Circuit Court for Baltimore County
Case No. C-03-JV-19-000041

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0289

September Term, 2021

IN RE: A.W.

Berger,
Shaw Geter,
Sharer, J., Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Shaw Geter, J.

Filed: November 9, 2021

On March 1, 2019, the Baltimore County Department of Social Services ("the Department") filed a petition, accompanied by a request for shelter care, alleging that then five-year-old A.W. was a Child in Need of Assistance ("CINA").[1] In April, the Circuit Court for Baltimore County, acting as a juvenile court, adjudicated A.W. a CINA and placed her in the continued temporary shelter care of her maternal grandmother ("Grandmother"). Following a permanency plan review hearing ("review hearing") held on January 4, 2021, the presiding magistrate recommended closing the CINA case and awarding custody and guardianship to Grandmother. A.W.'s mother ("Mother") excepted to the magistrate's recommendations. Following a *de novo* exceptions hearing held on April 5, 2021, the juvenile court adopted the magistrate's recommendations and granted Grandmother guardianship and custody of A.W. Mother appealed from that judgment and presents a single question for our review, which we have rephrased as follows:[2]

> Did the juvenile court abuse its discretion by closing the CINA case, thereby awarding custody and guardianship of A.W. to Grandmother?[3]

We answer that question in the negative and shall therefore affirm the judgment of the juvenile court.

---

[1] To protect the child's identity, we will refer to A.W. by her initials.

[2] Father neither participated in the proceedings below, nor is he a party to this appeal.

[3] In her brief, Mother phrased her question presented as follows:

> Did the trial court commit error in ordering custody and guardianship of A.W. to her grandmother when [Mother] was improving her circumstances and showed a willingness to remediate her mental health issues?

BACKGROUND

On January 22, 2019, the Department received a report that Baltimore City Police Officers had discovered Mother unresponsive in a vehicle with A.W. and an unidentified adult male. Mother was administered Narcan—a medication prescribed to reverse the effects of opiate overdose—and transported to Saint Agnes Hospital. *See Noble v. State*, 238 Md. App. 153, 160 (2018) ("Narcan . . . is designed to revive someone who has overdosed on an opiate[.]"). Later that same day, a Department social worker conducted a home visit of the house wherein Mother, Grandmother, and A.W. resided.[4] During that visit, Mother confessed to having smoked marijuana, which she suspected had been laced with fentanyl. Mother further admitted that she had used cocaine during the preceding three months. Mother insisted, however, that she planned on entering an in-patient treatment program. The Department implemented a safety plan, which provided that Mother would: (i) undergo a substance abuse evaluation, (ii) comply with the Department's treatment recommendations, and (iii) refrain from transporting A.W. unsupervised.

During the ensuing month, Mother violated the safety plan by refusing to submit to a substance abuse evaluation or treatment. Accordingly, on February 28th the Department conducted a "Family Team Decision Making Meeting" in which Mother participated by telephone. At that meeting, the Department proposed filing a non-emergency petition requesting that the court grant Grandmother temporary guardianship and custody of A.W.

[4] Although she resided with Grandmother at the time of the home visit, Mother moved out, apparently at Grandmother's behest, in early 2019.

When Mother protested, the Department placed A.W. in shelter care with Grandmother. On March 1st, the Department filed a "CINA Petition with Request for Shelter Care." In an order dated March 4th, the court granted the Department's request for continued temporary shelter care pending the outcome of an adjudicatory hearing.

Apparently not having received the court-issued summons directing her to attend the April 12, 2019 CINA hearing, Mother neither appeared nor retained counsel. Following that hearing, the presiding magistrate recommended that the juvenile court declare A.W. a CINA. The court adopted the magistrate's recommendation and placed A.W. in Grandmother's continued custody under an order of protective supervision. It also awarded the Department and Grandmother joint temporary limited guardianship of A.W. and permitted Mother liberal supervised visitation as arranged by the Department. Finally, the court mandated that Mother:

> (1) cooperate with the Department by providing family background information; signing Release of Information forms regarding educational, medical, mental health, and substance abuse services and treatment that are necessary to provide services to the child and family; allowing scheduled and unscheduled home visits; permitting access to the child; comply[ing] with service agreements; and maintaining consistent and regular contact with the Department; (2) obtain and maintain clean, stable, hazard-free housing; and (3) submit to a substance abuse evaluation, participate in and cooperate with recommended substance abuse treatment until successfully discharged, submit to scheduled and unscheduled drug testing, and sign releases of information regarding such evaluation treatment and testing.

On June 19, 2020, the Department filed a pre-hearing court report wherein it recommended that the juvenile court modify A.W.'s permanency plan from a plan of reunification to a concurrent plan of reunification and custody/guardianship to a relative.

In that report, Andrea Fyffe, the Department social worker then assigned to A.W.'s case, apprised the court that on June 2, 2020, Mother had admitted that she continued to struggle with her addictions to marijuana, opiates, and cocaine. Although she denied having used cocaine or opiates since April of that year, Mother confessed that she continued to use marijuana. When asked whether she would submit to a hair follicle and urinalysis test, the report continued, Mother refused. Ms. Fyffe advised Mother that her failure to maintain regular monthly contact with the Department had hindered its ability to conduct routine drug testing and to monitor Mother's progress. The report further indicated that Mother had failed to provide the Department with any information pertaining to her compliance—or lack thereof—with the court's order to complete substance abuse and mental health evaluations. Finally, the report recounted claims that Mother had repeatedly fallen asleep during her visits with A.W.

During a July 7, 2020 review hearing, the Department reiterated its request that the permanency plan include a concurrent aim of custody and guardianship to a relative. A.W.'s court-appointed child's attorney joined in the Department's motion, saying: "I think that the plan will allow for an alternative if the reunification . . . turns out to not be viable . . . at this time." Mother's counsel opposed amending the permanency plan, representing that Mother intended either to enroll in an in-patient treatment program or, if no beds were available, to undergo a substance abuse evaluation.[5] The magistrate

[5] Although represented by counsel, Mother did not attend the July 7, 2020 review hearing.

recommended a plan of reunification concurrent with custody and guardianship to a relative, reasoning, in part:

> The fact that she's admitted in the most recent [c]ourt report as still using, she's denied drug testing, she's denied hair follicle testing, and she's going to be getting into something, is not persuasive to this [c]ourt[.]
>
> * * *
>
> I do find the permanency plan recommended by [A.W.] and the Department is a plan change to reunification, concurrent with custody and guardianship to a relative. Mother is asking for a sole plan of reunification. Efforts were made by the Department. Those efforts are reasonable and there's no further likelihood of abuse or neglect should the custody and visitation rights granted herein occur. At this point, I am going to recommend the plan change to the concurrent plan of reunification and placement with a relative for custody and guardianship. Certainly, plan changes can always be raised at any [r]eview [h]earing, and should, over the next review period, [Mother] take her . . . commitment to her sobriety more seriously, I would revisit it at that point, but there's nothing in the report that suggests that to me today. So, I am going to recommend the plan change.

The juvenile court adopted the magistrate's recommendations in an order entered on July 20, 2020.[6]

At a subsequent review hearing held on January 4, 2021, the Department requested that the magistrate recommend that the court grant Grandmother guardianship and custody of A.W. and close the CINA case. In support of that request, the Department argued that

[6] Although Mother could have properly appealed that interlocutory order, she declined to do so. *See In re D.M.*, 250 Md. App. 541, 558-59 (2021) ("[W]hen a court changes a permanency plan of reunification to a concurrent plan of reunification or custody and placement with a relative for custody and guardianship, the order sufficiently 'changes the terms' of an order regarding the care and custody of a child so as to become appealable under CJP § 12-303(3)(x)." (footnote omitted)). *See also In re Damon M.*, 362 Md. 429, 438 (2001) ("[A]n order amending a permanency plan calling for reunification to foster care or adoption is immediately appealable.").

"the parents ha[d] not substantively changed what brought the child in care to begin with[.]" Specifically, it cited Mother's (i) continued struggle with addiction, (ii) failure to cooperate with the Department, (iii) sporadic contact with A.W., (iv) recent physical altercation with Grandmother, and (v) refusal to avail herself of mental health and substance abuse referrals. Again, A.W.'s attorney joined in the Department's request, noting that A.W. had thrived and maintained familial contact while in Grandmother's care. Mother, through counsel, protested and asked that the court prolong the CINA proceedings to afford her an added opportunity to demonstrate her ability and willingness to afford A.W. adequate care. The magistrate agreed with the Department and recommended that the juvenile court award custody and guardianship to Grandmother.

Mother opposed the magistrate's recommendations. At a *de novo* exceptions hearing held on April 5, 2021, the juvenile court heard oral argument on behalf of the Department, Mother, and A.W., as well as the unsworn statements of Mother and Grandmother. During that hearing, Mother acknowledged that she had not been employed since June of 2019, but advised the court that she had been volunteering at a museum since October of 2020. Although she denied having a substance abuse problem, Mother acknowledged that she suffered from mental health issues for which she claimed to have undergone an evaluation and was being treated. Finally, Mother conceded that her relationship with Ms. Fyffe had been "very strained." For those reasons, Mother asked that the court afford her an additional 90 days during which to obtain full-time employment and to demonstrate her ability to provide A.W. with "some type of stability[.]" Grandmother,

in turn, advised the court that she worked remotely as a legal assistant. She also characterized Mother's visits with A.W. as often having been volatile—at times placid and at others riddled with accusations and threats.

Again, the juvenile court adopted the magistrate's recommendations, while making it indelibly clear that its decision to do so was guided by A.W.'s best interests. Although it commended Mother on "making strides" and on her "earnest effort now," the court noted "her failure to attend any kind of substance abuse [treatment] or have substance abuse testing[.]" The court's decision was also informed by (i) the duration of the CINA proceedings (more than two years), (ii) the fact that A.W. had spent nearly her entire life residing with Grandmother, while Mother had been absent from the home for an appreciable period of time, and (iii) that A.W. had been "doing well" while in Grandmother's care.

We will include additional facts as are necessary to the resolution of the question presented.

STANDARD OF REVIEW

When reviewing CINA proceedings, we apply the following "three distinct but interrelated standards of review." *In re J.R.*, 246 Md. App. 707, 730 (quotation marks and citation omitted), *cert. denied*, 471 Md. 272 (2020).

> [W]hen the appellate court scrutinizes factual findings, the clearly erroneous standard of Rule 8-131(c) applies. Second, if it appears that the court erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless. Finally, when the appellate court views the ultimate conclusion of the court founded upon sound legal principles and based upon factual findings that are not clearly

> erroneous, the court's decision should be disturbed only if there has been a clear abuse of discretion.

In re M., 251 Md. App. 86, 111 (2021) (quotation marks and citations omitted).

As is pertinent in this case, "an abuse of discretion exists 'where no reasonable person would take the view adopted by the [trial] court, or when the court acts without reference to any guiding rules or principles.'" *In re Andre J.*, 223 Md. App. 305, 323 (2015) (quoting *In re Yve S.*, 373 Md. 551, 583 (2003)) (brackets in original). Accordingly, we will not disturb a circuit court's ultimate decision unless it 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 (2013) (quotation marks and citation omitted).

DISCUSSION

Mother neither contends that the juvenile court erred as a matter of law nor contests the veracity of its factual findings. She solely challenges the court's ultimate decision to grant Grandmother guardianship and custody rather than to afford her "a further period of reunification to show that she had progressed with her mental health treatment and was maintaining sobriety from illegal substances." Her appellate contention, therefore, amounts to an assertion that the court abused its discretion. Mother seems to speculate that if the court had considered the best interest factors set forth in *Montgomery Cty. Dep't of Soc. Servs. v. Sanders*, 38 Md. App. 406, 420 (1977), it would have reached a different

conclusion.[7] Mother also complains that "her lack of participation in the prior hearings and claim that she was unaware of the nature of the proceedings and her right to be represented by counsel . . . raised a question of whether her right to due process had been protected."[8]

A. The Child Custody Framework

The Fourteenth Amendment to the United States Constitution guarantees parents the fundamental right "to raise their children as they see fit without undue interference by the State[.]" *In re O.P.*, 470 Md. 225, 234 (2020). That liberty interest is not absolute, however, and must give way to the best interests of children when contrary thereto. *See Boswell v. Boswell*, 352 Md. 204, 219 (1998) ("[T]he best interests of the child may take

[7] The non-exhaustive list of factors enumerated in *Sanders* include:

> 1) fitness of the parents; 2) character and reputation of the parties; 3) desire of the natural parents and agreements between the parties; 4) potentiality of maintaining natural family relations; 5) preference of the child; 6) material opportunities affecting the future life of the child; 7) age, health and sex of the child; 8) residences of parents and opportunity for visitation; 9) length of separation from the natural parents; and 10) prior voluntary abandonment or surrender.

Id. at 420 (citations omitted).

[8] Mother does not seem to allege a violation of her right to due process *per se*, but instead argues that the "genuine questions" she raised regarding "whether she knew she had a right to participate in the prior CINA proceedings and have the assistance of counsel" weighed in favor of the court's exercising its discretion to postpone terminating the CINA proceedings. She does not, moreover, challenge the decisions arising from the proceedings of which she was purportedly unnotified and at which she was unrepresented. She merely claims that her ignorance as to her "right to participate in the prior CINA proceedings and have the assistance of counsel" was "[a] final *factor* that the court here should have considered" (emphasis added). As we shall address *infra*, this was not among the factors the court was obligated to consider when making its ruling, and we therefore perceive no abuse of discretion in its declining to do so.

precedence over the parent's liberty interest in the course of a custody, visitation, or adoption dispute.").

Maryland courts have harmonized the fundamental rights of parents with the State's interest in protecting children's best interests "through the application of the 'substantive presumption [ ] of law and fact [ ] that it is in the best interest of the children to remain in the care and custody of their parents.'" *In re: M.*, 251 Md. App. at 114 (quoting *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 495 (2007)). That presumption may be rebutted by evidence of abuse or neglect.[9] *See In re Yve S.*, 373 Md. at 568-69. The liberty interests of natural parents in the custody and care of their children does not, however, "'evaporate simply because they have not been model parents or have lost temporary custody of their child[ren] to the State.'" *In re Adoption/Guardianship Nos. J9610436 and J9711031*, 368 Md. 666, 672 (2002) (quoting *Santosky v. Kramer*, 455 U.S. 745, 753 (1982)).

B. CINA Proceedings

The State possesses the sovereign power of *parens patriae*, and therefore possesses the "authority to care for children . . . because they cannot care for themselves." *In re B.C.*, 234 Md. App. 698, 715 (2017). A juvenile court may invoke that authority during CINA proceedings if the State proves by a preponderance of the evidence that "the child 'requires

[9] "Neglect" is defined as "the leaving of a child unattended or other failure to give proper care and attention to a child . . . under circumstances that indicate: (1) [t]hat the child's health or welfare is harmed or placed at substantial risk of harm; or (2) [t]hat the child has suffered mental injury or been placed at substantial risk of mental injury." CJP § 3-801(s).

court intervention because: (1) [t]he child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) [t]he child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs.'" *In re M.*, 251 Md. App. at 115 (quoting Md. Code (1973, 2020 Repl. Vol.), Courts and Judicial Proceedings Article ("CJP"), § 3-801(f)). Should the State satisfy that burden, the court may, in its discretion, "commit the child to the custody of a parent, a relative, or another suitable individual; or commit the child to the custody of the local department of social services or the Department of Health and Mental Hygiene for placement in foster, kinship, group, or residential treatment care." *In re Ashley S.*, 431 Md. at 685-86 (citations omitted).

C. Permanency Plans & Placements

If, in the course of a CINA proceeding, the juvenile court places a child outside of the family home, it "'must determine a permanency plan consistent with the child's best interests.'" *In re M.*, 251 Md. App. at 115 (quoting *In re Andre J.*, 223 Md. App. at 320). A permanency plan establishes "'the direction in which the parent, agencies, and the court will work in terms of reaching a satisfactory conclusion to the situation.'" *In re Joseph N.*, 407 Md. 278, 285 (2009) (quoting *In re Yve S.*, 373 Md. at 582). The presumptive goal of a permanency plan is the reunification of a child with his or her natural parents. *See In re Karl H.*, 394 Md. 402, 417 (2006) ("The court's goal should be, if possible, to reunite a child with its family."). When reunification is impossible, impracticable, or unlikely,

however, a court may impose "a permanency plan with either concurrent or single long-term placement goals[.]" *Id*.

When reviewing a proposed permanency plan, the court must consider the factors set forth in Maryland Code (1984, 2019 Repl. Vol.), § 5-525(f)(1) of the Family Law Article ("FL"). CJP § 3-823(e)(2). The considerations enumerated therein include:

> (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.

FL § 5-525(f)(1).

Consistent with the presumption that childrens' best interests are served by remaining in the care and custody of their natural parents, the aim of a permanency plan should be reunification "unless there are compelling circumstances to the contrary[.]" *In re Yve S.*, 373 Md. at 582. Pursuant to that end, CJP § 3-823(e)(i) sets forth the following hierarchy of placement options:

> 1. Reunification with the parent or guardian;
>
> 2. Placement with a relative for:

A. Adoption; or

B. Custody and guardianship under § 3-819.2 of this subtitle;

3. Adoption by a nonrelative;

4. Custody and guardianship by a nonrelative under § 3-819.2 of this subtitle[.]

"Once set initially, the goal of the permanency plan is re-visited periodically at hearings to determine progress and whether, due to historical and contemporary circumstances, that goal should be changed." *In re Joseph N.*, 407 Md. at 285 (quoting *In re Yve S.*, 373 Md. at 582). These review hearings must generally be held every six months after the juvenile court's initial adoption of a permanency plan. CJP § 3-823(h)(1). At a review hearing, a court must consider: (i) the continuing appropriateness of the commitment; (ii) whether the Department has made reasonable efforts to finalize the permanency plan; (iii) the "progress that has been made toward alleviating or mitigating the causes necessitating commitment"; (iv) a reasonable date by which to finalize a permanency plan; (v) the child's safety; and (vi) whether a change to the permanency plan would serve the child's best interests. CJP § 3-823(h)(2). A permanency plan warrants modification if there exist "weighty circumstances indicating that reunification with the parent is not in the child's best interest[.]" *In re Adoption/Guardianship of Cadence B.*, 417 Md. 146, 157 (2010). Prior to granting guardianship and custody pursuant to CJP § 3-819.2—either when initially approving or subsequently modifying a permanency plan—the court must also consider:

> (i) Any assurance by the local department that it will provide funds for necessary support and maintenance for the child;
>
> (ii) All factors necessary to determine the best interests of the child; and
>
> (iii) A report by a local department or a licensed child placement agency, completed in compliance with regulations adopted by the Department of Human Services, on the suitability of the individual to be the guardian of the child.

CJP § 3-819.2(f)(1).

A juvenile court must make "[e]very reasonable effort . . . to effectuate a permanent placement for the child within 24 months after the date of initial placement." CJP § 3-823(h)(4). A court's grant of guardianship and custody to a relative or other individual "terminates the local department's legal obligations and responsibilities to the child." CJP § 3-819.2(c). "In considering the appropriate permanent placement, juvenile courts are guided by the hierarchy of permanency plans codified in CJP § 3-823(e)(1) and FL § 5-525." *In re Adoption/Guardianship of C.E.*, 464 Md. 26, 58 (2019).

D. Analysis

As addressed *supra*, where, as here, a permanency placement grants guardianship and custody to a relative, a juvenile court is statutorily obligated to consider the factors enumerated in FL § 5-525(f)(1). *See In re M.*, 251 Md. App. at 117-19. Although it may augment that analysis by applying the *Sanders* factors, Mother does not cite any authority suggesting that the court is required to do so—and we are aware of none. It is, moreover, of no consequence that a juvenile court does not expressly enunciate "every step in [its] thought process" provided that "the reasons underlying [its] decision are supported by the

record." *In re Beverly B.*, 72 Md. App. 433, 442 (1987). *See also In re Priscilla B.*, 214 Md. App. 600, 631 (2013) ("[E]ven though trial judge 'did not delineate as clearly as he might have the reasons for his decision,' review of the record convinced the appellate court that 'the reasons underlying his decision are supported by the record[.]'" (quoting *In re Beverly B.*, 72 Md. App. at 442)); *Smith v. Johns Hopkins Cmty. Physicians, Inc.*, 209 Md. App. 406, 425 (2013) ("The exercise of a judge's discretion is presumed to be correct, he is presumed to know the law, and is presumed to have performed his duties properly." (quotation marks, citation, and emphasis omitted)).

On this record, we find that the court did not abuse its discretion by terminating the CINA proceedings and granting Grandmother guardianship and custody of A.W. The court expressly stated that its adoption of the magistrate's recommendation was "guided by the child's best interest[.]" When assessing A.W.'s best interests, the court relied, as was required, on the court reports submitted by the Department. *See* CJP § 3-819.2(f)(1)(iii). Those reports set forth the following facts concerning Mother's past drug use and her history with the Department:[10]

- On January 22, 2019, the Department received a report that the police had found Mother unresponsive in a vehicle with A.W. and an adult male. During a home visit that same day, Mother admitted that she had smoked marijuana, which she suspected was laced with fentanyl, and confessed that she had used cocaine during the preceding three months.

- On March 4th, 2019, the Department was advised that Mother had gone to the Tuerk House in order to obtain in-patient treatment but left shortly after arriving. Although Mother reported that she planned to attend its outpatient treatment

[10] We recount these reported facts chronologically.

program the following day, she did not do so (purportedly because of transportation issues).

- Mother tested positive for cocaine following a random drug test conducted on May 31, 2019.

- On March 2, 2020, Mother spoke with Ms. Fyffe and expressed interest in completing a substance abuse evaluation. Although Ms. Fyffe arranged to have her transported to the Eastern Family Resource Center for an evaluation the following day, Mother failed to attend, supposedly because she was not ready when the taxi arrived and the driver refused to wait.

- On March 10, 2020 Mother informed Ms. Fyffe that she had not undergone a substance abuse evaluation but advised her that she was scheduled to enter a detoxification program at Mercy Hospital the following day. During that same conversation, she admitted that she had used cocaine the week before and had smoked marijuana in the last month.

- Ms. Fyffe requested that Mother submit to hair follicle and urinalysis tests on June 2nd, but Mother refused to do so.

- On June 14, 2020, Grandmother reported that during a visit with A.W., Mother behaved so erratically that she was compelled to call the police. After being arrested for an unrelated matter and released, Mother returned to the house later that evening, again requiring police intervention.

- On October 15, 2020 Mother reported that she would enter substance abuse treatment at Powell Recovery, while simultaneously requesting that the Department's Substance Abuse Treatment Coordinator refer her to a treatment program. Although the treatment coordinator made several attempts to engage with Mother by phone, e-mail, and text message, she was unable to do so. There was, moreover, no indication that Mother had fulfilled her commitment to enter treatment—at Powell Recovery or otherwise.

- During a visit in October, Mother and Grandmother engaged in a physical altercation to which the police responded.

- On December 18, 2020 Mother advised Ms. Fyffe that she had received mental health treatment at "Healthcare Excellence," which referred her to the University of Maryland for substance abuse treatment, but she did not enroll in that program despite her admitted continued struggle with addiction.

- At yet another visit with A.W. on March 15, 2021, Mother appeared to be under the influence but claimed that she had been impaired as the result of her prescription medication.

- During a March 29, 2021 discussion with Ms. Fyffe, Mother claimed to have completed a seven-day "substance abuse 'blackout'" at John's Hopkins Hospital, but refused to produce her "discharge summary/recommendation report[.]"[11] Mother also refused Ms. Fyffe's request that she submit to a random drug test.

The above-recounted facts clearly reflect Mother's (i) persistent pattern of drug use, (ii) refusal to submit to testing, and (iii) unfulfilled assurances that she would obtain treatment. Absent evidence of rehabilitation or treatment, the court could have readily inferred from Mother's past conduct that her substance abuse would persist in the future, thereby posing a threat to A.W.'s health, safety, and general wellbeing if she were returned to Mother's care.[12] *See In re Adoption/Guardianship of Amber R.*, 417 Md. 701, 722 (2011) ("[G]iven the well-known difficulty of overcoming drug addiction, and the likelihood that addiction will persist if untreated, a court can infer that a parent will continue to abuse drugs unless he or she seeks treatment."); *In Re J.R.*, 246 Md. App. at 752 ("'To the extent that inaction repeats itself, courts can appropriately view that pattern of omission as a predictor of future behavior, active or passive.'" (quoting *In re Priscilla B.*, 214 Md. App.

[11] Absent a signed authorization for the release of Mother's medical records, the Department was apparently unable to otherwise confirm Mother's claim.

[12] The likelihood that Mother would continue to abuse drugs is further enhanced by her recurring reluctance to maintain contact with the Department, to attend scheduled meetings, and to pursue referral resources. *See In re Priscilla B.*, 214 Md. App. at 627 ("Both the master and the circuit court were right . . . to consider the parents' history with DSS in assessing the allegations of . . . substance abuse . . . and, more to the point, Father's credibility in denying them.").

at 625)); *In re Adriana T.*, 208 Md. App. 545, 570 (2012) ("It has long been established that a parent's past conduct is relevant to a consideration of the parent's future conduct."). By contrast, the court reports consistently stated that A.W. had been "thriving" and "doing well" while in Grandmother's care. The first and fifth factors set forth in FL § 5-525(f)(1), therefore, weigh in favor of the court's ruling.

The length of time that A.W. had resided with Grandmother also weighs heavily in support of the juvenile court's decision. At the time of the exceptions hearing, A.W. had been in Grandmother's custody for approximately twenty-six months—two months longer than the legislature had intended when enacting the CINA statutes. *See* CJP § 3-823(h)(4) ("Every reasonable effort shall be made to effectuate a permanent placement for the child within 24 months after the date of initial placement."). *See also In re Ashley S.*, 431 Md. at 711 ("One of the primary considerations in setting a permanency plan for children who have been adjudicated CINA is to avoid the harmful effects when children languish in temporary living situations.").

Regarding A.W.'s emotional attachments to Mother, on the one hand, and Grandmother and her family, on the other, while the reports indicate the A.W. "loves visiting with her mother," they also indicate that A.W. "ha[d] well bonded relationships with [Grandmother], her grandfather and [her] aunt who also reside in the home." As the court observed, A.W. had resided with Grandmother for "pretty much . . . her whole life," while Mother "ha[d] been out of the house for some period of time."

Finally, the court addressed the potential harm that A.W. could suffer by remaining in the guardianship of the State. The Department's reasonable efforts toward reunification notwithstanding, the court expressed doubts regarding its ability to facilitate that goal, opining:

> There was . . . mention made by [Mother's attorney] and I think her . . . client . . . that [the Department] was kind of part of the problem. Well, one of the things that me signing that [o]rder does, it takes [the Department] out of the way and it allows [Grandmother], [M]other and [A.W.] to deal with this on their own. I was impressed by [Grandmother] and . . . I take her at her word, both what she said here and in the report, that she is desirous of making sure that her granddaughter can return to [Mother], . . . and takes that seriously. So, that, that can certainly happen in the future. I don't know that the Department is helping that.

Based on our review of the record in this case, we find ample evidence from which the court could have reasonably concluded that, based on the factors set forth in FL § 5-525(f)(1), A.W.'s best interests would be served by granting Grandmother guardianship and custody. Accordingly, we perceive no abuse of discretion in the court's decision and therefore affirm the judgment of the circuit court.

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