Circuit Court for Baltimore County
Case No. C-03-JV-22-000905

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 562

September Term, 2023

IN RE: R.N.

Friedman,
Ripken,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Sharer, J.

Filed: December 14, 2023

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

In 2020, the Circuit Court for Baltimore County, sitting as the juvenile court, found R.N., minor child of S.N. ("Mother") and R.E. ("Father"), to be a child in need of assistance ("CINA") and ordered that R.N. be placed in the care and custody of the Baltimore County Department of Social Services (the "Department"). In 2023, the juvenile court terminated Mother's and Father's parental rights. Mother and Father each noted an appeal from that decision, with Mother presenting a single question for our review and Father presenting nine questions for our review.[1] For clarity, we have combined all questions into a single issue:

Did the juvenile court err in terminating Mother's and Father's parental rights?

[1] In his brief, Father asserts:

1. The trial court erred by failing to make specific findings as to the extent, nature and timeliness of services offered by DSS to Father to facilitate a reunion of the Child with Father.

2. The trial court's findings that DSS offered meaningful services and that Father failed to maintain contact are clearly erroneous.

3. The trial court erred in weighing the lack of [a] service agreement against Father.

4. The trial court erred in finding that Father failed to maintain regular contact with the Child.

5. The trial court erred by finding that Father's participation in drug and mental health rehabilitation was tantamount to a disability and rendered him unable to care for the Child for a long period of time.

6. The trial court erred by finding that no additional services would be likely to bring about a lasting parental adjustment so that the Child could be reunited with Father.

7. The trial court erred in finding that Father committed a crime of violence against Mother.

8. The trial court erred by failing to consider the feelings of the Child and emotional ties with the parents.

9. The trial court erred by finding that Father was unfit to remain Child's parent and that exceptional circumstances existed that would make Father's retention of custody rights detrimental to the Child.

10. Father adopts by reference all arguments presented by Appellant Mother.

For reasons to follow, we hold that that the juvenile court did not err. We therefore affirm the court's judgment.

BACKGROUND

Mother has three children: N.N., born in 2017; H.N., born in 2019; and R.N., born on November 20, 2020. Only R.N. was fathered by Father.

The Department has been involved with Mother since the birth of her first child, N.N., in 2017. At the time, the Department had concerns about Mother's "ability to care for the child including substance abuse, domestic violence, and cognitive limitations." During its subsequent investigation, the Department developed additional concerns regarding N.N.'s eating and failure to gain weight. The Department also received reports that Mother was hearing voices and having negative thoughts that included harming N.N. N.N. was ultimately declared a CINA. In January 2019, the juvenile court granted custody and guardianship of N.N. to relatives.

Shortly thereafter, Mother's second child, H.N., was born. H.N. was immediately sheltered to the Department and placed in a foster home. The Department noted concerns regarding the presence of mold and lead paint in Mother's home. The Department also noted that Mother had been diagnosed with schizoaffective disorder. Mother subsequently completed a "fitness to parent assessment" with a licensed psychologist, who reported that Mother exhibited "cognitive limitations," including a "lack of insight" and a "lack of adequate knowledge of parenting practices[.]" It was recommended that Mother continue receiving "individual supportive psychotherapy" but not "insight-oriented psychotherapy"

due to her "cognitive limitations." It was also recommended that Mother "receive one-on-one parenting support where a provider could model appropriate parenting practices[.]"

Following her completion of the assessment, Mother switched mental health providers. Mother did not provide the Department with the requisite release of information.

November 2020 – R.N.'s birth and subsequent placement in shelter care

In November 2020, R.N. was born. At the time, R.N.'s father was listed as "unknown."

Immediately after R.N.'s birth, the Department received a report that R.N. was born substance-exposed due to Mother "testing positive for marijuana at delivery" and having tested positive for marijuana "throughout her pregnancy." A few days later, but before R.N. was discharged from the hospital, the Department requested that R.N. be placed in shelter care. That request was granted on November 25, 2020. Two days later, R.N. was released from the hospital and placed in a foster home with Mr. and Ms. H. (hereinafter the "Foster Parents"), who were also caring for R.N.'s sibling, H.N.

December 2020 – R.N. declared a CINA

In conjunction with its shelter care request, the Department filed a petition asking that R.N. be declared a CINA. In that petition, the Department alleged, *inter alia*, that Mother had testified positive for marijuana during her pregnancy with R.N.; that Mother had prior contacts with the Department regarding her other two children; that Mother had demonstrated "limited knowledge and unrealistic expectations" and was resistant to cooperating with the Department; and that Mother had failed to complete a court-ordered substance abuse evaluation.

Subsequent to the filing of its CINA petition, the Department received a report from Mother indicating that her home had passed a lead inspection. The Department visited the home the following day and noted that the home did not have any visible mold and that it "met minimal standards." The Department also noted that Mother, during a recent meeting with the Department, had agreed to complete a substance abuse assessment. The Department noted, however, that it was not able to verify Mother's treatment because she refused to sign a release of information. The Department noted that, while Mother's engagement in therapy was critical, Mother's willingness to share her therapeutic progress with the Department was equally critical because the Department needed to "assess risk and safety for the newborn baby[.]" The Department explained that "[d]ue to [Mother's] diagnosis, which has included auditory hallucinations, partnering with providers is essential to supporting the family and managing the high risks associated with caring for a new baby." The Department explained further that, without an active release of information, the Department was unable "to collaborate with mental health providers, which allows the Department to monitor the safety risks by ensuring that appropriate services are being provided to [Mother]." The Department noted that, although all of those concerns had been communicated to Mother, Mother nevertheless continued to refuse to share information with the Department.

On December 21, 2020, the juvenile court sustained the allegations in the Department's petition and declared R.N. to be a CINA. The court ordered that R.N. be placed in the custody of the Department. R.N. thereafter remained in the care of the Foster Parents. R.N.'s paternity remained listed as "unknown."

July 2021 – CINA review hearing

In July 2021, the court held a review hearing. Prior to that hearing, the Department prepared multiple reports outlining the Department's findings to date. According to those reports, R.N. was "a very happy and healthy baby" and appeared "well-adjusted" in the care of the Foster Parents. The Department noted no concerns regarding the Foster Parents' care of R.N. R.N.'s father remained listed as "unknown."

As to Mother, the Department found that her "mental health concerns and cognitive limitations present significant safety concerns for parenting young children." During her visits with R.N. and H.N., Mother exhibited a "lack of interest in engaging with [R.N.]" and sometimes yelled or lashed out at H.N. During one visit, Mother "became aggressive with [H.N.] and did not engage with [R.N.] throughout the visit." In addition, Mother showed a "distrust in the Department" and exhibited "a pattern of being verbally abusive towards others[,]" including members of the Department and the Foster Parents. The Department found Mother to be uncooperative, noting that she was "resistant to any agency intervention" and had "refused to sign release of information forms" regarding her mental health. The Department further noted that it had received a report that Mother was residing with Father, with whom she had "a history of domestic violence[.]"

On July 7, 2021, the juvenile court entered a "Review Hearing Order," in which the court found that returning R.N. to Mother's care was contrary to R.N.'s welfare. The court ordered that R.N. remain in his current placement and that his permanency plan be one of reunification with Mother. The court found that the services provided by the Department during that review period had been "reasonable."

In October 2021, Mother consented to the termination of her parental rights to R.N.'s sibling, H.N., and the Department was granted guardianship. H.N. was later adopted by the Foster Parents.

January 2022 – CINA review hearing

In January 2022, the court held another review hearing. Prior to that hearing, the Department prepared a report outlining the Department's findings to date. The Department noted that R.N. was "very happy and healthy" and that he was adjusting well in the Foster Parents' care. R.N.'s paternity remained listed as "unknown."

As to Mother, the Department remained "concerned regarding [Mother's] mental health[,]" and the Department noted that Mother continued "to refuse to sign a release of information form to allow the Department to collaborate with her therapist[.]" The Department found that Mother exhibited a "lack of receptiveness to interventions offered" and that she frequently became "argumentative and confrontational[.]" The Department noted that, while Mother had been "consistent with attending visitation" with R.N., she continued to exhibit a lack of appropriate parenting behavior. During one visit, Mother tried to feed candy to R.N. despite pleas from the Foster Mother and a Department worker that such food was not appropriate for a child so young. At the conclusion of the visit, Mother refused to return R.N. to the Foster Mother's care, prompting intervention from nearby security.

On January 28, 2022, the juvenile court entered a "Permanency Planning Review Hearing Order," in which the court found that returning R.N. to Mother's care was still contrary to R.N.'s welfare. The court ordered that R.N. remain in his current placement

and that his permanency plan be one of reunification with Mother concurrent with adoption by a non-relative. The court found that the services provided by the Department during that review period had been "reasonable."

June 2022 – CINA review hearing

In June 2022, the court held another review hearing. Prior to that hearing, the Department prepared a report outlining the Department's findings to date. The Department noted that R.N. was still "very happy and healthy" in the Foster Parents' care.

As to Mother, the Department found that her "mental health concerns and cognitive limitations present significant safety concerns for parenting young children[,]" that she had "unrealistic expectations due to her lack of understanding of the stages of child development and age-appropriate behaviors for children[,]" and that she "lacks empathy for her children" and "becomes fixated on her own wishes/perceived rights[.]" The Department also found that Mother was "aggressive and argumentative with DHS staff[,]" that she continued to refuse to sign release of information forms, and that she was "defensive" when the Department spoke to her about her behavior. The Department noted that visitations during that period had been "challenging" due to Mother "growing increasingly agitated, uncooperative and aggressive" with Department staff. The Department expressed concerns about Mother's "lack of awareness of appropriate child development/ways to engage a young child" during visitations, and the Department found that Mother "frequently makes inappropriate statements, is verbally aggressive, name calls and escalates during visits." The Department noted that it had to temporarily suspend Mother's visitation following an incident in which, during a visitation, a Department

worker advised Mother not to feed R.N. too many snacks. Mother "began to yell and curse" at the worker and was eventually asked to leave the building. On her way out of the building, Mother damaged some property.

Also in its report, the Department recognized, for the first time, that Father was R.N.'s biological father, a finding confirmed by paternity testing. The Department noted that Father had been incarcerated since 2021 "due to Second Degree Assault and Violation of Probation charges."

On June 24, 2022, the juvenile court entered an order finding that returning R.N. to Mother's care was still contrary to R.N.'s welfare. The court again ordered that R.N. was to remain in his current placement and that his permanency plan was to be one of reunification with Mother concurrent with adoption by a non-relative. The court found that the services provided by the Department during that review period had been "reasonable."

November 2022 – CINA review hearing

In November 2022, the court held another review hearing. Prior to that hearing, the Department prepared a report outlining the Department's findings to date. The Department noted that R.N. was still "very happy and healthy" in the Foster Parents' care.

As to Mother, the Department noted that she "had limited contact with the Department during this review period" and that the Department had attempted to contact her multiple times without a response. The Department remained concerned about Mother's mental health issues and ability to parent R.N.

Moreover, the Department noted that various communications had been sent to Father and that Father had been told about the importance of keeping in contact with the

Department and making sure his contact information was up-to-date. Father reportedly assured the Department that he "would do whatever he needed to do."

On November 28, 2022, the juvenile court entered an order finding that returning R.N. to Mother's care was still contrary to R.N.'s welfare. The court again ordered that R.N. was to remain in his current placement and that his permanency plan was to be one of reunification with Mother concurrent with adoption by a non-relative. The court found that the services provided by the Department during that review period had been "reasonable."

December 2022 – Petition for guardianship

On December 20, 2022, the Department filed a petition for guardianship with the right to consent to adoption of R.N. The Department alleged that neither Mother nor Father was able to care for R.N. and that it was in R.N.'s best interest that he be adopted.

May 2023 – Guardianship hearing

In May 2023, the juvenile court held a hearing on the Department's guardianship petition. At that hearing, the court accepted into evidence a packet of documents related to the case, which included the various orders entered by the court and the reports prepared by the Department since R.N. was placed in shelter care. The court also heard testimony from Father, Mother, R.N.'s foster mother, and Gina Malphrus, an adoption social worker with the Department.

Father testified that he was incarcerated from December 2020 to May 2021, from July 2021 to May 2022, and from October 2022 to May 2023. Father stated that the first prison sentence was imposed after he was found guilty of committing second-degree

assault against Mother. Father testified that he went back to prison in July 2021 for violating his probation. Father first learned that he was R.N.'s father in or around May 2022.

Father testified that, in May 2022, he "tried" to contact the Department "multiple times" and ended up speaking with someone "a couple times about visitation[.]" Father insisted that, aside from those conversation, the Department "didn't contact [him] again" and "didn't [leave him] no voice mails or nothing." Father also insisted that he kept the Department informed about where he had been living.

Father admitted that he "had a problem with substances" in the past, but he claimed that he had been clean since November 2019. Father testified that he was currently living in a home that was part of "a rehabilitation mental health program." Father stated that he planned to be enrolled in that program for "[s]ix months to a year" and that, during that time, he was not a placement resource for R.N.

Father testified that he was present "the whole way" during Mother's pregnancy with R.N. and that it was his intention to be R.N.'s father. Father testified that he was also present in the hospital when R.N. was born. Father testified that he "had an assumption" that he was R.N.'s father and that he "loved him like he was my own even then." Father admitted that he had not seen R.N. since November 24, 2020.

Gina Malphrus, an adoption social worker with the Department, testified to the Department's engagement with Mother since R.N.'s birth. Ms. Malphrus testified that the relationship had been "very combative" and that Mother had "not been cooperative with the Department[.]" Ms. Malphrus testified that the Department had drafted several service

agreements but that Mother had been unwilling to review and sign the agreements. Ms. Malphrus testified that the Department had also asked Mother for information about her employment but that Mother had failed to provide it. Ms. Malphrus reported that, while Mother did participate in mental health treatment, she was unwilling to sign any releases so that the Department could assess whether it was safe to place R.N. in Mother's care.

Ms. Malphrus testified that, beginning in May 2022, there had been "little to no contact" from Mother. Ms. Malphrus testified that the Department had sent Mother multiple requests to meet to discuss the case, but each time Mother had either refused or failed to respond. Ms. Malphrus reported that Mother contacted the Department in November 2022 and "demanded weekly and unsupervised visitation" with R.N. Ms. Malphrus testified that Mother had not contributed financially to the care of R.N.

Ms. Malphrus also testified to the Department's engagement with Father since R.N.'s birth. Ms. Malphrus stated that Father had not contributed financially to the care of R.N. or even seen R.N. since he was placed in shelter care in November 2020. Ms. Malphrus reported that, after Father's paternity was established in May 2022, the Department sent him a copy of the paternity results and release of information so that he could complete a mental health and substance abuse evaluation. The Department also provided Father with a letter on how to obtain an attorney. According to Ms. Malphrus, the Department attempted to contact Father "several other times with no response." Ms. Malphrus testified that a letter was sent in August 2022 that was returned undeliverable. Ms. Malphrus testified that another letter was sent to Mother's address in December 2022, but Father did not respond. Ms. Malphrus stated that "all attempts to contact [Father]

regarding service planning and visitation" were unsuccessful "due to his lack of response." Ms. Malphrus confirmed that both she and another social worker with the Department spoke with Father in 2022 and provided him with the contact information of R.N.'s assigned social worker, Ms. Hill. According to Ms. Malphrus, Father "has yet to be in contact" with Ms. Hill. Ms. Malphrus added that, according to the Department's records, Ms. Hill "did not receive any missed phone calls or voice mails" from Father.

As to R.N., who was approximately two and a half years old at the time of the hearing, Ms. Malphrus testified that he was "thriving" under the care of the Foster Parents, who were "the only family he has ever known," and that R.N. had adjusted well to the home and the community. Ms. Malphrus testified that R.N. did not appear to have any emotional ties with Mother, whom he had not seen in approximately one year. Ms. Malphrus stated that Father, whom R.N. had never met, "would be a stranger to him."

Mother testified that she currently lived with her mother and was employed. Mother admitted that she had not visited with R.N. since May 2022. Mother stated that, prior to that time, she regularly attended visits, and that during those visits she held R.N. and "brought him treats[.]" Mother testified that, although she played with R.N. during some of the visits, "a lot of times" she did not because the Department worker supervising the visits "would always start fights[.]" Mother explained that the Department worker would tell her not to hold or feed R.N., which made her angry. She also denied the Department's claim that she damaged property during one visit. Mother insisted that she tried to cooperate with the Department. Mother stated that she did not sign any service agreements or release of information forms because the service agreements were "tampered" and

because she did "not trust the Department." Mother insisted that her only mental health issues were anxiety and depression.

Court's findings

At the conclusion of the hearing, the juvenile court made express findings based on § 5-323 of the Family Law Article ("FL") of the Maryland Code, which sets forth the factors a court must consider in ruling on a petition for guardianship. As the court noted, the primary factor a court must consider is "the health and safety of the child[.]" FL § 5-323(d). The other factors are arranged by topic and include various subfactors. *Id.* The topics are: (1) the services provided by the Department to achieve reunification of child and parent; (2) the parent's efforts in adjusting his or her behaviors so that the child can return home; (3) the existence of certain aggravating circumstances, such as abuse or neglect; and (4) the child's emotional well-being. FL § 5-323(d).

a. Services offered by the Department

With respect to Mother, the court noted that she had been receiving a variety of services "over a period of time extending far beyond [R.N.]" The court noted that those services included home visits, substance abuse referrals, and mental health referrals. The court found that the extent and nature of the Department's efforts was "appropriate." The court also found that the services "had been made problematic by [Mother's] outright distrust of the Department[.]" The court noted that Mother had refused to sign a service agreement with the Department.

As to Father, the court found that ascertaining the nature and extent of services offered to him was "problematic" because, while he was present during R.N.'s birth, he

had not had any contact with R.N. since that date and had only recently been definitively established as R.N.'s father. The court also noted that Father had been incarcerated or in rehabilitation for a significant portion of that time. The court concluded: "I think the Department has offered him services." The court noted that Father claimed that he had contacted the Department and left messages. The court determined that to be "an open question[.]" The court noted that Father and the Department had not entered into a service agreement due to Father's issues in connecting with the Department. The court found that Father's "failure to see [R.N.]" was "indicative of his falling down on the job as far as trying to work with [the Department] in that regard."

b. Parents' efforts toward reunification

The court noted that R.N. was two and a half years old and had been in placement for almost his entire life. The court noted that, while Mother had regularly visited with R.N. following his placement, she had not visited with him in over a year. The court found that Mother was "both combative and uncooperative" and that she had refused to sign any agreements or releases of information. The court found that Mother's inability and lack of desire to cooperate with the Department made it unlikely that additional services would make a difference. The court found that there was no evidence Mother contributed to R.N. financially, but recognized that there was little to no evidence that Mother had been gainfully employed since R.N.'s birth.

As to Father, the court noted that Father had never visited with R.N. The court found that, while there had been "some phone calls back and forth" between Father and the Department, there had been "zero follow through" on the part of Father. As with Mother,

the court found that there was no evidence that Father contributed to R.N. financially or that he had been gainfully employed since R.N.'s birth. The court found that there was no evidence that Father suffered from a specific disability. The court did note, however, that Father would be in a treatment facility for six months to a year and that, consequently, Father would be unable to care for R.N. for at least another six months.

c. The existence of certain aggravating circumstances

The court found that it did not have any direct evidence of abuse or neglect. The court did note that Mother's two other children were no longer in her care. The court also noted that Mother had tested positive for drugs at R.N.'s birth. The court found that Father had been convicted of second-degree assault and had been incarcerated.

d. The child's emotional well-being

The court found that R.N. had "blended very nicely" with the Foster Parents. The court found that the evidence suggested that R.N. was "thriving and doing extraordinarily well[.]" The court noted that R.N.'s sibling, H.N., was also under the care of the Foster Parents. The court noted that R.N.'s current home was, according to Ms. Malphrus, "the only home he's known." The court concluded that severing that relationship would be "deleterious to [R.N.'s] psyche in pretty much every single way[.]"

Court's ruling

Based on those findings, the juvenile court granted the Department's guardianship petition and terminated Mother's and Father's parental rights. The court concluded that there were "exceptional circumstances" that made terminating the parental rights in R.N.'s best interest. The court found that R.N. had bonded well with the Foster Parents, that he

was thriving in their care, and that they appeared to be a good long-term resource for R.N. The court noted that Father had "zero contact" with R.N. "other than the first few days of his life" and that Father would not be available as a resource for at least another six months to a year. The court noted that Mother had not seen R.N. in a year, and found that Mother had "refused to make any changes" and had "not made the sacrifices" necessary to make reunification viable. The court noted that neither parent had shown the ability to provide for R.N. The court found that the "lack of permanency" in R.N.'s life was detrimental to his best interest.

The court also found that both parents were unfit to remain in a parental relationship with R.N. The court noted that Mother had exhibited "a complete unwillingness" to work with the Department and had, as a result of her distrust of the Department, refused to visit with R.N. The court found that Mother's behavior at her visits with R.N., which included "screaming in the child's face" and "making things difficult on the child[,]" was evidence that Mother viewed R.N. like "a property right[.]" As to Father, the court found that the finding of unfitness was primarily due to Father's lack of contact with R.N. The court also found that, while Father's incarceration made contact with R.N. difficult, Father's behavior that caused the incarceration was "well within his control[.]" The court found that Father's failure in that regard "put him in a position where he's not a fit parent for this child."

DISCUSSION

Parties' contentions

Mother and Father have each filed an appeal from the juvenile court's order terminating their parental rights. Although each party presents distinct arguments, both

raise the same general contention, namely, that the court erred in terminating their respective parental rights.

The Department argues that the court acted within its broad discretion in reaching its decision. The Department contends that the court properly considered the relevant statutory factors and correctly found that severing the parental relationship was in R.N.'s best interest.

As discussed in greater detail below, we hold that the juvenile court did not err in terminating Mother's and Father's parental rights. Following that discussion, we will address Mother's and Father's individual arguments.

Standard of review

"'Maryland appellate courts apply three different but interrelated standards of review' when reviewing a juvenile court's decisions at the conclusion of a termination of parental rights proceeding." *In re Adoption/Guardianship of C.E.*, 464 Md. 26, 47 (2019) (quoting *In re Adoption/Guardianship of Cadence B.*, 417 Md. 146, 155 (2010)). First, any factual findings made by the court are reviewed for clear error. *Id.* Second, any legal conclusions made by the court are reviewed *de novo*. *Id.* Finally, if the court's ultimate conclusion is "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 Adoption/Guardianship of Ta'Niya C.*, 417 Md. 90, 100 (2010) (quotation marks and citations omitted). "A decision will be reversed for an abuse of discretion only if it is 'well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.'" *In re J.J.*,

231 Md. App. 304, 345 (2016) (further quotation marks and citation omitted) (quoting *In re Yve S.*, 373 Md. 551, 583-84 (2003)).

Analysis

"Parents have a fundamental right under the Fourteenth Amendment of the United States Constitution to 'make decisions concerning the care, custody, and control of their children.'" *In re C.E.*, 464 Md. at 48 (quoting *Troxel v. Granville*, 530 U.S. 57, 66 (2000)). Moreover, "there is 'a presumption of law and fact [] that it is in the best interest of children to remain in the care and custody of their parents.'" *In re Adoption/Guardianship of H.W.*, 460 Md. 201, 216 (2018) (quoting *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 495 (2007)). Nevertheless, parental rights are not absolute, and the presumption in favor of preserving those rights may be rebutted "'by a showing that the parent is either unfit or that exceptional circumstances exist that would make the continued relationship detrimental to the child's best interest.'" *Id.* at 217 (quoting *In re Rashawn H.*, 402 Md. at 498). "When it is determined that a parent cannot adequately care for a child, and efforts to reunify the parent and child have failed, the State may intercede and petition for guardianship of the child pursuant to its *parens patriae* authority." *In re C.E.*, 464 Md. at 48. "The grant of guardianship terminates the existing parental relationship and transfers to the State the parental rights that emanate from a parental relationship." *Id.*

Before terminating parental rights, the juvenile court must consider the factors set forth in § 5-323(d) of the Family Law Article of the Maryland Code. *In re Adoption/Guardianship of C.A. & D.A.*, 234 Md. App. 30, 48 (2017). Under that statute, "a juvenile court shall give primary consideration to the health and safety of the child and

consideration to all other factors needed to determine whether terminating a parent's rights is in the child's best interests[.]" FL § 5-323(d). Those "other factors" are: (1) the Department's efforts in providing services, including the extent, nature and timeliness of those services and the extent to which the Department and parent had fulfilled their obligations under a service agreement; (2) the parent's efforts at reunification, including the extent to which the parent had maintained contact with the child and the Department, the parent's contribution to the child's care, the existence of a parental disability that would make the parent consistently unable to care for the child, and whether additional services would make it feasible for the child to be returned to the parent's care within 18 months of placement; (3) certain aggravating circumstances, such as whether the parent had abused or neglected the child, whether the mother or child had tested positive for a drug at birth, whether the parent had been convicted of a crime of violence against the child or other parent, and whether the parent had involuntarily lost parental rights to the child's sibling; and (4) the child's emotional well-being, including the child's feelings toward the parent and significant others, the child's adjustment to their current placement, the child's feelings about severing the parental relationship, and the impact that such an act would have on the child's well-being. FL § 5-323(d)(1)-(4). If, after considering those factors, the court "finds by clear and convincing evidence that a parent is unfit to remain in a parental relationship with the child or that exceptional circumstances exist that would make a continuation of the parental relationship detrimental to the best interests of the child[,]" the court may terminate the parental relationship and grant guardianship of the child to the Department. FL § 5-323(b).

Here, the juvenile court considered and discussed each of the above factors and made specific findings for both Mother and Father. As to the Department's efforts in providing services, the court found that Mother had been receiving "appropriate" services for several years, including substance abuse and mental health referrals, and that the Department's efforts were hindered by Mother's refusal to sign a service agreement or work with the Department. For Father, the court found that ascertaining the nature and extent of services was problematic due to Father's lack of communication with the Department. The court nevertheless concluded that the Department had "offered him services." The court also concluded that Father's "failure to see [R.N.]" was "indicative of his falling down on the job as far as trying to work with [the Department] in that regard." The court found that, while Father's incarceration made contact with R.N. difficult, the behavior that caused the incarceration was "well within his control[.]" The court found that Father's failure in that regard "put him in a position where he's not a fit parent for this child."

As to the parent's efforts at reunification, the court noted that Mother had not visited with R.N. in over a year and that Father had "zero contact" with R.N. "other than the first few days of his life." The court found that neither party had contributed to R.N. financially or shown the ability to be consistently employed. The court also found that neither party was likely to benefit from additional services. The court found that Mother had been "combative and uncooperative" with the Department, that she had "refused to make any changes[,]" and that she had "not made the sacrifices" necessary to make reunification viable. As to Father, the court found that he had exhibited "zero follow through" in availing

himself of available services. The court found that Father's failure in that regard "put him in a position where he's not a fit parent for this child." The court also noted that Father would be in a treatment facility for six months to a year and that, consequently, he would be unable to care for R.N. for at least that amount of time.

As to the existence of aggravating circumstances, the court noted that Mother's two other children, N.N. and H.N., were no longer in her care. The court also noted that Mother had tested positive for drugs at R.N.'s birth and that Father had been convicted of second-degree assault against Mother.

As to R.N.'s emotional well-being, the court found that he had "blended very nicely" with the Foster Parents and that he was "thriving and doing extraordinarily well[.]" The court noted that R.N.'s sibling, H.N., was also under the care of the Foster Parents and that the Foster Parents appeared to be a good long-term resource for R.N. The court found that severing R.N.'s relationship with the Foster Parents would be "deleterious to [R.N.'s] psyche in pretty much every single way[.]" The court found no such effect with respect to severing the parental relationship. The court found, rather, that R.N. "has really no ties" to Father and "very little ties" to Mother. The court found that the "lack of permanency" in R.N.'s life was harmful to his best interest.

Based on those findings, the court applied the clear and convincing standard and concluded that there were exceptional circumstances that made continuing Mother's and Father's parental rights detrimental to R.N.'s best interest. The court also concluded that both parents were unfit to remain in a parental relationship with R.N.

Against that backdrop, we hold that the court did not err in terminating Mother's and Father's parental rights. The court methodically and comprehensively analyzed the requisite statutory factors, made findings based on those factors that were not clearly erroneous, and applied the correct legal standard in reaching its ultimate conclusions. Moreover, the court's findings provided ample evidence from which it could conclude that terminating Mother's and Father's parental rights was in R.N.'s best interest. Despite the Department's approximately six-year effort to provide reasonable services to Mother since the birth of her first child, Mother continually exhibited an overall unwillingness to make the necessary changes and to avail herself of even the most basic services to facilitate reunification between her and R.N. Father exhibited a similar apathy, waiting until R.N. was 18 months old before contacting the Department, even though Father was present during R.N.'s birth and believed that he was R.N.'s father. Throughout the entirety of R.N.'s life, virtually all of which was spent in the care and custody of the Foster Parents, Mother and Father contributed virtually nothing financially, physically, or emotionally to support him. In the year leading up to the guardianship hearing, neither parent visited with R.N., and neither parent made any discernible effort to communicate with the Department or foster a meaningful relationship with R.N. By the time of the guardianship hearing, R.N., then two and a half years old, had practically no relationship or emotional ties with Mother and Father. Meanwhile, R.N. was thriving in the Foster Parents' care, and he had developed such a strong bond with them that the court found that severing that relationship would be "deleterious to [R.N.'s] psyche in pretty much every single way[.]"

Given those circumstances, we are convinced that the court acted within its discretion in finding Mother and Father unfit to remain in a parental relationship with R.N. and in finding that there were exceptional circumstances that made continuing the parental relationship detrimental to R.N.'s best interests.

Mother's arguments

A.

Mother argues that the court erred in finding her unfit. Mother insists that she "had addressed the [D]epartment's concerns" leading up to the guardianship hearing and that the court's basis for finding her unfit "was entirely connected to her 'complete unwillingness' to work with the [D]epartment and her 'total mistrust.'" Mother argues that the court's finding was erroneous because it ignored "any harm or danger to [R.N.]" and "her ability to complete the requested tasks." Mother also argues that her "distrust" of the Department was reasonable because the Department "constantly tried to monitor, invade, and control her life without providing any meaningful help in reunifying with [R.N.]" Finally, Mother argues that, even if she could have been considered unfit at the time of the hearing, the Department was required, and failed, to prove that she was unable to parent effectively in the near future.

We are not persuaded by Mother's arguments.[2] The Department's primary concerns regarding Mother's fitness as a parent were her mental health deficits, which purportedly

[2] Mother also claims that the court erred in relying on its finding that R.N. had a positive toxicology test at birth. Mother did not provide a record cite for that claim, and our review of the record revealed no such finding. At one point, the court did quote FL § (continued…)

included schizoaffective disorder accompanied by auditory hallucinations, and her failure to exhibit appropriate parenting behavior. The Department made those concerns clear to Mother from the very beginning, and the Department also made clear that Mother needed to work with the Department to ensure that the concerns were being addressed. Rather than recognizing those concerns and accepting the Department's assistance in rectifying the deficiencies that necessitated the Department's intervention in the first place, Mother did the opposite, refusing virtually all of the Department's assistance and requests for information and exhibiting increasingly erratic and troublesome behavior throughout her visits with R.N. Mother's refusal to make changes in her behavior and her refusal to work with the Department was clearly to the detriment of R.N., and Mother ultimately stopped visiting with R.N. and stopped responding to communications from the Department in May 2022. When the guardianship hearing was held in May 2023, Mother had not seen R.N. in a year, and the only communication she had with the Department during that time was an email she sent in November 2022 in which she "demanded weekly and unsupervised visitation" with R.N. Even at the hearing, Mother refused to accept any responsibility for her behavior, insisting that the Department was "always start[ing] fights[.]" Mother also refused to accept the Department's mental health assessment, insisting instead that she suffered only from anxiety and depression. The juvenile court therefore had ample

5-323(d)(3)(ii)(B), which states that one factor the court should consider is whether "the child tested positive for [a] drug as evidenced by a positive toxicology test[.]" Although the court referred to that factor as "relevant," the court did not make any express finding that R.N. had in fact tested positive for a drug.

evidence to find that Mother was presently unfit and that she was unlikely to be able to parent effectively in the future.

B.

Mother next argues that the Department failed to offer or provide appropriate services. Mother notes that the Department had alleged, in 2019, that she suffered from "cognitive limitations[.]" Thus, Mother argues, "the [D]epartment's reasonable efforts should have included services to accommodate those needs." Mother insists that the Department "plainly did not initiate personalized or tailored services . . . related to her low cognitive functioning[.]"

We are not persuaded by Mother's claims. To be sure, when a juvenile court considers the services provided by the Department, the court should be mindful that a reasonable level of those services must be "designed to address both the root causes and the effect of the problem[.]" *In re Rashawn H.*, 402 Md. at 500. That said, the Department's efforts "need not be perfect, but are judged on a case-by-case basis." *In re H.W.*, 460 Md. at 234 (internal citation omitted). Moreover, the Department "need not expend futile efforts on plainly recalcitrant parents[.]" *In re James G.*, 178 Md. App. 543, 601 (2008). In short, although the Department must provide reasonable assistance in helping a parent ameliorate the impediments to reunification, the Department's "duty to protect the health and safety of the children is not lessened and cannot be cast aside if the parent, despite that assistance, remains unable or unwilling to provide appropriate care." *In re Rashawn H.*, 402 Md. at 500-01.

Here, as noted, the primary impediments to reunification were Mother's mental health deficits and her failure to exhibit appropriate parenting behavior, the latter of which was exacerbated by Mother's cognitive limitations. For years the Department sought to work with Mother's mental health provider to assess how her mental health issues affected her parenting abilities, yet Mother consistently and categorically refused to give the Department access. Over the same period, the Department provided various resources to teach Mother appropriate parenting behaviors, including installing a parent aide who would model safe parenting practices during Mother's visits with R.N. As with the Department's requests for mental health information, Mother flatly refused to comply, oftentimes fighting with the parental aide and, on one occasion, even destroying property when the aide attempted to assist Mother during a visit. After Mother stopped visiting with R.N. in May 2022, the Department attempted to contact Mother to provide services, yet Mother failed to respond. It is clear, therefore, that whatever additional efforts Mother believes were lacking would have been futile.

C.

Mother's final claim is that the court erred in finding that there were exceptional circumstances that made severing the parental relationship in R.N.'s best interest. Mother argues that the court erred in relying on her lack of contact with R.N. over the previous year because the passage of time alone is not sufficient to constitute exceptional circumstances. Mother also argues that the court erred in focusing on R.N.'s need for permanency. Finally, Mother contends that the court's other considerations, which

included Mother's failure to establish her own housing and the fact that R.N.'s sibling also lived with the Foster Parents, did not constitute exceptional circumstances.

We remain unpersuaded. "In examining whether an exceptional circumstance exists, a juvenile court should look to whether there is a reason to terminate the parental relationship because the best interest of the child is not served through continuing the parental relationship." *In re C.E.*, 464 Md. at 54. That is precisely what the court did here, and there is no indication that the court improperly relied on any one factor or set of factors. As discussed, the court's decision was reasonable in light of the evidence presented, and we see no reason to disturb that decision.

Father's arguments

A.

Father argues that the court erred in failing to make specific findings as to the extent, nature, and timeliness of services offered to Father by the Department. Father argues that the court's lone statement that the Department had "offered him services" was insufficient.

Father is mistaken. Although the court did state that the Department had "offered him services," the court explained that the extent and nature of those services was difficult to ascertain given that Father had only recently been definitively established as R.N.'s father. The court noted that Father had also been incarcerated or in rehabilitation for a time, and that Father had failed to connect with the Department since being identified as

R.N.'s father.[3] The court concluded that Father had "fall[en] down on the job as far as trying to work with [the Department] in that regard." Thus, the court did make specific findings as to the extent, nature, and timeliness of services offered to Father.

B.

Father next argues that the court clearly erred in finding that the Department offered him meaningful services and in finding that he failed to maintain contact with the Department. Father notes that those findings were based largely on Ms. Malphrus's testimony, which Father claims was not credible or supported by the Department's records. Father also claims that he "presented credible testimony that he called on various occasions and left messages."

Again, Father is mistaken. As Father readily admits, the disputed findings were supported by Ms. Malphrus's testimony. The court, as the fact-finder, had the right to accept that testimony as credible and to reject any evidence, including Father's self-serving testimony, that may have contradicted Ms. Malphrus's testimony. *See State v. Brooks*, 148 Md. App. 374, 398-99 (2002) (explaining that the "clearly erroneous" standard is concerned "not with the frailty or improbability of the evidentiary base, but with the bedrock non-existence of an evidentiary base").

[3] Born on November 20, 2020, R.N. was 28 months old at the time of the guardianship hearing. Although Father was present at R.N.'s birth, for 22 of the 28 months of R.N.'s life, Father was incarcerated.

C.

Father next claims that the court erred in weighing the lack of a service agreement against him. We disagree. In discussing the statutory factor concerning whether Father and the Department had fulfilled their obligations under a service agreement, the court noted that there was no service agreement due to "issues with regard to [Father] connecting with [the Department]." The court went on to conclude that, while there had been "a back and forth on that[,]" Father's failure to see R.N. was "indicative of his falling down on the job as far as trying to work with [the Department] in that regard."

Clearly, the court was not weighing the lack of a service agreement against Father. Rather, the court merely noted that no service agreement had been entered into due to Father's failure to communicate with the Department. If anything, it was that failure of communication that the court weighed against Father.

D.

Father next claims that the court erred in finding that he was at fault for failing to maintain regular contact with R.N. since R.N.'s birth. Father contends that he should not have been penalized for the time prior to May 2022, before he was definitively established as R.N.'s father. Father contends further that his failure to see R.N. after May 2022 was not entirely his fault given that the Department's efforts at contacting him and providing him services were "dismal."

Again, we are unpersuaded. Father testified that he was present "the whole way" during Mother's pregnancy with R.N., that he was present in the hospital when R.N. was born, and that he intended to be R.N.'s father. Father also testified that he "had an

assumption" that he was R.N.'s father and that he "loved him like he was my own even then." Despite those admissions, Father made no effort to visit with R.N. or contact the Department from November 2020, when R.N. was placed in shelter care, until May 2022, when Father was definitively established as R.N.'s father. Thus, the court had a solid basis on which to fault Father for failing to visit with R.N. prior to May 2022.

As to Father's failure to maintain contact with R.N. after May 2022, the court credited Ms. Malphrus's testimony, which established that, aside from a few initial phone conversations following the establishment of his paternity, Father failed to connect with the Department despite repeated attempts by the Department to contact Father and provide services. Thus, the court likewise had a solid basis on which to fault Father for failing to visit with R.N. after May 2022.

E.

Father next claims that the court "erred by finding that [his] participation in drug and mental health rehabilitation was tantamount to a disability and rendered him unable to care for [R.N.]" The court made so such finding. In discussing the statutory factor regarding whether Father had a disability that rendered him consistently unable to care for R.N., the court stated clearly: "I don't really have testimony of a specific disability." Although the court discussed Father's ongoing participation in drug and mental health rehabilitation, the court did not find that it constituted a "disability." Rather, the court was merely noting that, due to Father's participation in that program, he would be unable to care for R.N. for six months to a year.

F.

Father next claims that the court erred in finding that no additional services would likely bring about a lasting parental adjustment so that Father and R.N. could be reunited. Father again argues that he should not be penalized for the time prior to May 2022 and that the Department failed to make reasonable efforts to contact him after May 2022.

Father's claims are not supported by the record. The specific statutory factor at issue states, in pertinent part, that a court must consider "whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the parent within an ascertainable time *not to exceed 18 months from the date of placement*[.]" FL § 5-323(d)(2)(iv) (emphasis added). The statute further provides that the 18-month time frame may be extended if "the juvenile court makes a specific finding that it is in the child's best interests to extend the time for a specified period[.]" *Id.*

At the time of the guardianship hearing, R.N. had been in placement for two and a half years, well beyond the 18-month time frame. The court expressly recognized that fact and found that extending the time limit was not in R.N.'s best interest. In so doing, the court found that the Department had attempted to provided services to Father and that Father had exhibited "zero follow through" in availing himself of those services. The court also noted that Father would be unable to care for R.N. for at least another six months after the guardianship hearing, which would mean that R.N.'s time in foster care would likely exceed three years. Given those circumstances, we cannot say that the court abused its discretion in finding that it was not in R.N.'s best interest to extend the 18-month time frame.

G.

Father next claims that the court erred in finding that he committed a crime of violence against Mother. Father notes that, under § 14-101 of the Criminal Law Article of the Maryland Code, a "crime of violence" includes first-degree assault but not second-degree assault. Father contends that, because he was only convicted of second-degree assault, the court erred in finding that he had committed a "crime of violence[.]"

Father is correct that, under the statutory factor in which a court must consider whether a parent has been convicted of a "crime of violence" against the other parent, *see* FL § 5-323(d)(3)(iv), the statute defines "crime of violence" in the manner set forth by Father. FL § 5-101(d). Father is also correct that, when discussing that factor, the court noted that he had been convicted of second-degree assault against Mother. Nevertheless, we are not convinced that the court's error, if any, warrants reversal. *See Dep't of Econ. & Emp. Dev. v. Propper*, 108 Md. App. 595, 607 (1996) ("[T]he existence of an unsupported or otherwise erroneous finding of fact does not automatically warrant a reversal."). That finding was one of many relied on by the court in reaching its overall determination that exceptional circumstances existed such that termination of Father's parental rights was in R.N.'s best interest. And, as discussed, those other findings provided ample support for the court's overall determination. Moreover, even if Father's conviction did not constitute a "crime of violence" under the statute, the court was certainly permitted to consider Father's criminal act against Mother in determining the existence of exceptional circumstances. *See In re Adoption/Guardianship No. A91-71A*, 334 Md. 538, 564 (1994) ("[B]ehavior of the natural parent tending to show instability with regard to employment,

personal relationships, living arrangements, and compliance with the law is also relevant to the existence of exceptional circumstances.").

H.

Father next claims that the court erred in failing to make any findings about R.N.'s emotional ties with Father. Father argues further that, even if the court did make sufficient findings in that regard, the court failed to take into consideration the Department's "patent failure" to provided services.

Neither of Father's claims has merit. The court did discuss R.N.'s emotional ties to Father. The court found that R.N. had "no ties" to Father and that Father was essentially a stranger to him. The court also considered the services offered by the Department and found that Father, not the Department, was at fault for any deficiencies in the services provided.

I.

Father's final claim is that the court erred in finding him "unfit" and in finding "exceptional circumstances" to justify terminating his parental rights. In support, Father cites all his prior arguments. For the reasons previously discussed, we find neither error nor abuse of discretion and affirm the court's judgment.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED; COSTS TO BE PAID ONE-HALF BY MOTHER AND ONE-HALF BY FATHER.