is affirmed.

By: Hoffman, J.

Edwards, P.J. and

Wise, J. concur

s/ William B. Hoffman  
HON. WILLIAM B. HOFFMAN

s/ Julie A. Edwards  
HON. JULIE A. EDWARDS

s/ John W. Wise  
HON. JOHN W. WISE

