Circuit Court for Baltimore City
Case Nos.: 818008003; 818008004;
818008008; 818008013; 818208011

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 109

September Term, 2023

IN RE: G.M.C., C.C., G.G.C., S.C., and A.C.

Leahy,
Friedman,
Gill Bright, Robin D.
(Specially Assigned),

JJ.

Opinion by Gill Bright, J.

Filed: November 14, 2023

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This case arises from a decision by the Circuit Court for Baltimore City, Division of Juvenile Causes ("the juvenile court" or "the court"), to change the permanency plans for four of the children of J.C. ("Mother"), appellant, and J.J.C. ("Father"), from a concurrent plan of reunification and custody and guardianship to a non-relative to a sole plan of custody and guardianship to a non-relative. Mother filed a timely notice of appeal.[1]

ISSUE PRESENTED

The sole issue presented for our consideration is whether the juvenile court abused its discretion in changing the concurrent permanency plan to a sole plan of custody and guardianship to a non-relative. For the reasons set forth below, we shall affirm.

BACKGROUND

This case has a long history. Mother is the parent of at least nine children including four who are the subject of this appeal: G.M.C., born October 26, 2012; C.C., born October 20, 2013; G.G.C., born January 24, 2015; and S.C., born May 26, 2016. According to Baltimore City Department of Social Services ("DSS"), in about 2008, it removed three of Mother's older children from her care and they were subsequently determined to be children in need of assistance ("CINA") [2]. Thereafter, Mother and Father were married

[1] Father did not note an appeal from the decision of the juvenile court.

[2] A child in need of assistance ("CINA") is "a child who requires court intervention" because the child has, among other things, been abused or neglected, and the child's parents "are unable or unwilling to give proper care and attention to the child and the child's needs." § 3-801(f) and (g) of the Courts and Judicial Proceedings Article of the Maryland Code ("CJP").

and had four children who are the subjects of the instant case. Mother also has two younger children, A.C.[3] and O.C. O.C. is not a party to this case.

While in shelter care, the court allowed Mother and Father supervised visits. After several months of review, the parents were granted unsupervised visits with the children. During the period of unsupervised visits, Mother allowed Father, an unlicensed driver, to transport the children; neglected to obtain proper testing for the children to return to school in-person; and permitted Grandfather to drive the children without car seats. Overall,

[3] A.C. was born on July 16, 2018. Shortly thereafter, DSS filed a petition with request for shelter care in which it alleged that A.C. was a CINA. Among other things, DSS alleged that on or about June 1, 2018, Mother appeared at a visit with the other four children with bruises on her face, chin, and arm. Mother stated that Father hit her during a fight. DSS made a referral to the House of Ruth and offered to look into a shelter for battered women, but Mother rejected that offer. After A.C. was born, and due to concerns about Mother's mental health and allegations of her excessive alcohol consumption, DSS attempted to locate Mother and the newborn child. Once located, Mother advised that she had placed A.C. with a friend, L.M., a woman referred to as "aunt" but who was not, in fact, a biological relative,[3] because her own housing situation was untenable. The court later found A.C. to be a CINA and granted DSS limited guardianship. In June 2019, DSS removed A.C. from L.M.'s care and placed her in foster care.

The court granted Mother and Father supervised visits with A.C. In July 2019, the court granted Father unsupervised day visits with A.C. Mother's visits remained supervised as she continued to address her mental health and substance abuse issues. In October 2019, Mother's and Father's visits with A.C. changed from supervised to unsupervised. However, due to safety concerns, DSS reimplemented supervised visits in January 2020. In September 2020, with no new safety concerns, the court allowed the parents to resume unsupervised visits. The parties also agreed to modify A.C.'s permanency plan from reunification to a concurrent plan of reunification and custody and guardianship to a non-relative.

Mother was unable to properly supervise the children or provide them a safe and healthy environment. This resulted in the court reverting Mother's access back to supervised visits.

Mother also maintained limited involvement with the children. Aside from G.G.C.'s cardiology appointments, Mother did not attend the children's doctors' appointments and she rarely called to speak with the children on their birthdays or holidays. When Mother and Father separated in 2022, Mother relocated to Pennsylvania where she and O.C. lived in a two-bedroom trailer with her mother. Although Mother stated that she planned to return to Maryland, she was unable to provide the court any concrete plans for work or living arrangements. We supplement these facts in our discussion of the issues.

In the underlying case, the court changed A.C.'s permanency plan from a concurrent plan of reunification and custody and guardianship to a non-relative to a sole plan of custody and guardianship to a non-relative. Mother does not contest the change in A.C.'s permanency plan. On June 27, 2023, Mother filed a Line in this Court requesting that the appeal as to A.C. be dismissed. Mother's appeal involves the court's decision to revise a permanency plan from a concurrent plan of reunification and custody and guardianship to a relative to a sole plan of custody and guardianship to a relative.

Shelter Care

If it appears a child is abused or neglected, DSS may remove a child from the home and place the child into emergency shelter care.[4] If the child remains in shelter care, the court will hold an adjudicatory hearing and a disposition hearing for a final determination

[4] "Shelter care" is "a temporary placement of a child outside of the home at any time before [a CINA] disposition." CJP § 3-801(bb).

of whether a CINA[5]. Prior to the disposition hearing, the court conducts review hearings to determine if shelter care is warranted.[6] The court develops a permanency plan for the CINA and regularly reviews the plan.[7] On January 8, 2018, DSS filed in the juvenile court petitions with requests for shelter care alleging that each of the four children was a CINA. At the time the petitions were filed, the children resided with their parents in the home of their paternal grandfather. The children told DSS staff that they slept on the floor with their mother. DSS alleged that the parents allowed the paternal grandfather to physically abuse the children. Specifically, DSS asserted that on or about January 5, 2018, the paternal grandfather slapped S.C. "in the face and pushed her to the ground causing her to have a nosebleed that required emergency medical attention." S.C. was seen at Johns Hopkins Hospital where she was found to have dried blood in her nose.

In addition to the incident involving S.C., DSS alleged that Mother and Father failed to supervise the children appropriately. It alleged that on or about January 4, 2018, G.G.C. and C.C. found ibuprofen tablets on the floor and ingested at least 800 milligrams of the

[5] Unless a CINA petition under this subtitle is dismissed, the court shall hold a separate disposition hearing after an adjudicatory hearing to determine whether the child is a CINA. CJP § 3-819(a)(1).

[6] At a review hearing under this section, the court shall:(i) Evaluate the safety of the child; (ii) Determine the continuing necessity for and appropriateness of any out-of-home placement; (iii) Determine the appropriateness of and extent of compliance with the case plan for the child; (iv) Determine the extent of progress that has been made toward alleviating or mitigating the causes necessitating the court's jurisdiction; and (v) Project a reasonable date by which the child may be returned to and safely maintained in the home or placed for adoption or under a legal guardianship. CJP § 3-816.2(b)(2).

[7] The court shall hold a permanency planning hearing to determine the permanency plan for a child. CJP § 3-816.2(b)(2).

medication. No immediate medical attention was sought by the parents. DSS also asserted that Mother's fourteen-year-old daughter, M.M., resided in the paternal grandfather's home, that she was sexually abused by a thirty-year-old unrelated man who was residing in the home, that the man was, at the time, serving two years of supervised probation following a guilty finding for possession of a controlled dangerous substance with the intent to distribute narcotics.

On January 5, 2018, Mother informed hospital staff and DSS workers that she and the children did not have any alternative housing options and there were no relatives available to care for the children. DSS determined that removal of the children was necessary to provide for their safety. The court granted DSS temporary custody and limited guardianship of the four children. When the children were removed from their parents' care, they were observed "to be dirty and to be wearing clothing that was inappropriate for the weather."

On January 17, 2018, the court held an emergency shelter care hearing and reaffirmed shelter care. The court determined that remaining in the care and custody of Mother was contrary to the children's welfare. The order of shelter care was continued as modified to include limited guardianship to and placement with the paternal grandmother, B.R., and her husband.

Adjudicatory Hearing

An adjudicatory hearing was held on February 8, 2018. The parties agreed to a statement of facts that tracked the allegations set forth in DSS's petition with some differences. The agreed statement of facts provided:

1. The [children's] mother is currently residing with friends.
2. The [children] were residing with their parents, at the home of the paternal grandfather, . . . where they relocated after residing with the paternal grandmother for a period of time.
3. On or about 1/5/18 mother told JHH and DSS staff that she and the [children] reside with the paternal grandfather and that she has no alternative options for housing. Mother told DSS that there are not relatives available to care for the [children].
4. On or about January 5, 2018, the paternal grandfather is alleged to have slapped [S.C.] in the face and pushed her to the ground causing her to have a nosebleed that required emergency medical attention. [S.C.], who was accompanied by her mother, was seen at Johns Hopkins Hospital where she was found to have dried blood in her nose. [S.C.'s] medical records from January 5, 2018, note hospital concerns that mother presented with a black eye that she attributed to a fight.
5. The [children] told DSS that they saw the paternal grandfather hit [S.C.] in the face, that they saw blood coming out of [S.C.'s] nose and, that they are afraid of returning home because the paternal grandfather hits them all of the time and that they sleep on the floor with their mother at the paternal grandfather's house.
6. While at JHH the [childeren's], Mother disclosed that the paternal grandfather abuses cocaine and phencyclidine ("PCP"). The [children's] mother has admitted that the paternal grandfather abuses illicit substances, including PCP. On or about January 5, 2018, the paternal grandfather was seen at Bayview Hospital for ingestion of PCP. He also has a history of criminal convictions for possession of controlled dangerous substance, not marijuana, and an active criminal case for assault. The paternal grandfather has pending criminal charges stemming from this incident.
7. Mother also has a 14-year-old child, M.M., who has been residing with the [other children] and their parents at the paternal grandfather's home. On January 5, 2018, [DSS] attempted to place M.M. in a DSS placement however she "eloped" from the DSS case manager's car while being transported. DSS filed a missing person's report for M.M.
8. The [children's] parents have prior CPS history dating back to 2008 for neglect and physical abuse. Mother has four other children who were removed from her care by Baltimore County Department of Social Services in 2007. They were subsequently found CINA. On February 27, 2017, DSS filed a Petition with Request for Shelter Care on behalf of [S.C.] after she was seen at Johns Hopkins Bayview Medical Center for an unexplained humeral fracture. At an adjudicatory hearing held on May 24, 2017, the Court sustained facts and bifurcated disposition. On July 26, 2017, the Court made a non-CINA finding after finding that the parents had complied with the Order Controlling Conduct that was in place.

> 9. Mother has a history of domestic violence issues as both a victim and an offender. Mother states that this involved a prior relationship.
> 10. The [children's] father has a history of prior criminal convictions for theft and violation of probation. On or about January 5, 2018, the [children's] father was detained, at the paternal grandfather's home, on two open warrants. He has two trials scheduled in January and February 2018 for drug and other charges. He is currently incarcerated.
> 11. At the adjudicatory hearing, the court found the allegations contained in the CINA petitions were proven by a preponderance of the evidence and sustained all the facts alleged in the CINA petitions. The order of shelter care was continued as modified to include limited guardianship to and placement with the paternal grandmother, B.R., and her husband. The case was held *sub curia* to allow for Father to appear because it was believed by the parties that he was incarcerated at the time of the hearing.

The parties agreed to hold disposition on a different date and the children's shelter care would continue. The parties agreed that pending disposition, Mother would

> 1) Be referred and participate in a mental health and medication evaluation and follow all treatment recommendations resulting therefrom;
> 2) Be referred and participate in a substance abuse evaluation and follow all treatment recommendations resulting therefrom;
> 3) Be referred and attend parenting and anger management classes through the [F]amily Tree or a similar program;
> 4) Meet with the [D.S.S.] Permanency case manager to enter a service agreement for the purpose of reunification;
> 5) Seek stable and appropriate housing and employment;
> 6) Continue to cooperate with [D.S.S.].

Disposition Hearing

A hearing was held on March 9, 2018. Although Father had been released from incarceration on February 23, 2018, he did not attend the hearing and Father's attorney was unable to contact him. Again, the court found good cause to delay disposition and the children's placement in shelter care for relative placement would be continued.

The disposition hearing was held on May 9, 2018. The parties agreed to the allegations contained in the petition, and the juvenile court found that each of the children

was a CINA and committed each of them to DSS for relative placement to continue with B.R. and her husband. At the time of the hearing, the parties agreed that Mother was residing with friends, that Father was not able to care for the children, and that Mother needed to continue working on the reunification tasks that were ordered prior to the disposition.

Initial Permanency Placement and Subsequent Review Hearings

Once the permanency plan was implemented, the court held several hearings in order to address safety concerns brought by DSS; decide whether to expand and/or limit the parents' visitation with the children; decide whether to grant the parents unsupervised or supervised visits; determine if abuse or neglect occurred pursuant to FL § 9-101; review Father's exceptions to the plan; and ultimately; assess if the permanency plan should be revised.

An initial permanency plan review hearing was held on June 1, 2018, but the case was held *sub curia* because Father was in the emergency room and Mother went to be with him. At the time of the re-scheduled hearing on June 15, 2018, the children still resided with B.R. and her husband. Although there had been some issues with insurance that delayed some of C.C.'s immunizations and dental work, since entering care, all the children had dental examinations. All four children attended daycare together. G.M.C. attended a pre-kindergarten program and daycare and had no identified special needs or health concerns. G.G.C. was observed and treated by a cardiologist for a heart condition and S.C. needed to be seen for a possible ankle anomaly.

Mother and Father continued to reside with paternal grandfather in his home. They had supervised visits with the children once in April and once in May, but according to DSS, they made no progress toward the tasks outlined in their service agreements. In addition, contrary to the juvenile court's order, Father visited the children without supervision. The court determined that there was a likelihood of further child abuse or neglect by Mother and Father because they continued to reside in the home from which the children were removed and in which the alleged abuser continued to reside. The court continued Mother's and Father's supervised visits with the children and continued the permanency plan of reunification.

On January 29, 2019, the court held a review hearing. Mother and Father were present in the courthouse prior to the start of the hearing but both elected to leave and did not stay for the hearing. When Mother did not respond to phone calls, Mother's counsel requested that the court hold the case *sub curia*, but that request was denied.

Since the prior review hearing, S.C. had been evaluated for the possible ankle anomaly and the doctor cleared that issue. All the children had had physical examinations, and all were current on their immunizations. While Mother previously reported that she had engaged in substance abuse treatment and mental health treatment, she did not provide any documentation. Mother continued to reside in the paternal grandfather's house.

The court found that the children continued to be CINAs and continued the permanency plan of reunification. The children remained placed with their paternal grandmother; B.R. Mother continued to have supervised visits with the children.

In about June 2019, the children were no longer with B.R. but had been placed with L.M. where they remained. On July 11, 2019, the parties attended a settlement conference and advised the court that issues of visitation, placement, and the permanency plan were contested. The court determined that "there is no likelihood of further child abuse or neglect" by Father and granted him unsupervised visits with the children in the community on Saturdays and Sundays from 11 a.m. to 4 p.m. Mother was not permitted to be present during those visits. Her visits remained supervised as she continued "to address her mental health and substance abuse issues." The court continued the four children's commitment and granted limited guardianship of them to DSS and/or L.M.

At the review hearing on October 9, 2019, the parties agreed, and the court ordered, that the four children continued to be CINAs, and that the permanency plan remain reunification. The court found that Father was participating in substance abuse treatment and providing urinalysis results to the DSS caseworker. The parties also agreed to the following: (1) that Mother submitted to a substance abuse assessment which determined that she was not in need of treatment; (2) Mother successfully completed parenting classes; and (3) Mother was seen for a behavioral health evaluation and the clinician recommended that Mother attend monthly therapy sessions. The court sustained these facts as recommended by the parties.

The parents obtained housing and DSS completed a home health assessment and determined that there were no safety concerns regarding the home. Both parents had been having regular visits with the four children. Mother's visits were supervised, Father's were unsupervised, and the visits were "going well." The court ordered that Mother continue in

therapy. The court also ordered that both parents could have unsupervised, overnight visitation two weekends each month and unsupervised day visits on the other two weekends of each month. In addition, parents were to have visitation for the Thanksgiving and Christmas holidays as outlined by the court. The court continued the permanency plan of reunification.

Safety Concerns and Changes in Permanency Plan

After the children visited their parents for Christmas, the children reported to L.M. that their 16-year-old sister, M.M., was in their parents' home with her 30-year-old boyfriend, and that the boyfriend and Mother had a verbal and physical altercation. Tiffany Palmer, the DSS caseworker, spoke with Mother who responded that the incident "wasn't that big a deal." Father reported to Palmer that he kept the children in a room with him so that they would not know what was going on downstairs. After an emergency meeting with the parents, in January 2020, DSS removed the children from the home to allow Child Protective Services to investigate. Because of the incident, DSS implemented supervised visits for Mother.

A permanency placement review hearing was scheduled for April 3, 2020, but due to the Covid-19 emergency, the hearing was rescheduled, and a remote proceeding was held on September 24, 2020. The children were doing well in their placement with L.M. Seven-year-old G.M.C. was in the second grade, 6-year-old C.C. was in the first grade, 5-year-old G.G.C. was in kindergarten, and 4-year-old S.C. was in pre-kindergarten. G.G.C. and S.C. played recreational soccer.

Mother remained unemployed. She continued to engage in monthly therapeutic treatment for depression and completed parenting classes at the Family Tree. Father was employed, participated in substance abuse treatment, and provided monthly urinalysis results to DSS, the results of which were negative. He requested unsupervised weekend visits with the children. Both parents had weekly supervised visits with the children.

At the time of the hearing, DSS did not express any safety concerns regarding visitation. The parties and the court agreed that the children continued to be CINAs. The court ordered that unsupervised day visits would resume after DSS conducted one additional unannounced visit to the parents' home. The court also ordered that there must be at least three unsupervised day visits before the parties could transition to overnight visits. The parties and the court agreed that the permanency plan for the four children should change from reunification to a concurrent plan of reunification and custody and guardianship to a nonrelative.

Expansion of Visitation

At a remote hearing on January 8, 2021, the parties advised the court that there were contested issues about placement, visitation, the permanency plan, and reasonable efforts on the part of DSS. A hearing was set for February 10, 2021. On that date, the parents requested to extend visitation to include Wednesday evenings through Sunday evenings at 5 p.m. Over the "strongly objected to" request by the children's counsel, the court granted an expansion of unsupervised visitation from Wednesday evenings through Sunday evenings, to begin on February 17, 2021. The court issued an order controlling conduct that provided:

> Parents shall ensure that [the children] are fed and bathed prior to their return to their caretaker on Sunday evenings.
>
> The Department shall investigate and vet any additional prospective family members who will provide transportation to and from school and daycare.
>
> Parents shall ensure that all school aged [children] participate in virtual learning and attend virtual classes on time.
>
> Parents shall ensure that [the children] are picked up and dropped off timely.
>
> Parents shall not use the caretaker as a transportation resource.
>
> The Department shall investigate adding parents to the emergency contact list for [the children's] schools and shall assist parents in becoming authorized to act on [the children's] behalf in the event of a medical emergency.

DSS Motion to Rescind Overnight Visitation and Permanency Placement Review Hearings

On March 11, 2021, DSS filed a motion to rescind overnight visitation on the ground that the parents violated the order controlling conduct. Specifically, DSS asserted that in March 2021, Father drove the children to school even though he did not have a driver's license or insurance. According to DSS, Father initially deflected when asked if he illegally drove the children to school, but later admitted to doing so because no one was available to provide transportation. Another incident that occurred in March 2021 involved two of the children being left at school at the end of the school day. At about 1:45 p.m., school officials contacted the caregiver, L.M., who picked up the children. According to DSS, the parents failed to inquire about the children's whereabouts prior to the call from school officials. DSS halted overnight visits due to concern for the children's "safety, well-being, and [the] parents' inability to meet" their transportation and educational needs. DSS

further averred that the parents allowed the children to travel with their grandparent in an unsafe manner and that the grandparent left the two younger children, G.G.C. and S.C., alone inside an automobile while he went inside to collect the two older children from school. Finally, DSS alleged that the parents' dog bit S.C. during an unsupervised visit but no one informed L.M. According to S.C., Father put a Band-Aid on S.C.'s finger. Due to the appearance of the injury, L.M. took S.C. to urgent care.

The court held a hearing on the motion on March 25, 2021. The parents had provided the names of individuals who would be providing transportation for the children to and from school; DSS had cleared those individuals. The parents thought that the children's paternal grandfather would be able to assist with transportation after the previously approved individuals indicated that they were not able to do so. Thus, DSS noted that Father drove the children despite not possessing a valid driver's license. Father's appointment to reinstate his driver's license was scheduled for April 5, 2021.

With respect to the incident involving two of the children being left at school, DSS stated that "hours had passed" before the parents communicated about the whereabouts of their children. As for the incident involving the children's paternal grandfather driving them to school, DSS stated that the grandfather did not have room in the back seat of his vehicle, "so he put the small children up in the front seat." In addition, he left the children unattended in the vehicle and asked a crossing guard to look after them while he went to collect the other children from school. L.M. observed the children unattended in the vehicle while she was at the school dropping off paperwork for her own child who attended the same school.

Counsel for the children advised the court that on March 4, 2021, at 1:52 p.m., she received a phone call from L.M. stating that two of the children were not picked up from school, and that the school had called the parents but that the parents did not respond. Palmer asked L.M. to pick up the children, which she did, and Palmer then met L.M. at her home. Within an hour, L.M. advised the children's counsel that she had the children but still had not heard from their parents. The following day, counsel spoke to L.M., who "intimated" that as of five o'clock, the parents still had not contacted her regarding the children.

The court granted the motion to rescind overnight visitation, stating, in part:

> It is of little merit that the health of the [children], the care parents provide during visits, or parents' housing is of no cause for concern. What is cause for concern is parents' judgment. Parents failed to communicate with the Department regarding the non-viability of the transportation resources that they proposed. Father drove the [children] to school when he knew he was not permitted to drive. Parents failed to inquire about the whereabouts of the [children] after leaving them at school. Parents relied on paternal grandfather to provide transportation; he exercised woefully poor judgment in asking and allowing a crossing guard to look after 4 and 6-year-old [S.C.] and [G.G.C.]. Given the aforementioned, which includes multiple instances of the parents' placing [the children's] safety in jeopardy, the Court hereby Grants the Department's Motion to Rescind Overnight Visitation.

The court rescinded overnight visits and ordered supervised visits with the children.

A permanency placement review hearing was set for April 8, 2021 but was rescheduled to June 14, 2021. The parties stipulated that the children continued to be CINAs. They agreed to a concurrent permanency plan of reunification and custody and guardianship and to the continued placement of the children with L.M. The parties also agreed to continue with supervised visitation and that unsupervised visitation would be

addressed at a future review hearing. The court found that the children's placement with L.M. was going well.

Although Mother had been compliant with monthly therapeutic treatment for depression and provided a letter stating that there was no need for further treatment as of November 2020, DSS argued that "there is still an ongoing need for mental health treatment with Mother despite what – despite her discharge back in November of 2020, eight months ago." Over Mother's objection, the court ordered DSS to make a referral for Mother to attend individual therapy, anger management, and parenting classes at Family Tree[.]" The court explained:

> Given the length of time – first, given the long history of this case, since 2018, given the length of time since therapy ended, given the fact that supervision [sic] by agreement of the parties remains and will remain until September as supervised, all of those in combination cause the Court in a dispositional hearing, to think it would be in the best interests of the [children] for at least a referral, intake and evaluation to be done so as to determine whether further individual therapy is needed and should be provided.

With regard to Mother and Father and their visits with the children, the court found, in part:

> 3. [The children's] Mother is [J.C.]. Mother is unemployed. Mother stays at home to provide care for [her] one year [old] child. Mother has been compliant with monthly therapeutic treatment for Depression – submitted a letter stating no need for further treatment as of November 2020. DSS will make a referral for Mother to attend individual therapy, anger management, and parenting classes at Family Tree if that provider can come to Mother's home or [a] comparable provider close to Mother's home . . . with available daycare for Mother's one year old.
>
> 3. (sic) [Children's] father is [J.J.C., Jr.]. Father has been participating in substance abuse treatment and providing monthly urinalysis results to the

> DSS Caseworker. The results have been negative. Father is employed. DSS will make a referral for Father to attend parenting classes at Family Tree.
>
> 4. Both parents have been having weekly supervised visits with [the four children]. Father has not visited [A.C.] since March 2021. Mother has not had visits with [A.C.].
>
> 5. Parties are in agreement to a concurrent permanency plan of Reunification and Custody & Guardianship to a relative for [the four children]. Parties are in agreement to a concurrent plan of Reunification and Custody & Guardianship to a non-relative for [A.C.]. Parties are in agreement to the continued placement of [the children] in their current foster home/relative placement. Parties are in agreement that visitation for the parents shall remain supervised and that the issue of unsupervised visitation (Family Law Article 9-101) shall be addressed at the upcoming Review Hearing.

(Misnumbering in original). The court set a hearing pursuant to Family Law Article ("FL") § 9-101.[8]

Family Law Article § 9-101 Motions Hearing

The motions hearing was scheduled before a magistrate for July 23, 2021, but postponed until July 27, 2021. On the day of the hearing, attorneys for DSS and the children argued that parents' request for unsupervised visitation should be denied considering a video recording obtained by DSS that depicted Mother's 18-year-old

[8] Section 9-101 of the Family Law Article provides:

> (a) In any custody or visitation proceeding, if the court has reasonable grounds to believe that a child has been abused or neglected by a party to the proceeding, the court shall determine whether abuse or neglect is likely to occur if custody or visitation rights are granted to the party.
> (b) Unless the court specifically finds that there is no likelihood of further child abuse or neglect by the party, the court shall deny custody or visitation rights to that party, except that the court may approve a supervised visitation arrangement that assures the safety and the physiological, psychological, and emotional well-being of the child.

daughter, M.M. The following occurred as counsel for DSS explained the incident to the court:

> Well, yes, Your Honor, what I was able to send to [counsel] was a video which the Department purports to be the older sister having what appears to be a glass pipe that is used for cocaine use. I did send the photos of that to Mr. – to all counsel.
>
> In addition, Your Honor, the Department also sent other videos that it was able to obtain from the older sister's social media account, I believe TikTok, where she – she's 18, she seems to be drinking an alcoholic – or excuse me, holding what is an alcoholic beverage, I don't know the name of the alcohol.
>
> And there's also – where she's also smoking a cigarette as well and she's also engaging with the younger sibling, who I think is a year and a half. This sibling is not in DSS's care, but there's inappropriate behavior in terms of dancing and interacting with the small child that is very concerning for the Department. I did share those videos with all counsel.
>
> And I'm being very cautious and deliberately cautious in how I'm characterizing the videos, but I think it is – I don't think it's an unfair characterization to say that the – that the videos are inappropriate, to say the least. And the – in the interacting with the one-and-a-half-year-old child. And again, with the purported cocaine pipe and the alcohol bottle and the cigarette while dancing or engaging in dancing with the young child, the Department is –
>
> [MOTHER]: The fuck wrong with you, man?
>
> [THE MAGISTRATE]: Okay. Hold on a second. Ms. C., your behavior is reprehensible, you will be placed in a waiting room.
>
> [COUNSEL FOR DSS]: Certainly, the Department, based on those, Your Honor, would be asking for supervised visits.

Counsel for the children also requested supervised visitation, arguing:

> Your Honor, [Counsel for DSS] is always one who is delicate in his explanation. I have – I, however, will not be as delicate, because we're talking about the safety of my five clients.
>
> The videos that were sent to me, one in particular where the adult teenager is drinking alcohol, I believe it's New Amsterdam, that's on the label. Additionally, she is what the young people would describe as twerking in front of her youngest sibling. So much so that she turns her backside

> toward the child and the child then pats her on the backside. This is occurring in what has been described as the parents' home.
>
> So I wanted the Court – since the Court doesn't actually have the visual, which is disgusting, I wanted the Court to have a better sense of what these videos are.
>
> I would renew my request for visitation to continue to be supervised as it would be highly inappropriate for my clients, who range in age from three to eight to be allowed in this home. Because it seems that there lacks – there's a serious lack of supervision, adult supervision.

Mother and Father argued against supervised visitation. They asserted that the video showed the actions of an 18-year-old, not the parents, that the teenager was dancing and twerking with her young sister, "O." next to her, which did not rise to the level of a safety concern, and that the O. was not harmed. The parents further argued that it was unknown what exactly M.M. was drinking and that DSS had not taken any action with regard to O. Counsel for Mother proffered that Mother would testify that M.M. did not live in the family home with her. DSS challenged that position, stating that "it is the Department's understanding or belief that, in fact, the older sibling was, indeed, living [in the parents' home] despite statements to the contrary – or – you know, by the parents that she wasn't living there." Palmer advised that Mother told her that M.M. had been released from an inpatient facility and that she would be living in the family's house. Mother believed it was acceptable for M.M. to live in the house when the five children were not there. Palmer told Mother that if M.M. lived in the house, the five children in care would not be able to go to the house.[9]

[9] L.M. testified on January 19, 2023, that when the children had unsupervised visits in the parents' home, M.M. was living there with Mother.

The magistrate found that the conduct of M.M. "speaks volumes of the lack of supervision in the home." The magistrate recommended that the parents' requests for unsupervised visits be denied, explaining that "there is a likelihood of further child abuse or neglect" by the parents due to allegations that:

> [M]other's 18-year-old daughter is consuming alcohol, smoking and using illicit substances (cocaine) in parents' home. The activity has taken place in front of [the children's] 1½ year old sibling. [The children] are of tender ages and are required to be appropriately supervised at all times. Parents have not demonstrated their ability to provide this supervision in their home.

Father's Exceptions With Regard to Supervised Visitation

Father filed exceptions to the magistrate's recommendation denying unsupervised visitation. Mother did not join Father's exceptions. The initial hearing date of September 14, 2021 was postponed, and the matter was heard beginning on November 19, 2021. The hearing was continued over several dates. Ultimately, eight months later, on July 11, 2022, the court ruled that it could not find support for the position that there was no likelihood of abuse or neglect by Father. The court denied Father's exceptions, sustained the magistrate's recommendation of July 27, 2021, and ordered that Father's visitation with the children remain supervised.

Request for Change in Permanency Plan

In December 2021, counsel for the children filed a request to change the permanency plan from a concurrent plan of reunification and custody and guardianship to a sole plan of custody and guardianship. A hearing was initially set for April 21, 2022, but the court rescheduled it for July 13, 2022. The request to change the permanency plan to a sole plan

of custody and guardianship was heard over the course of five non-consecutive days beginning on October 24, 2022 and concluding with the court's ruling on March 10, 2023.

Palmer identified four factors that led DSS to support the request for a change in the permanency plan: (1) the timing of the case and the fact that the children entered care on January 4, 2018; (2) the safety concerns that have brought about the children going from supervised to unsupervised visits; (3) the parents' transiency, given they had moved three times since the case was open, and the instability of the home for the children; and, (4) the parents' failure to satisfy the requirements of their service agreements. After the hearing, the court announced its decision from the bench. The court stated that it had considered the requirements of FL § 5-525(f) and CJP § 3-823(f). The court found that it was in the best interests of the four children to change their permanency plans "from reunification and/or custody and guardianship to custody and guardianship." Mother timely appealed the court's order.

STANDARD OF REVIEW

In CINA proceedings, our review of the juvenile court's decision "involves three interrelated standards: (1) a clearly erroneous standard, applicable to the juvenile court's factual findings; (2) a *de novo* standard, applicable to the juvenile court's legal conclusions; and (3) an abuse of discretion standard, applicable to the juvenile court's ultimate decision." *In re Adoption/Guardianship of C.A. & D.A.*, 234 Md. App. 30, 45 (2017). An abuse of discretion occurs when the decision under review is "'well removed from any center mark imagined by the reviewing court and beyond the fringe of what the court deems

minimally acceptable.'" *In re: Ashley S.*, 431 Md. 678, 704 (quoting *In re Yve S.*, 373 Md. 551, 583-84 (2003)).

DISCUSSION

Mother contends that the juvenile court abused its discretion in changing the concurrent permanency plans for all four children to a sole plan of custody and guardianship. She argues that extensive delays in the proceedings rendered reunification efforts futile during a majority of the case. She also maintains that the decision of the juvenile court was not supported by the weight of the evidence and that the record was insufficient to allow the court to apply properly the factors required by FL § 5-525.

A. Delays in the Proceedings

The four children had been in care since January 2018, Palmer had been assigned the case in November 2018, and the children had been living with their caretaker, L.M., since May 2019. There were no issues with the placement with L.M. Mother argues that the permanency plan could not be reviewed in the proscribed six-month intervals due to excessive delays in the court proceedings resulting from the Covid-19 pandemic and scheduling difficulties on the part of the court and counsel. She asserts that during the period of delay, no assessment was made by DSS regarding her circumstances, her progress with regard to services recommended by DSS, her living situation, or her conduct during supervised visitation. The record does not support Mother's contentions.

Home Assessment on Mother's Pennsylvania Residence

There is no doubt that the Covid-19 emergency caused some scheduling delays in this case. Father's exceptions were heard over an eight-month period, from November 19,

2021, through July 11, 2022. These hearings led to the decision to change the permanency plan that began on October 24, 2022 and concluded with the court's decision five months later on March 10, 2023. Mother claims an assessment of her Pennsylvania home would have been useful for the court to determine whether unsupervised visitation or even overnight visits in that home would be safe for the children and that it would have provided valuable information about the type of environment Mother deemed acceptable for O. We disagree.

In late February 2022, Mother separated from Father and needed a place to live. She and her three-year-old daughter, O., moved into her own mother's two-bedroom trailer in Pennsylvania. Mother and O. shared one bedroom. No assessment of Mother's new residence was performed because her stated goal was to return to Maryland. Mother testified that her intent was to find housing near the children's school in Maryland and that she planned to do that before the end of the school year. Palmer testified that she could have requested Pennsylvania authorities to conduct a home assessment, but she did not because Mother did not intend to live permanently in Pennsylvania.

Mother did not drive because she suffered from "really bad anxiety" that she had had "for a long time[.]" She relied on her mother's help to get around. Notwithstanding her anxiety, Mother testified that she planned to get her driver's license now that she was separated from Father. Mother planned to move back to Maryland once she had her driver's license.

While there was no evidence that Mother intended for the four children to live with her, O., and her mother in Pennsylvania in the two-bedroom trailer, the court properly

considered that Mother lived in a trailer in Pennsylvania and that she shared a bedroom with O. The court also acknowledged that Mother's plan was to return to Maryland, live in the Dundalk area, and have the children returned to her at the end of the year. According to Mother, she planned to use Uber or family and friends to provide transportation and she was trying to find housing near the children's school. When asked on cross-examination how she would qualify for housing without an income, Mother stated, that she had help to move and "then I'll be working right away, soon as I move down there. I just have to get down there before I can start working, of course." Despite Mother's assertions, the court recognized that Mother was unemployed and did not pay rent to her mother. Mother did not possess a valid driver's license; and had no concrete plan for employment, housing, or transportation upon return to Maryland. Mother even acknowledged that her move to Pennsylvania "presented a logistical challenge to reunification."

Mother's argument that DSS did not assess Mother's progress or conduct during the extensive delay in the proceedings which rendered reunification efforts futile is without merit. The permanency plan factors detailing Mother's progress and conduct since DSS's filing of the CINA petition we will address below. It cannot be said that those delays caused the failure of reunification in this case.

B. Permanency Planning Process

After a juvenile court determines that a child is a CINA, the local department of social services is required to develop a permanency plan that is in the best interest of the child. FL § 5-525(f)(1). *See also In re M.*, 251 Md. App. 86, 115 (2021). A permanency planning hearing shall take place no later than 11 months after a child is found to be a

CINA. CJP § 3-823(b)(1)(i). "[T]he permanency plan is 'an integral part of the statutory scheme designed to expedite the movement of Maryland's children from foster care to a permanent living … arrangement.'" *In re Adoption of Jayden G.*, 433 Md. 50, 55 (2013)(quoting *In re Damon M.*, 362 Md. 429, 436 (2001)). At the permanency planning hearing, the court determines the child's permanency plan under the following "descending order" of priorities, "to the extent consistent with the best interests of the child": (1) reunification with the parent or guardian; (2) placement with a relative for adoption or custody and guardianship under CJP § 3-819.2; (3) adoption by a nonrelative; (4) custody and guardianship by a nonrelative under CJP § 3-819.2; or (5) for a child at least 16 years old, another planned permanent living arrangement. CJP § 3-823(e)(1)(i). *See also* FL § 5-525(f)(2).

When determining the child's permanency plan, the court shall consider the factors specified in FL § 5-525(f)(1), which provide:

> (i) the child's ability to be safe and healthy in the home of the child's parent;
> (ii) the child's attachment and emotional ties to the child's natural parents and siblings;
> (iii) the child's emotional attachment to the child's current caregiver and the caregiver's family;
> (iv) the length of time the child has resided with the current caregiver;
> (v) the potential emotional, developmental, and educational harm to the child if moved from the child's current placement; and
> (vi) the potential harm to the child by remaining in State custody for an excessive period of time.

See CJP § 3-823(e)(2)("In determining the child's permanency plan, the court shall consider the factors specified in § 5-525(f)(1) of the Family Law Article.").

At every permanency plan review hearing, the court must determine: (1) whether the commitment remains necessary and appropriate; (2) whether reasonable efforts have been made to finalize the current plan; (3) the appropriateness of and the extent of compliance with the case plan for the child; (4) the extent of progress that has been made "toward alleviating or mitigating the causes necessitating commitment;" (5) project a reasonable date for the child to be returned home, placed in a pre-adoptive home, or placed under a legal guardianship; (6) evaluate the child's safety and take necessary measures to protect the child; (7) change the permanency plan if a change "would be in the child's best interest;" and, (8) "[f]or a child with a developmental disability, direct the provision of services to obtain ongoing care, if any, needed after the court's jurisdiction ends." CJP § 3-823(h)(2). In reviewing the permanency plan, the circuit court is required to use the factors set forth in FL § 5-525(f)(1) as a guide in determining the child's best interest. CJP § 3-823(e)(2).

Mother contends that the record was insufficient to allow the court to properly evaluate the factors required by FL § 5-525(f)(1). Mother's claim is without merit as the court did not err in evaluating the factors. Nor did the court abuse its discretion in changing the permanency plan from reunification to custody and guardianship to a nonrelative. For several reasons, as detailed below, the court found that the children are in a stable environment, doing well in school, and have their medical needs addressed. According to the court, the children love their parents but rely on L.M; therefore, it is in children's best interest to remain with L.M and change the permanency plan to custody and guardianship to L.M.

Children's Ability to be Safe and Healthy in Mother's Home

There was ample evidence of Mother's inability to provide a safe and healthy home for the four children. Prior to the children's removal from the parents' home, they lived in the home of their paternal grandfather, who was reportedly a drug user, and who reportedly struck S.C. in the face. While at that home, two of the children ingested ibuprofen that they found on the floor. When at the hospital with S.C., Mother presented with a black eye that she attributed to a fight. Attempts to move from supervised to unsupervised visits resulted in several incidents that raised safety concerns.

After the children were removed from Mother's care, and during a time when she had unsupervised visitation, Mother failed to supervise the children during virtual schooling, allowed Father to drive them to school even though he did not have a driver's license, failed to inquire about the children's whereabouts when they were not picked up after the first day of in-person schooling, and allowed the paternal grandfather to drive the children to school without proper safety seats.

Extended unsupervised visits instituted in early 2021 were short-lived. There were problems with supervision of the children during virtual schooling and, as Mother acknowledges, the "transition from virtual schooling to in-person schooling tested the parents' ability to manage transporting their children to and from school and their efforts failed." According to Palmer, when the children were engaged in virtual schooling, concerns were raised by teachers that the school-aged children were not focused and paying attention during their lessons. The parents were living together at that time, Father worked long day shifts, and Mother was not working. Mother had set up a computer workspace

for the children at the dining room table, but two of the children hid under the table and were playing instead of engaging in their lessons. Palmer received emails from the school and contacted Mother, who said that, in addition to the two children engaged in virtual schooling, she had three other children at home, and she was not aware that the two children were not paying attention.

Other incidents occurred in March 2021, when the children's schooling switched from virtual learning to in-person school. A plan was put in place with regard to transportation to and from school. Palmer cleared one individual to transport the children, but another person suggested by Mother was not cleared. On the first day of in-person school, the transportation plan fell apart. Mother did not drive and believed that the paternal grandfather was transporting the children to school on the first day. Father told Palmer that the grandfather was not available, and it was easier for him to drive the children to school, which he did, even though he did not have a valid driver's license. Thereafter, the grandfather drove the children to school, but he did not have any safety seats for the children in his vehicle.

On another occasion, the children were not picked up from school. According to Palmer, Mother advised that she thought the grandfather was going to pick up the children and Father stated that he overslept.

Palmer also raised concerns about the parents' failure to follow through with an agreement to obtain Covid testing for the children in March 2021. One Friday, the children's school advised Palmer that S.C. was not feeling well and that all the children were required to obtain a negative Covid test in order to return to school the following

Monday. Palmer spoke with the parents and Father said he would take the children to be tested when he got home that night. Palmer told Father that the testing had to be done that night because she was concerned that they would not get the results in time for the children to attend school on Monday. Later that night, Father told Palmer that he was too tired to take the children to get tested and that he would take them the following morning.

Palmer, who was aware that Mother did not drive, said she would drive to the family's house and assist with transporting the children to be tested, but Father did not agree. Nevertheless, Palmer called L.M., who had enough car seats for the children, and both of them drove to the parents' home. When Palmer arrived at the house she observed "a lot of chaos" and the parents were upset at her. One child ran to the back door of the house, and another came downstairs "screaming and hollering." Palmer attempted to round up each of the four children and, as she did, she gave them to L.M. who was outside the house. Palmer testified that Mother was "cursing and yelling and it almost caused us to get into a physical altercation." Mother and Father were yelling. At one point, Mother reached over a table toward Palmer. Palmer testified that Mother said, "she would have beat my ass if she didn't have her daughter in her arms." Eventually, Palmer got all four children out of the house. She testified that both parents were "just cursing me out. And you know, I just had to go. Because it just wasn't a good scene at that point."

The children were not tested for Covid that night. Instead, L.M. took them to be tested the following morning. When questioned about that, Palmer stated that the incident and the screaming had been traumatizing for the children. After the children were removed from the home, they were hungry so L.M. took them to a McDonald's restaurant to get

some food. By then, it was 9 p.m. The urgent care facility was contacted and confirmed that the children could get same-day test results, so it was decided that the children would go to be tested the following morning, which they did.

During the hearings on Father's exceptions, L.M. testified that in March 2021, while S.C. was on an unsupervised visit with her parents, she was bit by a neighbor's dog. When she returned to L.M.'s house, her finger was "red and swollen and it was all white and puffy." L.M. informed Palmer and took S.C. to a Patient First center. At the hearing on the petition to change the permanency plan, Palmer confirmed that Mother was not present in the home at the time of that incident. On another occasion, when Palmer spoke with Mother about a video showing M.M. dancing to lewd music with what appeared to be a crack pipe and bottle of alcohol in her hands, Mother told Palmer to mind her own business.

Palmer acknowledged that Mother completed parenting classes at Family Tree in 2018-19 and a substance abuse assessment in 2018 and participated in therapy from 2018 to 2020. Palmer also stated that Mother's therapist determined that she no longer needed therapy. Nevertheless, following the incidents that occurred in March 2021, DSS required Mother to reengage with parenting classes and therapy. Although Mother was directed to reengage in services, she did not do so immediately because she had been dismissed from prior therapy and did not see why she had to do it again. Mother reengaged in mental health therapy in late October or early November 2022 and attended weekly sessions via Zoom. Mother had not signed a release to allow Palmer to speak with the therapist, but she sent Palmer the therapist's information.

Mother testified that despite multiple attempts, she had been unable to register to retake parenting classes because workers at the Family Tree never returned her five to six calls. On cross-examination, Mother stated that she attempted to contact Family Tree about parenting classes 2 to 3 times. She called a couple of times within a two-week period and spoke to someone who was supposed to call her on a Monday to do an "intake," but they never called her back. When asked why she did not reengage with the parenting classes in 2021, Mother said that she had just finished taking parenting classes and was not sure why she had to start them again. Mother informed Palmer about the problem she encountered registering for the classes. Considering the incidents that occurred in March 2021, DSS determined that Mother should reengage in services she had previously completed, but Mother did not start therapy until October or November 2022 and never reenrolled in a parenting class. Mother's failure to participate in, and benefit from, those services hindered reunification efforts. All this evidence supported the conclusion that Mother was unable to provide a safe and healthy home for the children.

Children's Attachment and Emotional Ties to Mother and Siblings

Mother next contends that the children's attachment and emotional ties to Mother could not be properly assessed because her only contacts with the children for nearly two years were the one-hour supervised visits in the community. The record does not support this contention. Palmer testified that Mother regularly visited the children and, with the exception of an incident in March 2021, she had "always been fully engaged with [her] children . . . [t]alking to them, hugging them, friendly relationship [sic] . . . verbal conversation, [and] paying for meals." According to Palmer, the children were "fully

engag[ed] with [Mother], when they see her, they go run to mom, they talk to mom, tell them about their day to day or week, whatever's going on with them at the time[.]" The children call her "mommy," hug her, and express that they love her. The court questioned Palmer as to why, if Mother was regularly visiting the children and those visits were going well, the children had not been returned to her care. Palmer responded that the case had been reset multiple times, that Mother moved to Pennsylvania in 2022, that unsupervised visits had not been restored, and the children had been in care for nearly 5 years.

Palmer testified that the parents were listed on the school documents, that they had access to the children's educational records, and that Mother attended parent-teacher night in the Fall of 2021. Mother told Palmer that she had been unsuccessful in reaching L.M. to find out about events at the children's school but admitted that while the children were in the care of L.M., she did not contact the children's teachers. Palmer informed Mother about the children's medical appointments. And, except for some of G.G.C.'s visits to a cardiologist, Mother did not attend the children's medical appointments.

Both Mother and L.M. testified that they communicated by text or telephone almost every day. According to L.M., Mother typically arranged visits via text message, but she did not call the children between visits and did not inquire about, or participate in, their education or medical appointments. Mother sent texts to the children on their birthdays but did not call them. Mother acknowledged that she does not speak to the children on the phone "much" but that she asked L.M. to speak to them outside of the weekly visits on their birthdays, holidays, and at other times.

Mother claimed she contacted L.M. on holidays but had not been able to speak with the children. Mother spoke with L.M. on Christmas Eve 2022 but did not let L.M. know what time she wanted to call the children on Christmas day. Mother claimed she asked to speak to each of the four children on their birthdays in 2022, but only got to speak to G.G.C. on his birthday and visit with G.M.C. on her birthday. She also inquired about the children's schooling and about the date of a school field day so that she could attend, but L.M. never replied. Palmer acknowledged that Mother would call L.M. wanting to speak with the children, that she called them on their birthdays and holidays, and that she had not been successful in speaking to them because L.M. had made plans. L.M. was willing to allow Mother to visit the children on holidays and their birthdays but claimed that Mother had not asked in advance to do so, except in October 2022. L.M. planned birthday parties for the children. She claimed that Mother did not inquire about where or when the birthday parties would be held. On cross-examination, L.M. acknowledged that Mother called two times in October 2022 for two of the children's birthdays, and once in January 2023 for another child's birthday. She testified that Mother had reached out on holidays and birthdays and had been able to speak to the children "multiple times[.]" L.M. admitted that Mother texted her on Christmas day 2022, but Mother was not able to speak to the children because they were out with L.M. and her family. In January 2023, Mother asked to have a visit during one of the children's soccer practices, but L.M. told her there was no room at the gymnasium for the children to visit and that spectators had to stand against the gymnasium wall to observe the practice.

Mother typically visited on a weekly basis, except when someone was sick or when she did not have transportation. The visits usually lasted one or one-and-a-half hours. After Mother moved to Pennsylvania in February 2022, her mother drove her to the visits with the children. On two occasions, L.M. met Mother halfway between L.M.'s house and Mother's home in Pennsylvania, and on one occasion, when L.M. went to Pennsylvania to shop, a visit took place at a park up the street from Mother's home. Mother missed all visits for January 2023 due to the death of her brother and she had only one visit in February 2023 due to lack of transportation. On February 12, 2023, Mother was in Baltimore visiting friends for the weekend and L.M. drove her, O., and the four children back to Pennsylvania. L.M. testified that she never prevented Mother from visiting with the children.

Mother testified that there were a few times when her mother could not drive her to visits with the children, but "just a couple." Mother acknowledged that there were occasions when L.M. offered to pay for visits that occurred at a restaurant, but typically either she or her mother would pay, or they would split the cost. Mother explained that she missed visits the entire month of January 2023 because her brother died, and she had only one visit in February because her mother's schedule had changed, and it was difficult to schedule other visitation days around L.M.'s and the children's schedules.

The court recognized that the children "love their parents, but they rely on L.M. and her family, in addition to whatever the Department does." That conclusion was supported by the record which showed that attempts at unsupervised visitation failed, in large part, due to the parents' lack of attention and supervision. Even when supervised visits were in place, Mother often failed to confirm visits, arrived late, or failed to visit at all, as was the

case for the entire month of January 2023. There was also testimony that Mother did not call the children between visits or attempt to foster the relationship with her children. We cannot conclude that the court's findings regarding the children's attachment and emotional ties to Mother were clearly erroneous.

Emotional Attachment to L.M. and L.M.'s Family

The children have lived with L.M. since June 2019. L.M. testified that the children were doing well in school, they were "meeting everything, if not exceeding, all of their school curriculum," they had no behavioral issues, and were up to date on their immunizations and medical appointments. L.M. took the children to their medical appointments. G.G.C. saw a cardiologist annually for a heart condition, but there were no present concerns except for a restriction on contact sports.

Mother admitted that she did not attend medical appointments for the children, except for G.G.C.'s cardiology appointments, and that she had not spoken to the children's teachers. Mother testified that until the children were placed with L.M. she had never missed G.G.C.'s cardiology appointments. She attended those appointments when the children were living with B.R., but she had only attended one appointment since they had been with L.M. She explained that she and Father attended an appointment in 2020, but L.M. "got there first, so she went back with" the child and no one else was allowed to be with him. She stated that "probably" in December 2021 she inquired about G.G.C.'s 2022 appointment, but L.M. did not provide information about it. Mother stated that she never failed to ask L.M. about the time for G.G.C.'s cardiology appointments. L.M. acknowledged that Mother had asked about G.G.C.'s cardiology appointments and

attended an appointment in 2020. Due to Covid-related restrictions only one adult was permitted to see the doctor and L.M. was the person who did that. L.M. did not recall Mother stating that she wanted to attend the appointment in January 2022. The appointment for 2023 was originally set for January, but it was rescheduled for February 27, 2023, and had not occurred at the time L.M. testified.

Except for the difficulty in speaking with her children on certain birthdays and holidays, Mother did not have any complaints about the care L.M. provided for the children. In evaluating the children's living conditions, the court found that the children were well cared for by L.M., there were no behavior or safety issues, and they were functioning at or above grade level. L.M. has known Mother since she was six years old, and she and Mother grew up together. L.M. is C.C.'s godmother, she was present at the birth of three of Mother's children, and the children have always known her as "Aunt [L.]." The court found that the "children are in a stable environment," are doing well in school and that L.M. is able to provide for the children's educational and medical needs. The trial court did not err in evaluating the children's emotional attachment to L.M.

Harm to the Children if Removed from L.M.'s Care

Mother argues that there was no evidence presented with respect to the potential emotional, developmental, and educational harm to the children if moved from their current placement. *See* FL § 5-525(f)(1)(v). She maintains that there was nothing in the record to indicate that the children would not continue to thrive if they were returned to her care. She does "not dispute that L.M. is providing proper care and attention to the children and ensuring that their health and educational needs are being met[,]" but she argues that, with

the help of a support network that would include friends and family, she could ensure that the same needs are met.

As we have already noted, the court recognized that the children "love their parents, but they rely on L.M. and her family, in addition to whatever the Department does." Other than her own mother, Mother did not identify a support network of people willing to help her ensure that her children's needs would be met while in her care. The court considered Mother's living situation, her lack of employment, her unrealized plan to move back to Maryland, her lack of transportation, her reliance on her mother for transportation, and her lack of telephone communication with the children. The court did not err in finding that removing the children from L.M.'s care would be potentially detrimental to the emotional, development, and educational well-being of the children.

Harm to Children Remaining in State Custody for an Excessive Period of Time

Mother maintains that the children had already been in state custody for an excessive period of time and there was "nothing in the record to suggest that maintaining the concurrent plan of reunification and custody and guardianship would disturb their current state or result in any potential harm to their well-being." In our view, however, permanency and stability are important considerations. *See Jayden G.*, 433 Md. at 82 (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 *Jayden G.*, Maryland's Supreme Court recognized that "it is this 'emotional commitment' and a sense of permanency that are absolutely necessary to ensure a child's

healthy psychological and physical development." *Jayden G.*, 433 Md. 50, 84 (2013). Moreover, in Maryland, "[e]very reasonable effort shall be made to effectuate a permanent placement for the child within 24 months of the initial placement." CJP § 3-823(h)(5). Despite Mother's contention that she could work toward reunification indefinitely, and the children could remain in L.M.'s care indefinitely because they are thriving, that is not the case. The record supports the court's findings.

We hold that the court clearly examined and considered all the factors set forth in FL § 5-525(f)(1). Upon a thorough and detailed analysis, the court determined that the Mother is unable to provide the children a safe and healthy environment. We agree. The court did not err in weighing the factors and did not abuse its discretion in changing the permanency plan from a concurrent plan of reunification and custody and guardianship to a non-relative to a sole plan of custody and guardianship to a non-relative. In changing the permanency plan, the court did not terminate Mother's parental rights. We note that under the court's order, Mother maintains the right to petition for custody of the children upon a showing of a material change in circumstances impacting the children's best interests. In *In re Caya B.*, 153 Md. App. 63, 78 (2003), we recognized that parental rights are not terminated in a case such as this. "[T]he parents are free at any time to petition an appropriate court of equity for a change in custody, guardianship, or visitation." *Id.*

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY, DIVISION OF JUVENILE CAUSES AFFIRMED; COSTS TO BE PAID BY APPELLANT.