Circuit Court for Baltimore City
Case Nos. 817290004 and 817290005

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 4

September Term, 2022

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IN RE: S. Y.-B. and J. Y.-B.

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Arthur,
Tang,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Sharer, J.

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Filed: October 26, 2022

*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.

Appellant, N.Y. ("Mother"), appeals from an order of the Circuit Court for Baltimore City, sitting as a juvenile court, which denied her exception to a visitation order recommended by a family magistrate, granted custody and guardianship of Mother's natural children, S. Y.-B. (born 8/2014) and J. Y.-B. (born 12/2015), who previously had been adjudicated CINA, to their foster mother, and terminated the court's jurisdiction in the CINA proceeding.[1] In her timely appeal, Mother[2] asks us to consider the following question:

> Did the court err when it refused to order the specific visitation between Ms. Y. and her children that Ms. Y. and the placement resource agreed to via mediation and allowed all future visits to be at the discretion of the placement resource?

For the reasons that follow, we shall affirm the order of the juvenile court.

## FACTS AND LEGAL PROCEEDINGS

S. Y.-B. and J. Y.-B. came to the attention of the Baltimore City Department of Social Services ("the Department") in June 2016, when six-month-old J. Y.-B. was hospitalized for failure to thrive and the Department learned that 22-month-old S. Y.-B.

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[1] Pursuant to Md. Code, § 3-801(f) of the Courts & Judicial Proceedings Article ("CJP"), a "child in need of assistance" means "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."

[2] Neither D.B. ("Father") nor H.U.R. ("Grandmother"), the children's maternal grandmother, whose motion to intervene in the CINA proceeding as a resource for the children was granted by the juvenile court, appealed the juvenile court's ruling.

had not seen a pediatrician in the previous 14 months.[3] The Department removed the two children from Mother and Father's home, but the juvenile court denied the Department's request for shelter care and returned J. Y.-B. and S. Y.-B. to Mother and Father under an order controlling conduct ("OCC"). In February 2017, the juvenile court found that neither child was a CINA, as Mother and Father had complied with the OCC and were beginning to address the boys' several special needs and developmental delays.

In October 2017, the Department received a report that Mother and Father were leaving all the children home alone, with Mother's seven-year-old daughter often responsible for their care. The report further claimed that Father had threatened to beat Mother and had a history of domestic violence. The Department attempted to investigate the report but was unable to do so after the family was evicted from their home.

Later in October 2017, S. Y.-B. and J. Y.-B.'s 12-week-old brother, St. Y.-B., died under unexplained circumstances and of unknown causes while in Father's care. The Department removed S. Y.-B. and J. Y.-B. and three of Mother's older children from Mother and Father's home and filed a CINA petition.[4] The juvenile court awarded

[3] At the time, Mother also had four older children with men other than Father. Mother and Father later had two more children together, St. Y.-B. and K. Y.-B.

Father's history with the Department dates back to 2010 when he was indicated for abuse of a child from another relationship. Mother, who suffered from untreated mental health issues, previously had been indicated for neglect on more than one occasion for leaving her children unattended, failing to enroll them in school, and failing to attend to their medical needs.

[4] At approximately the same time, Mother's oldest child went into the custody of her father and was not a member of Mother and Father's household.

temporary custody of the five children to the Department for placement in shelter care. The children were initially placed with a maternal cousin.

On February 23, 2018, the parties stipulated that the five children were CINA and agreed they should remain in the custody of the Department. On March 4, 2018, the juvenile court adjudicated the children CINA and continued their commitment to the custody of the Department, with a permanency plan of reunification.

On March 17, 2018, the Department moved S. Y.-B. and J. Y.-B. to the therapeutic foster home of S.M., to address J. Y.-B.'s chronic medical needs and behavioral issues.[5] S. Y.-B. and J. Y.-B. have remained in S.M.'s home since then.[6] S.M. expressed a desire to become their long-term guardian and custodian, and the children expressed a desire to remain in her care.

By the time of a May 9, 2018, CINA hearing, Mother was partaking in supervised weekly one-hour visitation with S. Y.-B. and J. Y.-B. The Department did not want a change in visitation and declined to proceed by proffer on the issue of visitation, as that was "one of the issues of this trial[.]"

At a June 15, 2018, contested hearing, Mother and Father requested reunification and unsupervised day visits with the children if reunification were not granted. Attorneys

[5] S.M. identified herself as Father's second cousin by marriage, but she had never met the children before they came into her care.

[6] As of the time of the filing of the briefs in this appeal, Grandmother had been granted custody and guardianship of S. Y.-B. and J. Y.-B.'s three other older half-siblings. Mother and Father's youngest child, K. Y.-B., has been in foster care since he was two-days-old.

for the Department and the children sought to continue the children's commitment to the Department and to have visitation between the parents and the children remain supervised "based on the safety concerns[.]" To the Department, it was unclear if Mother and Father would be able to apply proper parenting skills.[7] Moreover, the Department continued, Mother and Father had provided no documentation that they were compliant with mental health treatment. The juvenile court continued supervised weekly visitation with the children, either at the Department offices or in the community.

By the time of an August 13, 2018, CINA hearing, Mother was incarcerated on an assault charge.[8] She and Father did not contest the children's placement and no longer sought reunification with the children or unsupervised visitation.

In August 2018, and again in October 2018, the juvenile court determined that the children remained CINA, to remain in the custody of the Department, with a presumptive permanency plan of reunification. Following the October 2018 hearing, the juvenile court determined that it could not find that there was no likelihood of further abuse or neglect by Mother because, in the absence of any documentation presented by Mother to show her compliance with offered services, the court had insufficient information to so find. The court therefore continued its order of supervised weekly visitation at the Department offices or in the community.

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[7] From the time the children entered the Department's custody through June 2018, Mother visited with the children fairly regularly. She, however, usually made no attempt to control their behavior during visitation and often left the visits well before they were scheduled to end.

[8] In 2019, Mother received probation before judgment and was released from jail.

On October 25, 2018, Mother moved for increased visitation with the children. She stated that her visits with them had been appropriate and that she had provided the Department with "all known needed documentation[.]"

After several postponements, Mother's motion was heard on June 24, 2019. The court could not specifically find there was no likelihood of further abuse or neglect and therefore continued the order of supervised visitation. After the next CINA hearing on February 6, 2020, the juvenile court ordered that the Department continue to supervise Mother's visits with the children, as Mother again had failed to provide sufficient evidence warranting a change.[9]

By order dated February 14, 2020, the juvenile court changed the children's permanency plan from reunification to placement with a relative for custody and guardianship.[10] Mother did not contest or appeal the change in permanency plan. Through May 2021, her approximately once monthly visitation with the children remained supervised.

On June 28, 2021, despite the children's attorney's objection to unsupervised visitation, based on Mother's history of instability and neglect, the Department advocated unsupervised visitation. The family magistrate recommended that Mother have unsupervised day visits with the children in the community.

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[9] The Department supervised Mother's visitation until the start of the COVID-19 pandemic in March 2020, when visits became virtual; in-person visits resumed in September 2020.

[10] At the time, the parties contemplated that the children would be placed in Grandmother's custody and guardianship.

In July 2021, Mother and S.M. came to a mediated agreement regarding Mother's visitation post-custody and guardianship order. The agreement stated that Mother would have one unsupervised day visit and one unsupervised weekend visit per month, once S.M. was satisfied with the results of a visit to Mother's home.[11] Mother and S.M. further agreed "to return to mediation to address any disputes that arise regarding this agreement to attempt to resolve them prior to seeking assistance from the Court."

The children's attorney filed a notice of disapproval of the mediated agreement. The children's attorney also filed exceptions to the magistrate's proposed order relating to unsupervised visitation, based on Mother's history of abuse and neglect and the Department's lack of knowledge of her compliance with mental health treatment and medication management. The children's exceptions were dismissed by their counsel on November 15, 2021, but as there had been no court order for unsupervised visitation, Mother had not yet had any unsupervised visits with the children.

At a November 29, 2021 hearing, the Department recommended an award of custody and guardianship of the children to S.M. The Department and the children's attorney also requested that Mother not be granted unsupervised overnight visits. The children's attorney specifically objected to the mediated agreement in its entirety, and the Department objected to the agreement unless and until Mother's roommate had passed a Child Protective Services criminal background check.[12] Mother's attorney, aware that if

[11] Grandmother and S.M. reached an almost identical mediated agreement.

[12] By the time of the next hearing in January 2022, Mother said the roommate had moved out of her home.

the court awarded custody and guardianship to S.M. and closed the case, S.M.—and not the Department—would be responsible for scheduling visitation, asked the magistrate to "make a determination regarding visitation before closing this case."

The magistrate stated that he had not received Mother's purported agreement from the mediator, nor had it been entered into evidence as an exhibit at the hearing. The magistrate recommended that the juvenile court rescind the children's order of commitment, award custody and guardianship to S.M., and terminate its jurisdiction over the children, as they were no longer CINA. The magistrate accepted an emailed copy of Grandmother's mediated visitation agreement and incorporated, but did not merge, it into his order. Regarding Mother's visitation, the magistrate ruled:

> As it relates to the Respondent's Mother, the Court has already made its decision for a finding for unsupervised day visitation. We'll leave that to the caretaker because she—since she will be the legal guardian. If it were to be even less restrictive. But as of right now, at a minimum, she gets day visits in the community.

The magistrate's written order recommended that Mother's "[v]isitation/contact shall, at a minimum, be in writing, and [S.M.] shall make reasonable efforts to facilitate visitation/contact between the [children] and [Mother]."[13]

Mother excepted to the magistrate's findings, conclusions, and proposed orders, on the ground that during the contested hearing of November 29, 2021, S.M. had identified the mediated agreement between herself and Mother, which addressed visitation in the

[13] It is not clear to us what the magistrate intended in requiring that visitation/contact shall "at a minimum, be in writing[.]"

event that S.M. were granted custody and guardianship.[14] The agreement, Mother said, contemplated that she would have, at a minimum, one unsupervised day visit and one unsupervised weekend overnight visit per month with the children, but the magistrate's recommendation and proposed written order did not correspond with the agreement or what had been stated on the record during the hearing. In addition, Mother claimed, the magistrate's recommendation improperly delegated the issue of visitation to S.M., the foster mother. Mother asked that the juvenile court decide and order the specific level of contact or visitation she was permitted to have with the children.

The juvenile court heard argument on the exceptions during the CINA disposition on January 31, 2022.[15] Initially, Father agreed that S.M. should obtain custody and guardianship of the children, as he did not believe that he, Mother, or Grandmother was "a good fit for them."

S.M. testified that if granted custody and guardianship of S. Y.-B. and J. Y.-B., she would permit visits with Mother, but she wanted to "start with a supervised visit inside the house[,]" proceeding to "non-supervision for maybe four hours[,]" and then, "if it gets

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[14] Grandmother also excepted to the court's order, on the ground that she, rather than S.M., should have been granted custody and guardianship of S. Y.-B. and J. Y.-B.

[15] Grandmother requested that her exceptions be heard *de novo*, but because Mother asked that her exception be decided on the existing record relating to visitation, the juvenile court limited Mother's argument to that issue. *See* CJP § 3-807(c) (A party who files an exception to a magistrate's findings, conclusions, and recommendations "shall specify those items to which the party objects[,]" and the hearing "shall be limited to those matters to which exceptions have been taken."). *Accord* Md. Rule 11-103(e)(1)(B) ("[A]ny party may file exceptions to the magistrate's proposed findings, conclusions, or recommended order[,]" and shall state "with particularity, those items to which the party excepts[.]").

better it can be an overnight for one night. And then after that it could be a weekend." She explained that she had some concerns about whether Mother's home was adequate and safe for visits with the children and wanted to see it herself before unsupervised visits began.

The Department emphasized that it had no concerns about Mother's unsupervised day visits with the children. Despite the fact that Mother's home had passed a Department health assessment, the Department said it would prefer, however, to see a consistent pattern of visitation by Mother before recommending unsupervised overnight visits.

Mother asked the court to "observe the mediation agreement" she had reached with S.M. because access to her children had been a longstanding issue. The juvenile court received the mediated agreement into evidence.

In closing, the Department asked the court to uphold the family magistrate's recommendation that Mother's visits remain unsupervised day visits "at this time" and that S.M. be given some discretion to ask for a reversion to supervised visitation if she had future safety concerns. The children's attorney asked the court to deny Mother's exception, strike Mother's mediated agreement, and deny unsupervised overnight visits as unsafe and not in the children's best interest.

Mother requested that the mediated agreement be followed instead of the magistrate's recommendation because, in her view, "it's not appropriate for the Court to allow the caregiver to determine when a parent has visitation with their children." The court agreed with Mother, so far as the statement went:

> THE COURT: [Mother's counsel], you're absolutely right about that legal point, so long as the CINA case is open, and this Court has jurisdiction. This case has been open now over four years and has well exceeded any

timelines to achieve permanency.

And so the recommendation is custody and guardianship, some provision for parenting time and visitation but with a termination . . . of the court's jurisdiction. And with a termination of the court's jurisdiction, it would absolutely be left to the custodial caregiver to, in discharge of their responsibility, make the decision as to when and how parenting time or visitation would be extended to both the parent and to a third-party.

* * *

[MOTHER'S COUNSEL]: In this particular case, even once jurisdiction is terminated, Ms. Y. and Ms. M. have a mediated agreement by which Ms. Y. would have unsupervised day visitation. One unsupervised day visit a month and then one unsupervised weekend overnight visitation a month. And Magistrate Hill's recommendation did not contemplate that agreement between Ms. M. and Ms. Y.

THE COURT: It does. But the agreement says that if the party's [sic] for a change in circumstances come to disagree or not be honoring the agreement then they return to mediation. So if there are events or behaviors or circumstances that have arisen since that mediated agreement was reached between Mother and Ms. M. in August of 2021, they would need to return to a mediator for assistance in either changing, in one direction or another, the terms of the agreement.

[MOTHER'S COUNSEL]: And, Your Honor, I think my Client would agree with that. That if the Court's jurisdiction where [sic] to be terminated, is that where their mediated agreement and Ms. M. felt like my Client should have less visitation or if she had concerns about the visitation arrangement despite their mediated agreement, then yes, they should go back to mediation. Or Ms. M. should file something in court to address her concerns.

My Client's issue with the recommendations is that it limited her visitation to less than what she and Ms. M. had agreed upon. And gave Ms. M. the option or the opportunity to give her more. What my Client is asking for is that the mediated agreement be honored and that that agreement be merged, but not incorporated into the Court's final order, if the Court were to grant custody and guardianship to Ms. M.

Father's attorney argued against incorporating the mediated agreement into the final

decree, stating that if S.M. were granted custody and guardianship, she "would have the right to make choices about who the children see and who the children do not see. That is what custodials do of children in their care. That is what parents do of children in their care. And to limit that power would limit the, would limit the whole concept of custody and guardianship."

The juvenile court ruled that the evidence that had been presented "continues to fall directly, in the Court's view, within the recommendation, the very careful recommendation, that Magistrate Troy Hill reached on November 29th, 2021." The court expressed its concern over the reports of Mother's behaviors since the last hearing and the absence of her verification of ongoing mental health care and medication compliance.[16] The court therefore overruled both Mother's and Grandmother's exceptions and adopted the recommendations of the family magistrate that the children were no longer CINA and that commitment to the Department was no longer necessary. The court continued:

> And I think Magistrate Hill's order achieving permanency in the way that it did also achieve[s] exactly the correct balance of parenting time and visitation going forward. That is that Mother would have visitation, as arranged with Ms. M. The agreement that they reached through mediation is both of record and also refers to future mediation. If circumstances change and if the parties are unable to agree they would be sent first to, for the further mediation that they agreed to.

[16] Grandmother had testified that Mother had not been visiting the three older children often and that when the children were with Mother, they just wanted to return to Grandmother's home. In addition, Grandmother said, Mother had gone to Florida for a month and blocked Grandmother's phone number; while she was gone, Mother's medications for her schizoaffective disorder were sent to Grandmother's house, and Grandmother therefore did not know if Mother was taking her medication or seeing her therapist. When Mother returned from Florida, she refused to get a COVID-19 vaccine, tried to visit the children when she was not supposed to do so, and attempted to convince the children to say they wanted to live with her.

The court therefore awarded S.M. custody and guardianship "with the limited provisions for parenting time that I've referred to[,]" rescinded its order of commitment, and terminated the court's jurisdiction in the CINA matter. The juvenile court issued its written order on January 31, 2022.

**DISCUSSION**

Mother contends that the family magistrate erred in declining to incorporate her and S.M.'s mediated agreement regarding visitation into its January 31, 2022, order and in delegating to S.M. the power to control her visits. She further argues that the juvenile court abused its discretion in denying her exceptions to the magistrate's recommendation, instead accepting the magistrate's proposed order, which limited her visitation to one unsupervised day visit per month.

The Department agrees with Mother that the juvenile court erred by delegating the particulars of visitation to S.M., a third party. The Department therefore suggests that the matter be remanded to the juvenile court for an independent consideration of the amount of visitation to which Mother is entitled, along with the specific conditions to impose upon that visitation, based on the best interest of the children and not on the mediated agreement between Mother and S.M.

The children assert that the juvenile court properly declined to incorporate the mediated agreement into its final order, as the court had determined that the visitation terms set forth therein were not in the children's best interest. In the children's view, their attorney's concerns about their safety if subjected to unsupervised visitation with Mother, and the court's concern about Mother's behavior in the several months prior to the January

2022 hearing, supported the court's decision to order, at a minimum, unsupervised day visits, which had already been the order in place prior to the exceptions hearing.

**Standard of Review**

As this Court explained in *In re J.R.*, 246 Md. App. 707, 730-31, *cert. denied*, 471 Md. 272 (2020):

> There are three distinct but interrelated standards of review applied to a juvenile court's findings in CINA proceedings. The juvenile court's factual findings are reviewed for clear error. Whether the juvenile court erred as a matter of law is determined without deference; if an error is found, 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. Finally, we give deference to the juvenile court's ultimate decision in finding a child in need of assistance, and a decision will be reversed for abuse of discretion only if well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.

(Internal quotation marks and citations omitted.) In our review, we give "'due regard . . . to the opportunity of the lower court to judge the credibility of the witnesses.'" *In re Yve S.,* 373 Md. 551, 584 (2003) (quoting *Davis v. Davis*, 280 Md. 119, 122 (1977)).

In particular, "[d]ecisions concerning visitation generally are within the sound discretion of the [juvenile] court," and we will not disturb those decisions unless that court has clearly abused its discretion. *In re Billy W.*, 387 Md. 405, 447 (2005). "That standard requires reversal only when we find that the circuit court has acted 'without reference to any guiding rules or principles,' or that 'no reasonable person would take the view adopted by the [circuit] court,' or that the decision of that court is 'well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems

minimally acceptable.'" *Michael Gerald D. v. Roseann B.*, 220 Md. App. 669, 686 (2014) (quoting *North v. North*, 102 Md. App. 1, 13-14 (1994)).

**Analysis**

Mother raises two related issues: (1) whether the court erred or abused its discretion in declining to order visitation as set forth in the mediated agreement; and (2) whether the court erred or abused its discretion in delegating the extent of visitation to S.M., the children's foster mother. We perceive no reversible error or abuse of discretion in either decision. We explain.

In all CINA proceedings, the juvenile court's foremost obligation is to "protect and advance a child's best interests." CJP § 3-802(c)(2). *See also In re Najasha B.*, 409 Md. 20, 33 (2009) (observing that "[t]he broad policy of the CINA Subtitle is to ensure that juvenile courts (and local departments of social services) exercise authority to protect and advance a child's best interests when court intervention is required"). The juvenile court's authority includes decisions regarding visitation, which similarly require the court to consider the best interests of the child. *In re Mark M.*, 365 Md. 687, 706 (2001).

Visitation, although an "important, natural and legal right . . . is not an absolute right[.]" *Roberts v. Roberts*, 35 Md. App. 497, 507 (1977) (quotation marks and citation omitted). It is up to the juvenile court to decide the appropriate amount of visitation, with input from the Department about conditions that agency believes should be imposed. *In re Justin D.,* 357 Md. 431, 450 (2000). The court may restrict or even deny visitation when the child's health or welfare is threatened. *In re Mark M.*, 365 Md. at 706.

Mother complains that the juvenile court declined to order visitation as set forth in the mediated agreement between her and S.M. Mother, however, cites no authority for her argument that the juvenile court was required to incorporate the mediated agreement into its disposition order, and we are aware of none. Instead, the court was required to consider the issue of Mother's visitation in light of the best interest of the children, and, in our view, that is what the court did.[17]

The mediated agreement called for Mother to have one unsupervised day visit and one unsupervised weekend visit each month with the children. The children's attorney specifically objected to Mother's mediated agreement in its entirety, and, at the November 29, 2021, hearing before the magistrate, both the Department and the children's attorney requested that Mother not be granted unsupervised overnight visits. They based their recommendations on the fact that Mother had a roommate who had not passed a criminal background check, Mother's history of abuse and neglect, and the Department's lack of knowledge of her compliance with mental health treatment and medication management. At the conclusion of the hearing, the magistrate therefore recommended that Mother's visitation continue as previously ordered—at a minimum, unsupervised day visits in the

[17] We are unpersuaded by Mother's complaint that the juvenile court should have incorporated her mediated agreement because it incorporated the virtually identical mediated visitation agreement between Grandmother and S.M. into its disposition order. The court properly considered Grandmother's and Mother's situations separately and presumably concluded that the terms of Grandmother's mediated agreement met the best interest of the children while Mother's did not. Moreover, at the November 29, 2021, hearing, the family magistrate noted that Mother had not provided him with a copy of her mediated agreement, nor sought to have it entered as an exhibit, while Grandmother had emailed him a copy of her agreement.

community—with the possibility that S.M., as the children's guardian, could agree to additional visitation.

Then, at the disposition hearing, which also encompassed Mother's argument related to her exception to the magistrate's recommendation, the juvenile court received the mediated agreement into evidence and heard argument from the Department and the children's attorney asking that the court leave intact the prevailing order of only unsupervised day visits, but deny unsupervised overnight visits as unsafe and not in the children's best interest. The court heard Mother's argument that it should incorporate her and S.M.'s mediated agreement into its order. The court declined to incorporate the agreement, instead finding that the magistrate's "very careful recommendation" was appropriate, based on the court's concern over the reports of Mother's behaviors since the last hearing and the absence of verification of her ongoing mental health care and medication compliance.

The juvenile court therefore accepted the magistrate's recommendation for unsupervised day visits, with the opportunity for more visitation, if it became appropriate. The court further noted that the mediated agreement, which was "of record," permitted Mother to request further mediation or court intervention should the circumstances of concern expressed by the Department and the children's attorney change. *See In re Caya B.,* 153 Md. App. 63, 78 (2003) (If a juvenile court issues a decree of custody and guardianship, parental rights are not terminated, and the parent may, at any time, petition an appropriate court of equity for a change in custody, guardianship, or visitation.).

There is no question that both the magistrate and the juvenile court considered the potential incorporation of Mother's and S.M.'s mediated agreement into the disposition order and found it not to be in the children's best interest at the time, given the circumstances as offered into evidence at the pertinent hearings. We perceive no abuse of discretion in their respective decisions, based on the facts before them, which maintained the status quo relating to visitation. Should circumstances change, Mother has the opportunity to request further mediation and court intervention to modify the terms of the visitation order, but the court was not required to incorporate the mediated agreement into its disposition order or to order unsupervised overnight visits, in light of the Department and the children's continuing concerns, simply because Mother and S.M. had come to such an agreement more than six months earlier. *See, e.g.*, *Stancill v. Stancill,* 286 Md. 530, 535 (1979) ("[T]he chancellor cannot be handcuffed in the exercise of his [or her] duty to act in the best interests of a child by any understanding between parents.").[18]

Further, we perceive no improper delegation of visitation decisions to a third-party. To be sure, in a CINA case, a juvenile court "may not delegate judicial authority to determine the visitation rights of parents to a non-judicial agency or person." *In re Mark M.*, 365 Md. at 704 (citing *In re Justin D.*, 357 Md. at 447). "[W]here a trial court's order constitutes an improper delegation of judicial authority to a non-judicial agency or person,

[18] Although *Stancill* involves an agreement between the child's parents, the Court of Appeals has made clear that the juvenile court's role in a CINA case, where there has been evidence of abuse or neglect, "'is necessarily more pro-active.'" *In re Billy W.*, 386 Md. 675, 685 (2005) (quoting *In re Mark M.*, 365 Md. at 706).

the trial court has committed an error of law, to be reviewed by appellate courts *de novo*." *Id.* at 704-05.

For instance, in *In re Justin D.*, 357 Md. at 443, the juvenile court directed the Department to determine the appropriate number of visits and the conditions for those visits. The Court of Appeals held that the juvenile court's order was too broad, explaining that "the court may not delegate its responsibility to determine the minimal level of appropriate contact between the child and his or her parent or other guardian" and that the court must determine, "at least, the minimal amount of visitation that is appropriate . . . as well as any basic conditions that it believes, as a minimum, should be imposed." *Id.* at 449-50.

In *In re Caya B.*, 153 Md. App. at 73, the juvenile court granted custody and guardianship to the child's aunt and uncle and closed the case. Regarding visitation, the juvenile court believed it had no authority to order visitation once it granted guardianship and closed the case and stated instead that "visitation could 'be done in some unofficial way[,]'" *id.*, which essentially left the matter of visitation entirely to the aunt and uncle. This Court held that the juvenile court erred, reasoning:

> Although the [juvenile] court was authorized to close the case absent a finding of good cause not to do so, . . . the closure did not affect [the mother]'s parental rights. The [juvenile] court had discretion either to order formal visitation or to deny visitation as no longer appropriate. It did not have discretion to leave the matter in the hands of [the aunt and uncle].

*Id*. at 81.

Both *In re Justin D*. and *In re Caya B*. are, however, inapposite to the facts of this matter. Here, the juvenile court did order visitation for Mother, affirming the then in-place

visitation order of unsupervised day visits. The court did not leave the minimum amount of visitation to S.M. Instead, the court ordered unsupervised day visits, at a minimum, while permitting S.M. to direct the logistics of the visits, *e.g.*, the days of the week and times the visits would take place, as befitting the children's legal custodian in charge of their daily schedules.[19]

The court's delegation to S.M. of the specifics of the ordered visitation does not amount to the delegation of visitation itself and is not improper. Through its order for minimum visitation, with the possibility of additional visitation, the court presumably anticipated the eventual adoption of the mediated visitation agreement by Mother and S.M., or the return to mediation or court if either party were aggrieved by the visitation.[20] We perceive no error or abuse of discretion on the part of the juvenile court in the entry of its order relating to visitation. Accordingly, we affirm the order entered by the juvenile court.

**ORDER OF THE CIRCUIT COURT FOR BALTIMORE CITY, SITTING AS A JUVENILE COURT, AFFIRMED; COSTS TO BE PAID BY APPELLANT**.

[19] Indeed, the mediated agreement itself anticipates the coordination of visitation to accommodate the children's schedules, which "may change as they get[] older[.]"

[20] We point out that S.M. specifically testified that she was willing to abide by the terms of the mediated agreement and intended to expand visitation to unsupervised overnight visits once she had visited Mother's home to ensure it was safe for the children.