

[Cite as In re: Llewellyn, 2002-Ohio-7188.]

COURT OF APPEALS
FAIRFIELD COUNTY, OHIO
FIFTH APPELLATE DISTRICT

IN THE MATTER OF:	:	JUDGES:
AARON LLEWELLYN, ALLEGED	:	Hon. William B. Hoffman, P.J.
DEPENDENT CHILD	:	Hon. W. Scott Gwin, J.
	:	Hon. John W. Wise, J.
	:	
	:	
	:	Case No. 2002CA51
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	:	
	:	
	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Civil appeal from the Fairfield County Court of Common Pleas, Juvenile Division, Case No. 2002-AB14

JUDGMENT: Affirmed

DATE OF JUDGMENT ENTRY: December 18, 2002

APPEARANCES:

For-Appellee GREGG MARX Assistant Prosecuting Attorney 201 S. Broad St., 4 th Floor Lancaster, OH 43130	For-Appellant MARGARET A. SMITH 329 E. Main Street Lancaster, OH 43130
For- Guardian Ad Litem MARTHA DEAN 36 N. High Street	For- Lawrence Featheroff DONALD E. WOOD 4437 Wright Avenue Whitehall, OH 43213

Canal Winchester, OH 43110

Gwin, J.

{¶1} Aaron Llewellyn was born on November 13, 2001, and is the child of appellant Patti Llewellyn and Lawrence Featheroff. On November 14, 2001, appellee Fairfield County Children's Services filed a complaint alleging that Aaron was dependent. On February 7, 2002, that case was dismissed without prejudice, and on the same day, a dependency complaint was filed under the current case number. On February 7, Aaron Llewellyn was placed under the temporary shelter custody of appellee. The court ordered that appellee was not required to make reasonable efforts to reunite the family, as on December 21, 2001, the court had granted permanent custody of Brian and Kyle Llewellyn, Aaron's half siblings, and Victoria Featheroff, appellant's full sibling, to appellee.

{¶2} The case proceeded to trial in the Fairfield County Juvenile Court. At that time, the court took judicial notice of the testimony heard in the permanent custody trial involving Brian, Kyle, and Victoria. The evidence at that trial demonstrated that Kyle and Brian were in foster care in Perry County from October of 1997, to October of 1998, at which time they were returned to appellant. In March of 2000, when Victoria was an infant, all three children were removed from appellant's home due to physical abuse perpetrated on Victoria.

{¶3} The evidence reflected that protecting the children from physical abuse in the home was a grave concern. Mr. Featheroff, who was incarcerated at the time of Aaron's birth, had committed domestic violence against appellant. Appellant was very dependent on others, specifically men. Although she maintained employment for a period of time, she gave all of her money to Featheroff, and when he was incarcerated, she befriended

another male. After he was released from jail, she became pregnant by Featheroff with Aaron. One of the persons appellant permitted to care for the children had been convicted of sex crimes, and another physically abused Victoria. There was evidence that appellant placed her relationship with Featheroff before her relationship with her children.

{¶4} The evidence also demonstrated that appellant was unable to meet the children's basic needs by improving hygiene in the home. The home remained unclean throughout the entire history of appellee's involvement with the family. While appellant was generally consistent with her visits with the children, during a four week period in September of 2000, she left the area to be with Featheroff as he worked on the carnival circuit, and did not notify her mother or appellee of this fact, prompting her mother to file a missing persons report. In 1998, when Brian and Kyle were living with appellant, they were sent to protective daycare every day, and appellant frequently requested that the foster parents and others take the children for the weekend, even the first weekend they were returned home.

{¶5} At the time of the hearing concerning the permanent custody motion of Aaron, appellant stated that permanent custody concerning the other three children was a good decision for them, as they were better off with people who could have given them the care that they needed. The court found that since the granting of permanent custody of the other three children, appellant had failed to satisfactorily address any of the agency's previous concerns, and some of the agency's concerns have strengthened.

{¶6} The court concluded that appellant had demonstrated a lack of commitment towards Aaron, and demonstrated an unwillingness to provide an adequate permanent home for Aaron. The court terminated appellant's parental rights, and granted permanent

custody to appellee. Appellant assigns a single error on appeal.

{¶7} “THE TRIAL COURT ERRED IN ORDERING PERMANENT CUSTODY OF AARON LLEWELLYN TO FAIRFIELD COUNTY CHILDREN’S SERVICES AS SUCH WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.”

{¶8} Appellant first argues that the court erred in failing to require appellee to implement a case plan regarding Aaron, and attempt to reunify the family. She argues that at the time the initial complaint was filed, immediately after Aaron’s birth, permanent custody of the children had not been granted to appellee, and thus the agency was required to make efforts to reunify.

{¶9} At the time the complaint in the instant case was filed, February of 2002, permanent custody of Brian, Kyle, and Victoria had been granted to appellee. Pursuant to R.C. 2151.419 (A)(2)(e), the agency is not required to make reasonable efforts to reunify when the parent from whom the child was removed has had parental rights involuntarily terminated with respect to a sibling of the child. Because permanent custody of Victoria, Brian, and Kyle had been granted to appellee prior to the filing of the complaint at issue in the instant appeal, the court did not err in finding the agency was not required to make reasonable efforts to reunify. Any issues regarding the complaint that was dismissed are not before the court on this appeal.

{¶10} Appellant also argues that the finding that she had demonstrated a lack of commitment toward Aaron is against the manifest weight of the evidence. She argues that she had no opportunity to address the concerns of the agency, as no case plan for reunification was filed. However, the evidence reflected that at the time of the hearing concerning Aaron, appellant remained unemployed, and did not have her own residence.

At that time, both appellant and Featheroff were living with appellant's mother. The report of the Guardian Ad Litem demonstrated that appellant did not believe Featheroff had harmed her other children, and elected to pursue her relationship with him, despite the fact that the Guardian had informed her that she might be able to provide appropriate parenting for Aaron if she demonstrated improvement through concentrated therapy. There was sufficient evidence to support the court's conclusion that appellant had not demonstrated a positive change in the months between the permanent custody judgment concerning her three older children, and the permanent custody hearing concerning Aaron.

{¶11} The assignment of error is overruled.

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

By Gwin, J.

Hoffman, P. J., and

Wise, J., concur

JUDGES

