Circuit Court for Baltimore County
Case No. C-03-JV-24-000804

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 295

September Term, 2025

IN RE: K.B.

Nazarian,
Beachley,
Harrell, Jr., Glenn T.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: September 24, 2025

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

After declaring K.B. a Child In Need of Assistance ("CINA"), the Circuit Court for Baltimore County, sitting as the juvenile court, scheduled an initial status review hearing for January 17, 2025 and an initial permanency plan hearing for June 16, 2025. At the status review hearing, the magistrate adopted the Baltimore County Department of Social Services' recommendation to change K's permanency plan from reunification to reunification concurrent with adoption by a non-relative (even though the permanency plan wasn't due to be considered until the initial plan hearing in June). K's mother filed exceptions to the magistrate's recommendation. After an exceptions hearing, the juvenile court adopted the magistrate's recommendation and issued an order that changed K's permanency plan. Mother appeals the court's order. Because the court established a permanency plan before it should have, we reverse and remand for further proceedings consistent with this opinion.

I. BACKGROUND

On August 13, 2024, Officer Norman Jones of the Baltimore City Police Department saw Mother walking in the city while pushing five-month-old K in a stroller. K was crying and Officer Jones saw Mother yell angrily at K to "shut the fuck up" multiple times and hit at K's feet. Officer Jones yelled at Mother to stop when she lifted her hand to hit K with a baby bottle. After Mother picked up and began shaking K, Officer Jones intervened, arrested Mother, and reported the incident to the Baltimore City Department of Social Services. K went to Johns Hopkins Hospital for assessment and was discharged that day to a Baltimore City foster home.

After Mother expressed suicidal ideations while in custody, Baltimore City Police sent her to Johns Hopkins Hospital for a psychiatric evaluation. The hospital discharged her the next day. On August 14, 2024, the Baltimore County Department of Social Services (the "Department") learned that K had been placed into foster care. At the time, the Department had guardianship of K's older sibling, R.B., and placed K with R in the same foster home.

Mother has a history with child protective services that began in Massachusetts. The Massachusetts Department of Children and Families ("DCF") removed children from her care in 2011, 2015, 2016, 2017, and 2018. Mother's parental rights to four of the children have been terminated and she reports that her family raised her eldest child. According to DCF, Mother had been diagnosed with "Bipolar disorder with psychosis, PTSD, anxiety, and anger issues [and her] medication and treatment compliance had been inconsistent."

Mother told the Department that the New York Office of Children and Family Services removed R from her care when they lived in New York, but she had been able to reunite with them. That changed in May 2022, when the Baltimore County Police Department charged Mother with two felony counts for the manufacturing and distribution of child pornography that featured R. Mother pled guilty to possession of child pornography and received a four-year sentence of supervised parole and probation. The Department removed R from her care and Mother agreed to terminate her parental rights.

Mother receives disability benefits and received psychiatric, medication, and psychotherapy treatment from Healthcare for the Homeless from June 2022 to September

2024. In April 2023, Eric Lane, Psy.D., performed a neuropsychological evaluation of Mother, finding that she had "Unspecified Neurodevelopmental Disorder, Posttraumatic Stress Disorder, Unspecified Bipolar-and-Related Disorder, and Panic Disorder" and that her "General Ability Index fell in the extremely low range . . . less than the 1st percentile relative to chronological age peers." Dr. Robert Kraft completed a psychological evaluation of Mother's parenting capacity in June and July 2023. He concluded that Mother presented low parenting capacity and a poor prognosis, that she "lacks minimally adequate parenting capacity, due to extremely low parent awareness skills, extremely low knowledge of appropriate parenting practices, disruptions in thought process, and disorganized behavior. Additionally, very low verbal reasoning skills inhibit concept formation and contributes to impairment in judgment." Dr. Kraft diagnosed Mother with "Major Depressive Disorder, recurrent, severe, with psychotic features" and "Borderline Intellectual Functioning" and concluded that she was "mentally and emotionally unstable . . . functioning on the periphery of society," displayed behavior that "is disorganized and unpredictable," and presented a "continued risk for serious dysfunctional parenting." In February 2024, Dr. LaFaye Marshall conducted an evaluation of Mother's sexual risk. Dr. Marshall recommended that Mother not have "any unsupervised contact with any children" and advised her to complete psychosexual psychotherapy. Mother gave birth to K the next month.

On August 14, 2024, the Department filed a CINA petition and request for ongoing shelter care for K, then filed an amended petition on September 11. The Department filed

a court report dated August 29, 2024 that detailed the circumstances leading to K's removal and Mother's background. On September 20, 2024, counsel for K, Mother, and the Department appeared at a CINA adjudication and disposition hearing before the juvenile court. The court sustained the allegations in the Department's petition, declared K a CINA, and committed her to the Department's custody. The juvenile court scheduled an initial review hearing for January 2025 and a permanency plan hearing for June 2025.

The Department submitted a second court report dated January 7, 2025 in anticipation of K's first status review hearing on January 17. According to the report, K was ten months old and thriving in the foster home. K was eating solid foods, learning how to walk, crawl, and stand, and adjusting well to daycare. The Department reported further that K loved being held, was up to date on medical appointments, and was healthy and happy. The report stated that Mother had kept her visits with K, which were "going well," but she still hadn't followed through completely with parenting and anger management classes and had been discharged from mental health therapy for non-attendance. Mother had provided evidence of her lease with the Baltimore City Housing Authority, which she signed in August 2024, and had asked the Department for payment assistance with late rent. The report stated that Mother had been advised to attend mental health therapy sessions twice a week, that Mother was not on medication, and that she was pregnant again. The report concluded with the Department's recommendation to change K's permanency plan from reunification to "reunification concurrent with adoption by [non-relative] and relative."

On January 17, 2025, the parties appeared before a magistrate for the status review hearing. Counsel for the Department highlighted "safety" and "mental health" concerns with Mother, stated that Mother had "remained involved . . . but not necessarily compliant," that she still had "issues with housing," and that the Department didn't have verification of her medication compliance. Counsel admitted that it was early in the process to change the permanency plan, but reasoned that "given the history with [R], the Department [did] not necessarily feel that reunification by itself would be a successful plan."

Mother's counsel argued that it was inappropriate to change the permanency plan after only five months and reminded the magistrate that permanency planning was not the purpose of the parties' hearing. Her counsel argued that the Department's report was incomplete and misleading. He provided verification of Mother's reenrollment with the mental health program that discharged her, confirmation that she was taking parenting classes, and a statement of her medication compliance and ongoing participation in therapy and psychiatric treatment at Healthcare for the Homeless. The magistrate admitted counsel's exhibits into evidence.

Counsel for K acknowledged that the juvenile court had scheduled a permanency plan hearing for June 2025 and that the Department's recommendation to change the plan was "a bit early." Counsel told the magistrate that he had represented R in Mother's 2022 CINA case, that R's case presented "a lot of the same issues," and that a psychosexual evaluation of Mother had resulted in a poor prognosis. He conceded that Mother's visits

with K were consistent and that K would "definitely benefit from continued visitation." He reported that the foster parent was attending to all K's needs, that she had adopted R, and that if K's case also resulted in adoption, the siblings would be together. The foster parent informed the court magistrate that the siblings were "bonding, getting along," that R "loves [their] little baby [sibling]. They love each other." After considering the January 7, 2025 court report and Mother's exhibits, the magistrate found by a preponderance of the evidence that the permanency plan should be reunification concurrent with adoption by a non-relative and made that recommendation to the juvenile court. Mother filed exceptions to the magistrate's recommendation on January 20, 2025.

The juvenile court held an exceptions hearing two months later. Counsel for the Department informed the court of Mother's child protective services history and its concerns with her mental health and child pornography conviction. He argued that K's permanency plan should change at the initial review hearing stage because Mother had failed to connect with services and achieve reunification in R's case and the Department's efforts in K's case hadn't led to reunification either. Counsel questioned the effectiveness of the services Mother had received, stating "all those services that [she] has been getting for a long time have not led to the reunification of any of her children." He reported that K was living with their sibling, "doing well," and had just turned one year old. K's counsel expressed concerns with Mother's parenting history. He asked the court to take judicial notice of Dr. Kraft's psychological evaluation report and conveyed its conclusions. He asked the court to order an updated evaluation in addition to a psychosexual evaluation of

Mother, given her history.

Mother's counsel highlighted her gains in medication compliance, parenting classes, mental health treatment, and housing at the time of the initial review hearing and updated the court on her progress since then and her consistent weekly visits with K. He contended that the decision to change K's permanency plan at the initial review hearing was a procedural error and argued that even if it wasn't, the permanency plan should not have been changed given Mother's substantial progress. The Department countered that the court could consider the permanency plan at every review hearing once a plan has been determined.

The juvenile court concluded that K's permanency plan of reunification had already been determined at the CINA disposition hearing and, thus, could be changed at the initial review hearing. The court determined further that a concurrent plan of reunification and adoption by a non-relative was appropriate and adopted the magistrate's recommendation. Mother appealed the court's initial review hearing order.

II. DISCUSSION

Mother presents one question[1] for our consideration, which we simplify and

[1] Mother stated her Question Presented as:

> Did the juvenile court err in adopting a permanency plan of reunification and adoption by a relative or nonrelative at the initial review hearing where less than six months had passed since adjudication and Appellant was making significant progress towards reunification?

Continued . . .

rephrase: whether the juvenile court erred when it changed K's permanency plan at the initial review hearing. We hold that it did.

Appeals of child custody decisions involve three standards of review. *In re Yve S.*, 373 Md. 551, 586 (2003) (citation omitted). We review the juvenile court's factual findings for clear error. *Id.* If the court erred as a matter of law, then we will remand the matter for further proceedings unless we conclude that the error is harmless. *Id.* If the court's ultimate decision isn't defective in either respect, we will disturb its ruling "'only if there has been a clear abuse of discretion.'" *Id.* (*quoting Davis v. Davis*, 280 Md. 119, 126 (1977)).

Mother argues that the juvenile court shouldn't have changed the permanency plan to reunification concurrent with adoption because only six months had passed since the court had declared K a CINA and she had made significant progress toward reunification by the time of the initial review hearing and the exceptions hearing. The Department argues that the juvenile court considered properly the full context of Mother's prior child protective services history, her criminal history, and her most recent psychological evaluations when it changed the permanency plan. The Department maintains that a concurrent plan allows Mother to take advantage of services and participate in evaluations that can facilitate reunification, while at the same meeting their statutory obligation to give

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The Department's brief asked: "Did the juvenile court act within its broad discretion when it added a concurrent plan of adoption to a non-relative to K.B.'s permanency plan of reunification with Mother?"

K permanency by preparing, if necessary, for adoption by the foster parent.[2] We agree with Mother that the juvenile court erred when it changed K's permanency plan at the initial review hearing, six months before the scheduled permanency plan hearing and without notice.

The juvenile court establishes an initial permanency plan at the CINA disposition hearing. *In re James G.*, 178 Md. App. 543, 583 (2008) (*citing In re Ashley E.*, 158 Md. App. 144, 161 (2004), *aff'd*, 387 Md. 260 (2005)). By default, the permanency plan is reunification—"unless there are compelling circumstances to the contrary, the plan should be to work toward reunification, as it is presumed that it is in the best interest of a child to be returned to his or her natural parent." *Yve S.*, 373 Md. at 582. Our statutory framework reflects this presumption and mandates that any disposition order that removes a child from their home must "[i]nform the parents, custodian, or guardian, if any, that the person or agency to which the child is committed may change the permanency plan of reunification to another permanency plan, which may include the filing of a petition for termination of parental rights . . . ." Md. Code (1974 2020 Rep. Vol.), § 3-819(f)(2) of the Courts and Judicial Proceedings Article ("CJP").

After the juvenile court declares a child CINA, it must hold a hearing to review the child's status no later than six months after the filing date of the Department's first CINA petition "and at least every [six] months thereafter." CJP § 3-816.2(a)(1). At all status

[2] On July 31, 2025, K filed a Line stating that the juvenile court changed the permanency plan correctly.

review hearings, the court must evaluate the child's safety, decide whether the out-of-home placement continues to be necessary and appropriate, decide whether the Department's case plan is appropriate and assess compliance with its plan, assess how much progress has been made to address or mitigate the circumstances that gave rise to the CINA petition, and "[p]roject a reasonable date by which the child may be returned to and safely maintained in the home or placed for adoption or under a legal guardianship." CJP § 3 816.2(a)(2).

The juvenile court has a parallel obligation to determine a permanency plan appropriate in a particular case and review it periodically. *See* CJP § 3-823(b), (h). The court must hold a hearing for this purpose (the "permanency plan hearing") no later than eleven months after declaring that the child is a CINA. CJP § 3-823(b)(1)(i). Once the court sets the permanency plan, it has a statutory obligation to hold periodic review hearings of that plan at least every six months (the "permanency plan review hearings"). CJP § 3-823(h). The statute is flexible, allowing juvenile courts to hold the permanency plan hearing on the same day as the "reasonable efforts hearing"[3] if all the parties agree, *id.* § 3-823(b)(3), and schedule the permanency plan hearing or permanency plan review

[3] In general, the Department has a statutory obligation to make reasonable efforts to reunify families and "make it possible for a child to safely return to [their] home." Md. Code (1999 2019 Rep. Vol.), § 5-525(e)(1) of the Family Law Article ("FL"). The child's safety and health are "the primary concern" and control the efforts the Department should take in each case and how it ought to take them. *Id.* § 5-525(e)(2). The statute authorizes the Department to make reasonable efforts toward two potentially safe outcomes for the child at the same time, pursuing reunification and placement "for adoption or with a legal guardian" concurrently. *Id.* § 5-525(e)(3).

hearings "at any earlier time. . . ." *Id.* § 3-823(c)(1).

The permanency plan sets "'the tone for the parties and the court' by providing 'the goal toward which [they] are committed to work.'" *In re D.M.*, 250 Md. App. 541, 561 (2021) (*quoting In re Damon M.*, 362 Md. 429, 436 (2001)). At the permanency plan hearing, juvenile courts must consider specific factors when establishing a plan in each case:

> (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;
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> (iii) the child's emotional attachment to the child's current caregiver and the caregiver's family;
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> (iv) the length of time the child has resided with the current caregiver;
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> (v) the potential emotional, developmental, and educational harm to the child if moved from the child's current placement; and
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> (vi) the potential harm to the child by remaining in State custody for an excessive period of time.

CJP § 3-823(e)(2); FL § 5-525(f)(1).

At the permanency plan review hearings, juvenile courts must take steps that overlap with the factors they must consider at status review hearings:

> At the [permanency plan] review hearing, the court shall:
>
> (i) Determine the continuing necessity for and appropriateness of the commitment;
>
> (ii) Determine and document in its order whether reasonable efforts have been made to finalize the permanency plan that is in effect;
>
> (iii) Determine the extent of progress that has been made

> toward alleviating or mitigating the causes necessitating commitment;
>
> (iv) Project a reasonable date by which a child in placement may be returned home, placed in a preadoptive home, or placed under a legal guardianship;
>
> (v) Evaluate the safety of the child and take necessary measures to protect the child;
>
> (vi) Change the permanency plan if a change in the permanency plan would be in the child's best interest; and
>
> (vii) For a child with a developmental disability, direct the provision of services to obtain ongoing care, if any, needed after the court's jurisdiction ends.

CJP § 3-823(h)(2). This partial overlap may explain why the statute allows a permanency plan review hearing to substitute for a status review hearing to the extent it provides that "[i]f a permanency plan for the child *has been determined under § 3-823 . . . a review hearing conducted by the court under § 3-823(h)* . . . shall satisfy the [status review] requirements of [§ 3-816.2]." CJP § 3-816.2(c) (emphasis added). The two review hearings are not interchangeable. The statute doesn't permit the court to conduct a status review hearing *in lieu of* a permanency plan review. And that is what the juvenile court attempted to do in this case—perhaps from a sense, given Mother's history, that there is a strong likelihood of adoption as an outcome. CJP § 3-816.2(c) allows the court to hold a permanency plan review hearing in place of a status review hearing, but that isn't what happened here, and the court erred by shortcutting the process in this case.

At the exceptions hearing, the court clarified the legal question before taking a recess to review the statute:

> THE COURT: What I'm hearing from [Mother's] Counsel is

> that at a first review there is not an ability by the Court to change a permanency plan at the initial review. . . . in reading the Statute, I think clearly you can change the permanency plan at a review hearing, or a permanency plan review hearing when there is a permanency plan already established. . . . But my question is if there is not yet a permanency plan and by case law de facto . . . that would be reunification, does that stay reunification until a permanency plan hearing? I see we have one in June coming up.

The juvenile court returned and concluded that a permanency plan of reunification had been determined at K's CINA disposition hearing. The court relied on the language in its disposition order that stated, in relevant part: "that the permanency plan of reunification may be changed to another permanency plan, which may include the filing of a petition for termination of parental rights . . . ." Then, citing CJP § 3-816.2(c), the court reasoned that because a permanency plan had already been determined, it could consider changing the plan at an initial status review hearing.

Next, the juvenile court reviewed the Department's January 17, 2025 report and found that Mother had assaulted K, that there were concerns about her mental health, and that K was a year old, unable to self-protect, and presented no health problems. The court considered Mother's engagement with services, her visits with K, her new pregnancy, and her child protective services and criminal history. The juvenile court considered this information through the status review hearing requirements of CJP § 3-816.2. The court found that K was safe with the foster parent, CJP § 3-816.2(a)(2)(i), that K should stay in her care, CJP § 3-816.2(a)(2)(ii), that Mother still needed services and had not yet alleviated or mitigated the concerns that gave rise to the CINA petition, CJP

§ 3-816.2(a)(2)(iii)–(iv), and that January 2026 was a reasonable date to achieve permanency. CJP § 3-816.2(a)(2)(v). From that review, the court concluded that a sole plan of reunification was inappropriate and adopted the magistrate's recommendation.

But the juvenile court erred in concluding that its disposition order had determined K's permanency plan. It hadn't. When Mother appeared before the magistrate and, later, the court, K's case had not advanced to the permanency plan review stage. No court had determined K's permanency plan under CJP § 3-823 because no court had considered the factors required by CJP § 3-823(e)(2) and FL § 5-525(f)(1). At the adjudicatory and disposition hearing on September 20, 2024, the court didn't mention, let alone determine, what K's particular permanency plan should be. Its order established the permanency plan of reunification by statutory default, *see* CJP § 3-819(f)(2), but if that were a proper substitute for a permanency plan hearing, the process mandated by CJP § 3-823(e) would be meaningless.

As far as we can tell, K's permanency plan still hasn't been determined pursuant to CJP § 3-823, so the juvenile court's decision to change the plan put the cart before the horse. The process of determining K's particular permanency plan must include consideration of K's ability to be safe and healthy in Mother's home, K's attachment and emotional ties to Mother, K's emotional attachment to the foster parent and R, the length of time K has lived with them, the potential emotional, developmental, and educational harm K could suffer if removed from the foster home, and the potential harm that K could experience by staying in foster care for an excessive period of time. *See* CJP § 3-823(e)(2);

FL § 5-525(f)(1). The court must take these factors into consideration when it determines a permanency plan at the initial permanency plan hearing, and that didn't happen at this review hearing. *E.g.*, *In re Ashley S.*, 431 Md. 678, 686 (2013); *In re Adoption of Jayden G.*, 433 Md. 50, 55 (2013); *In re Adoption of Cadence B.*, 417 Md. 146, 156–57 (2010).

Because none of the prescribed factors had been considered when K's case came before the magistrate and the juvenile court, the court bypassed the determination process when it concluded that the disposition order had determined K's permanency plan for purposes of CJP § 3-823. This legal error was not harmless, even if Mother's history might lead the Department and the parties to predict that adoption is the likely eventual outcome. For that reason, we reverse the judgment and remand for proceedings consistent with this opinion.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY REVERSED. APPELLEE TO PAY COSTS.