

Circuit Court for Baltimore City
Case No 624008003J

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 123

September Term, 2024

IN RE: J.D.

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

JJ.

Opinion by Beachley, J.

Filed: November 25, 2025

*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 involves the propriety of an order purporting to hold appellant Baltimore City Department of Social Services (“the Department”) in contempt after it failed to timely secure placement for J.D., a Child in Need of Assistance (“CINA”). The Department presents three questions for our review:

1. Did the juvenile court commit reversible error when it failed to comply with the contempt procedures that the Title 15 rules mandate, including the requirement of a written petition and a written order complying with the pleading requirements of Rule 2-303 and allowing a reasonable time to prepare a defense?
2. Did the juvenile court commit reversible error in concluding that the Department had willfully violated an order to place J.D., where there was overwhelming evidence that the Department had made extensive efforts to place him, and no evidence of any available placement that the Department had overlooked?
3. Did the juvenile court commit reversible error in ordering sanctions that were not tethered to coercing compliance by the Department?

For the reasons set forth below, we shall reverse.

FACTUAL AND PROCEDURAL BACKGROUND

In the fall of 2023, the Department received a report that J.D., born in 2009, was being abused by his father. J.D. originally stayed in his father’s home under a safety plan, but his father was subsequently arrested for abuse and his father’s fiancée refused to allow J.D. to reside in the home. Accordingly, on November 29, 2023, the juvenile court adjudicated J.D. a CINA and placed him in the care of the Department. The Department struggled to find suitable placement for J.D., as he had a history of mental health issues, including post-traumatic stress disorder, ADHD, and disruptive mood dysregulation disorder. In addition, J.D. had a history of fire-setting.

On January 8, 2024, the State filed a delinquency petition alleging that J.D. committed robbery, second-degree assault, and theft against a one-on-one aide employed by the Department.¹ After an emergency arraignment hearing, the court ordered that J.D. be detained under the jurisdiction of the Department of Juvenile Services (“DJS”).

The court held a detention review hearing on January 22, 2024, before a magistrate. At that hearing, the State and the Department recommended that J.D. remain in detention with DJS, stating that the Department did not have a viable placement for J.D. and stressing the difficulty of placing a child with his history. J.D.’s counsel argued that continued detention was inappropriate and that the Department could not use DJS detention as “overflow” for a difficult-to-place youth. The magistrate recommended that J.D. remain in DJS detention. Upon J.D.’s request for an immediate review of the magistrate’s recommendation, the court set a review hearing for January 29, 2024.

At the January 29, 2024 hearing, J.D.’s counsel again asserted that the Department was inappropriately using DJS detention as “overflow” placement. The Department’s counsel, Fred Cohen, advised the court that J.D. had assaulted a DJS staff member on January 25, 2024, and recommended that he continue to be detained, in light of the new charges and the difficulty of locating a viable placement with the Department. The court recognized the Department’s challenges in finding an appropriate placement for J.D., noting that “the availability of shelter in the state is rather limited and restrictive” as a result

¹ The evidence in the record is unclear whether the assault was against J.D.’s assigned one-on-one aide or whether the one-on-one aide in question was assigned to another child.

of “resource shortages.” Nevertheless, the court noted that the Department was not relieved of its responsibility to find an appropriate placement. The court’s written order required DJS to place J.D. in “structured shelter care (or detain if structured shelter care is not available),” but specifically stated that J.D. would remain in DJS care “until the Baltimore City Department of Social Services can provide shelter care” pending the next hearing and “as soon as possible.”

At his delinquency adjudication hearing on February 2, 2024, J.D. admitted to the second-degree assault against the one-on-one aide based on an agreed statement of facts. The court proceeded to disposition and placed J.D. on supervised probation for six months. Because the adjudicated offense was a misdemeanor, DJS recommended that J.D. be released to the Department’s care. Gregory Hinton, the Department’s case worker assigned to J.D.’s case, informed the court that the Department continued to be unsuccessful in placing J.D. and that the only option it had for J.D. was to place him in temporary housing at the Department’s office building.

J.D.’s delinquency and CINA attorneys argued that the Department’s efforts to place J.D. were inadequate and that continued DJS detention would be illegal as a result of a misdemeanor adjudication. J.D.’s delinquency counsel stated her intention “to file a show cause for [the Department] because they are failing this child.” Recognizing that the Department had no placement resource available, the court reluctantly ordered continued DJS detention, but set a review hearing for Monday, February 5. J.D.’s delinquency counsel then requested, “at this point, we would like to verbally file the show cause right

now. . . [a]nd request that a hearing be scheduled Monday for [the Department] to -- demonstrate the efforts that they’ve made in the past month to find a placement for [J.D.]”

The written order issued as a result of the February 2 hearing provided:

It is hereby ordered that [the Department] is directed to provide care and custody for the child in [s]tructured shelter care (or detain if not available), pending hearing on the above entitled cause and for a period not to exceed the next hearing date.

The order further set a “Show Cause hearing on 2/5/24 at 11:30 AM.”

At the outset of the February 5, 2024 show cause hearing, the court summarized the purpose of the hearing:

So we’re here at the request of [J.D.’s delinquency counsel] for a show cause as to placement of [J.D.] after disposition and in which he also has a CINA matter. The issue is the [c]ourt has ordered that he be placed with the Department of Social Services and, unfortunately, the [c]ourt was told that there were no placement options for him and as a result, the [c]ourt was left with little to no options than to continue his detention, which frankly, he’s not eligible for down in the Juvenile Justice Center’s detention facility.

The Department of Social Services was encouraged to expedite and explore all available housing options to include placement at a shelter, a group home, and possibly even a hotel. Wasn’t exactly clear as to why those weren’t necessarily available. It’s the [c]ourt’s understanding that the Department has had previous notice of this and it was explained even back then that there were restrictions to or limitations as to where [J.D.] could be placed and, in some ways, it was, in part because of his pending underlying facts of the allegation, but doesn’t alleviate it in this [c]ourt’s opinion. You need to not only follow the law, but to ensure that [J.D.]’s best interests and an appropriate placement is secured. So with that, as the [c]ourt’s kind of understanding[,] where are we?

Mr. Cohen, the Department’s counsel, first addressed the court, advising the court J.D. had previously been in a children’s group home where he had been involved in “a knife incident.” That placement did offer J.D. three re-interviews to return to the home, but J.D.

failed to attend them. He also noted that there had been a potential foster parent lined up for J.D. in early January, but that placement had fallen through. He offered that if the court were to release J.D. to the Department, the only available placement would be at the Department’s office building, where J.D. had previously spent two weeks, prior to his placement at a hotel.

J.D.’s case worker testified that the Department had been looking for a placement for him since November 28, 2023. He further testified that the Department had sent placement packets to fifty-two potential providers on multiple days between November 28, 2023, and February 5, 2024, to no avail. In addition, the Department had contacted three potential one-on-one aide providers that could facilitate a hotel placement, but those efforts were likewise unsuccessful. The Department further noted that it had not yet explored residential treatment center placements, as those require a comprehensive psychiatric evaluation and a certificate of need. The Department had requested a new evaluation for J.D. the preceding Thursday.²

After J.D.’s case worker concluded his testimony, J.D.’s delinquency counsel stated that she would like to call Mr. Cohen as a witness. Mr. Cohen expressed his confusion, stating, “I’m not sure how I’m involved actually as a witness[,]” and noted that he was merely an attorney who worked for the Department. The court responded, “who else should I pin this rose on in terms of ensuring compliance not only with the law but the

² The Department case worker also testified that the Department had set up previous appointments for J.D., which he refused to attend. Further, although J.D. had been prescribed psychiatric medications, he refused to comply with his regimen.

[c]ourt’s order in terms of having him placed?” J.D.’s delinquency counsel advised that she was requesting that the Department be fined “for every day he’s not in a perfect placement and then that money go to an account for [J.D.] when he’s old enough to have it.” J.D.’s counsel further suggested that the Department needed counsel from the Attorney General’s office to defend the Department’s actions. The court agreed that the Department should be afforded counsel from the Attorney General’s office because either Mr. Cohen or Ms. Bennett (J.D.’s case worker from the Child Placement Resource Unit (“CPRU”)) “needs to be able to provide some clarity on really what efforts and obstacles have been--are present.” The court ultimately ruled as follows: “I’m going to have to keep [J.D.] detained until this is resolved. I’m going to give you two days in order to purge the contemptuous act. And the contemptuous act [at] this point is not finding appropriate placement for [J.D.] outside of detention.”

The written order that followed provided:

That [DJS] is directed to provide care and custody for the child in structured shelter care (or detain if shelter care is not available) and [s]tructured shelter care at [DJS’s] Charles Hickey School pending hearing on the above entitled cause and for a period not to exceed the next hearing date.

The order further provided that “BCDSS has 48 hours to locate a placement” and that the “Attorney General for the Maryland DHR shall be present” for the next hearing. No written finding of contempt was made.

At the beginning of the February 7 hearing, the Department’s counsel argued that the court had not followed the contempt procedures required by Title 15 of the Maryland Rules. Nevertheless, counsel stated that the Department was prepared to “present

testimony and evidence about the issue that the [c]ourt wishes to address.” The court acknowledged that its “main concern is what we’re doing about [J.D.]. My secondary concern is to ensure that this doesn’t happen again. . . . And then we can deal with the other consequences in the filings subsequent[.]” The Department called three witnesses: Tyquece Bennett, J.D.’s Department case worker from the CPRU; Je’net Artis, Ms. Bennett’s supervisor; and Gregory Hinton, the Department’s case worker who also testified at the February 5 hearing. Testimony provided by the two Child Placement Resource employees supported the Department’s claims that J.D. was challenging to place because of his history of fire-setting. Further, both Ms. Bennett and Ms. Artis testified that J.D. had skipped two medication management appointments and three intake appointments for a psycho-social evaluation. Because of his resistance to these efforts, J.D. was not yet eligible for placement in a residential treatment center, despite the Department’s efforts. The Department noted that a psycho-social evaluation was scheduled for February 14.

The court first addressed the Department’s argument concerning noncompliance with the procedures governing contempt as set forth in Title 15 of the Rules. The court stated that its reading of Rule 15-203 “pretty much makes it clear that [the court has] the authority to hold this hearing.” Turning to the merits, the court found that the record was “completely devoid” of “discernible effort, placement resources, [and] exploration of resources.” The court went on to acknowledge “the hard work that goes into” finding appropriate placements for children like J.D., but that the “bottom line” is that the Department’s obligation is “to take care of these one-offs.” The court ruled that it would

“fine the Department \$500 a day from January 29 through and including February 7th and until J.D. is successfully placed in the hopes that it will stimulate his permanent placement and appropriate placement.”

The written order issued on February 7, 2024, provided that J.D. be released to the Department and fined the Department “\$500 per day from January 29, 2024, through February 7, 2024, and beyond until [J.D.] is placed.” The Department was further ordered to “set up an escrow account for [J.D.] for his 18th birthday.” The written order made no reference to “contempt,” nor did it expressly refer to any “purge.”³

DISCUSSION

Standard of Review

“[T]his Court will not disturb a contempt order absent an abuse of discretion or a clearly erroneous finding of fact upon which the contempt was imposed.” *Breona C. v. Rodney D.*, 253 Md. App. 67, 73 (2021) (quoting *Kowalczyk v. Bresler*, 231 Md. App. 203, 209 (2016)). The abuse of discretion “standard is not monolithic: within it, embedded findings of facts are reviewed for clear error, questions of law are reviewed de novo, and judgment calls are subjected to classic abuse-of-discretion review.” *Katz, Abosch, Windesheim, Gershman & Freedman, P.A. v. Parkway Neuroscience and Spine Inst., LLC*, 485 Md. 335, 402 (2023) (Booth, J., concurring) (quoting *Lawes v. CSA Architects and*

³ The first written petition for contempt filed in the proceeding was filed by J.D.’s delinquency counsel on March 1, 2024, nearly a month after the court’s February 5, 2024 contempt finding. The court subsequently granted the Department’s motion to stay pending resolution of this appeal.

Eng’rs, LLP, 963 F.3d 72, 90 (1st Cir. 2020)). The interpretation and application of the Maryland Rules is reviewed *de novo*. *Williams v. State*, 457 Md. 551, 562 (2018).

Analysis

In any contempt case, the threshold inquiry is to determine the type of contempt before the court. Maryland Rule 15-202 classifies contempt as either direct or constructive. Within these two classifications, the contempt may be civil or criminal. *See* Rules 15-203 (Direct civil and criminal contempt), 15-205 (Constructive criminal contempt), and 15-206 (Constructive civil contempt).

Because no written petition for contempt was ever filed by the court or a party prior to the court finding the Department in contempt, the record is somewhat murky as to whether the court was proceeding as a direct or constructive contempt. After the Department’s counsel raised concerns about procedural deficiencies, the juvenile court judge clarified that he was proceeding under Rule 15-203 as a direct contempt, concluding that the Rule “pretty much makes it clear that I do have the authority to hold this hearing.”⁴ We hold that the court clearly did *not* have the authority under these circumstances to find the Department in direct contempt as described in Rule 15-203.

Rule 15-202(b) defines “direct contempt” as a contempt “committed in the presence of the judge presiding in court or so near the judge as to interrupt the court’s proceedings.” In *State v. Roll*, 267 Md. 714, 734 (1973), our Supreme Court considered the meaning of

⁴ The court did not state whether the Department’s actions constituted a direct civil or criminal contempt.

the phrase “in the presence of the court” as used in Rule 15-203(b)’s predecessor:

A direct contempt occurs when the actions of the contemnor interrupt the order of the courtroom and interfere with the conduct of business. When such disruption occurs within the sensory perception of a presiding judge he will have a sufficient knowledge of the contemptuous act which tends to interrupt the proceedings and will not have to rely on other evidence to establish all the details, though some of them can be supplied by additional testimony.

When, as in the case here, the judge does not have a personal knowledge of the facts and must learn of them totally from others, direct contempt proceedings are not authorized. The reason such proceedings are not permitted is that there is no need for summarily disposing of an alleged contempt when the behavior of the accused is not personally known to the judge or does not occur so near to the court as to interrupt proceedings then being conducted by the judge.

It cannot seriously be contended that the alleged contemptuous conduct here—the Department’s efforts to comply with the court’s order to place J.D. in structured shelter care—was committed “in the presence of the judge presiding in court or so near the judge as to interrupt the court proceedings.” *See Fisher v. McCrary*, 186 Md. App. 86, 114-15 (2009) (“Direct contempt proceedings are inappropriate when the judge does not have personal knowledge of all relevant facts, and must learn all of the facts from others.”).⁵ Accordingly, the juvenile court judge clearly erred in concluding that he had the authority under Rule 15-203 to conduct direct contempt proceedings against the Department.

⁵ Examples of direct contempt include: *Smith v. State*, 382 Md. 329 (2004) (affirming convictions for direct criminal contempt where appellant directed expletives at trial judge); *Mitchell v. State*, 320 Md. 756 (1990) (appellant’s use of “middle finger” toward trial judge constituted direct contempt); *Kandel v. State*, 252 Md. 668 (1969) (attorney’s failure to timely appear for scheduled hearing punishable as direct contempt).

We further note that whether a court is proceeding under Rule 15-203(a) to summarily impose sanctions against the direct contemnor or pursuant to Rule 15-204 where the court “determines not to impose sanctions summarily,” the court is required to issue a written order that, *inter alia*, sets forth the evidentiary facts within the personal knowledge of the judge relevant to the alleged direct contempt. The record here is completely devoid of any such written order. Indeed, the word “contempt” does not appear anywhere in the February 5, 2024 order that followed the court’s on the record finding of contempt or in the February 7, 2024 order that purported to impose sanctions for the Department’s purported contempt. Moreover, the court failed to identify in a written order whether it found a direct civil or criminal contempt, in violation of Rule 15-203(b)(1).⁶ Our Supreme Court’s observations more than 50 years ago remain applicable today:

One weapon in the court’s arsenal useful in defending its dignity is the power to punish for contempt. But the magnitude of its force demands care and discretion in its use so as to avoid arbitrary, capricious or oppressive application of this power. The contempt power has stood as a sentry at the citadel of justice for a very long time and it is probably because of this antiquity that its modern day application is sometimes misunderstood and often confused.

Roll, 267 Md. at 717-18.

Accordingly, the juvenile court’s judgment finding the Department in contempt is reversed and the court’s imposition of fines against the Department is vacated.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE CITY REVERSED.
COSTS TO BE PAID BY APPELLEE.**

⁶ Without belaboring the point, the record demonstrates a lack of compliance with the Maryland Rules governing contempt.