

Circuit Court for Wicomico County
Case No. C-22-17-000152

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 266

September Term, 2018

IN RE: ADOPTION/GUARDIANSHIP OF
I.M.

Woodward, C.J.
Shaw Geter,
Battaglia, Lynne A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Shaw Geter, J.

Filed: November 1, 2018

*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.

The Circuit Court for Wicomico County, sitting as a juvenile court, granted the petition filed by appellee, the Wicomico County Department of Social Services (“the Department”), to terminate the parental rights of appellant, M.M., (“Mother”), to her child, I.M.¹, and for guardianship with the right to consent to adoption of I.M. Mother appealed this judgment and presents one question for our review:

I. Did the circuit court err by terminating the mother’s parental rights?

For the following reasons, we affirm the decision of the circuit court.

BACKGROUND

I.M. was born on November 15, 2016, and is the fifth child born to Mother. Mother is twenty-seven years old and does not have parental rights to any of her children. Mother’s first child, T.M., was born in September 2010, and during a proceeding regarding Mother’s alleged neglect, she consented to the termination of her parental rights (“TPR”) to T.M.

Mother’s second child, M.M., was born May 14, 2013. The Department received notice of M.M.’s birth in accordance with the “Birth Match” law, which requires a local department of social services to perform a safety assessment whenever a child is born to an individual who has had their parental rights terminated.² At this time, Mother received

¹ I.M.’s natural father is unknown and notice was provided to the father by publication. No objection was filed; thus, the natural father is deemed to have consented to the termination of parental rights.

² The “Birth Match” law codified in Md. Code (1984, 2012 Repl. Vol.), § 5–715 of the Family Law Article (“FL”) (amended 2018), provides “the Executive Director of the Administration shall provide the Secretary of Health with identifying information regarding an individual who, as to any child, has had the individual’s parental rights terminated . . . and immediately notify the local department in the jurisdiction in which

help and support from members of her church. The local department created a safety plan, which allowed M.M. to remain with Mother under the supervision of responsible adults. On one occasion, Mother left M.M. unattended for hours. Eventually, Mother became homeless and the church members were no longer available to provide supervision. As a result, M.M. was placed in foster care and designated as a Child in Need of Assistance (“CINA”), by consent.

The Department attempted to work with Mother to accomplish a permanency plan of reunification. The Department and Mother entered into service agreements to execute the plan of reunification. These agreements conditioned reunification on Mother securing stable housing, completing parenting classes, and undergoing mental health treatment. To help Mother secure housing, the Department assisted her with the process of obtaining a housing voucher. However, she failed to consistently attend mental health treatment—only attending two mental health appointments in a year. At a permanency plan hearing held in May 2015, the permanency plan was changed to adoption.

On June 11, 2014, while M.M. was in foster care, Mother gave birth to her third child A.M. On approximately July 3, 2014, the Department performed a safety assessment of Mother’s home in accordance with the Birth Match law. In September 2014, during an unannounced visit, the Department discovered there was very little food in the home and A.M. did not have a crib. As an attempt to allow Mother to keep A.M. with her in the

the child resides so that the local department may review its records and provide an assessment of the family and offer services if needed.”

home, the Department provided bottles, blankets, and other necessary supplies. In addition, Mother was provided parenting instructions including proper feeding techniques. However, she did not always comply with these instructions.

At birth, A.M. was within the normal weight range, but due to improper feeding she stopped gaining weight. After being seen by her doctor on December 31, 2014, A.M. was sent to the emergency room because of concerns about her weight loss and decreases in the circumference and length of her head. She was admitted to the hospital from the emergency room, diagnosed with Failure-to-Thrive, and remained hospitalized until January 3, 2015. While in the hospital, A.M. gained weight. Subsequently, the Department received a referral, which prompted the filing of a non-emergent CINA petition on January 6, 2015.

On January 8, 2015, five days after being released from the hospital, A.M. had a doctor's appointment, where it was discovered that she had lost weight again. By January 13, 2015, A.M. was "extremely thin" and had lost all the weight she gained while in the hospital. Thereafter, A.M. was placed in foster care, the Department filed an amended CINA petition, and A.M. was adjudicated as a CINA. In March 2015, a disposition was held and A.M. was placed in the care and custody of the Department. While in foster care, A.M. consistently gained weight, and at a TPR hearing the court found Mother's "neglect was the cause of [A.M.'s] weight loss and Failure-to-Thrive diagnosis."

During the time A.M. was in foster care, Dr. Scott performed a Fit-to-Parent evaluation, in which she recommended Mother "attend long-term, consistent mental health treatment." Thus, the Department and Mother entered into a service agreement requiring

Mother to regularly undergo mental health treatment as a requirement to achieve reunification with A.M. The Department made multiple referrals to mental health providers, but Mother failed to participate in consistent mental health treatment, and her parental rights were eventually terminated.

Mother's fourth child, J.M., was born on August 11, 2015. From the hospital, J.M. was placed in shelter care and adjudicated as a CINA, primarily because of Mother's history with the Department regarding her other children. Once again, the Department determined Mother needed parenting education and mental health treatment. As in prior instances, Mother failed to consistently participate in mental health treatment. Her parental rights were terminated, and J.M. was adopted.

Mother's fifth child, I.M., the subject of this appeal, was removed from Mother, adjudicated a CINA, and placed in shelter care after his birth. I.M. has since remained in the same foster home and has bonded with his foster mother, Ms. P, who plans to continue to care for I.M. through adoption. In addition, Ms. P ensures that I.M. has regular contact with his siblings M.M., A.M., and J.M. Like J.M., the decision to remove I.M. from Mother and place him into the Department's care was based on Mother's inability to care for her child, her inability to obtain mental health treatment, and her history of noncompliance with the services provided by the Department. As in previous cases, the Department's initial plan was reunification; accordingly, the Department provided Mother with parenting education and financial assistance. The Department also referred Mother to mental health treatment and therapy, but she did not comply. In addition, Mother was offered twenty-

one visitation opportunities with I.M.; however, she failed to regularly attend—only attending eight scheduled visits.

On June 7, 2017, I.M.’s case was changed to adoption. On July 14, 2017, the Department filed a Petition for Guardianship of a Minor with the Right to Consent to Adoption or Other Permanent Placement of I.M. Hearings were held on February 9 and 22, 2018. During the hearings, Mother’s delusions were evident throughout her testimony, and she was persistent in her belief that she did not need mental health treatment, stating “I don’t go to mental health” and “mental health is not needed for me.” She further testified about her employment at several jobs the court found she never had. Also during her testimony, Mother claimed she completed a certification to provide child care, which was never produced. Needless to say, the court did not find this testimony credible. On direct examination when Mother’s counsel asked about her source of income the following ensued:

[COUNSEL]: Do you have a source of income?

[MOTHER]: Currently, no. Currently, I just got finished working two jobs that were seasonal positions, and before that, I was working at Genesis Health Care working with elderly people. I quit there because I was -- I wanted to have a job that I had a passion for.

So now, my job is specifically being certified for child care. I'm actually getting certifications through the State. I have one more [sic] that needs to be done, and I've already been employed there.

I will start -- I have already supervised with other people's children, and they offered to pay me, but because they were people that I know and I care about, I didn't charge them. And then the other position is I've already been hired at Appleby's as a server and hostess.

I haven't started because there was three other people that were waiting to start, and he couldn't train us all at once. So me and another person already got hired but are still waiting to start.

On cross-examination, counsel for the Department asked Mother specifically about her alleged position as a child care provider:

[DEPARTMENT]: So you have a position?

[MOTHER]: Yes, I do.

[DEPARTMENT]: And that's caring for children?

[MOTHER]: Yes.

[DEPARTMENT]: Okay. Where is that?

[MOTHER]: That's in Salisbury.

[DEPARTMENT]: Where?

[MOTHER]: I don't have the name on top of my head.

[DEPARTMENT]: What's the address?

[MOTHER]: I don't have the address on top of my head.

[DEPARTMENT]: How do you get -- how would you get --

[MOTHER]: It's in somebody's personal home --

[DEPARTMENT]: Okay. --

[MOTHER]: So I don't want to disclose that information [sic].

[DEPARTMENT]: Okay.

[MOTHER]: That's my job.

[DEPARTMENT]: How many children?

[MOTHER]: Oh, about six children from the ages 1 to 7. Yep.

[DEPARTMENT]: And you don't want to disclose where that is or who they are?

[MOTHER]: No. I don't even have that information on me.

[DEPARTMENT]: And you don't -- I think you said you don't --

[MOTHER]: And that's the other -- that's the other position that I told you that I'm still being certified for.

[DEPARTMENT]: Okay. Certified through who?

[MOTHER]: The State of Maryland.

[DEPARTMENT]: Okay. What agency of the State of Maryland is certifying you?

[MOTHER]: When I say getting certified, I'm meaning I have to go get the documentation done before I can even get my certifications. I have to get fingerprinting. I have to get all of those kinds of things done.

[DEPARTMENT]: Have you done that at all?

[MOTHER]: No, sir, I haven't. That's what I'm trying to tell you.

[DEPARTMENT]: Okay. So how long have you been caring for these children?

[MOTHER]: How long have I been caring for whose children?

[DEPARTMENT]: You said -- I thought you just said six or seven children in this house --

[MOTHER]: Yes.

[DEPARTMENT]: -- this private house?

[MOTHER]: Yes, I know because I've been there to start my booklet.

[DEPARTMENT]: How long have you been doing it?

[MOTHER]: I haven't started yet. That's what I'm saying. I have to get certified. I've been there. That's what -- that's what my job will be.

[DEPARTMENT]: Okay.

Also on cross-examination, Mother accused a Department employee of having an affair with I.M.'s biological father, [Mr. Q]:

[DEPARTMENT]: And you had named [Mr. Q] as the father of [I.M.] at one point; right?

[MOTHER]: Yes, I did.

[DEPARTMENT]: Okay. And a paternity test was done that showed that he was not the father of the child; right?

[MOTHER]: Yeah. Actually, I remember clearly [Mr. Q] came to my house and two seconds [sic] he got in my door, I got a phone call from [a Department employee] two seconds after he came in. He laughed and said, oh, is that concerning the child? And I said, how do you know? How did you even know she was going to call me?

So it was an occasion where I actually caught a social worker in [Mr. Q's] house when he was supposed to be on his way to work, and I [sic] came to his house, and I caught the social worker in his house.

* * *

[DEPARTMENT]: Okay.
The question was, was there -- are you accusing --

[MOTHER]: So, yes.

[DEPARTMENT]: -- somebody at the Department of --

[MOTHER]: So, yes -- so --

[DEPARTMENT]: -- having an affair with [Mr. Q]?

[MOTHER]: So, sir -- so, sir.

[COURT]: That's a yes or no.
Are you accusing --
[MOTHER]: Oh, yes, in the Department, yes.

[DEPARTMENT]: Okay.

[MOTHER]: Because I caught them with my own eyes, yes.
And the police were called out there as well, and she --
she stayed in the bedroom.

[COURT]: Okay.

As cross-examination continued, Mother was asked about [A.M.'s] Failure-to-Thrive diagnosis as a result of her neglect. She denied any wrong-doing and insisted the hospital improperly discharged [A.M.] in the following conversation:

[DEPARTMENT]: There was a finding by this Court that you had severely neglected her and created a life-threatening condition.

[MOTHER]: Yes, I know about the accusations, and I am very familiar with that. [A.M] was actually not gaining weight. I took her to the pediatrician. The pediatrician told me to take her to PRMC.

[DEPARTMENT]: Okay.

[MOTHER]: I took her to PRMC --

[COURT]: Wait for the question. Okay.

[MOTHER]: And --

[DEPARTMENT]: The Court has found that you had neglected the child. Do you deny that?

[MOTHER]: Yes, I do deny neglecting [A.M]. I followed through what the pediatrician asked me to do. It wasn't my fault she wasn't gaining. Matter of fact when I was at PRMC, the medical person that came regarding the food partitioner had came and she told me that if you give her

a higher calorie than what her body can burn, try giving her things like the other foods, like – try pears and other things, plus the milk. And when I did that, [A.M] started gaining.

So they released her out of the hospital off of failure to thrive. So I went back to the hospital and said, excuse me. I have a question. Why is it that you release my daughter off of failure to thriving? If she wasn't thriving, you wouldn't have discharged her. So that was a mistake on the hospital –

[DEPARTMENT]: Okay.

[MOTHER]: Not on the mother.

[DEPARTMENT]: Did you hear --

[MOTHER]: So then DSS told me I had to go to their pediatrician. I go there the second time. Unbeknownst to me, I'm waiting for no reason. I ask the doctor, what's taking you so long –

[DEPARTMENT]: Did you hear the expert testimony --

[MOTHER]: Here comes the police to take the child.

[COURT]: Listen to the question.

[DEPARTMENT]: -- the expert testimony presented at the trial that you had in 2016?

[MOTHER]: Yes.

[DEPARTMENT]: About the care of her?

[MOTHER]: Yes.

[DEPARTMENT]: Okay. So do you think the doctor was not being truthful?

[MOTHER]: I'm not talking about the doctor at PRMC. I'm talking about --

[DEPARTMENT]: The doctor who testified -- I wasn't at the trial --

[MOTHER]: Yes.

[DEPARTMENT]: -- did you -- do you remember -- there was a deposition of a doctor, and I believe it was played at the trial?

[MOTHER]: Uh-huh.

[DEPARTMENT]: Do you remember that?

[MOTHER]: What doctor are you referring to?

[DEPARTMENT]: It was -- I think it was Weinberg or -- I'd have to look at the transcript.

[COURT]: Wehberg.

[DEPARTMENT]: Wehberg.

[COURT]: Dr. Wehberg.

[MOTHER]: Yes, I'm very familiar with her. She --

[DEPARTMENT]: Okay. So that doctor testified.

[MOTHER]: She did testify.

[DEPARTMENT]: And you heard the testimony.

[MOTHER]: And I pulled her up through Google. She works --

[DEPARTMENT]: Okay. Did you hear the testimony --

[MOTHER]: -- through DSS. She has her own private practice. Yes, I did, and I've only seen her one time --

[COURT]: Okay. Let him ask the question now.

[MOTHER]: -- from the two times I been there.

[DEPARTMENT]: So do you believe that she was not telling the truth?

[MOTHER]: As far as [A.M] not thriving?

[DEPARTMENT]: About -- yes.

[MOTHER]: Okay. Well, I'm a little confused because PRMC discharged

[COURT]: Okay. Well, the question is --

[MOTHER]: -- on failure to thrive, and that's where you're getting this from.

[COURT]: [Mother] --
[Mother] --

[MOTHER]: So how do you discharge a child on failure to thrive?

[COURT]: [Mother].

[MOTHER]: You would keep her.

[COURT]: [Mother], the question is you heard Dr. Wehberg's testimony at that trial. Do you remember that?

[MOTHER]: Yes, I do.

[COURT]: And do you remember her testimony?

[MOTHER]: Yes, I do. I disagree. If you're asking me, I disagree with it.

[COURT]: Okay. So do you think --

[MOTHER]: I disagree.

[COURT]: Were you asking her did you think Dr. Wehberg lied?

[DEPARTMENT]: Yes.

[COURT]: Do you think Dr. Wehberg lied at that trial?

[MOTHER]: About [A.M] --

- [COURT]: In any of her testimony, do you think she lied?
- [MOTHER]: Concerning it being me, yes.
- [COURT]: Okay.
- [MOTHER]: Concerning it being me saying that I'm the reason [A.M] was not thriving.
- [COURT]: Okay.

Following the hearings, on March 21, 2018, the court granted the Department's petition and terminated Mother's parental rights. The court made the following findings:

- (1) [Mother] is unfit to parent [I.M.] as demonstrated by her history of neglect, failure to make any meaningful attempt to bond with [I.M.], and lack of treatment of the mental illness that is the underlying cause of neglect.
- (2) The continuation of the parental relationship with [Mother] would be detrimental to [I.M.], who would be unable to achieve stability in a loving family where he is bonded.
- (3) The termination of [Mother's] parental rights is in the best interest of [I.M.].
- (4) [Mother] has failed to make any meaningful efforts toward alleviating the reasons for removal.
- (5) It is not safe to return [I.M.] to [Mother's] care and custody.

This appeal followed.

STANDARD OF REVIEW

Three standards of review are employed when reviewing a juvenile court's decision to terminate parental rights. *In re Adoption/Guardianship of Jayden G.*, 433 Md. 50, 96 (2013). The juvenile court's factual findings are reviewed for clear error, but its legal conclusions are reviewed *de novo*. *Id.* "If the court's factual findings are not clearly

erroneous, and legal conclusions are correct, we review the court's ‘ultimate conclusion’ for abuse of discretion.” *Id.*

DISCUSSION

I. The circuit court did not err in terminating Mother’s parental rights.

Mother argues that the court improperly considered “[her] mental health diagnosis and recommendation made in the context of another child under circumstances that existed in 2014, rather than based on the specific needs of I.M. under the mother’s present circumstances and present parenting abilities.” Conversely, the Department argues that “the juvenile court thoroughly reviewed and weighed the factors set forth in § 5-323(d) of the Family Law Article, and the court properly determined that, due to parental unfitness, terminating [Mother’s] parental rights was in I.M.’s best interest.”

To be sure, parents have a constitutional right to raise their children under the Fourteenth Amendment of the Constitution. *See McDermott v. Dougherty*, 385 Md. 320, 332 (2005) (explaining that in the context of the Fourteenth Amendment, the term “liberty” includes the right to “establish a home and bring up children”); *see also In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 494–95 (2007). However, a parent’s right is not absolute, and “must be balanced against the fundamental right and responsibility of the State to protect children, who cannot protect themselves, from abuse and neglect.” *Id.* (internal quotations omitted). In TPR proceedings, Maryland courts have recognized a rebuttable presumption that it is in the best interest of the child to remain in the custody of their parents. *In re Adoption/Guardianship of Ta’Niya C.*, 417 Md. 90, 103

(2010). This presumption “may be rebutted upon a showing that the parent is either unfit or that exceptional circumstances exist that would make continued custody with the parent detrimental to the best interest of the child.” *Id.* (internal quotations omitted).

In TPR proceedings, juvenile courts are required to consider the following three elements. *Id.* First, “the court must focus on the continued parental relationship and require that facts [] demonstrate an unfitness to have a continued parental relationship with the child, or exceptional circumstances that would make a continued parental relationship detrimental to the best interest of the child.” *In re Ta’Niya C.*, 417 Md. at 103 (internal quotations omitted). Second, “the State must show parental unfitness or exceptional circumstances by clear and convincing evidence.” *Id.* Third, the court “must consider the statutory factors listed in [FL § 5–323(d)] to determine whether exceptional circumstances warranting termination of parental rights exist.” *Id.* at 103–104.

The factors enumerated in FL § 5–323(d) serve as the criteria considered in both the court's determination of “(1) whether there are exceptional circumstances that would make a continued parental relationship detrimental to the child's best interest, and (2) whether termination of parental rights is in the child's best interest.” *In re Ta’Niya C.*, 417 Md. at 116. When a juvenile court considers the factors in FL § 5–323(d), the Court of Appeals has held that homelessness; poverty; physical, mental, or emotional disability; or passage of time, alone, are not sufficient to justify the termination of parental rights. *See In re Rashawn H.*, 402 Md. at 499–500; *In re Ta’Niya C.*, 417 Md. at 112.

In its ruling, the court considered each factor under FL § 5–323(d). The court began with FL § 5–323(d)(1), which states that the court must consider:

- (i) all services offered to the parent before the child's placement, whether offered by a local department, another agency, or a professional;
- (ii) the extent, nature, and timeliness of services offered by a local department to facilitate reunion of the child and parent; and
- (iii) the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any[.]

As discussed in detail in the background facts above, in its order and opinion, the court stated Mother has five children who have all come under the attention of the Department. The court outlined each child's case, detailing the instances where Mother entered into service agreements with the Department and failed to comply with the services offered. Noting her refusal to comply with consistent mental health treatment, the court stated:

Since [I.M.'s] birth, [Mother] has simply refused to attend treatment. Her testimony at the hearing in this case made clear that she does not think that mental health treatment is necessary. Beginning in 2013, [Mother] has been provided with visitation opportunities, parenting instructions, referrals to domestic violence prevention programs and transportation for appointments. The Department also assisted her in obtaining housing, paying utilities. This assistance has continued since [I.M.'s] birth. There is no doubt that some of this assistance has improved [Mother's] life. She now has stable housing. That said, none of these services can address the seminal issue in this case—that [Mother] has delusions which render her unable to safely parent her children.

In addition, the court noted she was offered twenty-one visitation opportunities with I.M. as a part of a reunification plan, but she only attended eight.

Next, the court discussed FL § 5–323(d)(2), which states the court must consider:

the results of the parent's effort to adjust the parent's circumstances, condition, or conduct to make it in the child's best interests for the child to be returned to the parent's home, including:

- (i) the extent to which the parent has maintained regular contact with:
 - 1. the child;
 - 2. the local department to which the child is committed; and
 - 3. if feasible, the child's caregiver;

- (ii) the parent's contribution to a reasonable part of the child's care and support, if the parent is financially able to do so;

- (iii) the existence of a parental disability that makes the parent consistently unable to care for the child's immediate and ongoing physical or psychological needs for long periods of time; and

- (iv) whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the parent within an ascertainable time not to exceed 18 months from the date of placement unless the juvenile court makes a specific finding that it is in the child's best interests to extend the time for a specified period[.]

In consideration of these factors, the court acknowledged that Mother had maintained stable housing, but not without the continual assistance of the Department. In addition, Mother had not made regular contact with I.M., only having attended eight of the twenty-one offered visits. Furthermore, Mother's untreated mental health condition impaired her ability to consistently care for I.M. and additional services would be of no avail because Mother refused to accept that she needs mental health treatment. The court found:

[Mother] has maintained housing at all times since [I.M.] was placed in care. She is in this stable housing through a voucher, which the local department helped her to obtain. However, while she has maintained the housing, she has asked the local department for assistance with rent and utilities. As noted above, [Mother] attended less than one half the offered visits with [I.M.]

. . . .

The [c]ourt does believe that she completed the Active Parenting Classes. Even so, this achievement does not constitute a meaningful effort to improve her circumstances, chiefly because, without long-term, consistent mental health treatment, a meaningful effort cannot be achieved. One of [Mother's] consistent delusions has been that her children were overfed. This [c]ourt previously found, in the TPR case concerning [A.M.], that it was this delusion that resulted in [A.M.'s] dramatic weight loss, and failure to thrive diagnosis. This serious life-threatening neglect resulted in the [c]ourt removing both [J.M.] and [I.M.] from [Mother's] care at birth, as she simply could not safely care for them.

In sum, as long as [Mother's] mental health condition continues to manifest itself in the same delusions, the circumstances which gave rise to the original CINA finding in [I.M.'s] case will persist. Absent the improvement of her mental health condition, through treatment or some other method, the [c]ourt finds that [Mother] cannot appropriately and safely parent [I.M.]. She is, sadly, an unfit parent, and her failure to consistently engage in mental health treatment requires the conclusion that she has not made a meaningful effort to adjust her circumstances, condition and conduct.

In regard to FL § 5–323(d)(2)(ii), the court determined “there [was] no evidence that [Mother] ha[d] made any contribution whatsoever towards the care and support of [I.M.] since he came into care.” In response to FL § 5–323(d)(2)(iii), the court continued to elaborate on [Mother's] mental health disorder, stating “the [c]ourt finds that [Mother's] mental health disorder, because it is not effectively treated or otherwise abated, renders her consistently unable to care for the immediate and ongoing physical and psychological

needs of her child for long periods of time.” Finally, in addressing FL § 5–323(d)(2)(iv), the court stated:

Additional services would not likely bring about any parental adjustment by [Mother] within any ascertainable time period. All four of her children have been removed from her care. In each case, the issue eclipsing all other concerns was [Mother’s] untreated mental illness. While suffering from delusions, [T.M.] and [M.M.] were neglected, and [A.M.] was subjected to chronic and life-threatening neglect. The central issue causing all of [Mother’s] children to come into care—her untreated mental illness—has not been addressed, nor resolved. It was necessary, for [I.M.’s] protection, that he be placed in the Department’s custody.

It is fair and appropriate to consider [Mother’s] past behavior in determining whether she is likely to realize any positive parenting adjustment. [Mother] is in need of long-term mental health treatment, and even if she unexpectedly engaged in treatment, it is unlikely that such therapy would bring about reunification within any ascertainable time period.

Her delusions were on display throughout her testimony, which the [c]ourt finds to lack credibility. She spoke of jobs the [c]ourt finds she never had, and a certificate to provide child care which was not produced. She even testified that the local department employee falsified a DNA test of [I.M.’s] putative father, because the two, the worker and the putative father, were having an affair.

Based on all the evidence, including [Mother’s] own testimony at the hearing, the [c]ourt finds that [Mother] remains delusional. The [c]ourt also finds that she lacks insight as to the causes for the removal of her children, her mental health conditions and her need for consistent, long-term mental health treatment. Unfortunately, [Mother] does not have a realistic comprehension of her deficiencies as a parent, even now. She denies that she is mentally ill, and will not pursue disability based on mental illness, despite the willingness of the Department to assist her.

The [c]ourt finds that [Mother] is unfit to parent [I.M.]. The fact that her unfitness results, primarily, from a mental health condition, certainly makes [Mother] sympathetic, but it does not warrant continuing [I.M.] an uncertain future. The [c]ourt finds that continuing to offer services to [Mother] would not bring about any change within a reasonable amount of time likely to result in reunification. The [c]ourt also finds that continuing to offer services

would greatly extend the length of time that [I.M.] is deprived of stability and permanency. A TPR is necessary.

The court next addressed the factors listed in FL § 5–323(d)(3), which states the court must consider whether:

- (i) the parent has abused or neglected the child or a minor and the seriousness of the abuse or neglect;
- (ii) 1. A. on admission to a hospital for the child's delivery, the mother tested positive for a drug as evidenced by a positive toxicology test; or
B. upon the birth of the child, the child tested positive for a drug as evidenced by a positive toxicology test; and
2. the mother refused the level of drug treatment recommended by a qualified addictions specialist, as defined in § 5–1201 of this title, or by a physician or psychologist, as defined in the Health Occupations Article;
- (iii) the parent subjected the child to:
 - 1. chronic abuse;
 - 2. chronic and life-threatening neglect;
 - 3. sexual abuse; or
 - 4. torture;
- (iv) the parent has been convicted, in any state or any court of the United States, of:
 - 1. a crime of violence against:
 - A. a minor offspring of the parent;
 - B. the child; or
 - C. another parent of the child; or
 - 2. aiding or abetting, conspiring, or soliciting to commit a crime described in item 1 of this item; and
- (v) the parent has involuntarily lost parental rights to a sibling of the child[.]

In addressing FL § 5–323(d)(3), the court found that “all five of [Mother’s] children, including [I.M.] came into care [of the Department] as a result of neglect on the part of [Mother].” In addition, the court found “[Mother] involuntarily lost parental rights to three siblings [M.M.], [A.M.], and [J.M.]” and although “[I.M.] was never allowed to be in [Mother’s] care . . . his sibling, [A.M.], was subjected to chronic and life-threatening neglect by [Mother] that resulted in a Failure-to-Thrive diagnosis.” The court did not find that [Mother] or any of the children tested positive for drugs; that [Mother] refused recommended drug treatment; or that [Mother] had been convicted of a crime.

Finally, the court addressed FL § 5–323(d)(4) which requires the court to consider:

- (i) the child's emotional ties with and feelings toward the child's parents, the child's siblings, and others who may affect the child's best interests significantly;
- (ii) the child's adjustment to:
 - 1. community;
 - 2. home;
 - 3. placement; and
 - 4. school;
- (iii) the child's feelings about severance of the parent-child relationship; and
- (iv) the likely impact of terminating parental rights on the child's well-being.

In considering the factors set forth in § 5–323(d)(4), the court determined there is an absence of a bond between I.M. and Mother. Instead, the court found I.M. has developed a caring and nurturing relationship with his foster mother, stating as follows:

[I.M.] has been in the same, loving, pre-adoptive home since his removal from the hospital at birth in November 2016. According to the credible testimony of his foster mother, he is thriving. He is physically well, and has bonded with his [foster] mother and foster sibling. He also regularly sees

[M.M.], [A.M.], and [J.M.] in the home where they have been adopted together. [I.M.] has known one home, and one family. The [c]ourt finds that [I.M.] does not have emotional ties with biological family members that would be adversely impacted if [Mother's] parental rights were terminated.

. . . the evidence is abundantly clear that [I.M.] is happy, well-adjusted and thriving in his current pre-adoptive placement. He is in a nurturing environment in which he feels safe and secure. [I.M.'s] best interest are served by allowing him to continue in this placement, where he will hopefully be adopted.

[I.M.] has not had consistent contact with his mother since removal. Because [Mother] has not attended all offered visits, [I.M.] has only had eight one hour visits. He is too young and lacks the requisite bond with [Mother] to have any discernible feelings about the severance of the parent-child relationship.

. . . the likely impact of terminating [Mother's] parental rights on [I.M.'s] well-being will be positive. [I.M.] is currently in a stable pre-adoptive foster home, where he is happy, healthy and bonded. Termination of [Mother's] parental rights will allow for [I.M.'s] adoption by his current caregiver, leading to much needed certainty and stability in his life during the critical stages of child development.

Based on our review, the court's determination of the factors set forth in FL § 5–323(d), is fully supported by the evidence and its legal conclusion that Mother is unfit, and that a continued relationship with I.M. would be detrimental to the best interest of the child, was not error. Mother argues the court gave dispositive weight to Mother's circumstances that existed in 2014 rather than the present. We disagree. While the court clearly referenced Mother's past, its decision was firmly rooted in Mother's present circumstances, including her (1) mental health condition; (2) her failure to engage in consistent mental health treatment, which renders it unsafe for I.M. to return to her care; and (3) her failure to make any meaningful attempt to bond with I.M. On the record we have before us, we

do not find the court abused its discretion by granting the Department's petition to terminate Mother's parental rights.

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