

Circuit Court for Baltimore County  
Case No. C-03-JV-22-0545  
Case No. C-03-JV-22-0546  
Case No. C-03-JV-22-0547

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND\*\*  
CONSOLIDATED CASES  
No. 1451, 1452, 1453  
September Term, 2022

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IN RE: C.W., J.W. & C.J.

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Nazarian,  
Tang,  
Getty, Joseph M.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Getty, J.

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Filed: April 12, 2023

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

\*\*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

Under State law, a local department of social services that has reason to believe that a child is a victim of abuse or neglect may initiate an action in juvenile court to have the child declared a “child in need of assistance”—commonly known by the acronym “CINA.” If the juvenile court ultimately finds that the child is a CINA, additional proceedings are held by the court to provide the necessary assistance to the child.

In this case, a mother, J.W. (“Ms. W.”) appeals the decision of the Circuit Court for Baltimore County, sitting as a juvenile court, that three of her children—C.W., J.W., and C.J.—were CINA. Prior to the court proceeding, the Baltimore County Department of Social Services (“Department”) removed the children from Ms. W.’s home and filed three separate petitions to find the children to be CINA. The three related petitions were combined as one proceeding at the juvenile court, and a motion to consolidate the three appeals was granted by this Court.

Ms. W. has an extensive history with the Department. The removal of her three children in this case was prompted by an incident that occurred during a visit supervised by a case worker from the Department between Ms. W. and her fourth child, A.W., who was previously removed from Ms. W.’s care prior to the current case.

Based upon this incident, and following the removal of C.W., J.W., and C.J. from Ms. W.’s home and placement in shelter care, the juvenile court held adjudication and disposition hearings. The court sustained all allegations contained in the Department’s

petition and determined that C.W., J.W., and C.J. were CINA. Ms. W. now appeals that decision and raises two questions<sup>1</sup> that we have rephrased for clarity:

1. Did the circuit court err when it found the children to be CINA?
2. Did the circuit court err when it found that the Department made reasonable efforts to prevent the need for removal of the children?

For the reasons set forth below, we answer “no” to both questions and affirm the judgment of the Circuit Court for Baltimore County.

## **FACTS & PROCEDURAL HISTORY**

### **A. Background**

Ms. W. is the mother of three children in this appeal—J.W. (infant), C.W. (age 3), and C.J. (age 5)—and another child not a subject of this appeal—A.W. (age 2). In 2017, C.J. was diagnosed with failure to thrive,<sup>2</sup> which initiated the Department’s involvement with Ms. W. and her children. At that time, C.J. was removed from Ms. W.’s care but later returned. In 2019, the Department renewed its concern that Ms. W. was not properly caring for C.J. Specifically, C.J. (at twenty-one months old) and her brother, C.W. (at two months

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<sup>1</sup> Ms. W. presented the questions for review as follows:

1. Did the circuit court err when it found the children to be in need of assistance when the children were not abused or neglected and Ms. W. was willing and able to care for the children?
2. Did the court err when it found that the department had made reasonable efforts to prevent the need for removal of the children?

<sup>2</sup> Failure to thrive is “[a] medical and psychological condition in which a child’s height, weight, and motor development fall significantly below average growth rates.” *Failure to Thrive*, Black’s Law Dictionary (11th ed. 2019).

old) were both underweight. C.J.’s condition required hospitalization and the Department alleged that

[C.J.] was born with several congenital conditions including cytomegalovirus (CMG), microcephaly, sensory hearing loss (SNHL) and small for gestational age (SGA). [C.J.] is developmentally delayed and requires close monitoring by medical professionals. According to pediatrician, Dr. Heather Wade from Johns Hopkins, [C.J.’s] Failure to Thrive diagnosis is due solely to inadequate calorie intake. Medical records from February 8, 2019 indicate that [C.J.] had not gained weight in the previous 6 months. The doctor’s note from that visit stated “mom states she has not been consistent about serving meals[, C.J.] fills up on drinks and snacks.”

The Department also alleged that Ms. W. did not give C.J. a prescribed “iron supplement” for iron deficiency and failed to follow up on a referral to services.

In this prior case, the court sustained all allegations in the CINA petition and found that the children’s continuation in Ms. W.’s home was contrary to their welfare because “[Ms. W.] is unable to provide proper care and attention to the [children] due to her own mental health and cognitive issues which interfere with her ability to follow medical advice and have resulted in medical neglect of the [children].” C.J. and C.W. were placed in foster care from March 2019 until November 2020.

After the removal of C.J. and C.W., the Department referred Ms. W. to Dr. Nelson Bentley for a psychological evaluation conducted on June 27, 2019. The psychologist diagnosed Ms. W. with Bipolar I Disorder, a mild intellectual disability, and evidence of turbulent, narcissistic, and paranoid personality traits. The psychologist concluded that “[Ms. W.] has a significant intellectual disability and substantial mood issues and consequently, there are significant concerns about her potential to provide her two minor

children safe and healthy parenting. Consequently, should the minor children be placed in [Ms. W.’s] care sometime in the future, her parenting of the children will require close and constant supervision.” In addition, the psychologist stated that “[g]iven the multiple concerns that have been identified, it is strongly recommended that the Department should proceed very slowly and cautiously with a reunification plan, and should the children be placed in [Ms. W.’s] care at some time in the future, it will be absolutely essential for the Department to continue to monitor the situation closely.”

C.J. and C.W. were returned to Ms. W.’s care in November 2020 for a trial period of residing at home. However, they reentered foster care in January 2021. Then they returned home for another trial period beginning in May 2021, and the CINA case was rescinded by the court on March 24, 2022, against the Department’s recommendation.

During this same timeframe, the Department took action concerning the health and safety of Ms. W.’s one-year-old child, A.W., when A.W. was hospitalized in January 2021 with severe dehydration and two bilateral fractures. The hospital put in a gastronomy tube for feeding purposes until A.W. could eat and drink without artificial support. The Department was concerned that Ms. W. was unable to provide for A.W.’s nutritional and medical needs and removed A.W. from Ms. W.’s care in February 2021 to place A.W. in foster care following discharge from the hospital. A.W. remains in foster care.

After A.W.’s removal, the Department referred Ms. W. for a psychological evaluation by Dr. Robert K. Kraft. In this second evaluation conducted on October 13, 2021, Ms. W. was diagnosed with a mild intellectual disability and a learning disorder

involving reading comprehension. According to the evaluation report, “[Ms. W.] gave an implausible explanation [for A.W.’s fractures], taking no responsibility, and blaming her older children’s foster parent for the injuries that [A.W.] sustained.” In addition, the psychologist concluded that “[Ms. W.’s] limited intelligence, limited knowledge of parent awareness skills, and limited knowledge of appropriate parenting practices, renders her at high risk for dysfunctional parenting/neglect. The more vulnerable the child is that is placed in her care, the greater the risk.”

***B. The Home Visit Incidents According to the Department***

The current CINA petitions stem from home visits by the Department during July and August 2022. A case worker specialist from the Department, Lela Kaidbey, brought A.W. to Ms. W.’s home for a supervised visit on July 28, 2022. Ms. Kaidbey’s work on Ms. W.’s CINA cases was supervised at the Department by Erica Hill—a licensed social worker.

Ms. W. was agitated because she claimed Ms. Kaidbey did not tell her in advance about the visit. Ms. Kaidbey noted that it appeared Ms. W. was just waking up even though it was 1:00 p.m. During this visit, Ms. Kaidbey noticed a mattress on the floor that took up most of the living room. This concerned Ms. Kaidbey that one of the children might trip over it, but she did not raise the issue with Ms. W. at this time.

After this visit, Ms. W.’s psychiatric rehabilitation program (“PRP”)<sup>3</sup> staff member asked Ms. Kaidbey to provide advanced notice of A.W.’s visits in the future. Ms. Kaidbey agreed and, as an aside, commented to the PRP staff member that it seemed Ms. W. had just woken up because there was a mattress in the living room. The PRP staff member then mentioned the presence of the mattress to Ms. W. who became upset because Ms. Kaidbey did not address with her first that the mattress was an issue.

At the next home visit, on August 4, 2022, Ms. Kaidbey brought A.W. for a supervised visit, and a social worker from the Office of the Public Defender, Mwuese Igyor, also attended. During the visit, Ms. Kaidbey asked Ms. W. why there was a mattress in the living room. Ms. W. became agitated and began cursing at her. Attempts by both Ms. Kaidbey and Ms. Igyor to deescalate the incident were unsuccessful. When Ms. W. began hitting the walls in her apartment, Ms. Igyor informed Ms. W. that she would leave if Ms. W. continued this behavior. Ms. W. persisted, and Ms. Igyor left the home.

Ms. Kaidbey also informed Ms. W. that she would end the visit with A.W. if Ms. W. remained agitated. According to the Department, “[t]he visit was unproductive due to [Ms. W.’s] continued aggressive behaviors and her inability to regulate her emotions.” After Ms. Kaidbey threatened to end the visit, Ms. W. “blocked the entrance to her

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<sup>3</sup> “In Maryland, a psychiatric rehabilitation program (PRP) is an accreditation-based licensed program that provides community-based comprehensive rehabilitation and recovery services and supports and promotes successful community integration and use of community resources.” *Psychiatric Rehabilitation Program (PRP)*, Md. Dep’t of Health, <https://health.maryland.gov/bha/Pages/psychiatric-rehabilitation-program.aspx> [<https://perma.cc/N4VY-NA7J>] (last visited Apr. 11, 2023).

apartment and held Ms. Kaidbey against her will.” In response, Ms. Kaidbey called the police to intervene. As she was blocking the exit, Ms. W. was holding her infant child, J.W., in her arms. She told Ms. Kaidbey that she would drop the baby and blame the Department for any injuries. Additionally, she pushed C.W. who entered the room causing C.W. to fall but without any apparent injury.

When the police arrived, Ms. Kaidbey was able to leave with A.W. After consulting with her supervisor, the foster care administrator, and the Department’s counsel, Ms. Kaidbey received authorization to remove C.W., J.W., and C.J. from Ms. W.’s home. The Department placed all three in foster care and filed a separate CINA petition for each child.

***C. Ms. W.’s Version of the Home Visit Incidents***

Ms. W. disagrees with the Department’s account of these incidents. Ms. W. explained in her testimony at the adjudication hearing that, prior to the July visit, she had moved the mattress into the living room because the cable from her cable television provider was too short to reach her bedroom. Thus, she placed the mattress into the living room so that it would be in proximity to her television and gaming system.

Regarding the August visit, Ms. W. countered that after hugging A.W., she instructed the children to play in the other room so she could speak with Ms. Kaidbey about the mattress issue. Ms. W. had asked Ms. Igyor to be present so she could support Ms. W. in her discussions with Ms. Kaidbey about the July visit. When these discussions broke down, Ms. W. admitted that she yelled and cursed but claimed she had quickly gone to her



room to calm down. According to her account, when she returned to the living room, Ms. Igyor had left and was no longer there to support her.

Although she was upset when Ms. Kaidbey wanted to end the visit with A.W., Ms. W. claimed that she did not impede Ms. Kaidbey from leaving or threaten to drop J.W., but instead asserted that J.W. was in his swing during the entire visit. She also maintained that she did not push C.W. to the ground. Ms. W. emphasized that Ms. Kaidbey did not indicate to the police officer that she was in fear for her life or the safety of the children. In support of her position, Ms. W. noted that the officer did not report anything of concern involving the children and that she was not arrested and did not receive any citations.

***D. CINA Petitions & Juvenile Court’s Findings***

The CINA petitions filed by the Department on August 5, 2022, asserted the statutory requirements that each child “has been abused, has been neglected, has a developmental disability, or has a mental disorder, and 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[.]” To support this assertion, the Department made 15 allegations:

1. On August 4, 2022, Baltimore County Department of Social Services case worker specialist, Lela Kaidbey visited [Ms. W.’s] home to conduct a supervised visit with her child, [A.W.], who is currently placed in a foster home. Mwuese Igyor, Office of the Public Defender social worker was also present.
2. During the visit, Lela Kaidbey, inquired why there was a mattress in the living room and [Ms.W.] became agitated by this question. [Ms. W.] began cursing at Ms. Kaidbey. Both workers attempted to deescalate [Ms. W.]. However, [Ms. W.] continued to escalate and she began hitting the walls in her apartment.

3. Both Ms. Kaidbey and Ms. Igyor attempted to deescalate [Ms. W.] but she continued to curse at both of them. Ms. Igyor informed [Ms. W.] if she continued to behave in this manner that she would leave the visit. [Ms. W.] remained agitated, and Ms. Igyor left the visit.
4. Ms. Kaidbey also attempted to deescalate [Ms. W.] and warned her that if she was unable to calm down that the visit would need to end with her child, [A.W.]
5. [Ms. W.] blocked the entrance to her apartment and held Ms. Kaidbey against her will and the police were called to intervene.
6. During this time, [Ms. W.] was holding her youngest child, [J.W.], in her arms and told Ms. Kaidbey that she would drop the baby and blame the Department for the child's injury.
7. [Ms. W.] also shoved [C.W.], during her escalated state knocking [C.W.] to the ground. [C.W.] did not appear to be injured from the fall at the time.
8. The police arrived and were able to deescalate the situation. Ms. Kaidbey was able to leave with the child, [A.W.], and return [A.W.] to [the] foster home. Ms. Kaidbey was able to consult with her supervisor, foster care administrator and Department's counsel.
9. [Ms. W.] has a lengthy history with the Department of Social Services dating back to 2017. At that time, the Department was concerned due to [C.J.] being diagnosed Failure to Thrive. [C.J.] was later returned to her care.
10. The Department became involved again in March 2019 due to concerns that [Ms. W.] was not providing adequate care of [C.W.] and [C.J.]. It was noted that [C.J.] required hospitalization and that both children were underweight. [Ms. W.] failed to comply with medical advice. There were additional concerns that [Ms. W.'s] cognitive limitations and mental health issues impacted her ability to provide safe and stable care of the children.
11. [C.W.] and [C.J.] were placed in foster care from March 2019–November 2020. The children were returned to [Ms. W.] through a trial home visit until they re-entered care in January 2021. [C.W.] and [C.J.]

returned to [Ms. W.’s] care through a second trial home visit in May 2021 until the CINA case was rescinded on March 24, 2022.

12. [A.W.] was removed from [Ms. W.’s] care in February 2021 due to concerns of neglect regarding her inability to provide properly for [A.W.’s] nutritional and medical needs. [A.W.] also sustained two bilateral fractures with unknown origins. [A.W.] remains in foster care.
13. Despite [Ms. W.’s] engagement in mental health services and PRP services, she continues to demonstrate an inability to regulate her emotional responses when she is agitated. This presents an imminent risk in caring for young children who are unable to self-protect.
14. The respondent was previously committed to the Department under [case number removed]. Facts sustained in that case included that mother had diagnoses of bipolar disorder and OCD as well as cognitive processing difficulties, facts were also sustained that respondent had had [sic] not been eating enough due to mother’s neglect.<sup>[4]</sup>
15. Father is unknown

In the hearing on its initial request for continued shelter care, counsel for the Department argued that “[t]he common theme throughout the previous cases [involving the children], and very obviously in this case . . . is that [Ms. W.] has mental health issues that have resulted in previous neglect and have now resulted in actual physical abuse.” Counsel added that, “very simply, the previous case [involving C.J. and C.W.] was closed too soon.”

At the adjudication and disposition hearings held on October 11, 2022, the juvenile court heard testimony from Ms. Kaidbey, her supervisor Ms. Hill, the responding police officer, and Ms. W. Counsel representing Ms. W., the Department, and the children also

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<sup>4</sup> The CINA petitions for the three children were identical except for allegation 14. For C.W. and C.J., the allegation reads as quoted with two different case numbers. For J.W., the allegation states that “[t]he respondents [sic] siblings were previously committed to the Department under [case numbers removed].” The rest of the allegation is the same.

participated in the hearings (one attorney represented C.W. and C.J., and a different attorney represented J.W.).

The juvenile court sustained all 15 allegations made by the Department in each CINA petition. In explaining the oral decision delivered at the bench, the hearing judge commented that “part of the benefit of being the trier of fact is the ability to listen and observe witnesses and make credibility determinations.” Specifically, the judge “f[ou]nd credible the testimony that [Ms. W.] became agitated[,]” “began yelling, cursing[,]” and “she did hit the walls.” She also “f[ou]nd credible the testimony that [Ms. W.] threatened to drop the baby and blame it on Ms. Kaidbey” and “the testimony that [Ms. W.] shoved her son, [C.W.]” She acknowledged that C.W. was not hurt but commented that “the conduct was concerning.”

The hearing judge also “f[ou]nd the testimony of Ms. Hill credible as well.” She emphasized that “it was Ms. Hill’s opinion that even though the incidences were perhaps less frequent, incidences of being agitated and escalating behavior, they were, nevertheless, still intense and there didn’t seem to be an overall ability for Ms. W. to[] de-escalate herself.”

In the overall considerations for the three children, the hearing judge stated that “what is most important in deciding whether these children are CINA, is the very serious nature of the conditions, the needs of the children and their ages.” She further acknowledged that “the children . . . are not able to self-protect.”

In considering the Department's actions, the hearing judge found that the Department satisfied the requirement that it provide reasonable efforts to prevent or eliminate the need for removal of the children. As evidence of the Departments' efforts, the adjudication/disposition order listed the services provided to Ms. W. as follows: "[a] Child Protective Services investigation/risk assessment completed; treatment/service providers contacted; home visit made; records reviewed; relative resources explored; and Family Team Decision Making meeting conducted; attempts made to achieve educational stability; attempts made to contact mother's therapist; referrals provided for mother; service plan completed; maintained regular contact with mother."

The hearing judge explained that "the Department has made reasonable efforts through housing assistance, transportation assistance, through the referrals for evaluations, through the social workers' efforts to attempt to de-escalate. There is a new . . . psychological evaluation that's scheduled . . . . There have been many services provided and the Department continues to provide."

The Department made the following nine recommendations for the juvenile court's disposition of the case:

1. That [C.J., C.W., and J.W.] be found a Child in Need of Assistance and be committed to the Baltimore County Department of Social Services.
2. That the Court grant the Baltimore County Department of Social Services limited guardianship of [C.J., C.W., and J.W.] for medical, educational, and mental health to include inpatient hospitalization and the administration of psychotropic medication, and out-of-state travel purposes.

3. That [Ms. W.] sign releases of information forms for her mental health providers and comply with treatment recommendations.
4. That [Ms. W.] submit to a psychological evaluation by a clinician designated by the Department and follow recommendations of the assessment.
5. That [Ms. W.] participates in an Anger Management Program.
6. That [Ms. W.] permits announced and unannounced visits in her home
7. That [Ms. W.] consent to educational testing for [C.W.] through Child Find<sup>5</sup> due to [C.W.’s] speech deficits.
8. That [Ms. W.] provide DSS with [C.J.’s] hearing aid
9. That visitation with [C.J., C.W. and J.W.] remains supervised.

Ms. W. objected to the recommendations that the children be found CINA and committed to the Department’s care. She did not object to providing releases, granting limited guardianship to the Department, or providing C.J.’s hearing aid. Ms. W. further requested that visitation be unsupervised or supervised at a location other than at the Department and that the Department be more diligent in providing notification of the children’s appointments and visitation.

At the disposition hearing that immediately followed the adjudication hearing, the Department and the children requested that the children be found CINA and committed to

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<sup>5</sup> “Child Find is a special education service provided by the Baltimore County Public School System for identifying children from ages three through twenty-one who are suspected of having an educational disability and who may be eligible for special education and related services.” *Child Find Services*, Balt. Cty. Pub. Schs., [https://dci.bcps.org/department/special\\_education/birth\\_to\\_five\\_services/child\\_find\\_services](https://dci.bcps.org/department/special_education/birth_to_five_services/child_find_services) [<https://perma.cc/BM9G-6JBY>] (last visited Apr. 11, 2023).

the Department's care. Counsel for Ms. W. argued against finding the children CINA and removing them from Ms. W.'s care:

On behalf of my client, [Ms. W.], she does not believe that the findings amount to a finding of CINA. As I stated earlier, the mother is able and she is willing and has been willing and able throughout her kids' life to be a parent to the, to her children.

We do not believe that even if Your Honor did find that they were children in need of assistance, that the facts in this case do not rise to a level where the kids could not be placed in her home under the Department's supervision. So, that if Your Honor does decide that they are children in need of assistance, we are asking that the kids be placed back in the home with the mother, with services.

Based on the sustained allegations, the court issued an order dated October 18, 2022 that determined that the children were CINA and that continuation in Ms. W.'s home would be contrary to the children's welfare because "[Ms. W.] has extensive mental health issues that have previously resulted in nutritional neglect and currently have resulted in physical abuse[.]" The court granted the Department limited guardianship and committed C.W., J.W., and C.J. to its custody, with liberal and supervised visitation with Ms. W. The court further ordered that Ms. W. cooperate with the Department on family background information, releases of information, and other actions; undergo a mental health evaluation, follow recommendations, and sign releases of information for the Department; undergo a psychiatric evaluation and/or fitness to parent evaluation as recommended by the Department, follow recommendations, and sign releases; and provide the hearing aid for C.J. The court ordered the Department to "keep [Ms. W.] informed of all medical and educational appointments."

As described above, these three related CINA petitions were combined for one proceeding before the juvenile court. Upon an unopposed motion for consolidation by Ms. W., this court consolidated the three appeals by order dated December 19, 2022.

### STANDARD OF REVIEW

When reviewing a juvenile court’s findings in CINA proceedings, an appellate court will apply “three distinct but interrelated standards of review.” *In re J.R.*, 246 Md. App. 707, 730 (2020) (quoting *In re Adoption/Guardianship of H.W.*, 460 Md. 201, 214 (2018)).

First, we review the juvenile court’s factual findings for clear error. *Id.* Second, the court’s legal conclusions are reviewed *de novo*. *In re Adoption/Guardianship of C.A. and D.A.*, 234 Md. App. 30, 45 (2017). If we find an error of law, “we then assess whether the error was harmless or if further proceedings are required to correct the mistake in applying the relevant statute or regulation.” *In re J.R.*, 246 Md. App. at 731.

Third, we review the juvenile court’s ultimate determination that a child is in need of assistance for abuse of discretion. *Id.* We will reverse that decision “only if [it is] ‘well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.’” *Id.* (quoting *In re J.J.*, 231 Md. App. 304, 345 (2016), *aff’d*, 456 Md. 428 (2017), *cert. denied*, 139 S. Ct. 310 (2018)).

### DISCUSSION

#### **A. Juvenile Court’s CINA Determination – Abuse & Neglect**

“The purpose of CINA proceedings is ‘to protect children and promote their best interests.’” *In re Priscilla B.*, 214 Md. App. 600, 622 (2013) (quoting *In re Rachel T.*, 77



Md. App. 20, 28 (1988)). A CINA determination has two components: (1) that “[t]he child has been abused, has been neglected, has a developmental disability, or has a mental disorder” and (2) that “[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.” Md. Code (1974, 2020 Repl. Vol.), Cts. & Jud. Proc. (“CJP”) § 3-801(f). Ms. W. claims that the court erred on both elements.

Ms. W. argues that the evidence was insufficient to show that the August 4 incident constituted abuse or neglect of the children. She specifically maintains that there was not enough evidence for the juvenile court to sustain the allegations that she had threatened to drop J.W. and blame Ms. Kaidbey for any injuries and that she shoved C.W. She claims that, when the only evidence was Ms. W.’s testimony against Ms. Kaidbey’s, the judge could not possibly find that the allegations were more likely than not true.<sup>6</sup>

As stated, we review the juvenile court’s factual findings for clear error, *In re Ashley S.*, 431 Md. 678, 704 (2013), and we “give due regard to the opportunity of the [juvenile] court to judge the credibility of the witnesses.” Md. Rule 8-131(c). A juvenile court’s factual finding “is not clearly erroneous if there is competent or material evidence in the

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<sup>6</sup> Ms. W. also points to two other pieces of evidence, (1) the responding officer’s testimony that Ms. Kaidbey never told him that the children were in danger and (2) that C.W. was not injured, to demonstrate that there was insufficient evidence for the hearing judge to sustain the allegations involving J.W. and C.W. Certainly, these pieces of evidence are relevant for the trier of fact to consider, but we will not question the weight which the hearing judge assigned them. We also note that Ms. Kaidbey did not have to inform the responding officer of her fear for the children for that fear to exist. Finally, that C.W. did not sustain noticeable injury does not mean that Ms. W. did not push him.

record to support the court’s conclusion.” *In re M.H.*, 252 Md. App. 29, 45 (2021) (quoting *Lemley v. Lemley*, 109 Md. App. 620, 628 (1996)).

The juvenile court made express statements about witness credibility at the hearings. The judge noted that she found the testimonies of Ms. Kaidbey and Ms. Hill to be credible. Although the hearing judge did not comment explicitly about Ms. W.’s credibility, she did state from the bench,

[N]ot only is the testimony about what happened on August 4th credible, but just during the course of this hearing, I mean, unintentionally, I think [Ms. W.] just corroborated everything that Ms. Hill and Ms. Kaidbey testified about.

It is clear from the hearing judge’s comments that she found Ms. Kaidbey’s account of the August 4 incident to be an accurate version of events. Given this, there was sufficient evidence to sustain the allegations that Ms. W. threatened to drop J.W. and that she pushed C.W. We cannot say that juvenile court was clearly erroneous in this regard.

Ms. W. also argues that the court’s finding that Ms. W.’s mental health disorders resulted in abuse was clearly erroneous. In her brief, Ms. W. argues that “[g]iven that there was no injury to C.W. or even a sign of discomfort such as crying, the dispositional finding that [Ms. W.’s] mental health issues resulted in current abuse is clearly erroneous.” She also argued that, since Ms. W. did not actually drop J.W., there could be no finding of abuse under these facts. We do not agree.

Under the CINA statute, abuse means, in part, “[p]hysical or mental injury of a child under circumstances that indicate that the child’s health or welfare is harmed or is at substantial risk of being harmed by [a] parent” or certain other individuals. CJP § 3-

801(b)(2). It is the juvenile court’s role “to assess whether [a child] was placed at risk of significant harm[.]” *In re Dustin T.*, 93 Md. App. 726, 736 (1992). In doing so, “the court need not wait until he [or she] suffer[s] some injury before determining that he [or she] is a C.I.N.A.” *Id.* Even though Ms. W.’s “shoving” of C.W. did not cause noticeable injury, it was reasonable to conclude that Ms. W.’s behavior put all of the children at a “substantial risk of being harmed.” *See In re William B.*, 73 Md. App. 68, 77 (1987) (“The parents’ ability to care for the needs of one child is probative of their ability to care for other children in the family.”). While Ms. W.’s conduct may not have resulted in physical injury this time, there is certainly a mental component when a parent physically mistreats a child. Such conduct also indicates a willingness to engage in such mistreatment, rendering the children at risk for future harm. *See In re Dustin T.*, 93 Md. App. at 731 (“[I]t has long since been settled that a parent’s past conduct is relevant to a consideration of his or her future conduct.”).

Indeed, “[t]he court may find either neglect or abuse if the child is merely *placed at risk* of significant harm.” *Id.* at 735. There was testimony at the hearing that Ms. W. continued to struggle with her mental health, such as an inability to regulate her emotions,<sup>7</sup> despite her ongoing treatment. Given this testimony, it was reasonable for the hearing judge to conclude that Ms. W.’s mental health disorders and her current instability placed

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<sup>7</sup> We note that the testimony about Ms. W.’s previous interactions with the Department indicated that her struggles with mental health issues tended to influence the finding of neglect for the children’s medical needs. This, however, does not mean Ms. W.’s inability to regulate her emotions could not manifest itself in ways aside from medical neglect.

the children at risk for harm. For these reasons, it was not clearly erroneous for the juvenile court to conclude that the instability of Ms. W.’s mental health resulted in abuse.

On brief, the Department chose to focus on Ms. W.’s neglect of the children. It recounts the history of Ms. W.’s involvement with the Department and the medical harms the children had previously endured. Ms. W. counters that it was improper for the court to focus on Ms. W.’s mental health issues “that previously resulted in nutritional neglect” because there was no indication that the children were presently at risk of harm when they were removed from her care.

Under the CINA statute, “[n]eglect” means the leaving of a child unattended or other failure to give proper care and attention to a child by any parent . . . under circumstances that indicate: (1) [t]hat the child’s health or welfare is harmed or placed at substantial risk of harm; or (2) [t]hat the child has suffered mental injury or been placed at substantial risk of mental injury.” CJP § 3-801(s). Neglect involves “an overarching pattern of conduct.” *In re Priscilla B.*, 214 Md. App. at 625. It need not “involve affirmative conduct[,]” but may be found through “the *inaction* of a parent over time.” *Id.* A “pattern of omission” may serve “as a predictor of future behavior, active or passive[.]” *Id.*

We are unpersuaded by Ms. W.’s argument. The juvenile court “can and should consider any history of neglect” by a parent. *Id.* at 626; *see also In re Dustin T.*, 93 Md. App. at 732 (“Relying upon past actions of a parent as a basis for judging present and future actions of a parent directly serves the purpose of the C.I.N.A. statute.”). It was proper for

the juvenile court to consider the past instances where Ms. W. was unable to provide the nutritional and medical needs for her children. The testimony at the hearing indicated that the past neglect was at least in part attributable to her struggles with mental health issues. Thus, it was also proper to consider whether those same mental health issues persist such that they pose the same or other risks of harm to her children.

Neglect may occur without harm arising. *In re Andrew A.*, 149 Md. App. 412, 418–19 (2003). This means that when multiple children are present, but fewer than all suffer actual harm, the remaining children may still suffer neglect from being placed at “substantial risk of harm.” *See id.* at 418 (“[I]f there are two children involved in a parent’s act or omission, but only one child is harmed, there nevertheless may be neglect of the second child if, depending on the facts, the act or omission created a substantial risk of harm to the second child.”). In this case, although not all of Ms. W.’s children may have been involved in the incidents of August 4, the fact that Ms. W. behaved in a way that threatened harm to J.W. and C.W. placed every child at risk of harm stemming from her behavior.

The juvenile court determined that “[Ms. W.] has extensive mental health issues that have previously resulted in nutritional neglect and currently have resulted in physical abuse” based upon the facts of the August 4 incident. In reaching the conclusion that the children were CINA, it was proper for the court to consider not only the August 4 incident, but also Ms. W.’s prior involvement with the Department due to the past medical neglect of the children. The continued impact of Ms. W.’s mental health on her parenting was

further supported by the “Court Report: Request for Commitment” dated September 12, 2022, and submitted to the juvenile court by the Department. In the court report, the Department stated that “[d]espite [Ms. W.’s] engagement in mental health services and PRP services, she continues to demonstrate an inability to regulate her emotional responses when she is agitated.” The court report continued, “This presents an imminent risk in caring for young children who are unable to self-protect.” All of this supports the finding that Ms. W.’s mental health placed the children at risk for either abuse or neglect.

Finally, Ms. W. also challenges the second component of the CINA finding—that the parent is “unable or unwilling to give proper care and attention to the child and the child’s needs.” CJP § 3-801(f)(2). She contends that the court did not expound on why it concluded she was unable to provide care to her children when no other circumstances had changed, including her housing or participation in services, and that the court relied solely on the sustained allegations from the CINA petition to make its conclusion.

Contrary to Ms. W.’s position, in this case “[t]he same factual allegations may support both prongs” of a CINA finding. *In re T.K.*, 480 Md. 122, 146 (2022). Under this analysis, the facts alleged must “be sufficient to support a determination that both prongs of the CINA definition . . . are satisfied.” *Id.* at 147. Here, although Ms. W. may be willing to care for her children, the sustained allegations in the CINA petition support the finding that she was not presently able to provide proper care due to her unstable mental health. Her inability to regulate her emotions contributed not only to prior nutritional and medical

neglect of the children, but also to the August 4 incident that placed the children in harm's way.

The fact that the juvenile court considered Ms. W.'s mental health an impediment to proper care of the children is further supported by the hearing judge's questions about Ms. W.'s progress in therapy. As a result of the court's inquiries, the hearing judge at disposition required that Ms. W. "submit to mental health evaluation and follow all treatment recommendations until successfully discharged[.]" The Department's brief summarized this point well: "[Ms. W.] is correct that nothing has changed regarding her outright inability to control her emotions and the risk it poses for the children. Until that reality changes, the children cannot safely return to her care." Based on the factual allegations sustained in this case, we cannot say that it was clearly erroneous for the juvenile court to find that Ms. W. was unable to provide proper care to her children.

Bearing in mind the testimony about the August 4 incident, Ms. W.'s struggles with mental health issues, and the history of prior neglect, we conclude that the juvenile court did not abuse its discretion in finding the children to be CINA. There was sufficient evidence before the hearing judge to conclude that Ms. W.'s mental health continued to pose challenges, such that the children were at risk for further injury from behavior like that which occurred on August 4 or for further medical neglect. This same evidence also supports the conclusion that Ms. W. was not presently able to provide proper care for her children.

***B. Juvenile Court’s Reasonable Efforts Finding***

The Department must provide “reasonable efforts . . . to prevent or eliminate the need for removing the child from the child’s home[.]” Md. Code (1984, 2019 Repl. Vol.), Family Law § 5-525(e)(1)(i); *see also* CJP § 3-816.1.

In Ms. W.’s case, the juvenile court found that “reasonable efforts to prevent or eliminate the need for removal of the child were made as follows: A Child Protective Services investigation/risk safety assessment completed; treatment/service providers contacted; home visit made; records reviewed; relative resources explored; and Family Team Decision Making meeting conducted; attempts to achieve educational stability; attempts made to contact mother’s therapist; referrals provided for mother; service plan completed; maintained regular contact with mother.”

Ms. W. argues that the juvenile court erred in finding that the Department had fulfilled the reasonable efforts requirement. Ms. W. first argues that the juvenile court was required to make a separate finding that the Department had provided reasonable efforts both at the adjudication hearing and the disposition hearing. She claims that it was error that the juvenile court’s order contained only one finding that the Department had made reasonable efforts to prevent removal.

The disposition hearing is generally required to “be held on the same day as the adjudicatory hearing[.]” CJP § 3-819(a)(2). Indeed, the adjudicatory and disposition hearings in Ms. W.’s case were held back-to-back. The final order from the juvenile court is titled “Adjudication/Disposition Order.” We read this to mean that the findings of fact,



including that the Department satisfied reasonable efforts, pertained to both the Adjudication and the Disposition of the petitions.

CJP § 3-816.1(b)(5) requires that the court “assess the efforts made since the last adjudication” and states that the court “may not rely on findings from prior hearings.” Where these hearings are held back-to-back on the same day, it is logical that the same reasonable efforts would exist at both stages of the adjudication and disposition hearings. No additional reasonable efforts could be made in the short time between the adjudication of the petition and its disposition. Thus, we do not think the juvenile court “rel[ies] on findings from prior hearings” when it uses the same facts available at both the adjudicatory and disposition hearings to reach the conclusion that reasonable efforts have been satisfied.

Ms. W. next argues that the juvenile court’s finding did not demonstrate how the Department prevented the children’s removal from Ms. W.’s home. As we have discussed, the children’s removal was due to Ms. W.’s continued struggles with mental health. Their prior removal due to nutritional neglect was also attributable in part to mental health issues. Thus, any efforts made by the Department to assist Ms. W. in stabilizing her mental health would be an effort to prevent the children’s removal. *See* CJP § 3-801(w) (“‘Reasonable efforts’ means efforts that are reasonably likely to achieve the objectives of [preventing removal of the children].”).

The juvenile court’s reasonable efforts finding is a factual one that we review for clear error. *In re Shirley B.*, 191 Md. App. 678, 708 (2010). “Under the clearly erroneous standard, we look at the record in the light most favorable to the prevailing party, and if

there is any competent, material evidence to support the circuit court’s findings of fact, we cannot hold that those findings are clearly erroneous.” *Fitzzaland v. Zahn*, 218 Md. App. 312, 322 (2014).

The ultimate concern in a reasonable efforts determination is “the child’s health and safety[.]” *In re Shirley B.*, 191 Md. App. at 710 (quoting *In re James G.*, 178 Md. App. 543, 576 (2008)). The court must “consider the timeliness, nature, and extent of services offered by [the Department] or other support agencies, the social service agreements between [the Department] and the parents, the extent to which both parties have fulfilled their obligations under those agreements, and whether additional services would be likely to bring about a sufficient and lasting parental adjustment that would allow the child to be returned to the parent.” *Id.* at 711 (quoting *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 500 (2007)). The CINA statute also contemplates the following considerations: the extent the Department has complied with laws and agreements, caseworker assignment and knowledgeability, the stability of the child’s placement, communication by the Department on any changes to the child’s placement, and the Department’s provision of appropriate and timely services. CJP § 3-816.1(c).

Overall, we cannot say that the juvenile court was clearly erroneous in determining that the Department provided reasonable efforts to prevent the child’s removal. After the prior removal of the children due to nutritional neglect, Ms. W. was given psychological evaluations and referrals. It is also relevant that the Department fulfilled certain duties, such as the child protective services investigation and risk assessment. The Department

maintained regular contact with Ms. W. and attempted to reach out to contact her service providers to understand the progress of her mental health treatment.

The Department's efforts were reasonable in light of the reason for the children's removal: her mental health. The psychological evaluations and referrals are material, competent evidence that the Department offered services to attempt to prevent removal. They also continue to seek to fulfill reasonable efforts, recommending another psychological evaluation and the order that Ms. W. abide by all treatment recommendations. We note, too, that Ms. W. herself plays a role in the reasonable efforts analysis. One factor for the court to consider is the extent both parties are fulfilling their obligations to their agreements. While Ms. W. is seeking regular therapy from a provider, there was testimony at the hearing that the provider was not being sufficiently communicative with the Department. In addition, although it was recommended that Ms. W. receive medication management services in the past, Ms. W. declined medication that could assist with her emotional instability due to her mental health diagnoses.

For these reasons, the juvenile court's finding that the Department had provided reasonable efforts to prevent removal of the children from Ms. W.'s care was not clearly erroneous. The services provided were relevant to the reason for removal—Ms. W.'s mental health—and it is not apparent to us that there were other efforts that should have been made which would have produced a different outcome at this time.

## CONCLUSION

For the foregoing reasons, we affirm the judgment of the Circuit Court for Baltimore County, sitting as a juvenile court. The court's findings that Ms. W.'s mental health issues resulted in prior nutritional neglect and current abuse and that Ms. W. was not able to provide proper care for her children are not clearly erroneous. Upon our independent review, the hearing judge's conclusions of law and fact were based upon sound legal principles, and the factual findings are not clearly erroneous; therefore, the hearing judge did not abuse her discretion in finding Ms. W.'s children to be CINA. Furthermore, the juvenile court did not err in finding that the Department had made reasonable efforts to prevent removal of the children.

**JUDGMENT OF THE CIRCUIT  
COURT FOR BALTIMORE COUNTY  
AFFIRMED. COSTS TO BE PAID BY  
APPELLANT.**