

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1681

September Term, 2015

IN RE: ADOPTION/GUARDIANSHIP OF
LAILIE M. AND XAVIER M.

Eyler, Deborah S.,
Arthur,
Kenney, James A., III
(Retired, Specially Assigned),

JJ.

Opinion by Eyler, Deborah S., J.

Filed: March 16, 2016

*This is an unreported opinion and therefore may not be cited either as precedent or as persuasive authority in any paper, brief, motion, or other document filed in this Court or any other Maryland court. Md. Rule 1-104.

On September 16, 2015, the Circuit Court for Montgomery County, sitting as a juvenile court, entered an order granting a petition by the Montgomery County Department of Health and Human Services (the “Department”), the appellee, to terminate the parental rights of Tamara W. (“Mother”), appellant, and Franklin M. (“Father”) in Lailie M. and Xavier M.¹ At the time of the proceeding, Lailie was three years old and Xavier was two years old.

On appeal, Mother asks whether the circuit court erred in terminating her parental rights. For the reasons that follow, we shall affirm the judgments.

FACTS AND PROCEEDINGS

In July of 2013, the Department received multiple reports that Mother was unable to care for the children. Since then, the Department has been involved and has been providing in-home services to Mother. Mother has not had stable housing and has exhibited mental health problems. Despite the assistance of in-home social workers and nurses, Mother was unable to follow through with medical appointments and a feeding schedule for Xavier, who was born with a club foot and developed acid reflux disease.

In December of 2013, Xavier was hospitalized due to his low weight and was diagnosed with failure to thrive. Mother blamed the doctor for Xavier’s condition and was convinced that the Department was attempting to sabotage her efforts to care for Xavier. After Xavier’s release from the hospital, Mother missed an appointment with Xavier’s pediatrician. Thereafter, a nurse examined Xavier and noted that he had lost

¹ Father did not object to the termination of his parental rights.

two pounds in one week. At six months old, he weighed only nine pounds. During an at-home visit in early January of 2014, the Department assisted Mother in making doctor appointments for Xavier and arranged an appointment with a gastroenterologist for Xavier's acid reflux disease. Following another missed doctor's appointment, and further weight loss, Xavier was hospitalized on January 9, 2014. The hospital refused to discharge Xavier to Mother's care.

On January 15, 2014, the Department conducted a Family Involvement Meeting ("FIM") concerning the children. Mother refused to allow an informal kinship arrangement. The children were placed in shelter care with Mother's sister. This arrangement lasted only one day, because Mother and Father made threats against the sister. The Department moved the children to foster care with Mr. and Mrs. Y.

On February 10, 2014, by agreement of all parties, the juvenile court found both children to be children in need of assistance ("CINA").² It ordered Mother to undergo a mental health evaluation, to follow the recommendations of the therapist, and to participate in parenting classes.

² A child in need of assistance is "a child who requires court intervention because: (1) [t]he child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) [t]he child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs." Maryland Code (1973, 2013 Repl. Vol., 2015 Suppl.), Courts & Judicial Proceedings Article ("CJP") § 3-801(f).

The Department assigned Jackie Albanes, a licensed certified social worker, clinical (“LCSW-C”), to the case.³ Ms. Albanes assisted Mother in arranging appointments for and visitation with the children. Visitation initially was scheduled twice a week, but later was reduced to once a week. Ms. Albanes also assisted Mother with transportation, providing her bus tokens to use to travel to and from visitations and other appointments. Mother used the tokens for other purposes, however, and continually asked the Department for more bus tokens. In an effort to assist Mother, Ms. Albanes had Kerrie LaRosa, a parent educator, participate in visitation. This satisfied the court’s requirement that Mother participate in parenting classes.⁴

In March of 2014, Katherine Martin, Ph.D., a psychotherapist, evaluated Mother. She concluded that Mother has an intellectual disability—with an IQ of 61—and an adjustment disorder with mixed anxiety and depressed mood.⁵ Dr. Martin found that Mother has poor comprehension skills and functions at a third to sixth grade level. Although Mother’s intellectual disability is permanent, Dr. Martin recommended that she seek further therapy to address other issues, such as her problems with distrust. The Department paid for Mother to continue seeing Dr. Martin for therapy.

In June of 2014, Ms. Albanes provided the court with a status report. She opined that the children were making progress under the care of the Y. family. Specifically,

³ The court accepted Ms. Albanes as an expert in social work.

⁴ The court accepted Ms. LaRosa as an expert in parenting education.

⁵ The court accepted Dr. Martin as an expert in psychological evaluation and adult psychotherapy.

Lailie was developmentally “on age level,” and Xavier had been doing “exceedingly well since being placed in the current foster home.” The Department recommended that the permanency plan for the children remain reunification with Mother. Ms. Albanes noted that Mother had been inconsistent with visitation, attending 26 of the 36 scheduled visits. Because of the number of missed visits, Ms. Albanes had Mother sign an agreement to inform the Department if she was going to miss a visit and to be on time to visits. Missed visits were hurtful to the children and kept Mother from attending parenting classes.

In her September of 2014 status report, Ms. Albanes noted that the children were doing well; she expressed no concerns for their health or welfare. Indeed, Xavier’s acid reflux problem had been resolved. During this time, Mother and Father had been evicted from their home, and Mother had lost her Housing Opportunities Commission (“HOC”) voucher. Ms. Albanes spoke with Mother’s HOC case manager, who informed her that Mother and Father had failed to pay their utilities, and the police were often called for noise complaints. Mother reported staying with her grandmother or at a motel. She continued to be inconsistent with visits, and she had failed to abide by the agreement to inform the Department of cancelled visits. Of 22 scheduled visits with the children, Mother attended 14. Mother had been referred to the Department of Rehabilitative Services (“DORS”) in July, but failed to attend the orientation session and also failed to re-schedule. The Department continued to recommend a permanency plan of reunification of the children with Mother.

A status hearing was held on January 5, 2015, and continued on February 20, 2015. The Department recommended changing the permanency plan to adoption by a

non-relative. In Ms. Albane's opinion, the children were well-adjusted to the Y. foster home and had no attachment to Mother. Of 27 scheduled visits, Mother only attended 8. Mother reported working, but did not provide any documentation to the Department, and the Department was not able to verify her employment. In October of 2014, Mother was arrested for trespassing at her old home. She was arrested again in December for second-degree assault. She received probation for both offenses. During this time, Dr. Martin had discharged Mother from therapy due to her absences; Mother attended only 5 of 16 sessions. Mother's participation in services provided by the Department was "sporadic" and "minimal." As to housing, Mother moved between shelters and hotels, and had stayed intermittently with Father, who had a serious alcohol problem.

On February 25, 2015, the court entered an order changing the children's permanency plans to adoption by a non-relative.⁶

Ms. Albanes provided another status report in July of 2015. Lailie had been seeing a therapist for social anxiety concerns. She ceased attending therapy because she was making progress in a Head Start program. Xavier was scheduled to begin attending the same Head Start program in September of 2015. Twenty visits had been scheduled but Mother attended only ten. She continued not informing the Department when she was going to miss visits. Ms. LaRosa had discharged Mother from her practice due to Mother's absences. In April of 2015, Mother had been arrested for possession of an

⁶ This order was appealed to this Court, Case No. 114, September Term, 2015. This appeal was stayed in May 2015. Given our disposition of this case, that appeal is now moot.

alcoholic beverage in a public place. She reported staying at a shelter, but she left because she felt the workers there were not working quickly enough to help her find housing. For a time, Mother stayed with a woman she had just met. That woman then was evicted.

The Department filed a petition to terminate the parental rights of Mother and Father to the children. A termination of parental rights (“TPR”) hearing took place on August 10, 2015. Mr. and Mrs. Y. testified that the children were doing well. They both expressed a desire to adopt the children. The foster parents stated that the children were thriving in their community.

Ms. Albanes opined that it was in the best interests of the children to terminate Mother’s parental rights. She testified that throughout her work in the case, the only consistency about Mother was her inconsistency. Mother’s unstable housing situation posed a threat to the safety of the children. And, given Mother’s intellectual disability and the children’s changing needs, and that, over the “two years of Department intervention, [Mother had] . . . really struggled to show a consistent engagement and ability to adjust to what the children’s needs are, let alone her own[,]” “[t]he Department does not foresee with [Mother]’s cognitive limitations the ability to manage her own personal needs, let alone the children’s needs, high needs at this time or in the future.”

Ms. Albanes testified that she routinely had to prompt Mother about the children’s needs and that Mother did not understand their developmental milestones. For example, when Xavier was learning to crawl, Mother would not let him explore. And “in regards to Lailie [Mother] expects absolute obedience and for her to understand sharing 100% of

the time.” Ms. Albanes remarked: “It is as though [Mother] expects both children to understand her completely, instead of the toddler and infant they are, and when they do not respond in the way she expects she takes it as a rejection.” Ms. Albanes opined that the children are not attached to Mother, and if they do not want a visit to end, it is because they are playing with a particular toy, not because they do not want to leave Mother.

Dr. Martin testified that “[t]here was no progress [with Mother]. Things got worse as time went on.” Mother did not understand time management, and Dr. Martin had concerns about Mother’s daily functioning. Although Mother “had the ability to learn rote unchanging tasks or rote unchanging information[,]” this was a concern because “by its nature [parenting] is very changing all the time, and applying information that [Mother] was given to new situations is very difficult for her without support and supervision.” Dr. Martin opined that Mother would need continued support and supervision to adequately parent the children as they developed.

Ms. LaRosa testified that because Mother missed so many visits, and therefore so many parenting classes, Mother did not make much progress. Mother could not focus on developing more than one skill at a time, and she routinely failed to carry lessons over from visit to visit. Ms. LaRosa often would have to prompt Mother about the children’s cues; and she had to give the same prompts to Mother from visit to visit. Mother appeared to have difficulty focusing on both children at once and seemed to focus most of her attention on Xavier. Ms. LaRosa was concerned for the safety of the children, opining that although Mother had made some progress she was “still working on the

same goals that we initially identified in March 2014” and Mother “requires a lot of prompting in order . . . to work on the goal[s].” She opined that Mother would need continued support in order to parent the children.

Mother testified that she stayed “in a safe spot” the night before the TPR hearing, but she would not elaborate and admitted that she was homeless.

On September 16, 2015, the court entered a memorandum opinion and order granting the Department’s petition and terminating the parental rights of Mother and Father in the children. Mother noted this appeal.

STANDARD OF REVIEW

“In reviewing a juvenile court’s decision with regard to termination of parental rights, we utilize three different but interrelated standards.” *In re Adoption of Ta’Niya C.*, 417 Md. 90, 100 (2010).

“When the appellate court scrutinizes factual findings, the clearly erroneous standard of [Rule 8-131(c)] applies. [Second,] [i]t appears that the [court] erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless. Finally, when the appellate court views the ultimate conclusion of the [court] founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the [court’s] decision should be disturbed only if there has been a clear abuse of discretion.”

In re Adoption/Guardianship of Victor A., 386 Md. 288, 297 (2005) (quoting *In re Yve S.*, 373 Md. 551, 586 (2003)).

A court abuses its discretion when “the decision under ‘consideration [is] well removed from any center mark imagined by the reviewing court and beyond the fringe of

what that court deems minimally acceptable.” *In re Adoption/Guardianship of Jasmine D.*, 217 Md. App. 718, 734 (2014) (quoting *In re Shirley B.*, 419 Md. 1, 19 (2011)).

DISCUSSION

Mother contends that the court erred in terminating her parental rights in the children because the Department did not present sufficient evidence to overcome the presumption that the children’s best interests would be best served by remaining with their natural parent and the Department should have done more to assist her in using the services it offered, such as driving her to appointments or helping her locate housing. Mother concedes that she is not able to take the children immediately. She argues that she needs and should be given more time to meet her obligations toward them.

The Department responds that it provided reasonable assistance to Mother and that the court did not abuse its discretion in terminating Mother’s parental rights. *See In re Adoption/Guardianship of Quintline B. & Shellariece B.*, 219 Md. App. 187, 199–200 (2014) (citing *Jasmine D.*, 217 Md. App. at 733), *cert. denied*, 441 Md. 218 (2015) (decision of juvenile court terminating parental rights is reviewed for abuse of discretion).

“In order to terminate a parent’s parental rights, the State must prove by clear and convincing evidence that such a termination was in the child’s best interests.” *Id.* at 206 (citing *In re Priscilla B.*, 214 Md. App. 600, 622 (2013)). Parents have a fundamental right to raise their children. *In re A.N.*, 226 Md. App. 283, 306 (2015); *accord Troxel v. Granville*, 530 U.S. 57, 66 (2000). The law presumes that a child’s best interests are served by remaining with his or her natural parents, but “the parents’ right is not absolute

and ‘must be balanced against the fundamental right and responsibility of the State to protect children, who cannot protect themselves, from abuse and neglect.’” *Ta’Niya C.*, 417 Md. at 103 (quoting *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 497 (2007)). “This presumption, however, may be ‘rebutted only by a showing that the parent is either unfit or exceptional circumstances exist that would make the continued relationship detrimental to the child’s best interest.’” *Quintline B.*, 219 Md. App. at 206 (quoting *Rashawn H.*, 402 Md. at 498).

In deciding whether to terminate parental rights, the juvenile court must analyze the factors set forth in Maryland Code (1984, 2012 Repl. Vol.), Family Law Article (“FL”), section 5-323(d).⁷ In doing so, the court

⁷ FL § 5-323(d) provides:

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:

(Continued...)

(...cont'd)

(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;

(ii) 1. A. on admission to a hospital for the child's delivery, the mother tested positive for a drug as evidenced by a positive toxicology test; or

B. upon the birth of the child, the child tested positive for a drug as evidenced by a positive toxicology test; and

2. the mother refused the level of drug treatment recommended by a qualified addictions specialist, as defined in § 5-1201 of this title, or by a physician or psychologist, as defined in the Health Occupations Article;

(iii) the parent subjected the child to:

1. chronic abuse;

(Continued...)

(...cont'd)

2. chronic and life-threatening neglect;
3. sexual abuse; or
4. torture;

(iv) the parent has been convicted, in any state or any court of the United States, of:

1. a crime of violence against:
 - A. a minor offspring of the parent;
 - B. the child; or
 - C. another parent of the child; or
2. aiding or abetting, conspiring, or soliciting to commit a crime described in item 1 of this item; and

(v) the parent has involuntarily lost parental rights to a sibling of the child; and

(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

(Continued...)

must keep in mind three critical elements. First, the court must focus on the continued parental relationship and require that facts . . . demonstrate an unfitness to have a continued parental relationship with the child, or exceptional circumstances that would make a continued parental relationship detrimental to the best interest of the child. Second, the State must show parental unfitness or exceptional circumstances by clear and convincing evidence. Third, the trial court must consider the statutory factors listed in [FL § 5-323](d) to determine whether exceptional circumstances warranting termination of parental rights exist.

Ta’Niya C., 417 Md. at 103–04 (internal citations and footnotes omitted). Above all, in this consideration, “the best interest of the child remains the ultimate governing standard.” *Quintline*, 219 Md. App. at 206 (quoting *In re Adoption/Guardianship of Jayden G.*, 433 Md. 50, 68 (2013)).

In the case at bar, the juvenile court analyzed the statutory factors, stating:

A. [FL] § 5-323(d) provides that when considering a request for granting Guardianship (TPR) over the objection of a parent,

. . . 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. . . .

The analyses of these factors appear below.

B.

1. All services offered to the parent before the child’s placement, whether offered by a local department, another agency, or a professional.

(...cont’d)

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

As noted above, the Children were placed in shelter care on January 16, 2014 and January 17, 2014. A Family Involvement Meeting (FIM) was held on January 15, 2014, at which Mother refused to agree to an informal kinship care agreement. The Children were initially placed with their maternal aunt, but after Mother and Father threatened the aunt, the Children were placed with a foster family.

The Department has provided the family with on-going services since July, 2013. The Department consistently worked to assist Mother in meeting and engaging with the Children. The Department assisted Mother with scheduling appointments with WIC [Special Supplemental Nutrition Program for Women, Infants, and Children] and calling the gastroenterologist and orthopedist for Xavier. The Department also provided Mother with bus tokens in order to attend visits with the Children, and paid for parent education classes.

* * *

2. The extent, nature, and timeliness of services offered by a local department to facilitate reunion of the child and parent.

Mother:

The Department began providing ongoing in-home services to Mother and Father in July, 2013, having received multiple reports from the community regarding Mother's inability to care for the Children and the family's potential loss of housing. Mother was observed by multiple service providers as being confused about Xavier's feeding schedule and medical appointments. Mother reported feeling overwhelmed with Xavier's medical appointments and having difficulty understanding on which foot Xavier's orthopedic shoe belonged. After Xavier's second hospitalization for failure to thrive, the Department held a Family Involvement Meeting (FIM) for the Children on January 15, 2014, seeking the parents' agreement to place the children with a relative. Mother refused the Department's suggestion of an informal kinship care placement.

At the Adjudicatory Hearing held on February 4, 2014, Mother was ordered to participate in a comprehensive mental health evaluation and follow all treatment recommendations, participate in parenting education classes, and maintain contact with the

Department. Visitation between Mother and Children was to be supervised at the Visitation House on Mondays and Fridays from 1:00 p.m. until 2:30 p.m.

The Department supervised the visits between the Children and Mother and provided Mother with bus tokens to reach the Visitation House. The Department provided clinical case management services, communicated with Mother's case manager at the homeless shelter in which she was residing, and provided Mother with a parent educator. Mother completed her psychological evaluation. Mother was diagnosed with a mild intellectual disability as well as having an Adjustment Disorder with Mixed Anxiety and Depressed Mood. Dr. Katherine Martin, the doctor who completed Mother's psychological exam, recommended that Mother participate in individual therapy and apply to the Maryland State Department of Education Division of Rehabilitation Services (DORS).

Mother initially participated in individual therapy with Dr. Martin, which was funded by the Department. Dr. Martin described Mother as a "cooperative and pleasant woman." However, Mother was involuntarily discharged from individual therapy with Dr. Martin for lack of participation. Mother only attended five of 16 scheduled appointments. Dr. Martin noted that psychotherapy is most effective when clients participate consistently and actively in their treatment. Mother applied to DORS and was sent an invitation to complete an orientation at the local office. Mother failed to attend the orientation, and she did not contact DORS to reschedule. Because of Mother's noncompliance, her case at DORS was closed.

Mother attended parenting education with Kerrie LaRosa, MSW during her Monday visits with the Children. Mother cancelled several appointments with Ms. LaRosa. At one point, Ms. LaRosa removed Mother and Father from her schedule due to the frequency of missed appointments. Ms. LaRosa reported that Mother "follow[ed] parent educator's prompts some of the time."

Mother generally maintained contact with the Department. At times, Mother's contact with the Department was out of proportion to the issue. For example, Department social worker stated that Mother left nine voice messages within 20 minutes in order to cancel a visit.

* * *

3. The extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any.

The Department's responsibilities under the Permanency Planning Hearing Order included, but were not limited to, maintaining the Children in agency approved treatment foster care, monitoring the Children's progress, ensuring they were provided all necessary health care, monitoring their emotional well-being, and arranging visits between Mother and the Children. The Department fulfilled its obligations.

Mother was provided services by the Department, and was partially compliant with some of those services. Mother was ordered to participate in a comprehensive mental health evaluation and follow all recommendation[s], maintain contact with the Department and participate in parenting classes. Mother completed the mental health evaluation and was determined to have a mild intellectual disability and an Adjustment Disorder with Mixed Anxiety and Depressed Mood. It was recommended that Mother apply to the DORS program and participate in individual therapy.

Although Mother applied to DORS, she failed to attend her orientation meeting and never contacted anyone from DORS in order to schedule a new orientation. Mother participated in individual therapy with Dr. Martin; however Mother was discharged from Dr. Martin's services for failing to attend more than half of her scheduled appointments.

The Department provided Mother with calendars which stated the scheduled visitation dates each month. As time progressed, Mother's attendance declined. During the June, 2014 reporting period, Mother attended 26 of 36 (72%) scheduled visits. During the September, 2014 reporting period, Mother attended 14 of 22 (63%) scheduled visits. During the December 2014 reporting period, Mother attended eight of 27 (29%) scheduled visits. During the July, 2015 reporting period, Mother attended 10 of 20 (50%) scheduled visits. Her inconsistency with visits was a major barricade to progress with her parenting skills, as the parenting coach was provided at the visits.

C. The results of the parent's efforts 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:

a. The extent to which the parent has maintained regular contact with:

1. the children.

Although Mother maintained semi-regular contact with the Children, she failed to consistently attend the scheduled visits. During the June, 2014 reporting period, Mother attended 26 of 36 scheduled visits. During the September, 2014 reporting period, Mother attended 14 of 22 scheduled visits. During the December 2014 reporting period, Mother attended eight of 27 scheduled visits. During the July, 2015 reporting period, Mother attended 10 of 20 scheduled visits.

2. the local department to which the child is committed.

At the outset, Mother maintained contact with the Department and did what was requested of her to the best of her abilities. However, as time went on Mother was less communicative and less compliant. Mother's mild intellectual disability likely contributed to her noncompliance, but she was and is resistant to assistance.

3. if feasible, the child's caregiver.

Mother has maintained some contact with the Children's prospective adoptive parents. Mother attended when Lailie had her ears pierced. The foster mother (Mrs. Y.) also gave Mother a lock of Xavier's hair from his first haircut. Mrs. Y. also saw Mother at visits and kept her updated regarding developmental milestones for the Children.

b. The parent's contribution to a reasonable part of the child's care and support, if the parent is financially able to do so.

Mother has not provided financial support for the Children. Mother has, however, provided a cake, a coat and some other clothing items for the Children.

c. 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.

Mother has a mild intellectual disability as well as Adjustment Disorder with Mixed Anxiety and Depressed Mood. Mother is able to read on a third to fourth grade level. Mother's intellectual limitations impair her problem solving, reasoning, judgment, planning and ability to learn from experience. She has been resistant to services to address these issues. Due to inconsistent participation in therapy with Dr. Martin, Mother was discharged from treatment.

d. 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.

The Children have been in an out-of-home placement for 18 months. For Xavier, that is most of his life; for Lailie, it is about half of her life. Mother was given multiple opportunities to demonstrate her commitment to the Children, and to learn how to meet their needs. Mother would need on-going case management services to learn to properly care for the Children, but more importantly, she would need to participate consistently. She has not demonstrated a willingness to do so. It is impossible to conclude that more time would lead to a lasting parental adjustment on this record. The Children cannot wait any longer. It is not in their best interest to extend their time in foster care.

4. Whether:

a. The parent has abused or neglected the child or a minor and the seriousness of the abuse or neglect.

As proven by a preponderance of the evidence at the Adjudicatory Hearing, Mother and Father neglected the Children. The level of neglect has been detailed elsewhere in this opinion.

b. There was no documentary evidence presented of the actions described in § 5-323(d)(3)(ii), to wit, the Court has not seen

a positive toxicology test of Mother for drugs on admission to a hospital for the Children's delivery.

c. As to the Children, there was no evidence presented of the actions described in § 5-323(d)(3)(iii), to wit, no chronic abuse, chronic and life-threatening neglect, sexual abuse, or torture in regards to Mother or Father. Although Mother does not intentionally neglect the Children, her developmental disability impairs her ability to provide proper care for the Children.

d. There was no evidence of the actions described in § 5-323(d)(3)(iv), that is, no conviction, in any state or any court of the United States, of a crime of violence against a minor offspring of the parent, of the child, of another parent of the child, nor of aiding or abetting, conspiring, or soliciting to commit any of those crimes, regarding Mother.

e. There was no evidence of the actions described in § 5-323(d)(3)(v), that is, that Mother has not involuntarily lost parental rights to a sibling of the Children.

6. a. 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.

The Children have had inconsistent contact with Mother in the past 18 months of their young lives. As a result, a consistent, meaningful relationship has not been established between Mother and the Children. As time has progressed, the Children have become less engaged in visits with Mother. The Children, however, are very attached to each other. The attachment is fostered by their placement in the same home.

b. The child's adjustment to:

1. community;

The Children have adjusted well to their community in foster care. They have resided in the same foster home since January 17, 2014. The Children enjoy interacting with friends and neighbors in the community. Xavier is very active. He loves to play and watch movies. Upon entering into the foster home, Lailie was very shy and would only speak to her foster parents. Lailie was very cautious

around people she did not know well, especially males. Lailie has blossomed while living with the foster parents, and is very talkative and interacts with people.

2. home;

The Children live with their foster parents in Hagerstown, Maryland. Since moving into the home, Xavier has consistently gained weight and his acid reflux issues have ceased. Lailie has been diagnosed with Social Anxiety Disorder and a rule-out of a Communication Disorder. Since being placed with her foster parents, Lailie has overcome her issues with distrust and extreme shyness. She likes to sing, dance, read books and be read to. As a result of the speech and language delay diagnoses, Lailie began engaging in play therapy twice a week. Once Lailie began to attend an all-day Head Start program, she became more social and talkative. Due to Lailie's progress, therapy was discontinued.

3. placement;

The foster parents both testified. They are a warm, accepting, and inclusive couple. It is clear that they love Xavier and Lailie, who have both thrived in their care. After enduring two hospitalizations and two diagnoses of failure to thrive, Xavier has been able to gain weight consistently and become an active, healthy child.

Life with the foster parents has helped Lailie as well. She has become more trusting and social. Her improvement has resulted in her discharge from play therapy, since she is less shy and interacts with others more easily. In short, the Children have thrived. The testimony established that the Children are safe, stable, loved, and secure in their placement.

4. school;

Lailie attends an all-day Head Start program. Lailie is doing very well. The school setting has provided another forum for Lailie's social skills to progress. Her participation in Head Start has enhanced her progress toward what the Department social worker described as "a more comfortable demeanor."

At the time of this trial, Xavier had not yet attended school; however he was to begin Head Start at the same school as Lailie in September, 2015.

c. The child's feelings about severance of the parent-child relationship.

The Children are too young to express their feelings about this. As noted above, it is hard to quantify the emotional attachment the Children have to Mother. The inconsistency in visiting has impeded that attachment.

d. The likely impact of terminating parental rights on the child's well-being.

The Children's foster parents love and care for them and are committed to their long-term well-being, including becoming adoptive parents. Mother has failed to be a stable and consistent presence in the Children's lives. While termination of a parent's rights is traumatic, the termination of Mother's parental rights is unlikely to negatively affect Xavier's or Lailie's overall well-being.

(Emphasis and internal footnotes omitted.)

Ultimately, the court concluded, "by clear and convincing evidence that Mother is unfit, that Mother poses an unacceptable risk to the Children's future safety, and that it is in the Children's best interest that the parental rights of [Mother and Father] be terminated."

We are not persuaded that the circuit court abused its discretion in terminating Mother's parental rights. The court clearly analyzed the statutory factors set forth in FL § 5-323(d) and determined that it was in the children's best interests to terminate Mother's parental rights because she was unfit.

Although Mother contends that the Department should have done more to assist her in meeting her obligations, "[t]here are some limits . . . to what the State is required to

do.” *Rashawn H.*, 402 Md. at 500. Notably, the Department is “not obliged to find employment for the parent, to find and pay for permanent and suitable housing for the family, to bring the parent out of poverty, or to cure or ameliorate any disability that prevents the parent from being able to care for the child.” *Id.* The Department “must provide **reasonable** assistance in helping the parent to achieve those goals, but its duty to protect the health and safety of the children is not lessened and cannot be cast aside if the parent, despite that assistance, remains unable or unwilling to provide appropriate care.” *Id.* at 500–01 (emphasis added). We agree with the juvenile court that the Department met its obligations.

Although Mother concedes she is unable to take the children into her care now, she contends that the court should have refused to terminate her parental rights and granted her more time to meet her obligations. FL section 5-323(d)(2)(iv) requires the court to consider “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 court makes a finding that it is in the child’s best interest to extend the time. (Emphasis added.) The court analyzed this factor and determined that “[i]t is impossible to conclude that more time would lead to a lasting parental adjustment on this record. The Children cannot wait any longer. It is not in their best interest[s] to extend their time in foster care.”

“[C]hildren have a right to reasonable stability in their lives and that permanent foster care is generally not a preferred option[.]” *Rashawn H.*, 402 Md. at 501. *See also*

In re Adoption/Guardianship No. 10941 in the Circuit Ct. for Montgomery Cnty., 335 Md. 99, 119 (1994) (noting undesirability of leaving a child in “legal limbo waiting for an event that likely will never happen”). The juvenile court did not abuse its discretion in terminating Mother’s parental rights.

**JUDGMENTS OF THE CIRCUIT
COURT FOR MONTGOMERY
COUNTY, SITTING AS A
JUVENILE COURT, AFFIRMED.
COSTS TO BE PAID BY
APPELLANT.**