Circuit Court for Prince George's County
Case No. CINA16-0180

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 427

September Term, 2019

IN RE: V.S.

Fader, C.J.,
Kehoe,
Berger,

JJ.

Opinion by Berger, J.

Filed: October 18, 2019

This appeal arises from an order of the Circuit Court for Prince George's County, sitting as a juvenile court, modifying the permanency plan for respondent child V.S. in a CINA proceeding.[1] Following a hearing on February 21, 2019, the juvenile court changed V.S.'s permanency plan from a plan of custody and guardianship with a relative to a sole plan of adoption by a non-relative. V.S.'s mother ("Mother"), Ms. B., noted a timely appeal.

Mother raises the following two issues[2] for our review on appeal:

1. Whether the juvenile court erred by determining that the Prince George's County Department of Social Services had made reasonable efforts to achieve the permanency plan of custody and guardianship with a relative.

2. Whether the juvenile court erred by modifying V.S.'s permanency plan from custody and guardianship with a relative to adoption by a non-relative.

Perceiving no error, we shall affirm.

[1] A "CINA," or "child in need of assistance," is "a child who requires 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." Md. Code (1974, 2013 Repl. Vol.), § 3-901(f) of the Courts and Judicial Proceedings Article ("CJP").

[2] In the Questions Presented section of her brief, Mother raises the single issue of whether the juvenile court erred by modifying V.S.'s permanency plan, but in the argument section, she presents an additional sub-argument focusing on the Department's reasonable efforts.

FACTS AND PROCEEDINGS

Petition, Adjudication, and Disposition

V.S. was born on August 8, 2016. Both Mother and V.S. tested positive for cocaine at the time of V.S.'s birth. As a result, the Prince George's County Department of Social Services (the "Department") was involved with Mother and V.S. from the time of V.S.'s birth. The Department assisted Mother with referrals for a substance abuse assessment as well as substance abuse treatment, but Mother did not participate in treatment.

On November 3, 2016, after being unable to successfully contact Mother since October 4, 2016, the Department filed a non-emergency petition requesting that the juvenile court find V.S. to be a CINA. The Department did not place V.S. in shelter care. The juvenile court held an adjudicatory hearing on April 6, 2017. Mother and V.S.'s father[3] had been present in the courthouse earlier in the day, but they left during the lunch break and did not return.[4] The court waited several hours for the parents to return and ultimately denied a request for a continuance by Mother's attorney. The juvenile court sustained the allegations in the Department's petition. Mother's attorney requested that disposition be delayed in order to allow Mother to begin an intensive outpatient substance abuse treatment

[3] V.S.'s father is not a party to this appeal. Various facts relating to V.S.'s father have been omitted from the Statement of Facts in this Opinion because they are irrelevant to the issues before us on appeal.

[4] Mother's attorney advised the court that the parents had gone out of lunch during the break and the car they were driving got a flat tire and were waiting for a tow truck.

program, and the court granted Mother's request. V.S. remained in Mother's care while awaiting the disposition.

A disposition hearing was held on May 2, 2017. The Department informed the court that its workers had observed Mother "interacting in a positive way with the baby" and "tending to the needs of the baby," but there were still significant concerns about Mother's substance abuse. The Department informed the court that Mother had agreed to submit to a substance abuse assessment on many occasions but had repeatedly failed to follow through.

Mother ultimately participated in a substance abuse assessment in April 2017, when she tested positive for cocaine and admitted to having used a synthetic cannabinoid product. Based on Mother's assessment, the Prince George's County Health Department's addiction specialist recommended intensive outpatient treatment. Counsel for Mother told the court that Mother was "definitely interested in being engaged in these services" and had set up an appointment for the following week. Counsel further advised the court that Mother "understands the gravity of the situation and what is at stake if she does not cooperate with this."

At disposition, the Department explained that its report included a recommendation that V.S. be committed to the care and custody of the Department, but that the Department and V.S. were both "conflicted" about whether the child should be removed, explaining:

> [W]e would just like for the [c]ourt to just kind of really impress upon the mother the importance of being compliant and making the child available, staying communicative with the Department.

> So based upon that proffer, we would just ask the [c]ourt to find the child to be a child in need of assistance and make the decision of whether the child should be removed today or whether there should be an order of protective supervision, and we come back in for a very short turnaround hearing, maybe in 30 days, to see whether or not the other has engaged in services at that time.
>
> And if she hasn't engaged in services at that time, it would absolutely be appropriate then that the child be placed in the care and custody of the Department, as we're not able to assess whether or not the child is getting what she needs from her mother because we're not able to make a determination of whether or not her mother is stable.

Mother and V.S.'s father both agreed to a CINA finding, and the juvenile court found V.S. to be a CINA. The court ordered that V.S. remain in the custody of her parents under the protective supervision of the Department. The court ordered Mother to participate in substance abuse treatment.

June 15, 2017 Permanency Planning/Review Hearing

The parties returned to court on June 15, 2017. The court considered the report submitted by the Department and observed that "[n]ot a whole lot ha[d] happened" since the disposition hearing. The Department's social worker had "not had an opportunity to lay eyes on" V.S. and had "not been able to do any of her visits" since the disposition. The worker had also been unable "to get the mother to cooperate with substance abuse treatment." Mother's counsel advised the court that Mother had identified a state-certified substance abuse program at which she would begin treatment "next Tuesday." Mother was

not present in the courtroom for the hearing.[5] The court adopted the Department's proposed permanency plan of reunification.

October 19, 2017 Review Hearing

On October 19, 2017, the parties appeared for a review hearing. At this point, the Department asked that V.S. be placed in the care and custody of the Department, in large part because Mother had still not begun participating in substance abuse treatment. The Department also reported having difficulty maintaining contact with Mother, which negatively affected the Department's ability to monitor V.S.'s health, well-being, and safety. Mother asked that V.S. be placed with family members who were available to care for V.S. The juvenile court placed V.S. in the care and custody of the Department and directed the Department to investigate family members as potential initial placement resources. Mother was granted supervised visitation.

February 1, 2018 Review Hearing

A hearing was held on February 1, 2018. Mother again did not appear in court for the hearing. The hearing had originally been scheduled for January 4, 2018, but had been rescheduled due to inclement weather. Mother's counsel advised the court that he had been unable to contact Mother and was uncertain whether Mother was aware of the rescheduled hearing. Mother's counsel requested a continuance, to which the Department objected,

[5] Mother had been present earlier in the day. Her attorney advised the court that she had to leave due to daycare issues for her other children.

emphasizing that Mother had left the courthouse prior to V.S.'s hearing on two prior occasions. The juvenile court denied the request for a continuance.

The Department presented an update on V.S. and her adjustment to being placed in the care of the maternal grandmother. The Department had certain concerns about V.S.'s placement with the maternal grandmother. The grandmother had "made it extremely clear" that she was not interested in caring for V.S. on a long-term basis. The grandmother had also been "very slow to get some things going in terms of" obtaining certain services for V.S. and getting V.S.'s immunizations up-to-date. The Department expressed additional concerns about the grandmother's completion of visitation logs as well as the presence of an uncle with a criminal history who may be residing in the home. The juvenile court continued V.S.'s placement with the grandmother, continued the permanency plan of reunification, and found that the Department had made reasonable efforts towards the effectuation of the permanency plan.

Prior to the next hearing in V.S.'s case, on April 18, 2018 the Department removed V.S. from her placement with the grandmother and placed her in a foster home. This change was made primarily because Mother continued to reside in the same home as the grandmother and V.S. and the Department was concerned about whether Mother's visitation with V.S. was being supervised as required by the juvenile court's order.

June 21, 2018 Permanency Plan/Review Hearing

On June 21, 2018, the parties appeared for a review hearing. The Department advised the court that V.S. had "become very stable" in her foster placement and she was

"very bonded to the foster parents as well." The Department reiterated the concerns it had when V.S. had been placed in the grandmother's home, including that the grandmother was "very slow" in obtaining nutrition vouchers, securing daycare, and catching V.S. up on her immunizations. The Department expressed concerns about whether the parents' visits with V.S. were being appropriately supervised and again reiterated the grandmother's statement that she did not "see having V.S. as a long term option, it was supposed to be quick, the parents get themselves together and then . . . the child be returned to the parents."

The Department informed the court that it had "not been able to make contact with the parents except for visitation" and the parents "just contacted the Department to request visits and that's pretty much the extent of their involvement." Mother had not engaged in any services offered by the Department and had not participated in substance abuse treatment. Due in large part to Mother's lack of progress with addressing her substance abuse problem, the Department asked the court to adopt a concurrent plan of custody and guardianship. V.S.'s counsel concurred with the Department's recommendation, emphasizing that V.S. "ha[d] been involved in . . . this case . . . practically since her birth and she deserves some, some semblance of permanence in her life. Mother's counsel again informed the court that Mother "admits that she has a substance abuse problem." Mother's counsel maintained that Mother was "in discussions with the Department today to place her into an inpatient substance abuse program."[6]

[6] Mother's attorney advised the court that Mother had previously been accepted into an outpatient substance abuse treatment program in November 2017, but the program "was unable to take her" due to Mother's open warrants. Mother's counsel advised that certain

The juvenile court changed V.S.'s permanency plan from a sole plan of reunification to concurrent plans of reunification and custody and guardianship. The juvenile court explained that the court was "100 percent committed" to Mother "getting treatment and getting better and getting re-unified" with V.S. The court, however, expressed concerns "for the sake of [V.S.]" that "[V.S.] can't float around." The court told Mother that it was committed to having V.S. reunified with Mother, but was "also committed to making sure she's not in foster care year after year after year." The court directed the Department to investigate a maternal aunt and a relative of father's as potential resources. The court told Mother, "in the best of all worlds, you'll have completed [substance abuse] treatment by [the next hearing date], you'll have completed parenting [classes] and you'll be ready. It's on your shoulders."

November 15, 2018 Permanency Plan/Review Hearing

At the next hearing on November 15, 2018, the Department asked the court to change V.S.'s permanency plan to adoption by a non-relative. The Department reiterated the reasons why it did not consider the grandmother to be a viable placement option, including her delay in obtaining services for V.S., her prior statement that she was uninterested in being a long-term resource, and the parents "unfettered access" to V.S. while V.S. was in the grandmother's care. The Department further reported that V.S. "was

logistical issues still needed to be taken care of before Mother could begin participating in the program, including verifying insurance and ensuring that all warrants were cleared. Mother had an appointment with the addictions specialist scheduled for the following Monday to address the logistical issues relating to Mother's participation.

not thriving" and "was exhibiting aggressive behaviors" when placed with the grandmother. The Department expressed additional concerns about other people living in the home, some of whom had "a concerning criminal history."

The Department reported that it had investigated the relative resources proposed at the prior hearing. The father had identified a family member, "T.," as a potential resource but it was later determined that T. was not a relative but was the mother of one of the father's other children. Regardless, T. did not respond to the Department's attempt to make contact with her.

Mother's substance abuse issues remained a great concern for the Department. After two years of involvement with the Department, Mother still had not engaged in any type of substance abuse treatment. The Department expressed that it was the belief of the Department and of the foster parents that the parents had attended visits with V.S. while under the influence of illegal substances. The foster parents had reported that during one visit, the parents went outside. When the foster parent went outside to see what the parents were doing, the foster parent observed the parents "trying to hide that they were smoking something." The foster parent did not know what the substance was, but reported that it "had a very bad odor" and it was "not cigarettes" and "not marijuana."

Counsel for V.S. agreed with the Department's proposed change in permanency plan. Counsel for V.S. was particularly concerned about the report by the foster parents about the parents' substance use during a visit.

Mother's attorney pointed out that Mother's various criminal matters had to be addressed and that this was the reason Mother had not been able to participate in substance abuse treatment. Mother reported that she had "completely taken care of her criminal charges" as of October 2018 and was "signed up" to go to substance abuse treatment. Mother's counsel further advised that Mother planned to participate in parenting classes now that her criminal issues had been resolved. Mother denied ever coming to a visit with V.S. while under the influence of drugs and maintained that the visits had been going well. Mother asked the court to consider the maternal grandmother as well as a maternal aunt as placement resources for V.S., both of whom were present in the courtroom. The maternal aunt already had custody of two of Mother's older children.

The court heard directly from the grandmother and maternal aunt. The grandmother stated that although she initially thought "it was a short-term thing" and "because of my age" she thought the Department would not consider her to "be viable since I was 70 to take on a young child, but I am willing." The maternal aunt told the court that she, along with her husband and daughter, would be "willing . . . to be there for" V.S. The maternal aunt explained that her daughter ran a home family daycare and "would have no problem keeping [V.S.] during the day." The court clarified whether the maternal aunt meant that she wanted to be the caretaker for V.S. or if she was only offering to provide childcare during the day, and the aunt responded, "I'm willing, you know, to do what needs to be done." The aunt explained that she had custody of Mother's two other children, who were sixteen and ten years old. The two sisters had resided with the aunt for six years.

The Department reiterated its concerns about grandmother as a placement resource and commented that although the grandmother was now saying that she was willing and able to serve as a placement resource, "her behavior shows us that she was not and she stated numerous times, as she stated here initially, [that she] was not a long-term option." The Department further explained that the aunt had previously told the Department that it was not an option for V.S. to be placed in her home and had not followed through with the necessary steps to investigate her as a potential resource.

The juvenile court found that the Department had made reasonable efforts toward the effectuation of V.S.'s permanency plan. The court observed that "[i]t seems to me that on the one hand [termination of parental rights] and adoption are very likely, quite frankly . . . but it also seems to me that before we get there we have an obligation to more seriously look at the issue of relative custody." The court changed the permanency plan from reunification to relative custody and explained "in particular I'm looking at [the maternal aunt]." The court advised the Department that it could "look at [the grandmother] as well, but [the grandmother has] already told us she was . . . 70." The court explained that it was "going to do a real quick turn around" and have another hearing in February. The court advised that "if there's not an active interest shown by [the maternal aunt] and [the grandmother], then the [c]ourt's willing to change the permanency plan" to adoption. At that point, however, the court denied the Department's request to change the permanency plan to adoption.

February 21, 2019 Permanency Plan Review Hearing

On February 21, 2019, the juvenile court held another hearing to consider modifying V.S.'s permanency plan. At this point, V.S. had been involved with the court for two years and three months. The Department reported on its efforts to explore the potential placement of V.S. with the maternal aunt or maternal grandmother. The Department informed the court that it had made contact with the grandmother "in January to follow up on her being a custody and guardianship resource" and the grandmother "stated that given her age and the fact that she had just had surgery on her shoulder, she was not an option." The Department also reiterated the concerns it had about V.S. while V.S. was in the grandmother's care in late 2017 and early 2018.

With respect to the maternal aunt, the Department explained that it had "made numerous attempts" to consider her as a guardianship resource. The aunt responded to some of the Department's communications, "but ultimately she did not provide the information that was needed." The Department further informed the court that the maternal had had recently "stated that she was no longer an option for personal and medical reasons."[7]

Mother argued that the court should continue to maintain a permanency plan of custody and guardianship to a relative. Mother asserted that it had not been established that the grandmother was not interested in pursuing custody and guardianship of V.S.

[7] The Department also investigated additional paternal relatives who had come forward since the last hearing, but they were not viable resources due to their history with child protective services.

Counsel for Mother informed the courts that "the statements that were made by the grandmother to the social worker had not been voiced to" Mother and "as of [Mother's] recent conversations with" the grandmother, "the grandmother was still interested." Mother did not dispute that the maternal aunt was no longer interested in serving as a placement resource, but asked the court to continue investigating the grandmother as a potential permanent placement resource for V.S.

After considering all of the evidence as well as the arguments of the parties, the juvenile court summarized its views on V.S.'s case before issuing its ruling. The court explained that this was "a very difficult case" and that "in almost all of our cases with drug use, parents go, they get treatment and it's never, ever, ever our intent to terminate parental rights because of drug usage, because the idea is you get your treatment, that it's a health issue, you take care of that health issue and we can hopefully reunite a family." The court explained its reasoning as follows:

> The problem that I have here is that [V.S.] . . . entered the system because of drug use by the parents and there's been this consistent effort to reunite the family and get treatment, and both parents have been overall nonresponsive.
>
> It's, it seems to me that the treatment's been made available, that the [c]ourt's [o]rdered treatment repeatedly and repeatedly and repeatedly, and yet it's not happening.
>
> We're still in the same place. And what concerns me most is that I have this beautiful child who in the best of all worlds could, indeed, be returned to . . . her family, but nobody's really stepping up. Nobody's – and time is rolling on and time is rolling on.
>
> And she's with a foster family. She's bonded to the foster family. She's at an age of bonding, and when this came

to me the last time, I was like despite what was being asked for, I was like no, no, no, I really would like to have some family reunification, let's do this. And nobody did anything. And I don't mean the [Department] didn't do it, I mean the parents didn't step up, the resources that were identified didn't step up.

I'm now being told that the grandmother says she can't do it and while [counsel for Mother] is telling me that's not the case, clearly you would think given what was on the table that minimally the grandmother would have come in here were she actually wanting to do, to have custody eventually of the child, but she's not here.

And so I have [V.S.] who's just kind of hanging on until somebody decides that they want to step up to the plate, but nobody's stepping up to the plate. And the law says, quite frankly, that if you're in care for this period of time, that the [c]ourt is supposed to do something to get permanency for the child. And there's nothing that I see that makes me think that the grandmother's going to provide permanency. I just haven't seen it. The history of this doesn't show it. The fact that she's not here doesn't show it. The fact that she hasn't called [the Department's worker] and worked with [the Department's worker] to do that doesn't show it.

I mean everybody knew when we were here back in, what was it, November, right, back [o]n November 15th the [Department] made a very strong argument for [termination of parental rights and] adoption and I said no, let's try again, let's try to do reunification again, and yet we feel like -- it feels to me like we're in the exact same spot we were in three months ago.

And now I'm being told well maybe we should just give it a couple more months, which I just don't think is in this child's best interests, quite frankly.

So I am going to find that there have been reasonable efforts and I am going to change the plan to [termination of parental rights] and adoption.

The circuit court's ruling was memorialized in a written order on March 6, 2019. This appeal followed.

STANDARD OF REVIEW

We apply three interrelated standards of review in appeals of CINA cases:

> In CINA cases, factual findings by the juvenile court are reviewed for clear error. An erroneous legal determination by the juvenile court will require further proceedings in the trial court unless the error is deemed to be harmless. The final conclusion of the juvenile court, when based on proper factual findings and correct legal principles, will stand unless the decision is a clear abuse of discretion.

In re Ashley S., 431 Md. 678, 704 (2013) (citing *In re Yve S.*, 373 Md. 551, 586 (2003)). The Court of Appeals has further explained:

> "[Q]uestions within the discretion of the trial court are much better decided by the trial judges than by appellate courts, and the decisions of such judges should only be disturbed where it is apparent that some serious error or abuse of discretion or autocratic action has occurred. In sum, to be reversed the decision under consideration has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable."

In re Adoption of Cadence B., 417 Md. 146, 155-56 (2010) (quoting *Yve S.*, supra, 373 Md. at 583-84).

The juvenile court's ultimate decision as to a permanency plan is reviewed for an abuse of discretion. *Ashley S.*, *supra*, 431 Md. at 704 (citing *In re Shirley B.*, 419 Md. 1, 18–19 (2011)). The Court of Appeals has emphasized that appellate review of a juvenile court's determination concerning a permanency plan is "limited." *Id.* at 715. "Because the overarching consideration in approving a permanency plan is the best interests of the child,

we examine the juvenile court's decision to see whether its determination of the child's best interests was 'beyond the fringe' of what is 'minimally acceptable.'" *Id.* at 715 (quoting *Yve S.*, *supra*, 373 Md. at 584).

DISCUSSION

I.

Mother's first appellate argument is that the juvenile court erred when it determined that the Department had made reasonable efforts to facilitate custody and guardianship of V.S. with the maternal grandmother.[8] In particular, Mother contends that the circuit court erred by crediting the Department's proffer that its social worker had spoken with the grandmother in January of 2019 and the grandmother told the worker that she was no longer a viable placement resource for V.S. due to her age and recent shoulder surgery.

Whether the Department has made reasonable efforts toward the effectuation of a particular permanency plan "is a factual finding that [we] review[ ] pursuant to the clearly erroneous standard." *Shirley B.*, *supra*, 191 Md. App. at 708 (2010). Reasonable efforts "'means efforts that are reasonably likely to achieve the objectives set forth in § 3-816.1(b)(1) and (2) of [the Courts and Judicial Proceedings Article.]' This definition is amorphous. Thus, it is clear that there is no bright line rule to apply to the 'reasonable efforts' determination; each case must be decided based on its unique circumstances."

[8] Mother does not raise any arguments with respect to whether the Department made reasonable efforts toward reunification or as to whether the Department made reasonable efforts toward placing V.S. with any other family members.

Shirley B., *supra*, 191 Md. App. at 710-11 (footnote omitted).[9] Reasonable efforts "need not be perfect to be reasonable . . . ." *In re James G.*, 178 Md. App. 543, 601 (2008).

In this appeal, the issue is not whether the circuit court erred in determining that reasonable efforts were made toward reunification, but whether the circuit court erred in determining that reasonable efforts were made toward placing V.S. in the custody of a relative -- specifically, the maternal grandmother. The record reflects that the Department considered the maternal grandmother as a relative resource and made efforts to investigate her. The Department had legitimate concerns about V.S. while she was placed with the

[9] Md. Code (1974, 2013 Repl. Vol.), § 3-816.1(b)(1) and (2) provide in relevant part:

> (b)(1) In a hearing conducted in accordance with § 3-815, § 3-817, § 3-819, or § 3-823 of this subtitle, the court shall make a finding whether the local department made reasonable efforts to prevent placement of the child into the local department's custody.
>
> (2) In a review hearing conducted in accordance with § 3-823 of this subtitle or § 5-326 of the Family Law Article, the court shall make a finding whether a local department made reasonable efforts to:
>
> (i) Finalize the permanency plan in effect for the child; [and]
>
> (ii) Meet the needs of the child, including the child's health, education, safety, and preparation for independence . . . .

Additional findings are required "[f]or a child who is at least 18 years of age." *See* CJP § 3-816.1 (b)(2)(iii).

maternal grandmother in late 2017 and early 2018. The grandmother was slow to obtain nutrition benefits for V.S., obtain daycare for V.S., and catch V.S. up on her immunizations. Furthermore, the Department was reasonably concerned about the continuing residence of the parents in the maternal grandmother's home when Mother's visits were required to be supervised.

Despite the concerning circumstances relating to a potential placement with the maternal grandmother, the Department continued to investigate the possibility of placing V.S. in the maternal grandmother's home. Shortly before the February 2019 hearing, the Department's social worker engaged in a conversation with the grandmother to explore the grandmother's willingness to take on the responsibility of having custody of her young granddaughter. The maternal grandmother told the Department's worker that she was unable to take on the responsibility of caring for V.S. in light of her recent surgery and her advanced age. Mother asserts on appeal that it was inappropriate for the juvenile court to credit this proffer from the Department given that Mother made a proffer regarding a separate conversation between Mother and the maternal grandmother in which the grandmother said that she was "interested" in serving as a resource but the Department had "written her off."

We disagree with Mother that this involved a situation of "conflicting proffers" and that the juvenile court should have taken testimony directly from the grandmother. Mother relies upon the case of *Bishop v. State*, 471 Md. 1, 24 (2010) for the principle that a "judge cannot resolve credibility issues on a mere proffer." First, we observe that *Bishop* was a

criminal child sexual abuse case involving conflicting proffers about the contents of a telephone call between the defendant and a victim, while this case is a CINA case which, unlike a criminal proceeding, is a "non-punitive, civil action[]." *In re Blessen H.*, 163 Md. App. 1, 15 (2005), *aff'd*, 392 Md. 684 (2006). Unlike criminal proceedings, at disposition hearings in CINA cases, the application of the Rules of Evidence is discretionary. Md. Rule 5-101(c)(6). Mother's reliance on a criminal case, therefore, is of limited value.

We further observe that the juvenile court admitted the Department's proffer regarding the social worker's conversation with the maternal grandmother without objection. Moreover, the two supposedly conflicting proffers are not actually in conflict. Throughout the pendency of V.S.'s case, the maternal grandmother's interest in serving as a placement resource had wavered at times. It is conceivable that the maternal grandmother could have expressed an interest in serving as a placement resource during a conversation with Mother, while also telling the Department's worker that she was unable to do so. At the November 2018 hearing, the juvenile court informed that parties that it needed to see "an active interest" by V.S.'s relatives in order to continue V.S.'s permanency plan of placement with a relative. Regardless of what the maternal grandmother may have told Mother, the record reflects that the maternal grandmother failed to complete her background investigation with the Department, continued to allow V.S.'s parents to reside with her, and failed to attend the February 21, 2019 hearing at which she knew the juvenile court was planning to assess the continuing viability of a permanency plan of relative placement for V.S.

Having reviewed the evidence in the record, we cannot say that the juvenile court's determination that the Department made reasonable efforts toward the effectuation of V.S.'s permanency plan of relative placement was clearly erroneous. The Department actively explored the possibility of placing V.S. in the care of her maternal grandmother, yet the maternal grandmother failed to demonstrate an active interest in obtaining custody or guardianship of V.S. The Department was not required to "go through the motions in offering services doomed to failure." *In re James G.*, *supra*, 178 Md. App. at 593 (internal citation omitted).[10] Accordingly, we reject Mother's contention that the juvenile court erred in connection with its reasonable efforts finding.

II.

Mother further asserts that the juvenile court abused its discretion by changing V.S.'s permanency plan from custody and guardianship with a relative to termination of parental rights and adoption by a non-relative. Pursuant to Md. Code (1974, 2013 Repl. Vol.), § 3-823 of the Courts and Judicial Proceedings Article ("CJP"), a juvenile court is required to determine an appropriate permanency plan consistent with a child's best interests. The juvenile court is further tasked with determining, at appropriate intervals, whether progress has been made towards the effectuation of the permanency plan. CJP §

[10] Mother asserts that the Department should have made additional efforts to explore whether Mother's brother, who had a criminal record, actually resided in the maternal grandmother's home. Given the other efforts made by the Department to investigate the suitability of a placement for V.S. in the maternal grandmother's home, as well as the maternal grandmother's vacillating interest in serving as a placement resource, the Department was not required to investigate the maternal uncle further.

3–823(h). The court is required to change the child's permanency plan if such a change is in the child's best interest. *Id.* When developing a permanency plan, "the local department shall give primary consideration to the best interests of the child" and "shall consider" certain factors, including the child's ability to be safe and healthy in the home of the child's parent; the child's attachment and emotional ties to the child's natural parents and siblings; the child's emotional attachment to the child's current caregiver and the caregiver's family; the length of time the child has resided with the current caregiver; the potential emotional, developmental, and educational harm to the child if moved from the child's current placement; and the potential harm to the child by remaining in State custody for an excessive period of time. Md. Code (1984, 2012 Repl. Vol.), § 5-525(f)(1) of the Family Law Article ("FL").

When determining the appropriate permanency plan for a child, "the juvenile court is to give primary consideration to the best interests of the child." *In re Ashley S.*, 431 Md. 678, 686 (2013) (internal quotation and citation omitted). The various placement options are set forth in CJP § 3-823(e)(1)(i), in descending order of priority:

1. Reunification with the parent or guardian;
2. Placement with a relative for:
   A. Adoption; or
   B. Custody and guardianship . . . ;
3. Adoption by a nonrelative;
4. Custody and guardianship by a nonrelative . . . ; or
5. Another planned permanent living arrangement that:

> A. Addresses the individualized needs of the child, including the child's educational plan, emotional stability, physical placement, and socialization needs; and
>
> B. Includes goals that promote the continuity of relations with individuals who will fill a lasting and significant role in the child's life[.]

A primary purpose of the CINA subtitle is to "achieve a timely and permanent placement for the child consistent with the child's best interests." CJP § 3-802(a)(7). The Court of Appeals has emphasized the significant detrimental effects of prolonged foster care on children, concluding that "[a] critical factor in determining what is in the best interest of a child is the desire for permanency in the child's life." *In re Adoption of Jayden G.*, 433 Md. 50, 82 (2013). The Court commented that "[l]ong periods of foster care are harmful to the children and prevent them from reaching their full potential." *Id.* at 83 (internal quotation and citation omitted). The *Jayden* Court quoted as follows from Joseph Goldstein, *Finding the Least Detrimental Alternative: The Problem for the Law of Child Placement*, in Parents of Children in Placement: Perspectives and Programs 188, n. 9 (Paula A. Sinanoglu & Anthony N. Maluccio eds., 1981) (quoting speech by Art Buchwald):

> The status of a foster child, particularly for the foster child, is a strange one. He's part of no-man's land . . . The child knows instinctively that there is nothing permanent about the setup, and he is, so to speak, on loan to the family he is residing with. If it doesn't work out, he can be swooped up and put in another home. It's pretty hard to ask a child or foster parent to make a large emotional commitment under these conditions . . . .

Jayden G., *supra*, 433 Md. at 83-84. The Court continued:

> Recognizing these needs, federal and state governments "have undertaken . . . steps to prevent childhoods spent in 'foster care drift' — the legal, emotional, and physical limbo of temporary housing with temporary care givers." [*In re Adoption/Guardianship of*] *Victor A.*, 157 Md. App. [412,] 427–28, 852 A.2d [976,] 985 [(2004)]. Indeed, "[t]he overriding theme of both the federal and state legislation is that a child should have permanency in his or her life. The valid premise is that it is in a child's best interest to be placed in a permanent home and to spend as little time as possible in foster care." [*In re Adoption/Guardianship*] No. 10941, 335 Md. [99,] 106, 642 A.2d [201,] 205 [(1994)].

Jayden G., *supra*, 433 Md. at 84.

With this framework in mind, we turn to the juvenile court's substantive decision to modify V.S.'s permanency plan in the present case. First, we emphasize that Mother's challenge to the juvenile court's permanency plan determination is quite narrow. Mother does not assert that the juvenile court failed to consider the appropriate factors prior to changing V.S.'s permanency plan, nor does Mother assert that the juvenile court erred by considering the Department's court reports. Mother's challenge to the court's permanency plan determination is based solely on the Department's alleged failure to make reasonable efforts toward the plan of custody and guardianship with a relative -- specifically, the maternal grandmother.

As we discussed *supra*, there was ample evidence to support the juvenile court's determination that the Department made reasonable efforts toward the plan of custody and guardianship with a relative. Furthermore, our review of the record leads us to conclude that the juvenile court did not err by changing V.S.'s permanency plan to adoption. The juvenile court considered the overall lack of progress toward reunification and placement

with a family member since V.S. came into the care of the Department. The juvenile court was also mindful of the fact that V.S. had been out of the care of her parents since October 19, 2017 -- a period of sixteen months at the February 2019 hearing -- and had a need for permanency in her life. "Recognizing that children have a right to reasonable stability in their lives and that permanent foster care is generally not a preferred option, the law requires, with exceptions not applicable here, that DSS file a [termination of parental rights] petition if 'the child has been in an out-of-home placement for 15 of the most recent 22 months.' *See* FL § 5-525.1(b)." *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 501 (2007); *see also* CJP § 3-823(h)(4).

The juvenile court observed that "time is rolling on" and found that waiting for a family member to possibly "step up" was not in V.S.'s best interest. The juvenile court emphasized the importance of obtaining permanency for V.S., observing that "if [V.S. is] . . . in care for this period of time, . . . the [juvenile c]ourt is supposed to do something to get permanency for the child." The court further considered V.S.'s progress in foster care, where she was "thriving" and bonded to her foster parents, whom she referred to as her "mommy" and "daddy."

The record reflects that the juvenile court repeatedly afforded opportunities to V.S.'s family members to work with the Department, but despite the court's and the Department's efforts, V.S.'s family members were unable or unwilling to serve as resources. At the November 2018 hearing, the juvenile court expressly stated that it was strongly considering changing V.S.'s permanency plan to adoption and explained that "if there's not an active

interest shown by [the maternal aunt] and [the grandmother], then the [c]ourt's willing to change the permanency plan" to adoption.

As the juvenile court observed, "in the best of all worlds," V.S. would be placed with relatives, but "nobody's really stepping up" to serve as a long-term resource for V.S. Given the period of time that V.S. had spent in foster care, as well as the lack of family members willing or able to serve as a placement resource for V.S., the juvenile court exercised its discretion to change V.S.'s permanency plan to adoption by a non-relative. This ruling was not "well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *In re Adoption of Cadence B.*, *supra*, 417 Md. at 155-56 (2010) (quoting *Yve S.*, *supra*, 373 Md. at 584-85)). Rather, the record reflects that the juvenile court carefully considered the evidence before it when determining that modifying the permanency plan was in V.S.'s best interest. We hold that the juvenile court did not abuse its discretion by determining that it was in V.S.'s best interest for her permanency plan to be changed to a sole plan of adoption. Accordingly, we affirm.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, SITTING AS A JUVENILE COURT, AFFIRMED. COSTS TO BE PAID BY APPELLANT.