UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0552

September Term, 2016

IN RE: ADOPTION/GUARDIANSHIP
OF E.G. AND J.G.

Woodward,
Arthur,
Leahy,

JJ.

Opinion by Leahy, J.

Filed: January 5, 2017

R.G. ("Appellant"), a young mother of three sons—E.G., J.G., and K.R., appeals from the decision by the Circuit Court for Baltimore City to grant the petitions of the Baltimore City Department of Social Services ("DSS" or "Appellee") to terminate her parental rights to E.G. and J.G. R.G. presents two issues on appeal:

1. "Did the court err by terminating the mother's parental rights to E.G. and J.G.?"

2. "Did the court err by proceeding with the termination of parental rights hearing in the mother's absence?"

For the reasons that follow, we conclude that the circuit court did not abuse its discretion 1) by terminating R.G.'s parental rights, and 2) by denying R.G.'s request for a continuance. We affirm.

BACKGROUND

R.G. is an unmarried 23 year old mother of three sons—E.G., born January 6, 2010; J.G., born December 11, 2012;[1] and K.R., born in September 2015.[2] Unfortunately, R.G.'s own history of suffering from child abuse and neglect provides relevant context and is our starting point.

A. R.G.'s CINA Proceeding

Upon allegations of physical abuse by her step-father, R.G. was placed in emergency shelter care on May 26, 2010. On August 18, 2010, at the age of 16, R.G. was

[1] E.G.'s father is unknown. J.G.'s father is E.L.G. As of February 18, 2014, E.L.G. was in custody at Baltimore City Detention Center.

[2] This is an approximate date of K.R.'s date of birth based on information in the record stating that K.R.—R.G.'s youngest son—was four months old as of the evaluation conducted on January 6, 2016. The proceeding to terminate parental rights did not involve K.R.

adjudicated a Child In Need of Assistance[3] ("CINA") and was committed to DSS. Her son, E.G., was eight months old at this time.

R.G. self-reported that her father was a known drug addict, and that her step-father used cords to beat her and her siblings. She dropped out of High School in 9th grade when she became pregnant and was never re-enrolled in school due to the negligence of her mother and foster care providers.

R.G. had largely negative experience with her foster care placements. The court noted that R.G. had seven different placements within a six month period at her September 26, 2012 review hearing. After negative experiences, R.G. requested emancipation and was placed in a semi-independent living arrangement ("SILA") program.

On December 19, 2013, DSS conducted an unannounced home visit. At that point, R.G. had lived in this particular home for three months. The DSS case worker reported that R.G. was "not providing adequate supervision to her sons" and that R.G. "shared that

[3] A "CINA" case refers to proceedings brought for the protection of children and coming within the provisions of Maryland Code (1974, 2013 Repl. Vol., 2016 Supp.), Courts and Judicial Proceedings Article ("CJP"), §§ 3-802(a)(1), 3-801(g). A child in need of assistance is defined as:

> [A] child who requires court intervention because:
>
> (1) The child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and
>
> (2) The child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs.

CJP § 3-801(f).

she [had] a hard time feeling attachment/love for her oldest son [E.G.]." DSS sent R.G. a letter on March 20, 2014 notifying her that her housing was "SILA non-compliant."

R.G. aged out of the DSS foster care program when she turned 21 years old in August 2014.

B. The Children's Commitment to DSS

On January 9, 2014, R.G. left E.G. and J.G. in the care of their maternal grandmother. R.G. had not returned by the time the grandmother needed to leave for work, and as a result, the grandmother reported to DSS that R.G. "left the [children] in the home without making arrangements with [her]." R.G. claimed "she had been at a friend's house and lost track of time." The grandmother then left the children, ages four and one at the time, without supervision. Consequently, DSS removed the children from R.G.'s care on January 11, 2014.

On January 13, 2014, Stephen Williams, a DSS social worker, met with R.G., who "expressed feeling overwhelmed in caring for [E.G. and J.G.]." R.G. agreed that E.G. and J.G. should remain in DSS care. DSS filed a CINA petition with a request for shelter care for E.G. and J.G. in the Circuit Court for Baltimore City on January 13, 2014. R.G. attended this hearing and was represented by counsel. After the emergency shelter care hearing on that same day, the court granted limited guardianship of the children to DSS, ordered the children to be placed in shelter care, and ordered DSS to refer E.G. to therapy. E.G. and J.G. were then placed together in a MENTOR[4] foster home.

[4] MENTOR is Maryland's Therapeutic Foster Care program. This program is for children who require a higher level of care and clinical support than traditional foster care.

Sheila Harris, a DSS family services case manager, was assigned to this case from January 31, 2014 to August 2014.[5] Ms. Harris met with R.G. on February 10, 2014. At that meeting, R.G. visited with E.G. and J.G., and Ms. Harris explained the steps R.G. needed to take to reunite with E.G. and J.G. including "secure stable housing, attend parenting classes, and obtain mental health treatment." DSS referred R.G. to the DSS Families Parenting Together Program on February 19, 2014. Ms. Harris entered into a service agreement with R.G. that addressed the housing requirement, parenting classes, and mental health counseling services on March 7, 2014. Ms. Harris provided housing referrals because R.G.'s living arrangement was not approved for the children.

C. The Children's CINA Adjudication Hearing

The court held an adjudicatory hearing on February 11, 2014 and ordered that the children remain in DSS custody and care. R.G. attended the hearing and was represented by counsel. The court set the matter for a contested hearing, which was postponed twice and ultimately held on April 22, 2014. R.G. did not attend the April 22, 2014 hearing; however, she was represented by counsel. The parties stipulated to the following facts:

> [R.G.] does not currently have appropriate housing for the [children]. The [children's] social worker offered to place [R.G.] in a mother/baby program and explained that the agency could not recommend that the [children] be

MENTOR Maryland, http://www.md-mentor.com/youth-and-families-services/therapeutic-foster-care/ (last visited Dec. 27, 2016).

[5] Three DSS social workers have been assigned to this case: Sheila Harris from January 31, 2014 to August 2014; Latoya Thomas from August 2014 to December 2015; and Mary Plunkett from January 2016 to the present date. The facts regarding the children's placement and reunification efforts are derived from their testimony at the May 2, 2016 TPR hearing.

> returned to [R.G.'s] care if [R.G.] did not have housing for them, but the mother declined placement.
>
> J.G. is a special needs child who has been diagnosed with Gastric Disorder. [R.G.] has been inconsistent with ensuring that J.G.'s medical needs are met timely. . . . [R.G.] has also been inconsistent with keeping E.G.'s well baby appointments.
>
> * * *
>
> [R.G.] is diagnosed with PTSD, Eating Disorder, and R/O Narcissistic Personality Disorder, evolving; R/O Learning Disorder NOS.

The court delayed disposition on the CINA hearing until May 5, 2014. Before this hearing, DSS moved the children to their second placement in a MENTOR foster home. Meanwhile, DSS had initiated an interstate compact to place the children with R.G.'s aunt and uncle in New Jersey.

D. The Children's CINA Adjudication and Subsequent Review Hearings

The circuit court held the CINA hearing on May 5, 2014. R.G. was not present at this hearing; however, she was represented by counsel. After finding that R.G. was not living in an approved placement, the master recommended that the court find the children CINA, commit the children to DSS care, and grant limited guardianship of the children to DSS. The circuit court adopted the master's recommendations in a written order dated May 13, 2014.

The circuit court held a review hearing on July 1, 2014. R.G. failed to appear for this hearing; however, she was represented by counsel. The circuit court made the following factual findings:

> J. continues to be placed in the same MENTOR therapeutic foster home. He is doing well in the placement. E. has been moved to a different treatment foster home after an inpatient hospitalization. It was determined that it was

> not in the [child's] best interest to continue to be placed together. E. is making a good adjustment to his new placement.
>
> E. exhibited some behavioral problems[6] and he is receiving therapy through Kennedy Krieger. The BCDSS paid for E. to attend Summer Camp.
>
> The mother, R.G., is not actively working toward reunification with the [children]. She is committed to the agency but she is not in an approved placement nor is she availing herself of the independent living services offered by the department. She is offered weekly visitation with the [children], however her visits have been sporadic. She requested a referral for drug treatment recently, and the BCDSS cas[e] manager provided her with that information. Ms. G. informed BCDSS case manager that she is pregnant.

The circuit court issued an order continuing the children's commitment to DSS under a permanency plan of reunification with R.G. The court set a 10-month review hearing for November 5, 2014.[7] Meanwhile, E.G. was moved to a separate MENTOR foster home after he exhibited aggressive behavior toward J.G., had difficulty respecting authority, and attempted to hurt himself.

In August 2014, the case was transferred to Latoya Thomas, a DSS family services permanency case worker. Ms. Thomas initially worked with R.G. on the existing service agreement dated March 7, 2014 and then entered into new service agreements in September

[6] E.G. was admitted to Sheppard Pratt on May 9, 2014 for "suicidal and homicidal ideation." E.G. also had exhibited aggressive behavior toward his first foster mother and siblings, hit himself, and took his clothes off while riding in the car. E.G. was referred to a therapist at Kennedy Krieger's Family Center. E.G.'s therapist concluded that E.G. required a "consistent and patient" caregiver and a "structured, predictable environment."

[7] R.G. attended the November 5, 2014 hearing. At that hearing, the court scheduled a contested hearing for December 15, 2014 because the parties were not able to reach an agreement—the order contained in the record does not elaborate on this. R.G. did not attend the March 23, 2015 hearing; however, her counsel was present. The children's counsel requested the matters be held *sub curia* for the children to be present; the court granted the request, and the existing order remained in place. The court set a child consultation for April 21, 2015.

2014 and December 2015, setting housing and employment requirements, recommending mental health counseling, and permitting weekly supervised visits with the children.

On February 6, 2015, the children were placed with R.G.'s aunt and uncle in New Jersey with her consent.

The circuit court held a *sub curia* hearing on April 21, 2015. The court found that R.G., who was living with her former foster parent at the time, did not have housing for the children. The circuit court issued an order that continued the children's DSS commitment and placement with their relatives; reiterated that the permanency plan was reunification with R.G.; and extended the implementation date of the permanency plan to March 23, 2016.

The children remained in their aunt and uncle's care in New Jersey until June 15, 2015. The aunt and uncle notified DSS that "they were unable to handle E.G.'s behaviors and would return the boys to Maryland when the school year ended." The aunt and uncle told DSS that E.G. was aggressive toward J.G., and had "sexualized behaviors" and would "talk[] about sexual situations that he ha[d] seen or witnessed."

Upon the children's return to Baltimore, they were placed in separate foster homes. E.G. was placed with T.A., a licensed foster care provider. E.G. has remained in this placement to date. J.G. was placed with David and Mary R.

The court held a review hearing on September 22, 2015. R.G. was not present, but she was represented by counsel. DSS requested a general order of commitment with limited guardianship, which the court granted.

E. Guardianship and Termination of Parental Rights Petition and Hearing

On October 2, 2015—after the children had spent 20 months in DSS care—DSS filed petitions for guardianship with the right to consent to adoption or long term care short of adoption for E.G. and J.G. R.G.'s prior attorney was served on October 8, 2015 and filed an objection on October 21, 2015. R.G. was served on October 29, 2015. R.G., through her current attorney, filed an objection on November 10, 2015. Counsel for E.G. and J.G., was served on October 8, 2015 and she filed a conditional consent to the termination of R.G.'s parental rights and the adoption of E.G. and J.G. by T.A. on behalf of E.G. and J.G. on November 4, 2015. E.G.'s father, who is unknown, was served via posting on December 18, 2015 and publication on December 24, 2015. No objection was filed. J.G.'s father, E.L.G., was served via posting on December 18, 2015 and publication on December 24, 2015. No objection was filed. The TPR hearing was scheduled for March 16, 2016.

J.G. was hospitalized for two weeks in December 2015 with a failure to thrive diagnosis.[8] Upon J.G.'s release from the hospital, he was placed under the care of Renita G., another foster care placement. In the months prior to the TPR hearing, DSS began the process of transitioning J.G. to live with T.A.[9]

In January 2016, DSS reassigned this case to Mary Plunkett, a DSS social worker. The service agreement dated December 2015 was still in effect. Ms. Plunkett spoke with

[8] R.G. reported to DSS that J.G. appeared to be losing weight. Her report prompted DSS to take J.G. to Johns Hopkins Hospital for a medical evaluation.

[9] At oral argument, the parties notified the court that J.G. had been placed with T.A.

R.G. about the importance of complying with that service agreement. Ms. Plunkett did not enter into another service agreement with R.G.

The last proceeding before the guardianship and TPR hearing was held on November 17, 2015. The order stated that the parties could not reach an agreement on the permanency plan and set a contested hearing for March 21, 2016.

The court postponed the March 16, 2016 hearing because R.G. failed to provide her list of witnesses until the morning of the hearing. On that same day, the court rescheduled the hearing to May 2, 2016, and R.G. received and signed a copy of the new summons in court.

Finally, on May 2, 2016, the circuit court held a hearing on the contested petitions to terminate parental rights and guardianship. R.G. was 22 years old at the time of the termination of parental rights ("TPR") hearing. Although R.G. was served on March 16, 2016 and reminded of the TPR hearing by Ms. Plunkett on April 29, 2016, R.G. was not present at the TPR hearing. R.G.'s counsel requested that the court grant a continuance or delay the start of the hearing because of her client's absence. R.G.'s counsel informed the court that when she last spoke with R.G. on April 22, 2016, R.G. was having difficulty finding child care for K.R., her infant son. The court delayed the hearing from 9:46 a.m. until 10:04 a.m. to allow R.G.'s counsel to contact R.G., but her counsel was unable to

reach R.G. by telephone.[10] The court denied counsel's request for a continuance, finding no good cause for a continuance.

DSS called five witnesses: T.A., E.G.'s foster mother; Kaitlin Moran, E.G.'s clinical case manager; and three family reunification case workers: Sheila Harris, Latoya Thomas, and Mary Plunkett. R.G.'s counsel did not call any witnesses.

T.A and Ms. Moran testified that E.G. and T.A. have a close, loving relationship, and that E.G. has adjusted very well to living with T.A. and her family. T.A. testified that she was willing to adopt E.G. and J.G., and Ms. Moran testified that she supports the adoption.

The case workers gave the following testimony regarding R.G. and DSS's efforts toward reunification and the children's foster care placements:

1. Ms. Harris's Testimony

Ms. Harris entered into a service agreement with R.G. on March 7, 2014 and provided R.G. with housing, parenting classes, and mental health counseling services referrals. Ms. Harris observed that R.G. would make efforts leading up to court dates but her efforts diminished after the court dates. R.G. was not compliant with the March 7, 2014 service agreement, did not follow through on the referrals, did not have stable employment, and did not maintain regular contact with her. In Ms. Harris's view, R.G.'s circumstances did not change during her time as case manager.

[10] Ms. Plunkett testified that R.G. told her at the April 29, 2016 visit that her phone was broken and she intended to replace it that weekend.

Ms. Harris testified that she spoke with R.G. about appropriate housing on several occasions, offered several supportive housing programs, offered furniture assistance, and offered to provide the first month's rent and a security deposit. Ms. Harris offered mother and baby housing, but R.G. refused a DSS placement. Ms. Harris testified that R.G. never availed herself of the housing services. Ms. Harris referred R.G. to a DSS parenting program in February 2014 and in May 2014, but R.G. never completed the program. Ms. Harris also referred R.G. to mental health services at least twice after R.G. mentioned she had issues with Post-Traumatic Stress Syndrome. R.G did not avail herself of these services. After R.G. was in "a physical altercation" with her boyfriend and had a miscarriage, Ms. Harris referred R.G. to House of Ruth in July 2014. R.G. did not avail herself of these services.

R.G. did not maintain regular contact with the children. Ms. Harris scheduled weekly visits between R.G. and the children at a DSS office; R.G. missed approximately 20 out of 25 or 30 scheduled visits. When R.G. attended the weekly visits, R.G. would often show up very late. R.G.'s visits with the children remained supervised throughout Ms. Harris's management of the case because R.G. did not consistently attend the visits, had not completed a parenting class, did not have approved housing, and failed to maintain regular contact with DSS.

2. Ms. Thomas's Testimony

Ms. Thomas initially worked with R.G. on the existing service agreement dated March 7, 2014 and entered into new service agreements with R.G. in September 2014 and

December 2015. Ms. Thomas noted that, during the time she managed the case, R.G. improved her contact with DSS. However, although R.G. frequently called Ms. Thomas, R.G. showed no improvement on following through on the service agreements.

Ms. Thomas identified housing as R.G's primary obstacle to reunification—R.G.'s housing arrangement did not meet DSS standards because she could not be reunited with her children there. At that time, in August 2014, R.G. was staying with a former foster parent. R.G.'s former foster parent told Ms. Thomas that reuniting R.G. with E.G. and J.G. was not possible in her home. The former foster parent assisted R.G. in looking for stable housing. Ms. Thomas also provided R.G. with a list of low-income housing communities. Ms. Thomas offered to pay the first month's rent and security deposit, and to assist with furniture for the children and with the electric bill. In October 2015, R.G. reported to DSS that she was homeless, and DSS provided R.G. with transitional housing programs. Ms. Thomas testified that R.G. did not obtain approved housing during the time she served as case manager.

Ms. Thomas also identified that R.G. needed to take a parenting class and seek assistance for her mental health issues, and provided R.G. with referrals for both in December 2014.[11] R.G. declined the referral for mental health counseling and found another provider. R.G. provided a letter to Ms. Thomas indicating that she signed up for mental health counseling but did not provide further documentation indicated her progress

[11] At the April 29, 2015 review hearing, the circuit court found that R.G. completed a parenting class.

or completion of any program. R.G. refused to sign a consent form to permit Ms. Thomas to receive a progress update directly from her counselor.

During Ms. Thomas's management of the case, R.G. attended approximately 20 of the 40 weekly supervised visits with the children. R.G. would often arrive extremely late and spend most of the time complaining about the children's appearance. Ms. Thomas spoke with R.G. about the importance of the visits and encouraged R.G. to spend time with the children during the visits and to share any concerns regarding the children's appearance with Ms. Thomas after the visit. R.G. would respond aggressively upon hearing that advice, and—in Ms. Thomas's view—"the visits were most times inappropriate." Ms. Thomas testified that R.G. did not provide financial support for the children but that she would bring birthday cards, Christmas gifts, and snacks to visits. Ms. Thomas changed the day of the weekly visits to accommodate R.G.'s counseling and pre-natal appointments,[12] but R.G. continued to arrive late or miss the visits altogether. R.G.'s visits with the children remained supervised because her behavior was inappropriate, she had not secured approved housing, and she was non-compliant with the service agreement.

For approximately a month, R.G. had a telemarketing job. R.G. did not provide documentation for the job or explain why she was terminated from the job. Ms. Thomas offered to refer R.G. to Amazon for an employment opportunity but R.G. said she was pursuing another job opportunity.

[12] R.G. became pregnant with her third child, K.R., during this time.

Ms. Thomas also testified that in her view, T.A. (the foster parent) and E.G. had a "really good relationship," "she seemed to be really attentive to what [E.G's] needs were and really concerned with understanding who he was instead of what was like, written on paper," and "she was the first foster parent . . . that wasn't . . . intimidated by his behaviors but wanted to understand him and why he behaved that way." T.A. was meeting E.G.'s medical, educational, and therapeutic needs. Ms. Thomas also testified that she never witnessed E.G. acting aggressively toward J.G.

3. Ms. Plunkett's Testimony

Mary Plunkett, a DSS social worker, was assigned to this case in January 2016 and managed this case through the TPR hearing. Ms. Plunkett did not sign another service agreement with R.G. and, instead, continued with the December 2015 service agreement, ostensibly because R.G. had not completed any of the requirements and there were no additional requirements to add.

Ms. Plunkett performed a home assessment on January 8, 2016 and identified a few safety issues that the landlord needed to fix prior to her approval of the house, including installing a smoke detector, covering the radiator, and patching holes in the walls. Ms. Plunkett spoke to the landlord regarding the repairs but, according to R.G., the repairs had not been fixed and other unidentified issues arose.

At Ms. Plunkett's most recent meeting with R.G. on April 29, 2016—three days before the TPR hearing—R.G. showed up late, without notice, causing Ms. Plunkett to cancel the visit with the children. R.G. informed her that she broke up with her boyfriend,

did not have money to pay rent, and owed $1,900.00 in rent. R.G. informed Ms. Plunkett that she was in the process of reaching out to a family preservation worker and the housing authority for assistance.

R.G. received social security income, but the testimony was unclear whether R.G. was employed at that time. R.G. told Ms. Plunkett that she was attending class for her G.E.D., but, R.G. did not provide Ms. Plunkett with documentation of either her employment or enrollment in the G.E.D. program. Ms. Plunkett testified that R.G. was receiving therapy but that R.G. never provided her with documentation. R.G. did not provide financial assistance for the children during this time.

Ms. Plunkett testified that R.G. attended only three of the approximately seventeen scheduled weekly visits between January 2016 and May 2, 2016. During those three visits, Ms. Plunkett noticed that the children were very close and more excited to see each other than to see R.G. She also noticed that the children did not show any emotion at the end of the visits. The children also did not ask for R.G.

Ms. Plunkett made monthly home visits at T.A.'s house and testified that E.G. "was very bonded to" T.A.; calls her "mommy;" and that he is well-adjusted and well-cared for. DSS was in the process of transitioning J.G. to live with T.A., E.G.'s foster mother. At the time of the hearing, J.G. had completed four or five day- long visits with T.A. and one overnight visit. Additionally, Ms. Plunkett testified that, through her observations of the children at the scheduled visits, E.G. and J.G. are very close and that they play well together.

F. The Circuit Court's Decision

The circuit court announced its decision, from the bench, granting the petition on May 3, 2016. The circuit court methodically analyzed the case under each of the factors contained in Maryland Code (1984, 2012 Repl. Vol.), Family Law Article ("FL"), § 5-323(d) in a written opinion and order entered May 3, 2016. In regard to FL § 5–323(d)(1)(i)—services offered to the parent before the child's placement—the court noted that the

> First Service agreement with [R.G.] [dated February 2014] included . . . housing referrals, employment referrals, mental health referrals and domestic violence referrals.
>
> * * *
>
> [R.G.] missed 20 out of 25 or 30 weekly visits.
>
> * * *
>
> [LaToya Thomas, a case worker] entered [into] a second service agreement in August, 2014 and a new service agreement every 3 months with [R.G.] and offered Housing, employment and mental health referrals[.]
>
> Ms. Plunkett, a case worker testified that she continued the service agreement that was in place with Ms. Thomas when she became case worker in January 2016.

Then the court considered the extent, nature, and timeliness of services offered to facilitate reunion of the parent and child under FL § 5–323(d)(1)(ii) and found:

> [DSS] offered housing because the mother was living in an unauthorized house. [DSS] offered mother/baby housing but [R.G] refused. [DSS] made referral to "God be the Glory" housing but [R.G.] did not avail her self [sic] to the housing. [DSS] provided a housing list, offered first month's rest, furniture assistance and spoke to [R.G.] on a number of occasions about housing. . . . [R.G.] refused to accept any placement.
>
> . . . [R.G.] did provide some housing information, but [R.G.] did not follow through with the information that was needed in order to finalize

housing. [R.G.] had another child and was living with the boyfriend's mother at the time.

[DSS] offered referral to Parenting Classes through [DSS] Parenting Program on February 2014 and through each subsequent service agreement. [R.G.] did not start or complete the program and provided no documentation regarding completion. Due to the fact that the parenting classes were never completed and her lack of treatment for mental health, the visits were supervised.

[DSS] made a referral to Youth Works Employment services because [R.G.] was unemployed. [R.G.] indicated to the case worker, Sheila Harris[,] that she was employed for a retail company but that job did not last.

LaToya Thomas, a case worker[,] testified that she made a referral to Amazon but it was refused.

[R.G.] admitted to having mental health issues, specifically, Post Traumatic Stress Syndrome. Two referrals were made[,] however, the mother did not participate. [DSS] continued to make inquiries regarding [R.G.'s] mental health but was told by [R.G.] to not force the issue and to no longer ask her.

[DSS] referred [R.G.] to the House of Ruth after [R.G.] called [DSS] to report issues regarding domestic violence. [R.G.] did not attend or avail her self [sic] of any services from the House of Ruth.

* * *

[R.G.] was made a referral to Family Tree for mental health. [R.G.] made the initial phone call but did not attend. She indicated that she wanted to obtain her own mental health services. [R.G.] provided documentation regarding a mental health treatment but did not provide documentation regarding completion which was required under the service agreement. [R.G.] was asked to sign a consent form to allow [a] case worker to confirm information regarding her treatment; [R.G.] refused to sign.

[R.G.] indicated that the referrals were too much to handle in July, 2015 because she was pregnant with another child.

[R.G.] per the service agreement was provided information regarding housing. . . .

* * *

Mary Plunkett, [a] case worker[,] since January, 2016 testified that she maintained the present service agreement. [R.G.] was not in compliance.

A home assessment was done at Ashburton Avenue [on] January 8, 2016 but the home was not deemed appropriate.

Ms. Plunkett [met] with her [on] April 29, 2016 and [R.G.] was late.

> [R.G.] indicated that she received SSI and was behind on her rent. [A] home referral was made for her to assist. Ms. Plunkett, while [R.G.] was present set up a visitation visit with the current caregiver. [R.G.] did not show at her home.

The court next found under FL § 5–323(d)(1)(iii) that DSS had fulfilled its obligations under the social services agreement through referrals to parenting classes, housing referrals, and mental health referrals. But in analyzing the considerations under FL § 5–323(d)(2)(i)—namely, R.G.'s efforts to "adjust [her] circumstances, condition or conduct to make it in the child[ren]'s best interests [] to be returned to the parent's home," including the extent to which R.G. maintained regular contact with her children, DSS, and the child's caregiver—the court observed:

> Sheila Harris testified that: [R.G.] missed 20 out of 25 or 30 weekly visits . . . . [R.G.] was also chronically late for visits with the child.
>
> LaToya Thomas testified that [R.G.] missed several visits with the children.
>
> Ms[.] Plunkett testified that [R.G.] made only 3 out of 17 visits with the children and was late all three (3) visits.
>
> The case workers testified that [R.G.] was late for most of her appointments that she made. They indicated that she missed a number of appointments. The case workers testified that [R.G.] calls and maintains contact with the [case] workers, [but] [R.G.] never followed through with any referrals[;] [m]issed several appointments[;] and was generally non cooperative.
>
> The current caregiver, [T.A.,] testified that [R.G.] has her phone number and does not call. [E.G.] has [R.G.'s] phone number but [R.G.] rarely answers or returns phone calls.
>
> [R.G.] has maintained contact with [DSS] through phone calls and visits. However, the contact has been sporadic and [R.G.] has not completed any referrals.
>
> [DSS] has made reasonable efforts to reunify and assist [R.G.].

In regard to the remaining factors set out under FL § 5–323(d)(2), the court found that [R.G.] provided gifts and clothes for the children on a couple of occasions, but not on

a regular basis, and that R.G. had not provided the children financial support. In considering whether additional DSS services could bring about a parental adjustment that would permit reunification with R.G., the court stated: "[t]his Court finds that additional services would not [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." The court added that based on the testimony, the children have limited emotional ties with R.G. The court recounted the current caregiver's testimony that the children did not specifically ask about R.G., and Ms. Plunkett's testimony that "the children showed more interest toward each other than [R.G.] and showed no negative emotions when [R.G.] left during the few scheduled visits that [R.G.] made."

The court considered the children's adjustment to their current home and community as required under FL § 5–323(d)(4)(ii), and observed:

> The current caretaker, [T.A.] testified that [E.G.] has been living with her since June, 2015. He sleeps in his own room in a twin [bed]. He is presently in kindergarten and is adjusting well in school. He attends school all day 8:30 until 3:45 pm and then attends [an] after school program until 6:30 pm.
>
> [E.G.'s] therapeutic needs are being [met] through counseling at Kennedy Krieger. He has no behavioral issues and even though recommended by the therapist, receives no medication. . . .
>
> [E.G.] interacts well with [T.A.'s] daughter who lives with her and her daughter's child. [E.G.] is comfortable with [T.A.'s] boyfriend for the past 5 years, Mr. Terrance . . . In addition, [E.G.] is well adjusted to [T.A.'s] extended family. [Kaitlyn] Moran [a case worker] testified that she has observed the live in boyfriend with [E.G.], helping with homework and no behavior raises any concerns regarding [E.G.] or [J.G.'s] safety and well being [sic].
>
> [J.G.] has recently spent the night at [T.A.'s home]. [E.G.] and [J.G.] get along well. The issues that were present when the children first came into care is no longer an issue as testified to by the case workers, Kaitlyn Moran, Sheila Harris[,] and LaToya Thomas. [J.G.] has visited the home on

> 4 other occasions and the children are adjusting well. Transitional visits have started with [T.A.] The children have been observed together by Ms. Plunkett, [a] case worker during visits to [DSS] and they interact well and hug each other.
>
> [J.G.] will be attending Head Start in the fall. He currently lives with foster parents but the current caregiver of [E.G.] has been identified as an adoptive resource.
>
> [E.G.] likes swimming and wants to be a "Mer-Man" when he grows up. He likes jumping activities and watching television.
>
> [E.G] attends church.
>
> Ms. Plunkett testified that the children are well adjusted [sic] at the home of [T.A.] . . .

Finally, considering the likely impact of terminating parental rights on the children's wellbeing (FL § 5–323(d)(4)(iv)) the court found that "the termination of parental rights would not have a negative or adverse impact on the children's wellbeing. . . . [E.G.] has been in placement for over 843 days. [J.G.] is 3 years [old] and [has] been in care for 843 days. . . . It would have an adverse effect if a change in custody was to happen."

Based on these findings, the circuit court determined that there was clear and convincing evidence that R.G. was unfit to remain in a parental relationship with E.G. and J.G., and that exceptional circumstances existed that made continuation of the parental relationship detrimental to the best interests of E.G. and J.G.[13] The court granted T.A. limited guardianship for E.G. and J.G. for medical care including mental health care, educational decisions, and out-of-state travel. The circuit court also scheduled a

[13] The court also determined, by clear and convincing evidence, that it was in E.G. and J.G.'s best interest to terminate the parental rights of the father of E.G. and E.L.G., father of J.G.

guardianship review hearing for October 27, 2016. R.G. timely filed an appeal on May 16, 2016.

DISCUSSION

I.

Termination of Parental Rights

R.G. argues that the circuit court's findings—that R.G. was unfit, that exceptional circumstances existed, and that terminating R.G.'s parental rights was in the children's best interests—were not supported by sufficient evidence.[14] R.G. contends that there was insufficient evidence regarding J.G.'s progress in foster care for the circuit court to determine whether termination of R.G.'s parental rights was in J.G.'s best interests. R.G. asserts that the evidence did not show how her failure to comply with the service agreements' requirements—to participate in mental health counseling, prove employment or obtain a G.E.D., obtain DSS approved housing, or attend all visits with the children—adversely affected her ability to continue a relationship with her children. R.G. argues the circuit court did not articulate how its findings supported a conclusion that exceptional circumstances existed. R.G. contends that the "only inference that can be drawn [that exceptional circumstances existed] was the court was referring to the length of time that the children had been out of their mother's care."

[14] R.G. offers an additional argument that the brothers share a bond and that there is no guarantee that the brothers would be placed together if the court terminates R.G.'s parental rights and grants adoption. This argument is moot because, at oral argument, the children's counsel represented that J.G. was placed in T.A.'s care with E.G. after the TPR hearing.

In response to R.G.'s contention that the evidence did not support the circuit court's findings, DSS argues that R.G.'s inability to obtain stable employment, obtain DSS approved housing, and address the other items in the service agreements over a period of 27 months demonstrated an ongoing pattern of neglect. DSS also points out that R.G.'s current circumstances are "virtually identical" to her circumstances in 2014, when the children were removed from her care. DSS adds that R.G. failed to appear for the CINA proceedings;[15] failed to attend the guardianship hearing; and missed over half of the visits DSS arranged. DSS emphasizes that the children have been in foster care for 27 months and E.G., in particular, "needs a structured, predictable environment."

The children's attorney argues that the trial court did not abuse its discretion in finding parental unfitness, that exceptional circumstances existed, and that terminating R.G.'s parental rights was in the best interest of E.G. and J.G. In support, the children's attorney summarizes the circuit court's findings on the relevant FL § 5–323(d) factors—that R.G. inconsistently obtained medical care for J.G.'s special needs and failed to take E.G. to his well-child visits; failed to complete a parenting program; failed to live in approved housing; declined employment referrals; declined mental health treatment referrals; and missed more than half of the scheduled visits with her children. The children's attorney urges that stability and permanency for the children and a parent's

[15] We note that the record also reflects that R.G. did attend some proceedings when other parties were absent. For example, R.G. attended the December 15, 2014 hearing, but it was rescheduled to February 23, 2015 because R.G.'s counsel was not present. R.G. attended the February 23, 2015 hearing, but it was reset for March 23, 2015 because R.G.'s counsel and DSS's counsel were not present.

actions and inactions are important inquiries as to whether exceptional circumstances exist and a continued parental relationship serves the children's best interests.

When we review a juvenile court's decision to terminate parental rights, we employ three different, but interrelated standards of review:

> When the appellate court scrutinizes factual findings, the clearly erroneous standard of [Rule 8–131(c)] applies. [Second,] [i]f it 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 of Ta'Niya C., 417 Md. 90, 100 (2010) (citing *In re Adoption/Guardianship of Victor A.*, 386 Md. 288, 297 (2005)); *accord In re Adoption/Guardianship of L.B. and I.L.*, ___ A.3d ___, ___, No. 2816, September Term 2015, slip op. at 21–22 (filed Sept. 1, 2016).

Parents have a constitutionally protected right to the care, custody, and control of their children. *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 496–97 (2007). From this right, it is "presume[ed] that the interest of the child is best served by maintaining the parental relationship." *Id.* at 498. However, this 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." *Id.* at 497. The Court of Appeals has "'often reaffirmed that [the best interest of the child] takes precedence over the fundamental right of a parent to raise his or her child.'" *In re Yve S.*, 373 Md. 551, 569–70 (2003) (quoting *Wolinski v. Browneller*, 115 Md. App. 285, 301 (1997)).

Section 5–323(b) of the Family Law Article grants juvenile courts the authority to terminate parental rights and grant guardianship without consent in such instances where the "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 continuation of the parental relationship detrimental to the best interest of the child[.]" FL § 5–323(b). The juvenile court must consider the relevant statutory factors, enumerated in § 5–323(d); "make specific findings based on the evidence with respect to each of them[;]" and "determine expressly whether those findings suffice either to show an unfitness on the part of the parent to remain in a parental relationship with the child or to constitute an exceptional circumstance that would make a continuation of the parental relationship detrimental to the best interest of the child." *In re Rashawn H.*, 402 Md. at 502. Ultimately, the focus under the statutory factors is the child's best interest:

> As we instructed in *Rashawn,* the factors under FL Section 5–323(d) serve both as the basis for a court's finding (1) whether there are exceptional circumstances that would make a continued parental relationship detrimental to the child's best interest, and (2) whether termination of parental rights is in the child's best interest. *Id.* at 499, 937 A.2d at 190. Since one cannot make a determination of whether there are exceptional circumstances that would overcome the presumption of parental rights and make continuation of parental rights detrimental to the child's best interest without looking into the child's best interest, the ultimate focus of the juvenile court's inquiry must be on the child's best interest.

In re Adoption of Ta'Niya C., 417 Md. at 116.

A. Sufficient evidence that terminating R.G.'s parental rights was in the children's best interests

First, we address R.G.'s contention that the circuit court erred in terminating her parental rights because the court's findings—that R.G. was unfit, that exceptional

circumstances existed, and that terminating R.G.'s parental rights was in the children's best interests—were not supported by sufficient evidence. R.G., specifically, asserts that there was insufficient evidence regarding J.G.'s progress in foster care for the circuit court to determine whether termination of R.G.'s parental rights was in J.G.'s best interests. R.G. also asserts that the circuit court incorrectly focused on whether she was capable of resuming physical custody instead of whether she could have a continued parental relationship with E.G. and J.G.

"A parent's *actions* and *failures to act* both can bear on the presence of exceptional circumstances and the question of whether continuing the parent-child relationship serves the child's best interests." *In re Adoption of K'Amora K.*, 218 Md. App. 287, 307 (2014) (emphasis in original). *In re K'Amora K.* is the first reported opinion in Maryland in which parental rights were terminated based on the existence of exceptional circumstances alone. *Id.* at 305. The circumstances that led to DSS's involvement differ substantially from the facts presented in this appeal, but the case is instructive because it illustrates how courts review a parent's acts and failures to act in finding exceptional circumstances. *Id.* at 307.

K'Amora's mother, who was HIV-positive, refused HIV medication when she was pregnant with K'Amora despite her doctors' advice that the medication would reduce K'Amora's risk of contracting HIV to almost zero. *Id.* at 289. DSS removed K'Amora from her mother's care six days after she was born because of her "irrational and inconsistent reasons for refusing treatment" and her erratic behavior in the hospital led the hospital staffs' concern for K'Amora's safety. *Id.* at 290–91. The circuit court terminated

K'Amora's mother's parental rights because she failed to seek mental health treatment to manage her erratic behavior and failed to maintain consistent visitation with K'Amora—she missed 27 of the 61 scheduled visits. *Id.* at 291, 293. She also failed to find employment and provide a safe environment for her other children. *Id.* at 309. This Court affirmed the termination of parental rights, concluding the circuit court's findings were supported by the evidence. *Id.* at 310.

Appellees are correct that permanency and stability are important considerations in the TPR analysis. *See In re Adoption of Jayden G.*, 433 Md. 50, 82 (2013) (citing Nat'l Council of Juvenile and Family Court Judges, *One of the Key Principles for Permanency Planning for Children* (Oct. 1999) ("A critical factor in determining what is in the best interest of a child is the desire for permanency in the child's life."). In *In re Adoption of Jayden G.*, the Court cited to numerous studies that have shown that "'long periods of foster care' are harmful to children and prevent them from reaching their full potential." *Id.* at 83 (citing *In re Adoption/Guardianship of Victor A.*, 157 Md. App. 412, 427–29 (2004), *aff'd as modified*, 386 Md. 288 (2005) and various studies). The Court of Appeals affirmed the circuit court's termination of parental rights when Jayden had spent 27 months in foster care, made a successful adjustment to living with a foster family, and Jayden's mother had failed to make meaningful progress toward reunification. *Id.* at 102.

As with the parent in *In re Jayden G.* who "was not able to make any lasting changes in any one of the problematic areas," here R.G. failed to make meaningful progress to reunite with E.G. and J.G. in the 27 month period between the children's commitment to

DSS and the TPR hearing despite entering into three service agreements with DSS. *In re Jayden G.*, 433 Md. at 102–03. The DSS case workers explained to R.G. the requirements necessary to reunite with E.G. and J.G—including obtaining DSS approved housing, stable employment, and mental health services—and memorialized these requirements in service agreements. Similar to the testimony presented in *In re Jayden G.*, the testimony of the case workers demonstrated R.G.'s inability to take advantage of DSS's services to improve her housing, employment, and mental health circumstances that would have enabled her to become a responsible parent to E.G. and J.G. *See id.* R.G. was employed for approximately a month in a telemarketing job and then at a retail store for a short time. Ms. Thomas recommended a few employment opportunities to R.G when she was terminated from her telemarketing job, but R.G. did not follow up. At the time of the TPR hearing, R.G. was behind in rent by $1,900 and not employed. Despite DSS's efforts to offer services, R.G. did not have DSS approved housing or stable employment when DSS filed the TPR petitions or by the TPR hearing. We cannot say the circuit court erred in finding that R.G. was not compliant with the service agreements and failed to make meaningful progress toward reunification.

E.G. and J.G. have been in foster care for almost three years and are cognizant that many of their placements were temporary with the exception of the possibility of adoption by T.A. J.G. has had five foster home placements during this time. Additionally, the record reflects R.G. demonstrated a lack of concern for her children. DSS arranged for approximately 87 visits to provide R.G. with the opportunity to maintain regular contact

and a relationship with her children. Despite rescheduling visits and providing bus tokens, similar to *In re K'Amora K.*, R.G. missed over half of these visits without providing notice to DSS. *See* 218 Md. App. at 291. T.A., E.G.'s foster mother, attempted to facilitate E.G. and R.G.'s relationship to no avail. T.A. let E.G. call R.G., but R.G. would not answer her phone or return his calls. R.G. arrived late to the last scheduled visit before the TPR hearing, without contacting DSS, and, as a result, the visit with the children was cancelled per DSS policy. Ms. Plunkett coordinated with T.A. to make up for the visit on Saturday, April 30, 2016. T.A. drove E.G. and J.G. to R.G.'s home, but R.G. did not answer the door. Moreover, R.G. did not attend the CINA adjudication or the TPR hearing. We, therefore, find the record provided sufficient evidence to support the circuit court's findings that R.G. was unfit because she was unable to maintain regular contact with E.G. and J.G. and failed to avail herself of DSS services that would have facilitated a continued parental relationship with E.G. and J.G. and that terminating R.G.'s parental rights was in their best interests.

B. Exceptional Circumstances

Next, we address R.G.'s contention that the circuit court did not articulate how its findings supported a conclusion that exceptional circumstances existed. Specifically, R.G. contends that the "only inference that can be drawn [that exceptional circumstances existed] was the court was referring to the length of time that the children had been out of their mother's care."

We start by noting that "[i]f the court determines that the parent is *unfit* to remain in a parental relationship with the child, however, then the continued parental relationship is, in our view, by definition detrimental to the child, *and there need not be an express finding to that effect* before terminating parental rights." *In re Jasmine D.*, 217 Md. App. 718, 736 (2014) (citing FL§ 5-323(b)). The circuit court is only required to "link [the exceptional circumstances] to the continuation of the parental relationship being detrimental to the best interests of the child" when it finds that exceptional circumstances exist. *Id.* at 735–36. Here the circuit court made specific findings as to each relevant factor contained in FL § 5-323(d). Although the circuit court could have articulated the connection between its factual findings and the existence of exceptional circumstances more clearly, we determine the court's factual findings were not clearly erroneous and that it did not abuse its discretion in ultimately concluding that exceptional circumstances existed following the court's methodical analysis of each relevant FL § 5-323(d) factor. *See In re Adoption of Ta'Niya C.*, 417 Md. at 100. Even if there is merit to R.G.'s argument that the court did not adequately link its findings to the existence of exceptional circumstances, it does not warrant reversal because the circuit court also found that R.G. was unfit to remain in the parental relationship with the children. *See In re Jasmine D.*, 217 Md. App. at 736.

R.G. also refers us to *In re Adoption/Guardianship of Alonza D., Jr.* for the Court of Appeals's holding that length of time in foster care, absent any other finding, does not

amount to exceptional circumstances. 412 Md. 442, 460–61 (2010). However, this Court has distinguished *Alonza D.* on this very point:

> There, the Court of Appeals reversed a termination order, holding that a father's failure to improve his circumstances over a long period of time could not, standing alone, justify termination based on exceptional circumstances. Although there were factors that favored termination, the trial court had before it no expert testimony regarding the "children's feelings and emotional ties" with their father, nor did it "articulate any finding that a continued parental relationship with [the father] would prove detrimental to their best interests." *Id.* at 460, 987 A.2d 536 (emphasis added). In short, the Court of Appeals held that the trial court had erred by basing its decision almost solely on the father's absence from his children's lives over time, even though the father had a fulltime job and a home that could accommodate the children: "Passage of time, without explicit findings that the continued relationship with [the father] would prove detrimental to the best interests of the children, is not sufficient to constitute exceptional circumstances." *Id.* at 463, 987 A.2d 536 (footnote omitted).

In re K'Amora K., 218 Md. App. at 305–06 (citing *In re Alonza D.*, 412 Md. 442). Here, although the length of time the children were in foster care was a factor in the court's decision, the circuit court's findings do not indicate it was the predominant factor as in *In re Alonza D*. *See id.* at 450.

Next, R.G. argues, citing to *In re Ta'Niya C*, *supra*, that the circuit court may reach different conclusions for the children. We agree that courts may reach different conclusions regarding different children in TPR hearings; however, the facts in this case do not lead us to impose that result. The Court of Appeals in *In re Ta'Niya C.* was referring the juvenile court's reluctance, in that case, to terminating the mother's rights to Ta'Niya where there was no petition to terminate her parental rights to her other child, Ja'Niya. 417 Md. at 115–16. There Judge Adkins explained, "[i]ndeed, as the facts of this case demonstrate, a parent may, for example, have regular and frequent contact with one child,

but not the other, and have varying degrees of success in completion of different service agreements with respect to each child." *Id*. at 116.

In this case, the court examined R.G.'s noncompliance with service agreements that were for both E.G. and J.G., who were both removed from R.G.'s care on January 11, 2014. The CINA and TPR proceedings were conducted for children simultaneously, and both had been in foster care for 27 months at the date of the TPR hearing. The weekly visits that DSS had scheduled, and that R.G. missed with great frequency, were with both children. Clearly the facts of this case are very different from the scenario discussed in *In re Ta'Niya C.*, and did not present the circuit court with the opportunity to reach different conclusions for E.G. and J.G.

We determine the circuit court's decision was based on ample evidence. Accordingly, we hold the circuit court did not abuse its discretion in finding R.G. was an unfit parent, that exceptional circumstances existed, and that terminating R.G.'s parental rights was in the children's best interests.

II.

Mother's Absence from TPR Hearing

R.G. contends that the circuit court denied her procedural due process rights by proceeding with the TPR hearing in her absence. Acknowledging that the Sixth Amendment Confrontation Clause does not apply to TPR hearings, R.G. contends still that she has a right to be present. R.G. argues the court was required to ask the reasons for her absence in order to determine whether there were valid reasons for a continuance.

DSS argues that the trial court did not abuse discretion in denying the continuance because R.G. failed to attend either day of the termination hearing, the CINA adjudication, the CINA disposition, and a CINA review hearing. DSS also points out that R.G. failed to contact her counsel or the court. DSS further argues that R.G. must demonstrate that she suffered prejudice as a result of the denial and she did not do so.

The children's attorney argues the trial court did not abuse its discretion by proceeding with the TPR hearing because R.G. was served for the hearing, and the court delayed the hearing until 10:04 a.m. but her counsel was unable to contact her on the day of the hearing. The children's attorney also asserts that the court's denial of the motion was required by FL § 5-319(a)(1), which requires the court to rule on a guardianship petition within 180 days of filing and the petition had been pending for more than 200 days at that point.[16]

Maryland Rule 2–508, which governs motions for continuance, provides: "[o]n motion of any party or on its own initiative, the court may continue a trial or other proceeding as justice may require." We review the denial of a motion for continuance under the abuse of discretion standard. *Touzeau v. Deffinbaugh*, 394 Md. 654, 669 (2006). The Court of Appeals has "defined abuse of discretion as 'discretion manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.'" *Id.* (citing

[16] Because we are affirming the circuit court's judgments, we need not address this specific argument. However, the Court of Appeals has addressed this argument, *In re Jayden G.*, *supra*, 433 Md. at 79–81, explaining that the 180–day time limit was directory, not mandatory.

Jenkins v. City of College Park, 379 Md. 142, 165 (2003)). Nevertheless, this Court has also recognized that there is "no right more fundamental to any parent than to be given *a reasonable opportunity to be present* at any judicial proceeding where the issue is whether or not the parent should be permitted to have custody of its child." *In re McNeil*, 21 Md. App. 484, 496 (1974) (emphasis added).

In re McNeil is instructive as to the circumstances that warrant the continuance of a TPR hearing. In *McNeil*, Mrs. McNeil consented to the commitment of her two young children to Social Services but, after six months, she filed a petition for review of the commitment alleging that she was able to care for her children. 21 Md. App. at 486. After a hearing, the master recommended terminating the children's commitment to Social Services and returning the children to their mother's custody. *Id.* Social Services filed exceptions and the matter was scheduled for a hearing before a judge. *Id.* The day before the hearing, Mrs. McNeil notified her counsel that one of her children was sick but she would appear at the hearing. *Id.* at 487. On the morning of the hearing, Mrs. McNeil contacted the judge's chambers to inform him that she was unable to appear at the hearing because she was caring for her sick child. *Id.* The trial court denied Mrs. McNeil's counsel's motion for continuance and proceeded with the hearing, which resulted in the removal of one of Mrs. McNeil's children from her care. *Id.* at 487–88.

This Court held that the trial court's denial was "one of those exceptional instances where refusal to grant a continuance was so arbitrary as to constitute a denial of due process." *Id.* at 499. The Court observed that Mrs. McNeil acted responsibly by initiating

the petition for commitment, attended and testified at prior hearings, and called in on the day of the hearing to explain that she had to care for one of the children who had become ill. *Id.* at 498. The trial court did not make a "realistic inquiry into the circumstances of [Mrs. McNeil's] absence, or ascertain whether she had been guilty of a pattern of unconcern." *Id.* at 498. This Court was careful to note that: "We do not hold that it is never permissible to hold a custody hearing in the absence of one or both parents. Under some circumstances such a hearing could be necessary and proper[.]" *Id.* at 499. Unlike the instant case, the Court pointed out in *In re McNeil* that there was nothing urgent about the hearing date, as the children were permitted to remain with the appellant in that case for several weeks following the trial court's decision. *Id.* at 498.

The Court of Appeals has held that the juvenile court's denial of a continuance was an abuse of discretion in the following circumstances:

> We have found that it would be an abuse of discretion for a trial judge to deny a continuance when the continuance was mandated by law, *see Mead v. Tydings*, 133 Md. 608, 612, 105 A. 863, 864 (1919), or when counsel was taken by surprise by an unforeseen event at trial, when he had acted diligently to prepare for trial, *Plank v. Summers*, 205 Md. 598, 604-05, 109 A.2d 914, 916-17 (1954), or, in the face of an unforeseen event, counsel had acted with diligence to mitigate the effects of the surprise, *Thanos v. Mitchell*, 220 Md. 389, 392-93, 152 A.2d 833, 834-35 (1959).

Touzeau v. Deffinbaugh, 394 Md. at 669–670.

We conclude that these circumstances are not present in this case. R.G. received notice of the hearing on March 16, 2016. Additionally, a DSS social worker reminded R.G. of the hearing on April 29, 2016. The trial court delayed the hearing until 10:04 a.m. to allow R.G.'s counsel to contact her. Unlike *McNeil*, R.G. failed to inform her attorney

or the court in advance that she was unable to attend the hearing. *See McNeil*, 21 Md. App. at 487. The court confirmed that R.G. had been served with notice, and after inquiring as to when R.G.'s counsel last spoke with R.G., ascertained from R.G.'s counsel's response that there was no good cause for R.G.'s absence. We hold the circuit court did not abuse its discretion in denying R.G.'s motion for continuance.

JUDGMENTS AFFIRMED. COSTS TO BE PAID BY APPELLANT.