

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2302

September Term, 2014

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IN RE: TRISTAN N.

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Graeff,  
Kehoe,  
Nazarian,

JJ.

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Opinion by Graeff, J.

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Filed: May 26, 2015

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Steven N. (“Father”), appellant, appeals from an order of the Circuit Court for Baltimore City, sitting as a juvenile court. The court granted the petition filed by the Baltimore City Department of Social Services (“BCDSS”) seeking guardianship with the right to consent to adoption or long term care short of adoption and termination of Father’s parental rights.<sup>1</sup>

On appeal, Father presents the following questions for our review, which we have consolidated and rephrased, as follows:

1. Did the juvenile court properly exercise its discretion when it denied Father’s request for a continuance of the termination of parental rights proceedings?
2. Did the juvenile court properly exercise its discretion in terminating Father’s parental rights to Tristan, after finding that Father is an unfit parent and exceptional circumstances exist to warrant termination of the parental relationship?

For the reasons set forth below, we shall affirm the judgment of the circuit court.

### **FACTUAL AND PROCEDURAL BACKGROUND**

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<sup>1</sup> Tristan is also an appellee, and both BCDSS and Tristan filed briefs in this Court. The briefs are substantively consistent, and we will refer to BCDSS and Tristan collectively as “appellees.”

Father and Brittany M. (“Mother”) met on an online site in December 2007.<sup>2</sup> Mother was pregnant with her daughter, Riley, when she met Father. Riley was born on May 15, 2008. In April 2008, Mother began living with Father in West Virginia. In April 2011, Father and Mother got married, but they separated in November 2013 on the advice of Father’s criminal attorney. At the time of the relevant proceedings, Mother continued to live in West Virginia, and Father resided in Baltimore City.

In August 2008, when Riley was approximately three months old, West Virginia child protective services removed her from Mother’s custody. One of Riley’s legs had been fractured, and Mother could not provide CPS with an explanation how or when the injury had occurred. When the fracture was identified, it was already healing. Riley went to live in West Virginia with her paternal grandmother.

On January 12, 2012, Tristan was born. On March 8, 2012, when Tristan was two months old, he and Father were home together while Mother was at work. Father reported to Mother that he had placed Tristan in his crib for a nap and went outside to smoke a cigarette. When he returned, he found that one of Tristan’s legs had become “wrapped” around the crib bars. As he removed Tristan’s leg, Father heard a “snap.” Father and Mother did not seek medical treatment for Tristan.

On March 10, 2012, again while Mother was at work, Father took Tristan to the emergency room at Franklin Square Hospital with a swollen leg. Father reported the March

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<sup>2</sup> Mother consented to the termination of her parental rights on the condition that Tristan would be adopted by his foster mother, Sandra F. Mother is not a party to this appeal.

8 incident to hospital staff, and he stated that, on March 9, he had given Tristan an over-the-counter pain reliever because Tristan had an elevated temperature. When Mother arrived at the hospital, she learned that Tristan’s leg was fractured. The attending physician concluded that Father’s explanation regarding how Tristan’s injury occurred was inconsistent with the injury.

As a result of his injury, BCDSS began an investigation. BCDSS social workers learned of Riley’s similar injury. As a result, they placed Tristan in shelter care. At the conclusion of the shelter care hearing, Tristan was returned to Mother’s sole custody under an order controlling the conduct of Father, who was permitted only supervised contact with Tristan. Over the next several months, Tristan had genetic testing to determine whether he suffered from brittle bone disease or some other genetic defect that may have contributed to his injuries. The results of those tests showed no evidence that a medical condition, as opposed to a “non-accidental” trauma, accounted for Tristan’s bone fracture.

Diane Hilson-Smith, a family preservation social worker, was assigned to Tristan’s case. On December 20, 2012, when Tristan was eleven months old, Ms. Hilson-Smith made an unannounced home visit, and she observed Tristan with marks and bruises on his face, head, and left shoulder. Ms. Hilson-Smith took pictures of Tristan with her cell phone and demanded that Mother take Tristan to the emergency room immediately. Tristan and Mother were transported to Johns Hopkins Hospital, where Tristan was examined.

When Ms. Hilson-Smith made her unannounced visit, she also observed that Mother had a black eye. Mother testified that she and Father had been arguing, and “there had been a lot of verbal abuse,” as well as physical abuse on two occasions, when Father hit

Mother in the nose and in the eye. Father admitted during his testimony that he had hit Mother, but he stated that it had “nothing to do with my child,” and he was “not an angry person.”

Dr. Maureen Shimkaveg examined Tristan in the emergency room. She observed multiple areas of bruising on Tristan’s head, face, and upper extremities. Father and Mother said that they had placed Tristan in his crib the previous night, went into another room, and then heard a “thud.”<sup>3</sup> When they went to check on Tristan, they found him outside of his crib on the floor with the humidifier next to him. Dr. Shimkaveg explained to them that Tristan’s bruising was not typical for the fall that they described. She stated that the “history and the physical exam did not align.”

Dr. Shimkaveg examined Tristan very carefully. She determined that the bruises were “not all the same color,” signifying that the injuries “happened at different times.” She believed that Tristan’s injuries happened over several days. She observed bruising on the right side of his face, along the jaw line, and above his right ear. On the left side of his face, there was bruising on “two different areas above the ear by the left eye, the left cheek, and on the front of the face, the forehead, two areas, one above the right eyebrow and then on the left cheek.”

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<sup>3</sup> Mother initially reported that she had been at home watching television with Father when Tristan became bruised. At the TPR hearing, however, she admitted that she had been at work when Father called her and told her that Tristan had fallen out of his crib and “had a goose egg on his head, but he was fine.” Mother acknowledged at the TPR hearing that Tristan’s bruises signified the third time that one of her children had been injured under conditions that she could not explain. She admitted that she did not take Tristan to the emergency room for his injuries because she “knew that it would look bad on [Father], because this would have been a second time that Tristan had gotten hurt in his care.”

Dr. Shimkaveg evaluated Tristan to make sure that there was no underlying cause that could explain his bruising. She performed numerous tests, including blood work, skeletal x-rays, a CAT scan of his head, an eye exam, and a urinalysis, but the results of the tests were unremarkable. Dr. Shimkaveg concluded within a reasonable degree of medical certainty that Tristan's injuries were not the result of a medical issue.

Father graduated from high school in a special education program and later from a technical school. He testified that he cannot read or spell, and he routinely needs assistance with reading written language. In 2012, Father became a stay-at-home father to Tristan while Mother worked outside of the home. In December 2012, when Tristan required evaluation for the more than one dozen bruises to his head, face, and body, which were in various stages of healing, he was Tristan's sole caretaker. BCDSS found Father to be the maltreater. Father also was charged criminally for the physical abuse of Tristan.

In March 2012, when Tristan was taken into BCDSS's custody, Mother asked her "step-aunt," Sandra F., to care for him. Ms. F. agreed and completed a nine-week training course through the Frederick County Department of Social Services. Tristan was 14 months old when he entered Ms. F.'s home and 34 months old at the time of the TPR hearing. Ms. F. testified that Tristan is thriving in her home, and he calls her husband, Mr. F., "daddy." Mr. F. and Tristan do "boy things" together, and Tristan has bonded with him. Tristan is also very attached to Ms. F.'s daughters.

When Tristan first came to live with the F. family, he had special needs. He was significantly underweight. Ms. F. took him to the pediatrician every two weeks to have his progress checked. Tristan also had learning delays and caseworkers from the Infants and

Toddler's program came to the F.'s home and played with Tristan to help him developmentally. Ms. F. noticed that Tristan "never cried" and rarely made babbling noises. Approximately six months after joining the F.'s household, Tristan's weight improved and he felt comfortable "expressing himself."

After Tristan initially was removed from his parents' custody as a result of his broken leg, the BCDSS returned him to Mother's care with the condition that Father would only have supervised contact with Tristan. The BCDSS met with both parents, and Ms. Hilson-Smith offered them various services, including parenting and anger management classes and referrals for therapy. Neither Mother nor Father attended anger management classes.

When Tristan was removed the second time, as a consequence of the bruising to his head and body, Father signed a medical release allowing Ruby Meekins, the social worker assigned to his case at that time, to receive reports about the weekly therapy sessions that Father had begun attending. Because Father had difficulty reading, Ms. Meekins referred him to a literacy class, but he attended only once.

On January 8, 2013, Father signed his first service agreement with Ms. Meekins, who helped Father read and review it. The service agreement offered Father additional referrals, including referrals for anger management classes at the House of Ruth, to a mental health therapist at Key Point, a second referral for parenting classes called Fathers Only, weekly family visits, and a family involvement meeting to discuss the case. Ms. Meekins also sent Father letters, which Mother read to him, informing him of the visitation schedule, notices for upcoming court appearances, and referrals for additional services.

Father did not attend parenting classes; nor did he provide Ms. Meekins with documentation that he had completed any of the services she had offered him.

The juvenile court had permitted Father to have supervised visits with Tristan in the F.'s home once a week for one hour. During the few visits that took place, Tristan appeared to "sometimes" enjoy his interactions with Father. Ms. F. described one visit, however, where Father was holding Tristan and Tristan accidentally hit Father in the face with a toy. Ms. F. saw Father's arms tighten and "blood vessels pop," and she had to tell Father to put Tristan down. Tristan ran from Father to Ms. F. and grabbed her so hard that it caused a bruise. After that, Tristan was very "leery" of Father. Father did not maintain a regular visitation schedule and eventually, Ms. F. required him to provide 24-hours notice before attending visits so that she would not have to wait for him if he was not going to show up. In May 2013, after the criminal court issued a no-contact order forbidding him from contact with Tristan. Father had Ms. F.'s phone number, but he never contacted her to inquire about Tristan.

Roger Ellis, the BCDSS social worker who was assigned to Tristan's case at the time of the TPR hearing, testified that he had observed Tristan in the F.'s home, and Tristan was doing very well. He did not have any concerns regarding Tristan's care.

With respect to the services offered to Father, Mr. Ellis prepared a service agreement for Father and sent it to him by certified mail. Father reviewed the agreement with Mother, signed it, and mailed it back to Mr. Ellis. The terms of the second service agreement continued those of the first, which had expired in February 2013. In the second agreement, Mr. Ellis offered Father referrals similar to those offered by Ms. Meekins, including

referrals to Family Tree and HARBEL, a community-based program providing mental health services. Father did not comply with the terms of the service agreement, and despite Mr. Ellis's attempts to follow-up with Father, Father provided no documentation of compliance.

In May 2014, a third service agreement began. Mr. Ellis reviewed the service agreement with Father, but Father again failed to provide documentation of compliance. Father missed several sessions with his clinical social worker, and he was discharged from treatment. He also was discharged from therapy sessions at Key Point counseling due to poor attendance. Mr. Ellis did not believe that Father had taken any steps to rehabilitate his situation.

### **STANDARD OF REVIEW**

Maryland appellate courts review child custody cases under three “different but interrelated” standards of review. *In re Adoption/Guardianship of Cadence B.*, 417 Md. 146, 155 (2010). First, we review factual findings under the clearly erroneous standard. *Id.* Second, we review purely legal questions *de novo*, requiring further proceedings except in cases of harmless error. *Id.* Finally, we review “the ultimate conclusion of the [juvenile court] founded upon sound legal principles and based upon factual findings that are not clearly erroneous” for a “clear abuse of discretion.” *Id.* (quoting *In re Yve S.*, 373 Md. 551, 586 (2003)).

### **DISCUSSION**

#### **I.**

#### **Request for a Continuance**

Father first argues that the court abused its discretion when it refused to postpone the TPR hearing pending the outcome of his criminal trial on charges relating to Tristan’s broken leg. He contends that, given the pending criminal trial, “he could not discuss the reason Tristan was removed without sacrificing his 5th amendment right against self-incrimination.” He asserts that the denial of his request for a postponement rendered him unable to “discuss at the TPR proceeding” the “very issues that resulted in the [c]ourt finding parental unfitness,” i.e., whether he “had abused or neglected Tristan.”

Appellees contend that the circuit court properly exercised its discretion in denying Father’s motion to postpone the TPR hearing. They assert that the court inquired into the circumstances surrounding the continuance request, but because Father “could not specify a date certain for the criminal trial,” Father “was unable to demonstrate that he could ameliorate within a reasonable time his claimed impediment to attending the TPR trial.” They argue that the “court reasonably declined to reschedule the TPR proceedings indefinitely until sometime after the criminal trial and improperly tie Tristan’s continued and lengthy stay in foster care to [Father’s] criminal fate.”

Appellees further assert that Father has failed to demonstrate any prejudicial effect on his ability to defend his parental rights by declining to testify about whether he abused or neglected Tristan. They assert that, “[e]ven though the juvenile court was required to consider whether ‘the parent has abused or neglected the child or a minor and the seriousness of the abuse or neglect,’ [Maryland Code (2012 Repl. Vol.) § 5-323(d)(3)(i) of the Family Law Article (“F.L.”)], the court properly did not focus on that or any other single factor alone.”

The “decision to grant a . . . [postponement] lies within the sound discretion of the trial judge,” and “[a]bsent an abuse of that discretion we historically have not disturbed the decision to deny a motion for a . . . [postponement].” *Neustadter v. Holy Cross Hosp. of Silver Spring, Inc.*, 418 Md. 231, 274 (2011) (quoting *Touzeau v. Deffinbaugh*, 394 Md. 654, 669 (2006)). An abuse of discretion occurs when a decision is “well removed from any center mark imagined by the reviewing court and beyond the fringe of what the court deems minimally acceptable.” *In re Ashley S.*, 431 Md. 678, 704 (2013) (quoting *In re Yve S.*, 373 Md. at 583-84).

Here, on November 3, 2014, the first day of the TPR hearing, Father requested that the TPR hearing be postponed. Counsel explained that the criminal trial stemming from charges relating to Tristan’s broken leg was scheduled for trial on December 16, 2014.<sup>4</sup> Father argued that he would be unable to testify freely about the incident, and he feared making self-incriminating statements at the TPR hearing that could be used against him in his criminal case.

The court noted that Tristan was placed in foster care on December 21, 2012, and was committed to BCDSS on March 22, 2013. The court determined that, even though Father might be unable to speak about the reason for Tristan coming into the care of the BCDSS, he nevertheless would be able to speak about other statutory factors that the court was required to consider when deciding whether to grant BCDSS’s TPR petition, including services offered by the BCDSS and reunification efforts. The court also noted that,

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<sup>4</sup> Father had filed two similar motions in July and August, both of which were denied.

although the “reason that the child came into care is . . . [a factor] . . . it is not the only [factor] that the [c]ourt considers in ruling on a [TPR]” petition. Father’s counsel agreed that Father would not be precluded from discussing facts relating to the other statutory factors.

The court also noted that the criminal trial already had been postponed several times, and it was not convinced that the December date was certain enough to make resetting the TPR hearing feasible, given that Father had waived his right, pursuant to *State v. Hicks*, 285 Md. 310 (1979), to have his criminal case brought to trial within 180 days. The court noted that a “request for continuance must reflect that the basis for the delay will be obviated within a brief period of time,” citing *Touzeau*, 394 Md. at 671, but Father was unable to demonstrate that.

The circuit court properly considered “[t]he valid premise . . . that it is in a child’s best interest to be placed in a permanent home and to spend as little time as possible in foster care.” *In re Adoption/Guardianship of No. 10941*, 335 Md. 99, 106 (1994). And even in a TPR case, “where the fundamental right of parents to raise their children stands in the starkest contrast to the State’s effort to protect those children from unacceptable neglect or abuse, the best interest of the child remains the ultimate governing standard.” *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 496 (2007). The focus of the court must be on the child’s best interest. *In re Adoption of Jayden G.*, 433 Md. 50, 68 (2013).

Here, we perceive no abuse of discretion. The circuit court properly considered that permanency was in the child’s best interests and that there was no certainty when the

criminal case would conclude. Moreover, Father was able to, and did, testify to the relevant statutory factors, with the exception of the cause of Tristan’s injuries, and he had the opportunity to cross-examine appellees’ witnesses. Under these circumstances, there was no abuse of discretion in denying Father’s request.

## II.

### **Termination of Father’s Parental Rights**

Father next argues that the court “erred when it concluded that [BCDSS] had shown by clear and convincing evidence that it was in Tristan’s best interest to terminate Father’s parental rights.” In support, he asserts: (1) the court “failed to state the facts that underlay [its] finding of severe medical neglect,” and “in fact, there is not sufficient evidence to support” such a finding; and (2) BCDSS did not provide adequate reunification services to him because the services were offered in “a perfunctory, haphazard fashion . . . not tailored to reasonably facilitate reunification.”

Appellees respond that the record “abounds” with evidence of medical neglect, and that clear and convincing evidence supported the court’s specific finding that Tristan was severely medically neglected by his parents. With respect to Father’s complaint about the manner in which the BCDSS offered him services, appellees respond that the court properly found that Father received services and referrals, carefully taking into account that Father was under a no-contact order.

This Court has recognized the “fundamental right of parents generally to direct and control the upbringing of their children.” *Barrett v. Ayres*, 186 Md. App. 1, 14, *cert. denied*, 410 Md. 560 (2009) (citations and quotations omitted). “The termination of

fundamental and constitutional parental rights is a ‘drastic’ measure, and should only be taken with great caution.” *In re Adoption/Guardianship Nos. J9610436 & J9711031*, 368 Md. 666, 699 (2002).

A parent’s fundamental right to raise his or her child, however, is not absolute. That right “must be balanced against the fundamental right and responsibility of the State to protect children, who cannot protect themselves, from abuse and neglect.” *Rashawn H.*, 402 Md. at 497. In determining whether to terminate parental rights, “it is unassailable that the paramount consideration is the best interest of the child.” *In re Adoption/Guardianship No. T00032005*, 141 Md. App. 570, 581 (2001). *Accord Ta’Niya C.*, 417 Md. at 112 (“the child’s best interest has always been the transcendent standard in adoption, third-party custody cases, and TPR proceedings”); *Rashawn H.*, 402 Md. at 496 (“the best interest of the child remains the ultimate governing standard”). It is generally presumed “that it is in the best interest of children to remain in the care and custody of their parents.” *Rashawn H.* at 495. That presumption, however, “may be rebutted upon a showing either that the parent is ‘unfit’ or that ‘exceptional circumstances’ exist which would make continued custody with the parent detrimental to the best interest of the child.” *Id.*

F.L. § 5-323(b) gives juvenile courts the authority to terminate an individual’s parental rights. It provides:

*Authority.* — If, after consideration of factors as required in this section, a juvenile court finds by clear and convincing evidence that a parent is unfit to remain in a parental relationship with the child or that exceptional circumstances exist that would make a continuation of the parental relationship detrimental to the best interests of the child such that terminating the rights of the parent is in a child’s best interests, the juvenile

court may grant guardianship of the child without consent otherwise required under this subtitle and over the child's objection.

The factors that a court must consider in determining the child's best interest are set forth in F.L. § 5-323(d):

*Considerations.* — Except as provided in subsection (c) of this section, in ruling on a petition for guardianship of a child, a juvenile court shall give primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether terminating a parent's rights is in the child's best interests, including:

(1)(i) all services offered to the parent before the child's placement, whether offered by a local department, another agency, or a professional;

(ii) the extent, nature, and timeliness of services offered by a local department to facilitate reunion of the child and parent; and

(iii) the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any;

(2) the results of the parent's effort to adjust the parent's circumstances, condition, or conduct to make it in the child's best interests for the child to be returned to the parent's home, including:

(i) the extent to which the parent has maintained regular contact with:

1. the child;
2. the local department to which the child is committed; and
3. if feasible, the child's caregiver;

(ii) the parent's contribution to a reasonable part of the child's care and support, if the parent is financially able to do so;

(iii) the existence of a parental disability that makes the parent consistently unable to care for the child's immediate and ongoing physical or psychological needs for long periods of time; and

(iv) whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the parent within an ascertainable time not to exceed 18 months from the date of placement unless the juvenile court makes a specific finding that it is in the child's best interests to extend the time for a specified period;

(3) whether:

(i) the parent has abused or neglected the child or a minor and the seriousness of the abuse or neglect;

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(4) (i) the child's emotional ties with and feelings toward the child's parents, the child's siblings, and others who may affect the child's best interests significantly;

(ii) the child's adjustment to:

1. community;
2. home;
3. placement; and
4. school;

(iii) the child's feelings about severance of the parent-child relationship; and

(iv) the likely impact of terminating parental rights on the child's well-being.

On December 2, 2012, the court delivered its ruling from the bench. In its ruling terminating Father's parental rights, the court considered at length each of the foregoing factors, seriatim, and made findings consistent with the evidence. Relevant to the issue raised by Father regarding the court's failure to state the facts concerning its finding of medical neglect, the court specifically found as follows:

Tristan N. was born in December of 2012. By March of 2013, he is taken to the hospital, where at three months of age, he is diagnosed with a broken femur. The explanation given by the child's parents at that time is that while in the care of the father, the child caught his leg on the bars of his crib. That as father was trying to free the leg he heard a snap but the child seemed okay. So no medical attention was sought.

A few days later, the child's leg is swollen and about five days after the snap, the child is taken to the hospital where he's diagnosed with a broken femur. Hospital personnel were suspicious of the injury because it appeared inconsistent with the explanation given by the parents.

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[T]he child was returned to the care of his parents with an order controlling conduct which required the parents to seek prompt and regular medical care.

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A family preservation worker makes an unannounced visit to the home. And is so concerned by what she sees that she insists that the child go

to the hospital. What's interesting about this is the first injury to the child in March of 2013, is that the injury happens and the parents wait several days before the child has medical care.

What's interesting about this is mom initially says, I was home when the injury happened but then admits, no, I wasn't really home. I just said I was. I said I knew how it happened but I don't. The child was with dad and this is what dad told me happened.

She also says out of fear that the child would be taken out of parent's care, a decision was made not to seek medical attention. So the child has multiple bruises for a number of days, until the family preservation worker arrives at the home and insists that the child have immediate medical attention.

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So what I have is a child who, in less than one year, has two sets of suspicious injuries both known to the parents. And in each case, the parents make a choice not to seek medical attention for their child, who is under the age of one, for fear that [BCDSS], will become involved in their lives and might seek to remove the child.

This is very concerning to this [c]ourt because swelling of the child's leg is visible and known to the [parents] in March of 2013. Bruises to the child's face, and head, and above his eye, and below his eye, and on his chin, and behind his ears is visible to the parents in December of 2012. And together, they make a decision not to seek medical care.

Now dad tells me, mom convinced him not to get medical care . . . . but I really must question when there are obvious signs of distress and bruising to a child, that not one parent but two parents together make a decision not to seek medical care for their child.

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I do have a very real concern that on at least two occasions, this very, very, young child was injured and the parents made a deliberate decision not to seek medical care for him. When he's got bruises on his face, when his leg is swollen.

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Whether or not the parent has abused or neglected the child or minor in the home [and] the seriousness of the abuse or neglect. This child has clearly been neglected by his parents, if not abused. . . .

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I’m making a specific finding that this child has been neglected, severely medically neglected by his parents.

Accordingly, the court found Father to be an unfit parent “for refusing to attend to his child’s medical needs.” In any event, it found that “there are exceptional circumstances which would rebut the presumption that reunification is in the child’s best interest,” including that Tristan had been out of his parents’ care for more than 18 months, that Tristan was in out-of-home placement twice, that Father was not “in an emotionally healthy place to be able to meet” Tristan’s ongoing needs, that Tristan would be emotionally harmed if he were to be removed from the only long-term home he had known, that Father did not begin efforts to work toward reunification until Tristan was out of his care for 18 months, that the court was not certain that Mr. N’s desire to work toward reunification was genuine, and that there was no “reasonably ascertainable time when” the criminal case against Father would be resolved. The court also stated that it had an “absolute fear[] that if this child were to be returned home, that he would be injured again in a few months and at risk for harm again if parents choose not to get medical attention.”

Thus, the record refutes Father’s assertion that the court “failed to state the facts that underlay her finding of severe medical neglect.” The court specifically considered the evidence that, on two occasions, Father failed to obtain prompt medical treatment for Tristan for serious injuries. Accordingly, Father’s argument is without merit.

With respect to Father's argument that the services offered to him were delivered in a "perfunctory, haphazard fashion," and not "tailored in a way to reasonably facilitate reunification," the court disagreed. It found as follows:

The child is sheltered to the [BCDSS]. And almost immediately . . . Ms. Ruby Meekins, a Child Protective Services worker, negotiates a service agreement with both parents. . . .

In that service agreement, Ms. Meekins asked for therapy for both mom and dad. In the service agreement Ms. Meekins asked for parenting [classes] for both mom and dad. In the service agreement, Ms. Meekins asks for anger management.

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Ms. Meekins has a 75 minute meeting with the parents, where she discusses all of the issues which are then documented in the service agreement signed on that same day. . . .

With respect to Father's claim that he had "limited literacy," the court noted that Mother "would receive and read correspondence and make phone calls and advise him," and it found that BCDSS "accommodated this family in the way in which they functioned." The court further noted that "[Father] had previously been referred to the Strong Father's Program but that he did not complete it."

The court stated that an additional service agreement was negotiated in June 2013, noting:

What was asked of [Father] when the child was first injured at three or four months, what was asked of him again in January of 2013 and June of 2013 were parenting [classes], therapy, anger management, explanation of the injuries.

The court ultimately concluded that BCDSS "did fulfill their obligations under the service agreement."

The court observed that Father’s “ability to maintain regular contact and visitation with [Tristan] was severely hampered because of the no contact order,” but there was no indication that Father’s contact with BCDSS was “consistent and regular.” It further observed that, although Father had contact information for Tristan’s caregiver, there was no indication that he attempted any contact. The court also found that there were no additional services that could be offered to Father, stating that he had been offered therapy, but had not followed up, and that parenting classes “were delayed a significant period of time and Strong Fathers was begun and not completed.”

Thus, Father’s argument that the reunification services offered to him were deficient is belied by the record, which reflects that he was offered services and referrals, but he failed to avail himself of them. The court’s findings were consistent with that evidence, and the court did not abuse its discretion in terminating Father’s parental rights.

**JUDGMENT AFFIRMED. COSTS  
TO BE PAID BY APPELLANT.**