[Cite as *In re H.F.*, 2024-Ohio-3265.]

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
SCIOTO COUNTY

IN THE MATTER OF: :

H.F., :

Case No. 24CA4062
Adjudicated Neglected/
:
24CA4063
Dependent Child,
24CA4064
:

AND

:
R.F.,
:
DECISION AND JUDGMENT
ENTRY
Adjudicated Abused/
Dependent Child. :

APPEARANCES:

Alana Van Gundy, Bellbrook, Ohio, for Appellant Tiffany Fowler.[1]

Nathan D. Boone, Dayton, Ohio, for Appellant Franklin Johnson IV.[2]

Shane A. Tieman, Scioto County Prosecuting Attorney, and Elisabeth M. Howard, Scioto County Assistant Prosecuting Attorney, Portsmouth, Ohio, for Appellee.

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[1] Different counsel represented Appellant Tiffany Fowler during the trial court proceedings.
[2] Different counsel represented Appellant Franklin Johnson IV during the trial court proceedings.

CIVIL CASE FROM COMMON PLEAS COURT, JUVENILE DIVISION
DATE JOURNALIZED:8-16-24
ABELE, J.

{¶1} This is a consolidated appeal from a Scioto County Common Pleas Court, Juvenile Division, judgment that granted Scioto County Children Services, appellee herein, permanent custody of three-year-old R.F. and nine-year-old H.F.

{¶2} Appellant Tiffany Fowler, the children's biological mother, raises the following assignment of error:

> "THE JUVENILE COURT ERRED IN FINDING THAT PERMANENT CUSTODY WAS IN THE BEST INTEREST OF THE CHILD, WHEN THAT FINDING WAS NOT SUPPORTED BY SUFFICIENT EVIDENCE AND WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE."

{¶3} Appellant Franklin Johnson IV, R.F.'s biological father, raises the following assignment of error:

> "THE JUVENILE COURT ERRED IN FINDING THAT THERE WAS CLEAR AND CONVINCING EVIDENCE TO SUPPORT A FINDING THAT IT WAS IN THE BEST INTEREST OF FATHER'S MINOR CHILD, R.F., TO BE PLACED IN THE PERMANENT CUSTODY OF SCCS WHEN SUCH A FINDING WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE."

{¶4} On May 15, 2020, appellee filed a complaint that alleged H.F. is "a neglected/dependent child." The affidavit attached to the complaint alleged that appellee received a report that the mother had overdosed and refused treatment. A caseworker visited the residence and mother submitted to a drug

screen, positive for methamphetamine, benzodiazepine, amphetamine, barbiturates, suboxone, and THC. As a result, appellee asked the trial court to issue an ex parte order to place the child in its temporary custody. The court subsequently entered an ex parte order that placed H.F. in appellee's temporary custody.

{¶5} On July 7, 2020, the court adjudicated H.F. "neglected/dependent" and continued her in appellee's temporary custody. The court later entered a dispositional order that placed H.F. in appellee's temporary custody.

{¶6} On August 31, 2020, appellee filed a complaint that alleged R.F. is "an abused/dependent child." The affidavit attached to the complaint alleged that on August 20, 2020, mother gave birth to R.F. and both mother and R.F. tested positive for suboxone. R.F. had to be transferred to Nationwide Children's Hospital due to respiratory distress. Appellee requested the court to issue an ex parte order to place the child in its temporary custody and the court entered an order to place R.F. in appellee's temporary custody.

{¶7} On November 25, 2020, the court adjudicated R.F. an "abused/dependent" child. Shortly thereafter, the court entered a dispositional order that placed R.F. in appellee's temporary

custody.

{¶8} On July 27, 2022, appellee filed motions that requested the court to place the children in its permanent custody. On November 3, 2022, August 1, 2023, and October 4, 2023, the magistrate held a permanent-custody hearing.[3] On February 2, 2024, the magistrate issued a decision to grant the agency's motions for permanent custody. On February 20, 2024, the trial court adopted the magistrate's decision and placed the children in appellee's permanent custody. The court found that the children have been in appellee's temporary custody for more than 12 months of a consecutive 22-month period and that placing the children in appellee's permanent custody is in their best interests.

{¶9} With respect to the children's interactions and interrelationships, the trial court found that the children's relationship with the mother "is detrimental to [them]." The court stated that H.F. "has spent a good portion of her life in foster care and away from her mother" and that she has "had very little contact" with the mother over the past two years. The

[3] Although the parties submitted a transcript of the permanent-custody hearing on appeal, as we explain later, the parties did not object to the magistrate's decision and did not submit a transcript for the trial court to review in the first instance. Consequently, we may not consider the transcript.

court additionally observed that (1) the mother "admitted that she may be a stranger to [R.F.]" and (2) the children's foster parent stated that R.F. "did not know her parents."

{¶10} The trial court also found that R.F.'s relationship with the father "is virtually non-existent." The court noted that father admitted he visited R.F. only four or five times and has not seen R.F. in two years.

{¶11} As to the children's wishes, the court determined that R.F. is too young to express her wishes. The court stated that it considered H.F.'s wishes as expressed to the guardian ad litem.

{¶12} Regarding the children's custodial history, the court noted that H.F. first was placed in appellee's temporary custody in February 2018, then returned to mother's custody in May 2018. H.F. remained in mother's custody until May 15, 2020. R.F. was placed in appellee's temporary custody in August 2020, shortly after birth.

{¶13} The trial court also determined that the children need a legally secure permanent placement and they cannot achieve this type of placement without granting appellee permanent custody. The court found that the mother "has made progress regarding her [drug] addiction" but determined that "she still

[is] battling these demons and cannot provide a legally secure placement for her children at this time."

{¶14} With respect to R.F.'s father, the court noted that at the time of the permanent-custody hearing, the father had been sober for nine months and three weeks. The court further observed that R.F.'s father and the children's mother continue to live together and that father "admitted that issues of domestic violence existed in the home." The court additionally stated that father "pled guilty to violating a civil protection order." The court also indicated that, at the permanent-custody hearing, the father stated "that it would not be in [R.F.]'s best interest . . . to leave the only home she has ever known," i.e., the foster home.

{¶15} After hearing the evidence and counsels' arguments, the trial court determined that placing the children in appellee's permanent custody would be in their best interests and granted appellee's motions that requested permanent custody of the children. These appeals followed.

A

{¶16} In her sole assignment of error, the mother asserts that insufficient evidence exists to support the trial court's decision and the decision is against the manifest weight of the

evidence. Specifically, she contends that she "substantially completed her case plan," and she "has not been provided the opportunity to show any form of behavior change or application of her parenting skills due to the termination of visitation."

{¶17} The mother also contends that R.C. 2151.414 required the court to find "that the child[ren] cannot be placed with either parent within a reasonable period of time." She alleges that appellee did not produce any evidence to show that she is "incapable of parenting" the children, but instead, only introduced evidence "that she didn't do it quickly enough."

{¶18} In his sole assignment of error, the father argues that the record does not contain clear and convincing evidence to support the trial court's decision.

{¶19} Appellee requests that we dismiss appellants' appeals because appellants did not object to the magistrate's decision in accordance with Juv.R. 40(D)(3)(b)(iv). As such, appellee asks that we dismiss these appeals. Appellee further argues that the record contains "abundant competent, credible evidence that it is in the best interest of the minor children for permanent custody to be granted to the Agency."

B

{¶20} We first observe that neither appellant filed objections to the magistrate's decision in accordance with Juv.R. 40(D)(3)(B). The juvenile rules require an objecting party to (1) file written objections to a magistrate's decision within 14 days of the decision, (2) state with specificity and particularity all grounds for objection, and (3) support objections to a magistrate's factual finding with a transcript of the evidence submitted to the magistrate or an affidavit of evidence if a transcript is unavailable. Juv.R. 40(D)(3)(b)(i)-(iii). If none of the parties file written objections, a trial court may adopt the "magistrate's decision unless it determines that there is an error of law or other defect evident on the face of the magistrate's decision." Juv.R. 40(D)(4)(c).

{¶21} Furthermore, we point out that the purpose of the requirement to support objections with a transcript of the evidence is to allow a court to fulfill its duty under Juv.R. 40(D)(4)(d): to "undertake an independent review as to the objected matters to ascertain that the magistrate has properly determined the factual issues and appropriately applied the law." *See generally* App.R. 9 2013 Staff Notes (trial court cannot undertake independent review "unless the appellant provided the trial court with an adequate description of the

evidence presented to the magistrate—either through a transcript or, if a transcript is unavailable, an affidavit describing that evidence"). "In the absence of a transcript or an affidavit, a trial court is required to accept the magistrate's findings of fact and may only determine the legal conclusions drawn from those facts." (Citations omitted.) *Hopkins v. Hopkins*, 2014-Ohio-5850, ¶ 25 (4th Dist.); *accord M.S. v. J.S.*, 2020-Ohio-5550, ¶ 9 (6th Dist.), quoting *In re M.W.*, 2012-Ohio-2959, ¶ 6 (6th Dist.) (stating that "[w]ithout a transcript, 'the trial court is required to accept the magistrate's findings of fact as true, and is permitted to examine only the legal conclusions based on those facts'"); *Allread v. Allread*, 2011-Ohio-1271, ¶ 18 (2d Dist.), quoting *Dayton Police Dept. v. Byrd*, 2010-Ohio-4529, ¶ 8 (2d Dist.) (if the objecting party does not file a proper transcript of all relevant testimony or an affidavit of evidence, "'a trial court's review is necessarily limited to the magistrate's conclusions of law'").

{¶22} Additionally, the juvenile rules prevent a party from assigning "as error on appeal the court's adoption of any factual finding or legal conclusion * * * unless the party has objected to that finding or conclusion as required by Juv.R. 40(D)(3)(b)." Juv.R. 40(D)(3)(b)(iv). This rule "embodies the

long-recognized principle that the failure to draw the trial court's attention to possible error when the error could have been corrected results in a waiver of the issue for purposes of appeal." *In re Etter*, 134 Ohio App.3d 484, 492 (1st Dist. 1998). Thus, under Juv.R. 40(D)(3)(b)(iv), parties who do not object to a magistrate's decision waive all but plain error. *See State ex rel. Neguse v. McIntosh*, 2020-Ohio-3533, ¶ 9, quoting Civ.R. 53(D)(3)(b)(iv) ("failure to object to the magistrate's decision bars [appellant] from 'assign[ing] as error on appeal the court's adoption of any factual finding or legal conclusion' of the magistrate" and appellate review is therefore limited to plain error); *State ex rel. Pallone v. Ohio Court of Claims*, 2015-Ohio-2003, ¶ 11 ("If a party fails to follow the procedures set forth in Civ.R. 53(D)(3)(b)(iii) for objecting to a magistrate's findings by failing to provide a transcript to the trial court when filing objections, that party waives any appeal as to those findings other than claims of plain error."); *Barclay Square Condominium Owners Assn. v. Ruble*, 2023-Ohio-1311, ¶ 22-23 (2d Dist.) (failure to object to a magistrate's decision limits appellant to plain-error review on appeal); *Tucker v. Hines*, 2020-Ohio-1086, ¶ 6 (10th Dist.) ("party who fails to timely object to a magistrate's decision is

limited by operation of Juv.R. 40(D)(3)(b)(iv) to claims of plain error on appeal"); *In re Z.A.P.*, 2008-Ohio-3701, ¶ 16 (4th Dist.) ("failure to object to the magistrate's decision prevents [appellant] from raising assignments of error related to that decision, other than as plain error").

{¶23} For the plain error doctrine to apply, the party who claims error must establish that (1) "'an error, i.e., a deviation from a legal rule'" occurred, (2) the error was "'an "obvious" defect in the trial proceedings,'" and (3) this obvious error affected substantial rights, i.e., the error "'must have affected the outcome of the trial.'" *State v. Rogers*, 2015-Ohio-2459, ¶ 22, quoting *State v. Barnes*, 94 Ohio St.3d 21, 27 (2002); *Schade v. Carnegie Body Co.*, 70 Ohio St.2d 207, 209 (1982) ("A 'plain error' is obvious and prejudicial although neither objected to nor affirmatively waived which, if permitted, would have a material adverse affect on the character and public confidence in judicial proceedings.").

{¶24} The plain error doctrine is not, however, readily invoked in civil cases. Instead, an appellate court "must proceed with the utmost caution" when applying the plain error doctrine in civil cases. *Goldfuss v. Davidson*, 79 Ohio St.3d 116, 121 (1997). The Ohio Supreme Court has set a "very high

standard" for invoking the plain error doctrine in a civil case. *Perez v. Falls Financial, Inc.*, 87 Ohio St.3d 371, 376 (2000). Thus,

> the doctrine is sharply limited to the extremely rare case involving exceptional circumstances where error, to which no objection was made at the trial court, seriously affects the basic fairness, integrity, or public reputation of the judicial process, thereby challenging the legitimacy of the underlying judicial process itself.

Goldfuss, 79 Ohio St.3d at 122; *accord Jones v. Cleveland Clinic Found.*, 2020-Ohio-3780, ¶ 24; *Gable v. Gates Mills*, 2004-Ohio-5719, ¶ 43. Moreover, appellate courts "'should be hesitant to decide [forfeited errors] for the reason that justice is far better served when it has the benefit of briefing, arguing, and lower court consideration before making a final determination.'" *Risner v. Ohio Dept. of Nat. Resources*, 2015-Ohio-3731, ¶ 28, quoting *Sizemore v. Smith*, 6 Ohio St.3d 330, 332 (1983), fn. 2; *accord Mark v. Mellott Mfg. Co., Inc.*, 106 Ohio App.3d 571, 589 (4th Dist.1995) ("Litigants must not be permitted to hold their arguments in reserve for appeal, thus evading the trial court process."). Additionally, "[t]he plain error doctrine should never be applied to reverse a civil judgment * * * to allow litigation of issues which could easily have been raised and determined in the initial trial." *Goldfuss*, 79 Ohio St.3d at

122.

{¶25} In the case sub judice, neither appellant filed objections to the magistrate's decision. Thus, the trial court did not have an opportunity to review the issues the parties now raise on appeal. Consequently, appellants have forfeited all but plain error. Juv.R. 40(D)(3)(b)(iv). As we explain below, we do not believe that any error occurred in the case at bar.

{¶26} We also observe that appellants did not submit for the trial court's review a transcript of the proceedings held before the magistrate or an affidavit of the evidence. We do recognize that appellants did request a transcript for purposes of appeal. However, appellants' "failure to file the transcript with the trial court prevents this court from adding it to the record and deciding this appeal based on material that was not part of the trial court's proceedings." *In re A.B.*, 2021-Ohio-3660, ¶ 22 (4th Dist.); *see State ex rel. Pallone v. Ohio Court of Claims*, 2015-Ohio-2003, ¶ 11, citing App.R. 9(C) (supplementing the record on appeal with a hearing transcript that the party did not submit to the trial court "is of no consequence"); *accord Morgan v. Eads*, 2004-Ohio-6110, ¶ 13, citing *State v. Ishmail*, 54 Ohio St.2d 402 (1978), paragraph one of the syllabus ("a bedrock principle of appellate practice in Ohio is that an

appeals court is limited to the record of the proceedings at trial"); *State v. Williams*, 73 Ohio St.3d 153, 160 (1995) (reviewing court may not consider transcripts that were not part of the trial court's record). "In plain terms, [appellate courts] cannot consider evidence that the trial court did not have when it made its decision." *Pallone* at ¶ 11, citing *Herbert v. Herbert*, 2012-Ohio-2147, ¶ 13-15 (12th Dist.); *see also* App.R. 9(C)(2) ("In cases initially heard in the trial court by a magistrate, a party may use a statement under this division in lieu of a transcript if the error assigned on appeal relates solely to a legal conclusion. If any part of the error assigned on appeal relates to a factual finding, the record on appeal shall include a transcript or affidavit previously filed with the trial court as set forth in Civ.R. 53(D)(3)(b)(iii), Juv.R. 40(D)(3)(b)(iii), and Crim.R. 19(D)(3)(b)(iii)."). Thus, in reviewing the trial court's decision for plain error, we may not consider the transcript that appellants have submitted on appeal. *E.g., Babcock v. Welcome*, 2012-Ohio-5284, ¶ 16 (4th Dist.), quoting *Molnar v. Molnar*, 2001 WL 688898, *2 (9th Dist. June 20, 2001) (reviewing "'court will not review the transcript on appeal because our decision would then be predicated upon materials that the trial court did not have the opportunity to

review in rendering its judgment'"); *accord In re S.N.*, 2020-Ohio-3958, ¶ 19 (1st Dist.); *Tucker v. Hines*, 2020-Ohio-1086, ¶ 8 (10th Dist.); *In re I.W.*, 2019-Ohio-1515, ¶ 9 (1st Dist.).

C

{¶27} We certainly recognize that "parents' interest in the care, custody, and control of their children 'is perhaps the oldest of the fundamental liberty interests recognized by th[e United States Supreme] Court.'" *In re B.C.*, 2014-Ohio-4558, ¶ 19, quoting *Troxel v. Granville*, 530 U.S. 57, 65 (2000). Indeed, the right to raise one's "child is an 'essential' and 'basic' civil right." *In re Murray*, 52 Ohio St.3d 155, 157 (1990); *accord In re Hayes*, 79 Ohio St.3d 46, 48 (1997); *see Santosky v. Kramer*, 455 U.S. 745, 753 (1982) ("natural parents have a fundamental right to the care and custody of their children"). Thus, "parents who are 'suitable' have a 'paramount' right to the custody of their children." *B.C.* at ¶ 19, quoting *In re Perales*, 52 Ohio St.2d 89, 97 (1977), citing *Clark v. Bayer*, 32 Ohio St. 299, 310 (1877); Murray, 52 Ohio St.3d at 157.

{¶28} A parent's rights, however, are not absolute. *In re D.A.*, 2007-Ohio-1105, ¶ 11. Rather, "'it is plain that the natural rights of a parent * * * are always subject to the

ultimate welfare of the child, which is the polestar or controlling principle to be observed.'" *In re Cunningham*, 59 Ohio St.2d 100, 106 (1979), quoting *In re R.J.C.*, 300 So.2d 54, 58 (Fla. App. 1974). Thus, the State may terminate parental rights when a child's best interest demands such termination. *D.A.* at ¶ 11.

{¶29} Before a court may award a children services agency permanent custody of a child, R.C. 2151.414(A)(1) requires the court to hold a hearing. The primary purpose of the hearing is to allow the court to determine whether the child's best interests would be served by permanently terminating the parental relationship and by awarding permanent custody to the agency. *Id.* Additionally, when considering whether to grant a children services agency permanent custody, a trial court should consider the underlying purposes of R.C. Chapter 2151: "to care for and protect children, 'whenever possible, in a family environment, separating the child from the child's parents only when necessary for the child's welfare or in the interests of public safety.'" *In re C.F.*, 2007-Ohio-1104, ¶ 29, quoting R.C. 2151.01(A).

D

{¶30} A children services agency may obtain permanent

custody of a child by (1) requesting it in the abuse, neglect or dependency complaint under R.C. 2151.353, or (2) filing a motion under R.C. 2151.413 after obtaining temporary custody. In this case, appellee sought permanent custody by filing a motion under R.C. 2151.413. When an agency files a permanent custody motion under R.C. 2151.413, R.C. 2151.414 applies. R.C. 2151.414(A).

{¶31} R.C. 2151.414(B)(1) permits a trial court to grant permanent custody of a child to a children services agency if the court determines, by clear and convincing evidence, that the child's best interest would be served by the award of permanent custody and that one of the following conditions apply:

> (a) The child is not abandoned or orphaned or has not been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two month period ending on or after March 18, 1999, 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.
>
> (d) The child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two month period ending on or after March 18, 1999.
>
> (e) The child or another child in the custody of the parent or parents from whose custody the child has been removed has been adjudicated an abused, neglected, or dependent child on three separate occasions by any court in this state or another state.

{¶32} Thus, before a trial court may award a children services agency permanent custody, it must find, by clear and convincing evidence, (1) that one of the circumstances described in R.C. 2151.414(B)(1) applies, and (2) that awarding the children services agency permanent custody would further the child's best interest.

{¶33} "Clear and convincing evidence" is:

> the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the allegations sought to be established. It is intermediate, being more than a mere preponderance, but not to the extent of such certainty as required beyond a reasonable doubt as in criminal cases. It does not mean clear and unequivocal.

In re Estate of Haynes, 25 Ohio St.3d 101, 103-04 (1986).

R.C. 2151.414(B)(1)

{¶34} In the case at bar, the trial court found that the children had been in the agency's temporary custody for more than 12 months of a consecutive 22-month period, and thus, that R.C. 2151.414(B)(1)(d) applies. Appellants do not challenge this finding.

{¶35} To the extent the mother asserts that the trial court erred by finding (or failing to find) that the children cannot be placed with either parent within a reasonable time or should not be placed with either parent in accordance with R.C.

2151.414(B)(1)(a), we observe that R.C. 2151.414(B)(1) requires a trial court to find the existence of only one of the factors listed in 2151.414(B)(1)(a) to (e). As stated above, the trial court in the case sub judice found that R.C. 2151.414(B)(1)(d) applies. Consequently, the mother's argument that R.C. 2151.414(B)(1)(a) required the trial court to find "that the child cannot be placed with either parent within a reasonable period of time" is without merit. *See In re S.W.*, 2023-Ohio-793, ¶ 31 (4th Dist.) ("R.C. 2151.414(B)(1)(a), by its terms, is inapplicable when a child has been in a children services agency's temporary custody for 12 or more months of a consecutive 22-month period.").

BEST INTEREST

{¶36} R.C. 2151.414(D) directs a trial court to consider "all relevant factors," as well as specific factors, to determine whether a child's best interest will be served by granting a children services agency permanent custody. The listed factors include: (1) the child's interaction and interrelationship 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 child's wishes, as expressed directly by the child or through the child's

guardian ad litem, with due regard for the child's maturity; (3) the child's custodial history; (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 factors listed under R.C. 2151.414(E)(7) to (11) apply.

{¶37} Courts that must determine whether a grant of permanent custody to a children services agency will promote a child's best interest must consider "all relevant [best interest] factors," as well as the "five enumerated statutory factors." *C.F.* at ¶ 57, citing *In re Schaefer*, 2006-Ohio-5513, ¶ 56; *accord In re C.G.*, 2008-Ohio-3773, ¶ 28 (9th Dist.); *In re N.W.*, 2008-Ohio-297, ¶ 19 (10th Dist.). However, none of the best interest factors are entitled to "greater weight or heightened significance." *C.F.* at ¶ 57. Instead, the trial court considers the totality of the circumstances when making its best interest determination. *In re K.M.S.*, 2017-Ohio-142, ¶ 24 (3d Dist.); *In re A.C.*, 2014-Ohio -4918, ¶ 46 (9th Dist.). In general, "[a] child's best interest is served by placing the child in a permanent situation that fosters growth, stability, and security." *In re C.B.C.*, 2016-Ohio-916, ¶ 66 (4th Dist.), citing *In re Adoption of Ridenour*, 61 Ohio St.3d 319, 324

Scioto, 24CA4062, 24CA4063, and 24CA4064 (1991).

{¶38} In the case sub judice, we do not believe that the trial court plainly erred by determining that placing the children in appellee's permanent custody is in their best interests. Based upon the record before us, we cannot state that the trial court committed a manifest miscarriage of justice. We point out that evidence cited in the trial court's decision shows that the children do not share a positive relationship with mother and father has "virtually" no relationship with R.F.

{¶39} Furthermore, when the agency filed its permanent-custody motions, H.F. had been in its temporary custody for more than two years and R.F. had been in its temporary custody for nearly two years. By the conclusion of the permanent-custody hearing, both children had been in the agency's temporary custody for more than three years. Additionally, R.F. has never been in her mother's or father's custody. Instead, she has spent her entire life in appellee's temporary custody.

{¶40} The trial court determined that mother cannot provide the children with a legally secure permanent placement because she continues to battle her drug addiction. We have no basis to conclude otherwise.

{¶41} Likewise, the trial court found that father cannot provide R.F. with a legally secure permanent placement. The trial court observed that (1) the father continues to battle his drug addiction, (2) domestic violence had occurred in the home, and (3) the father violated a civil protective order. The trial court also emphasized that the father agreed to remove R.F. from "the only home that she has known," (i.e., the foster home) would not be in her best interest.

{¶42} In sum, we believe that the evidence cited in the trial court's decision constitutes ample competent and credible evidence that placing the children in appellee's permanent custody is in their best interests. Nothing in the record suggests that the court obviously erred by placing the children in the agency's permanent custody. Moreover, the record does not indicate that this case is one of the exceptional cases in which failing to recognize an error would seriously affect "the basic fairness, integrity, or public reputation of the judicial process, thereby challenging the legitimacy of the underlying judicial process itself." *Goldfuss*, 79 Ohio St.3d at 122. While this result is unfortunate for mother and father, we certainly express our hope that they will continue to make strides to improve their lives.

{¶43} Accordingly, based upon the foregoing reasons, we overrule the mother's and the father's respective assignments of error and affirm the trial court's judgment.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the appeal be affirmed and that appellee recover of appellants the costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Scioto County Common Pleas Court, Juvenile Division, to carry this judgment into execution.

A certified copy of this entry shall constitute that mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Smith, P.J. & Hess, J.: Concur in Judgment & Opinion

For the Court

BY:_____
Peter B. Abele, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.