

Circuit Court for Baltimore County  
Case No. C-03-JV-22-000072

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 257

September Term, 2022

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IN RE: E.C.-L.

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Nazarian,  
Leahy,  
Battaglia, Lynne A.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Leahy, J.

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Filed: October 3, 2022

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

On February 4, 2022, the Baltimore County Department of Social Services (the “Department”) removed E.C.-L. on allegations of neglect from the home where he lived with his natural father (“Father”). The Department filed a Child in Need of Assistance (“CINA”) petition and request for emergency shelter care in the Circuit Court for Baltimore County, sitting as the juvenile court.<sup>1</sup>

Father specifies in his notice of the present appeal that he is appealing from the order of the juvenile court, dated April 11, 2022, by which the juvenile court adopted the recommendations, made by the magistrate who presided over an adjudication/disposition hearing held 11 days earlier, that E.C.-L. is a CINA and should be committed to the custody of the Department. In Father’s notice of appeal, he specifies that he is also appealing from an order dated March 4, 2022, denying his request for written transcription of documents in the case file, and a magistrate’s March 25, 2022 recommendation denying Father’s motion to reconsider the March 4 order. Father’s arguments on appeal center on the court’s decision reflected in the March 4 order denying his request for written transcription of documents. Specifically, Father presents the following questions for our review:

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<sup>1</sup> The procedures that govern proceedings involving a child who is alleged to be a CINA are set forth in Maryland Code (1973, 2020 Repl. Vol.) Courts & Judicial Proceedings Article (“CJP”), §§ 3-801-830. A “child in need of assistance” is “a child who requires court intervention because: (1) The child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) The child’s parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child’s needs.” CJP § 3-801(f).

“Shelter care” means a temporary placement of a child outside of the home at any time before disposition” of a CINA petition. CJP § 3-801(bb).

- “1. Did the court err when it refused to compel the department to comply with Maryland Rule 11-112 and provide [Father] with translated copies of the petition and subsequent court reports?
2. Did the court’s interpretation of one of the rule’s exceptions, which created a burdensome process for sight-translation of the requested documents, violate [Father]’s right to due process of law?”

The Department has moved to dismiss the appeal. Because Father acquiesced to entry of the April 11 order and did not otherwise note a timely appeal from another interlocutory order, we grant the Department’s motion. Consequently, we do not reach Father’s questions.

### **BACKGROUND<sup>2</sup>**

Seven-year-old E.C.-L has serious physical deformities and suffers from various developmental delays because he was “born drug exposed.” These conditions have impacted his ability to care for himself. E.C.-L. arrived in the United States around 2020 from Honduras with Father. Although the Department was able to locate E.C.-L.’s mother on Facebook, “all attempts to reach out to her have failed.”

#### **The Department’s Involvement**

On February 3, 2022, E.C.-L.’s babysitter, Ms. V., called E.C.-L.’s school to notify officials there that she had not seen E.C.-L. in a few days. She reported her concern that, when she last dropped off E.C.-L. on February 1, Father had been “extremely intoxicated.” The school was unable to reach Father and contacted Ms. Co., the school’s Pupil Personnel

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<sup>2</sup> Because we hold that the appeal should be dismissed, for context, we provide only a brief summary of the underlying facts.

Worker, for assistance. Ms. Co. and an interpreter went to Father's home for a welfare check and found him intoxicated. The basement living space, where Father and E.C.-L. resided, "was only furnished with a mattress on the floor and only had a small box of pasta inside a trash can." Ms. Co. reported that E.C.-L. was "unkempt and hungry." With Father's permission, Ms. Co. returned E.C.-L. to school after stopping for food. E.C.-L. was evaluated in the nurse's office. E.C.-L. had "red marks on his left cheek and left arm" and his "clothing was soiled with urine."

Ms. Co. reported that Father and E.C.-L. were "transient" and that E.C.-L. "had not been enrolled in school until January" and had not "been to the doctors since living in this country."

On February 4, 2022, the next day, a social worker met with E.C.-L. at his school. The social worker observed "red welts on the side of his face, neck and arm." She was unable to interview E.C.-L. due to apparent "significant development delays." The social worker then went to Father's home. Father appeared under the influence "as his gait was unsteady, and his speech was slurring." He was handed a shelter care authorization and information regarding the public defender's office, both printed in Spanish. The Department then filed a "CINA Petition with Request for Shelter Care," dated February 4 and docketed on February 7, 2022. The petition requested the court issue an order placing E.C.-L. in shelter care pending an adjudicatory hearing based on allegations of neglect.

### **Shelter Care Adjudication**

On February 7, 2022, a magistrate held a hearing on the Department’s petition. A licensed and sworn Spanish interpreter translated the proceedings for Father, who was present.

After presenting the facts that resulted in the Department’s involvement with Father and E.C.-L., the Department requested that the “court shelter [E.C.-L.] to the Department for limited guardianship” with liberal supervised visitation with Father. Counsel for E.C.-L. was “in agreement with shelter.”

Father’s attorney addressed the court next. She first requested, as a preliminary matter, that “all of the documents” be interpreted for Father by the Department. Counsel also represented, among other things, that Father “would like his son returned to him today.” Father asked the court to deny shelter care but acknowledged a problem with drinking and requested a referral for rehabilitation services from the Department.

The magistrate recommended that E.C.-L. continue in shelter care and be placed in the custody of the Department. He determined that, on that day, “continuation of [E.C.-L.] in the family home [wa]s contrary to his welfare” and that it was “not possible to return him home[.]” The magistrate recommended, however, that Father be granted “liberal and supervised” visitation. Later that day, the magistrate issued written findings and a proposed order for continued shelter care, which were then adopted by the court on February 9, 2022.

### **Request for Translation Services**

Days after the shelter care hearing, Father’s counsel filed a line “to request, in accordance with Maryland Rule 11-112, that [Father be] given all documents in Spanish.” The line explained that Father “speaks Spanish exclusively” and made this request at the shelter care hearing “on the record” and in a follow-up email to the Department on February 10, 2022.

The Department filed a response to Father’s line on February 15, 2022. The Department asked the court to deny, in part, Father’s request, contending that Father’s call for the translation of “all documents” was overbroad under Maryland Rule 11-112. According to the Department, the Rule applied only “[t]o the extent that [the Department] has control of or generates a document which requires ‘a decision, action, or response’” by Father. Citing Rule 11-112(2)(B), the Department noted that oral translation of the contemplated documents satisfies the Rule.

Father responded by filing a “Motion to Compel [the Department] to Comply with Maryland Rule 11-112” on February 17. He argued that “Rule 11-112 gives the parent the option of either a written translation or verbal translation by an individual who is fluent in the parent’s language.” According to Father, a verbal translation is not sufficient for many reasons, including that parties are “often in a heightened emotional state at a shelter [hearing], making it difficult to fully absorb and retain all of the information.” Father posited that “Rule 11-112 is precisely for Petitions and other documents” filed by the Department because “Petitions are charging documents and it is critical that parties know

the charges and the basis for them.” Father further averred that, “[a] CINA Petition with Request for Shelter Care requires a decision, action and a response and seeks to deprive a parent of their Constitutional right to parent.” The Department’s offer to provide a verbal translation, therefore, was “unacceptable under every circumstance.”

The court entered an order on March 4, 2022, denying Father’s request that “all documents be provided in Spanish.” The court further ordered:

However, the staff Spanish court interpreter can be available to read the documents contained in the court file in advance of the current hearing date. Parent counsel shall contact [the Spanish staff interpreter] immediately to facilitate scheduling a date and time. [The Department] and CASA shall make sure that reports for March 31, 2022 [the next hearing date] are submitted to the court file in time for Interpreter to meet with Father.

#### **Motion to Reconsider Translation Request**

On March 7, 2022, Father filed a “Motion to Reconsider” the court’s March 4 order denying Father’s translation request. Counsel for Father explained that an “oral translator provided by the court does not remedy the problem” because Father would have to retain all of his questions and concerns for his counsel and would “not be able to refer to the document to refresh his memory or for exact quotes because the document is in a language he cannot understand.” Counsel added that Father “appears to be struggling to understand the process, the parties, and next steps” and that “[w]ritten documents are needed so that [Father] can read the allegations, the current status, and the recommendations in order to better retain the information.”

The Department opposed the motion, arguing, in part, that the Office of the Public Defender, identifiable as a “unit of the State or local government” under Rule 11-112, had

authority to provide written translation of documents, and “[b]y the standard of professional ethics . . . is in more frequent contact with the Father” and, accordingly, is “the best positioned unit of the State or Local Government to effectuate the translation of the documents.”

On March 25, 2022, a magistrate proposed denying Father’s motion to reconsider. The order was not adopted by a circuit court judge and was not entered on the docket.

### **CINA Adjudication and Disposition**

On March 31, 2022, a magistrate judge conducted a CINA adjudication and disposition hearing. An interpreter attended the hearing and translated the proceeding for Father, who was participating by phone. The parties proceeded by proffer.

The Department proffered the allegations of the CINA petition, including that Father’s alcohol abuse rendered him unable to care for E.C.-L. and that the Department “was able to locate [Mother] on Facebook, but all attempts to reach out to her have failed.” The Department reported that since “the time of shelter, [E.C.-L.] had been staying with his babysitter and doing well,” but could not be placed with his babysitter because her husband is undocumented. E.C.-L. was attending school and “receiving physical and occupational therapy” and speech therapy was being explored. The Department proffered that “[a]lcohol use continues to be an issue for father” and that he missed a scheduled visit because “he was intoxicated for three days.” The Department, Ms. V., and Ms. Co.



“arranged for a before and after care plan by which [E.C.-L.] would be able to attend the same school and have an easier time visiting with his father.”

Counsel for E.C.-L. moved, pursuant to E.C.-L.’s best interests, and asked that he be found a CINA. She added that E.C.-L. “loves his father” and “his father clearly loves him.” While Father “tried to do his best for his son,” he had “significant issues with alcohol which need to be addressed,” rendering it “not possible or safe to return [E.C.-L.] to him without that first being completely resolved and sobriety sustained for a period of time.”

Father’s counsel related that “[a]s to adjudication Your Honor my client generally denies the allegation in the [CINA] Petition *but does agree that there is enough for a CINA finding.*” (Emphasis added). Later in the hearing, Father spoke directly to the court through the interpreter, saying that he “decided that [Ms. Co.], that [E.C.-L.] stays with [Ms. Co.] because . . . I only want the best for him and I have this idea that he can, she can take charge of him.” Father requested the ability to have videocalls with E.C.-L. and to visit him. He noted that he needs rehabilitation for his alcohol problem and that he was going to get an apartment.

At the close of the hearing, the magistrate sustained the allegations in the CINA petition and found that it was contrary to E.C.-L.’s welfare to return home due to Father’s alcohol abuse. The magistrate found that E.C.-L. was a CINA and committed him to the care of the Department pending a review hearing. The magistrate provided his recommendations in a proposed order that same day. The recommendations included that Father comply with the service agreement, maintain weekly contact with the Department,

submit to an alcohol treatment program, and submit to random drug testing. The magistrate also recommended that Father be granted liberal and supervised visitation as arranged by the Department.

After a circuit court judge adopted the magistrate’s recommendation on April 11, 2022, Father filed a notice of appeal.<sup>3</sup> In his notice, Father specified that he:

hereby notes an appeal to the Court of Special Appeals of Maryland from the order of the Juvenile Court in the Adjudication/Disposition hearing, held on March 31, 2022 and subsequent order of Court signed by the Honorable Andrew Battista on April 11, 2022, in the above captioned matter and the Motions to Compel denied on March [4], 2022 and for Reconsideration denied on March 25, 2022.

## **DISCUSSION**

### **Motion to Dismiss**

#### **A. Parties’ Contentions**

The Department has moved, pursuant to Maryland Rule 8-602(b)(1), to dismiss Father’s appeal on the ground that he has not appealed from an appealable order. Specifically, the Department avers that the two orders on appeal, the March 4, 2022 order denying Father’s request to provide written translations of documents in Spanish and the March 25, 2022 order denying Father’s motion for reconsideration, are not “immediately appealable.” The Department further notes that the March 25 order was signed by a magistrate and not a judge and, accordingly, “has no legal effect.” According to the

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<sup>3</sup> Father filed an initial notice of appeal on April 6, 2022 purporting to appeal, among other things, the “order of the Juvenile Court in the Adjudication/Disposition hearing.” Father withdrew this notice of appeal on April 8 and filed a second notice of appeal after entry of the court’s April 11 order.

Department, the orders are neither final orders nor appealable interlocutory orders. Among other things, the Department contends that the orders do not meet the requirements under section 12-303 of the Courts and Judicial Proceedings Article—one of the narrow exceptions to the rule barring appeal from interlocutory orders—because the orders do not deprive Father of the care and custody of E.C.-L. Likewise, the Department asserts that the orders cannot meet the exception under the collateral order doctrine and are “akin to discovery orders” which do not meet the requirements of the collateral order doctrine.

The Department argues that “even if the orders are appealable, the Court should dismiss this appeal as moot under Rule 8-602(c)(8).” Because Father “raised all of his translation requests during E.C.-L.’s shelter care proceedings,” which was concluded upon the April 11 uncontested CINA order, there is no “controversy over the need to translate certain documents during the concluded shelter care proceedings.” According to the Department, “[t]he resulting CINA order terminated the shelter care phase, and, in doing so, extinguished the translation controversy, which arose exclusively during the shelter care stage and was not incorporated into the separate CINA proceeding.”

In response, Father asserts that this Court should review the magistrate’s March 25, 2022 proposal denying Father’s request for written translations of documents “as an appealable collateral order as this case presents an extraordinary circumstance.” In support, Father avers that a CINA “petition is not just a discoverable piece of information” but rather “it is the exact required allegation that begins the process that allows a state agency to take custody of a person’s child” and “potentially, total termination of a parent’s

rights.” According to Father, the denial of Father’s request deprived him “crucial access.” He concluded that there is a “substantial public interest in whether litigants in CINA cases receive translated copies of the petition which accuses them of abuse and/or neglect and seeks to deprive them of custody.”

Turning to the Department’s alternative argument, Father argues that his appeal is not moot. According to Father, “[a] controversy still exists because [Father] still lacks the ability to possess and read translated copies of these important documents.” “Even if [Father]’s appeal is moot because the shelter care phase of the case expired once the trial court found E.C.-L. to be a CINA, there are exceptions to the mootness doctrine.” He avers that “[t]his Court should decline to dismiss [Father]’s appeal as moot because non-English speaking and reading parents in CINA cases in Maryland have not been able to gain access to documents filed against them in a language they can understand despite a rule requiring it and the matter is already recurring in different counties across the state.”

## **B. Analysis**

The right to appeal in this State is granted by statute and, accordingly, “must be legislatively permitted.” *In re C.E.*, 456 Md. 209, 220 (2017) (citations omitted). In general, a party may appeal only from a final judgment. Maryland Code (1973, 2020 Repl. Vol.), Courts and Judicial Proceedings Article (“CJP”), § 12-301. Judge Kevin Arthur, writing for this Court, recently explained what qualifies as a final judgment in *In re D.M.*:

To qualify as a final judgment, an order must be so final as either to determine and conclude the rights involved or to deny the appellant the means of further prosecuting or defending his or her rights and interests in the subject matter of the proceeding. In other words, the order must be a complete adjudication

of the matter in controversy, except as to collateral matters, meaning that there is nothing more to be done to effectuate the court’s disposition.

250 Md. App. 541, 555 (2021) (cleaned up) (internal citations omitted). “In determining whether a particular court order or ruling is appealable as a final judgment, we assess whether any further order was to be issued or whether any further action was to be taken in the case.” *In re Katerine L.*, 220 Md. App. 426, 437-38 (2014).

There are three exceptions pursuant to which a party may appeal an order that is not a final judgment: “(1) appeals from interlocutory orders specifically allowed by statute; (2) immediate appeals permitted when a circuit court enters final judgment under Maryland Rule 2-602(b); and (3) appeals from interlocutory rulings allowed under the common law collateral order doctrine.” *In re O.P.*, 470 Md. 225, 250 (2020) (citation and footnote omitted).<sup>4</sup> We have explained that “[c]onventional application of the final judgment rule does not always provide suitable relief in juvenile causes and CINA cases, which can progress over several years and normally involve ongoing interventions by the court.” *In re Katerine L.*, 220 Md. App. at 439-40. To address this issue, section 12-303(3)(x) of the Courts and Judicial Proceedings Article explicitly permits an appeal from an interlocutory order “[d]epriving a parent, grandparent, or natural guardian of the care and custody of his child, or changing the terms of such an order.” Thus, “orders [that] adversely affect a

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<sup>4</sup> Because Title 2 of the Maryland Rules does not apply in CINA cases, Maryland Rule 2-602(b) is inapplicable. Md. Rule 1-101(b) (“Title 2 applies to civil matters in the circuit courts, except for Juvenile Causes under Title 11 Chapters 100, 200, 400, and 500 of these Rules and except as otherwise specifically provided or necessarily implied.”).

parent’s rights to care and custody [ ] entitle the parent to an immediate appeal.” *In re Karl H.*, 394 Md. 402, 431 (2006).

For its part, the collateral order doctrine is a “very narrow exception to the general rule that appellate review ordinarily must await the entry of a final judgment” for a “‘small class’ of cases.” *Pittsburgh Corning Corp. v. James*, 353 Md. 657, 660-61 (1999). “An interlocutory order may be appealed under the collateral order doctrine if the order (1) conclusively determines (2) an important issue (3) separate from the merits of the action (4) that would be effectively unreviewable if the appeal had to await entry of a final judgment.” *In re O.P.*, 470 Md. at 251.

Regardless of whether the order appealed is a final judgment or qualifies as an exception to the final judgment rule, an aggrieved party generally has 30 days from the clerk’s entry of the judgment or appealable order to file an appeal. Md. Rule 8-202(a). Consistent with the Rule, when an interlocutory appeal is permitted, the notice of appeal must be filed within the time period prescribed by Rule 8-202. *LOOC, Inc. v. Kohli*, 347 Md. 258, 265 n.6 (1997). If the court enters an appealable interlocutory order but the party does not file a notice of appeal within the prescribed time period, then that party has failed to comply with the Maryland Rules, and the appeal should be dismissed. *Rosales v. State*, 463 Md. 552, 583 (2019); *In re Guardianship of Zealand W.*, 220 Md. App. 66, 78 (2014). Of course, a party is not required to take an immediate appeal of an interlocutory order but may wait until a final judgment. *Vogel v. Grant*, 300 Md. 690, 701 (1984) (“[W]hen an interlocutory order is immediately appealable, a party normally retains the option of

foregoing the interlocutory appeal and raising the allegation of error upon an appeal from a final judgment terminating the case in the trial court.”).

Appellate review of an interlocutory order extends to that order and, incidentally, to any prior rulings that “directly control and are inextricably bound to the order” under review. *Davis v. Att’y Gen.*, 187 Md. App. 110, 123 (2009); *accord Frey v. Frey*, 298 Md. 552, 556-57 (1984) (holding that review of interlocutory order under statutory exception also brought for review the correctness of a prior ruling that was “inseparably involved” with the appealable order).

With these precepts in mind, we return to our case to determine whether the appeal is properly before us. As an initial matter, even assuming the March 4 order was an appealable interlocutory order, the appeal in this case was not filed until April 11, 38 days from entry of the order. *In re Guardianship of Zealand W.*, 220 Md. App. 66, 78 (2014) (failure to file appeal within 30 days as prescribed by Rule precludes appellate court from hearing case).<sup>5</sup>

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<sup>5</sup> Father filed his “Motion to Reconsider” within ten days of entry of the March 4 order, which in this case, did not toll the time for filing an appeal beyond 30 days. Generally, a motion to alter or amend a judgment under Maryland Rule 2-534 filed within ten days will delay the time for filing an appeal until determination of the motion. Maryland Rule 8-202(c) provides:

A notice of appeal filed before the withdrawal or disposition of [a timely motion filed pursuant to Rule 2-532, 2-533, or 2-534] does not deprive the trial court of jurisdiction to dispose of the motion. If a notice of appeal is filed and thereafter a party files a timely motion pursuant to Rule 2-532, 2-533, or 2-534, the notice of appeal shall be treated as if filed on the same day as, but after, the entry of notice withdrawing the motion or an order disposing of it.

(Continued)

Father clarified at oral argument that he was appealing from the magistrate’s March 25 recommendation denying Father’s motion to reconsider. However, the magistrate’s recommendation was not a judgment or appealable order because it was not signed by a circuit court judge and is not an order of the court. *See* CJP § 3-807(d)(1) (“The proposals and recommendations of a magistrate for juvenile causes do not constitute orders or final action of the court.”). Accordingly, Father cannot bring a permissible appeal from the March 25, 2022 recommendation.

Father did file a notice of appeal within 30 days of the April 11, 2022 CINA adjudication and disposition order, Md. Rule 8-202(a), which is appealable as an interlocutory order “[d]epriving a parent . . . of the care and custody of his child.” CJP § 12-303(3)(x). However, timeliness is not the only ground upon which an appeal may be disallowed.

Father acknowledges that he consented to the entry of the CINA adjudication and disposition order.<sup>6</sup> While the Department does not raise this issue in its motion to dismiss, we address this issue on our own initiative “as a matter of Maryland appellate procedure.” *In re Nicole B.*, 410 Md. 33, 61 (2009). “It is well-settled that a party in the trial court is not entitled to appeal from a judgment or order if that party consented to or acquiesced in

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However, Maryland Rule 2-534 applies “on motion of any party filed within ten days after entry of **judgment**[.]” (Emphasis added). Because the March 4 order was an interlocutory order and not a judgment, Rule 8-202(c) is not applicable here.

<sup>6</sup> Counsel for Father confirmed at multiple points during oral argument that he is not challenging the April 11 order.



that judgment or order.” *Id.* at 64; *see also Suter v. Stuckey*, 402 Md. 211, 224 (2007) (A “party cannot be aggrieved by a judgment to which he or she acquiesced.”). As the Court of Appeals explained in *Suter*,

The “right to appeal may be lost by acquiescence in, or recognition of, the validity of the decision below from which the appeal is taken or by otherwise taking a position which is inconsistent with the right of appeal.” The rationale for this general rule “has been variously characterized as an ‘estoppel’, a ‘waiver’ of the right to appeal, an ‘acceptance of benefits’ of the court determination creating ‘mootness’, and an ‘acquiescence’ in the judgment.”

*Id.* (cleaned up). The “label applied to the rule is less important than its essence that a voluntary act of a party which is inconsistent with the assignment of errors on appeal normally precludes that party from obtaining appellate review.” *Franzen v. Dubinok*, 290 Md. 65, 69 (1981); *see also In re K.Y-B.*, 242 Md. App. 473, 487 (2019) (stating that a party waives an objection to continued shelter care by requesting or acceding to an order of shelter care).

During the March 31, 2022 hearing, both Father and his counsel agreed that E.C.-L. was a CINA and requested that he be placed with the Department. Specifically, Father’s counsel related “that there is enough for a CINA finding” and that Father “understands what he needs to do for reunification and agrees to do it.” Father, speaking through the interpreter, said that he “decided that [Ms. Co.], that [E.C.-L.] stays with [Ms. Co.] because . . . I only want the best for him and I have this idea that he can, she can take charge of him.” We also note that, in addition to agreeing to the CINA adjudication and disposition, Father did not file any exceptions to the magistrate’s proposed order. Consistent with these

actions, Father's counsel confirmed at oral argument that Father choose not to appeal the April 11 order and was not challenging the April 11 order. Consequently, because there is not a timely appealable order before this Court, we dismiss the appeal.

**APPELLEE BALTIMORE COUNTY  
DEPARTMENT OF SOCIAL SERVICES'  
MOTION TO DISMISS APPEAL  
GRANTED; COSTS TO BE PAID BY  
APPELLANT.**