

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

In the Matter of: : Case No. 09CA11
D. H. : DECISION AND JUDGMENT ENTRY
: **Released 11/6/09**

APPEARANCES:

Robert W. Bright, Story Law Office, Pomeroy, Ohio, for appellant.

Jeff Adkins, Gallia County Prosecuting Attorney, Gallipolis, Ohio, for appellee.

Harsha, J.

{¶1} R.L.T. appeals from the judgment of the Gallia County Juvenile Court dismissing a dependency complaint and denying habeas corpus relief. The court granted temporary custody of a minor child, D.H., to Gallia County Child Services (GCCS). Later, the court placed D.H. with his grandparents who reside in Monroe County. After the temporary custody order expired, the appellant R.L.T., who is D.H.'s natural mother, moved to dismiss the complaint. The court granted the dismissal without issuing any dispositional findings or ordering that D.H. be returned to his mother. Seeking a return of the custody of her child, R.L.T. subsequently filed a petition for a writ of habeas corpus, which the juvenile court denied. D.H. remains in the custody of his grandparents, under a different custody order issued by the Juvenile Court in Monroe County, Ohio.

{¶2} Initially, R.L.T. asserts that she has suffered a loss of due process because she has been denied her natural right to custody of her child. Because she is appealing an order that granted her motion to dismiss the agency's complaint, we find

that we are unable to provide any additional remedy under this assignment of error. Thus, we deny that aspect of her appeal.

{¶3} R.L.T. also contends the juvenile court could not dismiss the complaint without issuing a finding concerning whether the original problems that led to the findings of dependency were resolved or sufficiently mitigated by R.L.T. and without ordering D.H.'s return to her. Based upon the Supreme Court of Ohio's recent analysis of the juvenile court's statutory obligation, we agree and remand the matter to the Gallia County Juvenile Court to make an appropriate statutory disposition.

{¶4} Finally, R.L.T. asserts error in the juvenile court's refusal to grant her a writ of habeas corpus for custody of the minor child. However, we affirm the juvenile court's denial of habeas corpus relief as that extraordinary method of relief is not available to R.L.T. who had an adequate remedy in the ordinary course of law by way of intervening and appealing the order of the Monroe County Court.

I. FACTS

{¶5} D.H. was born on February 1, 2007. The next day, GCCS filed a complaint seeking temporary custody of D.H. in the Juvenile Court Division of the Gallia County Court of Common Pleas. The complaint alleged that D.H. was a dependent child by virtue of the prior death of another of R.L.T.'s children, i.e., that D.H. was in danger of harm because of his environment and its related history. See R.C. 2151.04(D). That same day, the court awarded GCCS temporary custody of D.H. After adopting a case plan for the continued care and possible future reunification of D.H. with his parents, the court found that A.H. was his father. Then the court granted legal

custody of D.H. to his paternal grandparents, who live in Monroe County, Ohio. They have retained custody of D.H. and have raised him there since April of 2007.

{¶6} On August 7, 2008, R.L.T. submitted her first motion to dismiss the agency's complaint or, in the alternative, for the juvenile court to make a dispositional order. In that motion, R.L.T. argued that the one year sunset date for an award of temporary custody had passed but that the juvenile court still had jurisdiction to make a dispositional order. R.L.T. asked the court to either dismiss the dependency case or enter a dispositional order finding that she had resolved the problems that led to the complaint. The court never ruled on the motion to dismiss.

{¶7} Eventually, the court set a final custody hearing for October 6, 2008. This hearing date was continued until December 15, 2008, at the request of the prosecuting attorney for Gallia County. The hearing date was again continued until January 22, 2009, at R.L.T.'s request. The case was yet again continued at the request of the Gallia County prosecutor. This last delay was the result of the disbarment of D.H.'s guardian ad litem. After he was replaced, the final custody hearing was set for February 13, 2009.

{¶8} On February 10, 2009, R.L.T. filed a renewed motion to dismiss the case. In that motion, R.L.T. asked the court to find that the original problems that led to the filing of the complaint had been resolved or sufficiently mitigated and that D.H. should be returned to her care. On February 11, 2009, a magistrate converted the February 13 hearing from a final dispositional hearing to one on "pending pre-trial motions and final pretrial."

{¶9} Our record does not include a transcript of the hearing that occurred on February 13, 2009, but it appears from the court's subsequent journal entry that the Gallia County Prosecutor also moved to dismiss the dependency case at that time.

{¶10} On February 19, 2009, D.H.'s grandparents filed a complaint for custody in the Monroe County Juvenile Court. On February 23, 2009, that court issued an order granting temporary custody of D.H. to his grandparents.

{¶11} In the interim, on February 20, 2009, the Gallia County Juvenile Court dismissed the Gallia County dependency complaint. The journal entry did not contain any findings concerning whether the original conditions that led to the complaint had been resolved or sufficiently mitigated. Neither did the journal entry order that the child be returned to R.L.T. This same day, R.L.T. filed a verified complaint in the Gallia County Juvenile Court for a writ of habeas corpus for the custody of D.H.

{¶12} R.L.T. also filed a motion for relief under Civil Rule 60(A) asking the juvenile court to correct "clerical errors" in the February 20, 2009, journal entry that dismissed the case. R.L.T. argued that the court erred by failing to include a finding that the original problems that led to the complaint were resolved or sufficiently mitigated by R.L.T. and for failing to order the return of D.H. to her.

{¶13} At a hearing on her petition for habeas corpus, R.L.T. argued she was entitled to the writ because Monroe County did not have jurisdiction to issue a custody order regarding D.H. She contended that the grandparents prematurely filed their custody petition in Monroe County, a day before Gallia County dismissed its dependency complaint. Because the complaint was technically still pending, she argued that Monroe County could not establish jurisdiction to determine custody.

However, the Gallia County Juvenile Court denied the writ. The court found that Monroe County had assumed jurisdiction and issued a lawful custody order on the 23rd and D.H. was not being “unlawfully detained.” The court recommended that R.L.T. attack the validity of the custody order in Monroe County, and if she were able to get the Monroe case dismissed she should renew her writ in Gallia County.

{¶14} In the journal entry denying habeas corpus, the court incorrectly listed two dates. First, the court stated that the Gallia County case was dismissed on February 13, 2009. The case had in fact been dismissed on February 20, 2009. Further, the court found that R.L.T. filed her petition for a writ of habeas corpus on February 26, 2009. She actually filed her petition on February 20, 2009.

{¶15} In addressing the Civ. R. 60(A) motion, the court stated that the journal entry properly dismissed the case and R.L.T.’s requested language concerning resolution or mitigation and the return of custody was “extraneous.” The court found that, under R.C. 3109.042, the custody of the child reverted to R.L.T. by operation of law upon dismissal of the complaint. The court stated “[w]ith no other orders pending at that time, the mother had the lawful right after the dismissal to retrieve her child under that same statutory authority. However, after the Monroe County Juvenile Court’s Orders she lost that authority.”

{¶16} R.L.T. filed a second motion for relief under Civ.R. 60(A), asking the juvenile court to correct the entry to accurately reflect the dates mentioned above. The juvenile court issued an amended entry, acknowledging that the dates in the March 13 entry were incorrect and incorporating the time-stamped dates of those documents by

reference. The court further found that the corrected dates had no “impact or bearing to the decision of this Court in denying the writ of habeas corpus.”

II. ASSIGNMENTS OF ERROR

{¶17} 1. THE JUVENILE COURT’S REFUSAL TO DISMISS THE COMPLAINT IN THIS MATTER FOR MORE THAN TWO YEARS FROM THE DATE OF THE FILING OF THE COMPLAINT VIOLATED THE DUE PROCESS RIGHTS OF THE NATURAL MOTHER R.L.T. AND THE JUVENILE COURT’S CONTINUED REFUSAL TO ACT IS CONTINUING TO VIOLATE THE DUE PROCESS RIGHTS OF THE NATURAL MOTHER R.L.T.

{¶18} 2. THE JUVENILE COURT ERRED IN THE FEBRUARY 20, 2009 JOURNAL ENTRY BY FAILING TO INCLUDE IN THAT JOURNAL ENTRY A STATEMENT OF THE COURT’S DETERMINATION THAT THE ORIGINAL PROBLEMS WHICH LED TO THE FILING OF THE COMPLAINT WERE RESOLVED OR SUFFICIENTLY MITIGATED BY THE NATURAL MOTHER R.L.T. AND BY FAILING TO STATE THAT THE MINOR CHILD D.H. SHOULD BE RETURNED TO HIS NATURAL MOTHER R.L.T.

{¶19} 3. THE JUVENILE COURT ERRED IN THE MARCH 13, 2009 ENTRY IN DENYING THE NATURAL MOTHER R.L.T.’S MOTION FOR RELIEF UNDER CIVIL RULE 60(A) AND FOR THE COURT TO AMEND/CORRECT [THE] COURT’S JOURNAL ENTRY.

{¶20} 4. THE JUVENILE COURT ERRED IN THE MARCH 13, 2009 ENTRY IN FINDING THAT THE REQUIREMENTS OF *IN RE YOUNG CHILDREN* (1996), 76 OHIO ST.3D 632, 669 N.E.2D 1140 ARE “EXTRANEOUS LANGUAGE.”

{¶21} 5. THE JUVENILE COURT ERRED IN THE MARCH 13, 2009 ENTRY IN DENYING THE NATURAL MOTHER'S AMENDED PETITION FOR WRIT OF HABEAS CORPUS FOR CUSTODY OF MINOR CHILD D.H.

{¶22} 6. THE JUVENILE COURT ERRED IN FINDING THAT THE CORRECT DATE OF FILING OF THE APPELLANT'S WRIT OF HABEAS CORPUS AND THE CORRECT DATE OF THE DISMISSAL OF THE COMPLAINT HAD NO IMPACT OR BEARING ON THE COURT'S PRIOR DENIAL OF THE APPELLANT'S WRIT OF HABEAS CORPUS.

{¶23} 7. THE JUVENILE COURT ERRED IN THE MARCH 13, 2009 ENTRY IN FINDING THAT THE MONROE COUNTY JUVENILE COURT HAS JURISDICTION OVER THIS MATTER.

III. DUE PROCESS CLAIMS

{¶24} In her first assignment of error, R.L.T. argues that the trial court denied her right of due process by failing to dismiss the agency's complaint after the sunset provisions of R.C. 2151.353(F) had passed. R.C. 2151.353(F) states:

Any temporary custody order issued pursuant to division (A) of this section shall terminate one year after the earlier of the date on which the complaint in the case was filed or the child was first placed into shelter care, except that, upon the filing of a motion pursuant to section 2151.415 of the Revised Code, the temporary custody order shall continue and not terminate until the court issues a dispositional order under that section. In resolving the motion, the court shall not order an existing temporary custody order to continue beyond two years after the date on which the complaint was filed or the child was first placed into shelter care, whichever date is earlier, regardless of whether any extensions have been previously ordered pursuant to division (D) of section 2151.415 of the Revised Code.

{¶25} We do not believe the mother's first assignment of error raises an issue we can address in our role as an appellate court. Section 3(B)(2), Article IV of the Ohio

Constitution provides courts of appeal have appellate jurisdiction as may be provided by law. Under R.C. 2501.02 courts of appeal “have jurisdiction upon an appeal on questions of law to review, affirm, modify, set aside, or reverse judgments or final orders * * *.” Likewise, App.R. 12(A) provides that in deciding an appeal, a court of appeals shall:

(1) Review and *affirm, modify, or reverse* the judgment or final order appealed;

* * *

{¶26} Here, the order or judgment that R.L.T. appeals is the dismissal of the agency’s complaint by an entry dated February 20, 2009. Our role in reviewing that judgment is limited by the provisions of App.R. 12(A) to affirming, modifying or reversing that judgment. Yet, R.L.T. seemingly asks this court for a declaration that the delayed dismissal violated her right to due process. We decline to address the contentions of the first assignment of error, which reads more like a complaint for declaratory judgment or a writ of procedendo than an assignment of error. Furthermore, because R.L.T. did not seek a writ of procedendo, her due process arguments are unavailing. See *State of Ohio, ex rel. Scioto Co. Enforcement Agency v. Adams*, Scioto App. No. 98CA2617, 1999 WL 597257, at *10.

{¶27} We will address the substance and form of the dismissal entry below, however.

IV. DISMISSAL OF JUVENILE CASE

{¶28} To aid in our review of this issue, we address R.L.T.’s second and fourth assignments of error together. In her second assignment of error, R.L.T. argues that the court erred in its February 20, 2009, journal entry of dismissal by failing to include a

statement of the court's determination that the "original problems that led to the filing of the complaint were resolved or sufficiently mitigated" by R.L.T. and by failing to order D.H.'s return to her. In a motion premised on Civ. R. 60(A), R.L.T. asked the court to correct its journal entry to insert that language, but the court denied this request. The propriety of that denial is addressed in the next section of this opinion. In denying the request for that language, the juvenile court characterized similar language appearing in *In Re Young Children* (1996), 76 Ohio St.3d 632, 1996-Ohio-45, 669 N.E.2d 1140, as "extraneous" and unnecessary. In her fourth assignment of error, R.L.T. argues that this language is not "extraneous" and thus must be included in the dismissal. Because both assignments of error concern whether the "*In re Young Children*" language creates an affirmative duty on the trial court, we analyze them together under a de novo standard of review.

{¶29} *In re Young Children* held that the passing of the statutory one-year time period or "sunset date" found in R.C. 2151.353(F) does not divest juvenile courts of jurisdiction to enter dispositional orders. *Id.* at syllabus. The court noted that a temporary order terminates upon the passing of the sunset date unless the agency files a motion for a dispositional order under R.C. 2151.415(A) no later than thirty days prior to termination. But the jurisdiction of the court continues. *Id.* at 637. Based upon the language of R.C. 2151.353(D)(1), which provides for a retention of jurisdiction until the child is eighteen or adopted, the court retains jurisdiction to make dispositional orders notwithstanding the termination of its temporary order. *Id.*

{¶30} The Supreme Court went on to reverse the juvenile court's dismissal of the complaint, which was based upon a lack of jurisdiction. In doing so, the court noted:

Accordingly, we reverse the dismissal of this case and remand to the trial court for further proceedings to determine whether the problems that led to the filing of the February 8, 1993 complaint had been resolved or sufficiently mitigated as of July 8, 1994, when the extended temporary custody order would have otherwise terminated. If these problems had been resolved or mitigated, the court should terminate the temporary custody order and release the child to his mother. If they had not, the court has discretion to make a further dispositional order pursuant to R.C. 2151.415 and our holding above.

Id. at 639.

{¶31} R.L.T. argues that on the basis of *In re Young Children*, the juvenile court was required to make a dispositional finding in its dismissal entry that the original problems that led to the filing of the dependency case were resolved or sufficiently mitigated by R.L.T. Furthermore, R.L.T. argues that the juvenile court should have expressly ordered that D.H. be returned to her. The juvenile court's response was that the requested language was "extraneous" because once the dependency case was dismissed, R.L.T. became the statutory custodian by operation of law. In effect, implicit in its dismissal was the finding that the problems that led to the original complaint had been resolved, and furthermore, R.L.T. had acquired the right to the child, barring any other unresolved custody orders.

{¶32} We continue our analysis with review of the relevant statutes. R.C. 2151.353 lists the available dispositions after a finding of abuse, neglect, or dependency. It provides:

- (A) If a child is adjudicated an abused, neglected, or dependent child, the court may make any of the following orders of disposition:
- (1) Place the child in protective supervision;
 - (2) Commit the child to the temporary custody of a public children services agency, a private child placing agency, either parent, a relative residing

within or outside the state, or a probation officer for placement in a certified foster home, or in any other home approved by the court;

- (3) Award legal custody of the child to either parent or to any other person who, prior to the dispositional hearing, files a motion requesting legal custody of the child

- (4) Commit the child to the permanent custody of a public children services agency or private child placing agency, if the court determines in accordance with division (E) of section 2151.414 of the Revised Code that the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent and determines in accordance with division (D) of section 2151.414 of the Revised Code that the permanent commitment is in the best interest of the child

- (5) Place the child in a planned permanent living arrangement with a public children services agency or private child placing agency, if a public children services agency or private child placing agency requests the court to place the child in a planned permanent living arrangement and if the court finds, by clear and convincing evidence that a planned permanent living arrangement is in the best interest of the child and that one of the following exists:

- (6) Order the removal from the child's home until further order of the court of the person who committed abuse as described in section 2151.031 of the Revised Code against the child, or who caused or allowed the child to suffer neglect as described in section 2151.03 of the Revised Code, or who is the parent, guardian, or custodian of a child who is adjudicated a dependent child and order any person not to have contact with the child or the child's siblings.

{¶33} Furthermore, R.C. 2151.353 addresses the continuing jurisdiction of courts that issue orders of disposition under that section and the so-called "sunset" provision relevant to temporary custody orders:

(E)(1) The court shall retain jurisdiction over any child for whom the court issues an order of disposition pursuant to division (A) of this section or

pursuant to section 2151.414 or 2151.415 of the Revised Code until the child attains the age of eighteen years ***

(F) Any temporary custody order issued pursuant to division (A) of this section shall terminate one year after the earlier of the date on which the complaint in the case was filed or the child was first placed into shelter care, except that, upon the filing of a motion pursuant to section 2151.415 of the Revised Code, the temporary custody order shall continue and not terminate until the court issues a dispositional order under that section.

{¶34} Here, the initial custody order was granted on February 2, 2007. But GCCS did not file a motion for a dispositional order under R.C. 2151.415 (such a motion could have extended the temporary custody order up until February 2, 2009. R.C. 2151.353(F)). Thus, we hold that the sunset provision of R.C. 2151.353(F) terminated the temporary order as of February 2, 2008.¹ On that date, R.L.T had the right to seek custody of D.H., although she was not vested automatically with the right to immediate custody of the child. See *Holloway v. Clermont County Dep't of Human Servs.*, 80 Ohio St.3d 128, 130, 1997-Ohio-131, 684 N.E.2d 1217. This is because the passing of the sunset date does not divest the trial court from making appropriate dispositional orders. *Id.*

{¶35} We look now to the question of whether a simple dismissal of the case was appropriate. The Third District Court of Appeals addressed this very issue in *In re R.A.*, 172 Ohio App.3d 53, 2007-Ohio-2997, 872 N.E.2d 1284. That case involved a series of transfers of a dependency case between the Departments of Job and Family Services in Mercer and Van Wert County. *Id.* at ¶¶2-12. The repeated transfers were

¹ We use this opportunity to clarify a statement we made in *In the Matter of A.W.*, Hocking App. No. 07CA14, 2008-Ohio-718. In that case we stated that “a temporary custody order *does not* terminate automatically upon the passage of the sunset date.” *Id.* at ¶9 (emphasis added.) Standing alone, that statement is inaccurate. But in *A.W.*, the child placing agency filed a motion pursuant to R.C. 2151.415. When a motion is filed under R.C. 2151.415, a temporary custody order does not terminate but continues until the court issues a dispositional finding permitted by that code section. See R.C. 2151.353(F). We clarify here that the statement in *A.W.* was intended to apply only to the situation where a motion is filed or pending under R.C. 2151.415, unlike the case here, where no motion was filed.

caused by an itinerant father who variously resided in each county. *Id.* The original complaint for dependency occurred in Mercer County on March 28, 2005. *Id.* at ¶2. As the father moved between counties, the agencies responded by transferring the case to the juvenile court of the other county.

{¶36} The last transfer was attempted by Van Wert County Department of Job and Family Services (VWCJFS) on October 17, 2006. But Mercer County refused to accept the transfer because it found that the residence of the children was in Van Wert County.

{¶37} On January 31, 2007, VWCJFS moved to dismiss the case in the Van Wert County Juvenile Court because none of the parties lived in Van Wert County and the children no longer were at an immediate risk as they were teenagers. *Id.* at ¶11. Van Wert County granted the motion and dismissed the case. *Id.* at ¶12. On appeal, Mercer County Department of Job and Family Services (MCJFS) asserted that the juvenile court abused its discretion by dismissing the case without issuing a statutory disposition of the children. *Id.* at ¶13.

{¶38} VWCJFS argued that dismissal was proper because the complaint was originally filed in Mercer County in March of 2005 and under R.C. 2151.353(F), the temporary custody order would have expired a year later, in March of 2006. *Id.* at ¶20. VWCJFS indicated they had not filed any motion under R.C. 2151.415 that would have extended the temporary custody order. *Id.*

{¶39} The Third District disagreed. It held that Van Wert County could not properly dismiss the case “based simply upon the expiration of the temporary custody order.” *Id.* at ¶25. The court held that under *In re Young Children*, Van Wert County

Juvenile Court retained jurisdiction over the children, who had been adjudicated dependent, and had the authority to make further dispositional orders because there had been no determination that the problems that led to the original custody order had been resolved. *Id.* at ¶26. The court then examined whether a “simple dismissal” was a proper disposition of the case.

{¶40} The court observed that R.C. 2151.353(A) presents six alternative orders of disposition that a court may enter on behalf of a child adjudicated abused, neglected, or dependent. *Id.* at ¶28. None of the alternative orders is a simple dismissal. *Id.* Thus, the court held that Van Wert County Juvenile Court erred in dismissing the case without entering a proper statutory disposition. *Id.* at ¶29.

{¶41} We find this reasoning persuasive. The legislature created Chapter 2151 of the Revised Code with the intent that it be “liberally interpreted and construed *** [t]o provide for the care, protection, and mental and physical development of children” and “[t]o provide judicial procedures *** in which the parties are assured of a fair hearing, and their constitutional and other legal rights are recognized and enforced.” R.C. 2151.01.

{¶42} To properly effectuate this legislative intent, before a juvenile court dismisses a complaint after finding a child dependent, it should expressly find that any problems that led to the necessity of temporary custody have been resolved or sufficiently mitigated. Both R.C. 2151.353 and *In re Young Children* compel such a requirement.

{¶43} If the court finds that those problems have not been resolved or sufficiently mitigated, then it has the power to make a further dispositional order under R.C.

2151.415. *In re Young Children*, 76 Ohio St.3d at 639. If the court finds those problems are resolved, it should order that the child be returned to the parent or appropriate legal custodian. *Id.* A simple dismissal is not in the best interest of the child and it is not within those six permissible dispositional orders as set forth by the legislature in R.C. 2151.353.

{¶44} Therefore, we hold that the juvenile court erred when it dismissed this case without journalizing an express determination concerning whether the issues that led to the filing of the dependency complaint were resolved or sufficiently mitigated by R.L.T. If they were, the court should have expressed that the child be returned to R.L.T. The language of the Supreme Court of Ohio in *In re Young Children*, is not “extraneous” and it must be addressed expressly by the termination entry.

V. DENIAL OF CIV.R. 60(A) MOTION TO CORRECT “CLERICAL ERRORS”

{¶45} In her third assignment of error, R.L.T. argues that the juvenile court erred when it denied her motion for relief under Civ.R. 60(A). R.L.T. claimed that the juvenile court made a clerical error in the journal entry by failing to include the “resolved or sufficiently mitigated” language of *In re Young Children* and for failing to order the child be returned to her.

{¶46} Our standard of review concerning a trial court’s decision to correct clerical mistakes under Civ.R. 60(A) is abuse of discretion. *Bobb Forest Products, Inc. v. Morbank Industries, Inc.*, 151 Ohio App.3d 63, 77, 2002-Ohio-5370, 783 N.E.2d 560, citing *State ex rel. Litty v. Leskovyansky* (1996), 77 Ohio St.3d 97, 100, 671 N.E.2d 236, superseded by rule on other grounds. An abuse of discretion connotes more than an error of law or judgment; it implies that the trial court acted unreasonably, arbitrarily, or

unconscionably. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219, 450 N.E.2d 1140.

{¶47} “Civ.R. 60(A) permits a trial court, in its discretion, to correct clerical mistakes which are apparent on the record, but does not authorize a trial court to make substantive changes in judgments.” *Leskovyansky* at 100, citing *Londrico v. Delores C. Knowlton, Inc.* (1993), 88 Ohio App.3d 282, 285, 623 N.E.2d 723. “The term ‘clerical mistake’ refers to a mistake or omission, mechanical in nature and apparent on the record *which does not involve a legal decision or judgment.*” *Id.*, citing *Londrico*, 88 Ohio App.3d at 285; *Dentsply Internatl., Inc. v. Kostas* (1985), 26 Ohio App.3d 116, 118, 498 N.E.2d 1079 (Emphasis added). The distinction between clerical mistakes, which are subject to correction under Civ.R. 60(A), and substantive mistakes, which are not, is that the former consist of “blunders in execution” and the latter consist of “instances where the court changes its mind, either because it made a legal or factual mistake in making its original determination, or because, on second thought, it has decided to exercise its discretion in a different manner.” *Londrico*, 88 Ohio App.3d at 285, citing *Kuehn v. Kuehn* (1988), 55 Ohio App.3d 245, 247, 564 N.E.2d 97.

{¶48} The juvenile court did not abuse its discretion in denying the requested relief under Civ. R. 60(A). R.L.T.’s requested changes are not available under that rule. First, the “resolved or sufficiently mitigated” language, if added, would constitute an additional finding of fact by the juvenile court. Such an addition is substantive. Second, the requested order commanding that the child be returned to the mother is unquestionably substantive. Moreover, R.L.T.’s Civ. R. 60(A) motion is supported by a memorandum of *law*, urging the juvenile court to make these additions to its journal

entry on the basis of *In re Young Children*. R.L.T. writes “[u]pon the dismissal of this case by this Court, the Court was and is required to make a finding that the original problems which led to the filing of the complaint have been resolved or sufficiently mitigated and release the child to his mother. See *In re Young Children* . . .” Thus, R.L.T. was arguing for the court to correct the journal entry not because of a clerical or mechanical error but because of an alleged legal mistake. Thus, under Civ. R. 60(A), the court would not have been permitted to make these changes even if it had agreed with R.L.T.’s legal analysis. Accordingly, the court properly rejected the requested changes because they were not available under Civ.R. 60(A). This assignment of error is meritless.

VI. DENIAL OF HABEAS CORPUS RELIEF

{¶49} R.L.T.’s fifth, sixth, and seventh assignments of error collectively challenge the juvenile court’s decision to deny habeas corpus relief. In her sixth assignment of error, R.L.T. challenges the juvenile court’s findings that the filing date of the petition for habeas corpus and the correct filing date of the juvenile court’s dismissal had no impact on the court’s denial of the writ of habeas corpus. In her seventh assignment of error, R.L.T. challenges the juvenile court’s finding that the Monroe County Juvenile Court has jurisdiction over custody of D.H. Because the juvenile court properly denied habeas corpus relief on separate legal grounds other than those challenged here, we will only address R.L.T.’s fifth assignment of error. Our standard of review of a denial of a writ of habeas corpus is de novo. *State ex rel. Scott Edwards* (Oct. 28, 1996), Ross App. No. 96CA2210, 1996 WL 628597, at *1.

{¶150} By statute, the juvenile court has exclusive original jurisdiction over habeas corpus actions involving the custody of a child. R.C. 2151.23(A)(3). R.C. 2725.01 establishes who is entitled to a writ of habeas corpus. A person may obtain a writ if they prove that they are (1) “entitled to the custody of another”; and (2) that they are being “unlawfully deprived” of that custody.

{¶151} A writ of habeas corpus is an extraordinary remedy, permitted only when there is no other adequate remedy in the ordinary course of law. *State ex rel. Mowen v. Mowen*, 119 Ohio St.3d 462, 464, 2008-Ohio-4759, 895 N.E.2d 163; see, also, *In Matter of Rose* (Sept. 26, 1986), Ross App. No. 1248, 1986 WL 11151, at *3. “[I]n order for there to be an adequate remedy at law, a remedy must be complete, beneficial, and speedy.” *Marich v. Knox County Dept. of Human Serv.* (1989), 45 Ohio St.3d 163, 165, 543 N.E.2d 776.

{¶152} R.L.T. argues that the court should have issued the writ because she established: 1) that she was entitled to custody of D.H. and 2) that the Monroe County court did not have jurisdiction to enter its custody order, i.e., she was unlawfully deprived of D.H. We cannot agree because R.L.T. had an adequate remedy of law to obtain custody of D.H.

{¶153} At the time of the March 4, 2009, hearing, Monroe County had already assumed jurisdiction over D.H. and had issued an ex parte temporary custody order in favor of the grandparents. During the March 4 hearing in Gallia County, R.L.T. revealed that she had already filed a motion to vacate the Monroe County ex parte order and that she also had moved to continue a hearing in that case as she was unable to attend because of previous work obligations. Counsel for R.L.T. told the Gallia County

Juvenile Court that he was “confident that I’m going to get that case dismissed.” Thus, R.L.T. acknowledged that she had a viable legal remedy to obtaining custody of D.H. by challenging the Monroe ex parte custody order. Furthermore, she was responsible for any initial delay in resolving the Monroe County custody case. Accordingly, R.L.T., as of the time of the March 4 hearing on the writ, had a complete and beneficial remedy at law.

{¶54} R.L.T. also argues that the juvenile court erred in finding that the correct filing dates of the writ of habeas corpus and the dismissal of the present case and that Monroe County had jurisdiction over D.H.’s custody had no bearing on the court’s decision to deny the writ of habeas corpus. Because we find that the writ of habeas corpus was properly denied by the trial court on separate grounds, it is not necessary to address those assignments of error.

VII. CONCLUSION

{¶55} Accordingly, we hold that R.L.T.’s first assignment of error is meritless. Our role as an appellate court does not permit us to afford her the relief she seeks for the alleged due process violations. But we find merit in R.L.T.’s assignments of error concerning the juvenile court’s dismissal of the dependency complaint. And we remand the matter to the juvenile court for further proceedings to determine whether the problems that led to the filing of the February 2, 2007, complaint had been resolved or sufficiently mitigated as of February 2, 2008, when the temporary custody order would have otherwise terminated. If these problems had been resolved or mitigated, the juvenile court should journalize its findings in that regard and order the release of D.H. to R.L.T. If that is not the case, the court should make an appropriate statutory

disposition. Finally, we hold that the trial court properly denied habeas corpus relief because R.L.T. possessed an adequate remedy in the ordinary course of law, i.e., an appeal of the Monroe County Juvenile Court's order.

JUDGMENT AFFIRMED IN PART,
REVERSED IN PART,
AND CAUSE REMANDED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS AFFIRMED IN PART AND REVERSED IN PART and that the CAUSE IS REMANDED. Appellant and Appellee shall split the costs.

The Court finds there were reasonable grounds for this appeal.

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

Any stay previously granted by this Court is hereby terminated as of the date of this entry.

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

Abele, J. & McFarland, J.: Concur in Judgment and Opinion.

For the Court

BY: _____
William H. Harsha, 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.