

Farmer, J.

{¶1} Appellant, Charles Kinkel, the biological father of Selena Kinkel (DOB September 24, 1999), Joshua Kinkel (DOB November 24, 2000), and Tessa Kinkel (DOB November 6, 2001) appeals from the judgment entered in the Stark County Court of Common Pleas, Juvenile Division, terminating appellant's parental rights and granting permanent custody of said minor children to the Stark County Department of Job and Family Services.

{¶2} Appellant assigns as error:

I.

{¶3} "APPELLANT'S STIPULATION PERMANENT CUSTODY FAILED TO COMPLY WITH JUVENILE RULE 29(D) AND WAS IN VIOLATION OF HIS DUE PROCESS RIGHTS AS GUARANTEED BY THE UNITED STATES CONSTITUTION AND THE OHIO CONSTITUTION.

II.

{¶4} "THE JUDGMENT OF THE TRIAL COURT THAT THE BEST INTERESTS OF THE MINOR CHILD WOULD BE SERVED BY THE GRANTING OF PERMANENT CUSTODY WAS AGAINST THE MANIFEST WEIGHT AND SUFFICIENCY OF THE EVIDENCE."

I.

{¶5} On June 6, 2002, the aforementioned minor children were found to be dependent and were placed in the temporary custody of the Stark County Department of Job and Family Services. The Department subsequently filed a Motion for Permanent Custody and a hearing on that motion was held on October 6, 2003. Both

appellant and the biological mother, Kathy Kinkel, stipulated that their parental rights be permanently terminated and that permanent custody be awarded to the Stark County Department of Job and Family Services. On October 6, 2003, a hearing was conducted as to the best interests of the children and testimony was submitted from the caseworker.

{¶6} Following that hearing, the trial court entered Findings of Fact and Conclusions of Law and entered judgment terminating appellant's parental rights and granting permanent custody to the Department of Job and Family Services. The mother did not appeal that decision. We now turn to appellant's Assignments of Error.

I.

{¶7} Through his first assigned error, appellant maintains that his stipulation agreeing that his parental rights be permanently terminated and that permanent custody be awarded to the Stark County Department of Job and Family Services violated his due process rights because said stipulation did not comply with Juv.R. 29(D). We disagree.

{¶8} Juv.R. 29(D), provides:

{¶9} "The Court may refuse to accept an admission and shall not accept an admission without addressing the party personally and determining both of the following:

{¶10} "(1) The party is making the admission voluntarily with understanding of the nature of the allegations and the consequences of the admission;

{¶11} “(2) The party understands that by entering an admission the party is waiving the right to challenge the witnesses and evidence against the party, to remain silent, and to introduce evidence at the adjudicatory hearing.

{¶12} “The Court may hear testimony, review documents, or make further inquiry, as it considers appropriate, or it may proceed directly to the action required by division (F) of this rule.”

{¶13} In the instant case, appellant was presented a parental stipulation to permanent custody. The record clearly demonstrates that appellant was represented by counsel during all proceedings.

{¶14} The parental stipulation to permanent custody that was executed by appellant demonstrates that appellant was presented all of his rights as set forth in Juv.R. 29(D), and his initials are printed next to each of his rights. Indeed, said stipulation includes a recitation of appellant’s right to a trial, the right to require that the Department of Job and Family Services prove all of the elements of its case by clear and convincing evidence, appellant’s rights to confront witnesses, appellant’s right to compel witnesses to appear, appellant’s right to remain silent, and other rights.

{¶15} Additionally, the transcript demonstrates that the trial court, before proceeding with the best interest hearing, questioned appellant as to whether he understood the nature of the proceedings, the effect of the proceedings and the rights he had with respect to these proceedings. It appears from the record that appellant knowingly, voluntarily, and intelligently waived his rights to contest the permanent custody proceedings involving his children.

{¶16} Appellant also contends that the trial court erred by not advising appellant of his right to appeal the trial court's decision. However, we find that issue to be moot. Appellant filed the within appeal and was, therefore, was not prejudiced by the trial court's failure to advise him of his right to appeal.

{¶17} For these reasons, we hereby overrule appellant's first assigned error.

II.

{¶18} Through his second and final Assignment of Error, appellant maintains the trial court's decision that the best interest of the minor children would be served by granting permanent custody to the Department of Job and Family Services was against the manifest weight and sufficiency of the evidence. Again, we disagree.

{¶19} A trial court may grant permanent custody only upon a showing by clear and convincing evidence that an award of permanent custody is in the children's best interest. R.C. 2151.414(D). In determining the best interest of the children, the court must consider all relevant factors, including, but not limited to, the following:

{¶20} "(1) The interaction and interrelationship of the child and his parents, siblings, relatives, foster parents and out-of-home providers, any other person who may significantly effect the child;

{¶21} "(2) The wishes of the child, as expressed directly or indirectly by the child or through his guardian ad litem, with due regard for the maturity of the child;

{¶22} "(3) The custodial history of the child;

{¶23} "(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." R.C. 2151.414(D).

{¶24} The only evidence presented at the best interest hearing on October 6, 2003, was the testimony of the caseworker, Vicky Mitchell. According to Ms. Mitchell's testimony, appellant had no contact with the Department of Job and Family Services with respect to his children. Appellant provided no care, custody, control, or involvement with his children in the eighteen months proceeding the best interest hearing. Appellant never visited with any of his children according to her testimony. Ms. Mitchell spoke to the interaction and interrelationship of the minor children with their siblings and temporary foster parents. She also indicated that two of the children had serious medical conditions that required special attention and care.

{¶25} Although the record does not clearly indicate the wishes of each minor child with respect to the custody proceedings, we believe that such direct evidence was not available because of the young age of each child. However, based upon Ms. Mitchell's testimony, it appeared that the children had expressed, indirectly, that their best interest would be served through an award of permanent custody.

{¶26} Ms. Mitchell also testified regarding the custodial history of each child and her opinion that the best interest of the children would be served by an award of permanent custody to the Department of Job and Family Services.

{¶27} We believe sufficient evidence was presented for the Court to determine that the children required a legally secure permanent placement and that any other type of placement short of permanent custody could not be achieved within a reasonable time. Again, it is noteworthy that both parents stipulated to the award of permanent custody.

{¶28} For these reasons, we believe that the trial court's judgment was not against the manifest weight of the evidence and that sufficient evidence was submitted to support the trial court's determinations.

{¶29} For these reasons, we hereby overrule appellant's second assigned error.

{¶30} For the foregoing reasons, the judgment of the Stark County Court of Common Pleas, Juvenile Division, is hereby affirmed.

By: Farmer, J.

Hoffman, P.J. and

Wise, J. concur.