Circuit Court for Carroll County
Case No. 06-I-16-005439

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 644

September Term, 2018

IN RE: F.O., H.O. AND S.O.

Berger,
Friedman,
Shaw Geter,

JJ.

Opinion by Berger, J.

Filed: December 13, 2018

In this case, Ms. B. ("Mother"), appellant, has appealed an order of the Circuit Court for Carroll County, sitting as a juvenile court, modifying her daughters' permanency plan in a Child in Need of Assistance ("CINA") proceeding.[1] The Carroll County Department of Social Services (the "Department") has moved to dismiss Mother's appeal as moot. Mother's minor daughters, H.O., F.O., and S.O. (the "children"), joined the Department's motion.

For the reasons that follow, we agree that the issues raised in Mother's appeal are moot. We, therefore, grant the Department's motion to dismiss.

FACTS AND PROCEEDINGS

Mother and Mr. O. ("Father")[2] are the parents of the children. The children resided with Mother until February 16, 2016, when they were placed in emergency shelter care by the Department.[3] An adjudication and disposition hearing was held on March 9, 2016 and April 5, 2016, respectively, and the children were found to be CINA. The juvenile court subsequently ordered that the permanency plan be a concurrent plan of reunification and adoption by a non-relative.

[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 (2013 Repl. Vol.), § 3-801(f)(1)-(2), of the Courts and Judicial Proceedings Article ("CJ").

[2] Father is not a party to this appeal.

[3] Emergency shelter care is "the temporary placement of a child outside of the home before the determination or disposition of CINA status." *In re Ashley S.*, 431 Md. 678, 690 (2013).

On April 12, 2018, after holding a permanency planning review hearing, the juvenile court modified its prior permanency plan and ordered a sole plan of adoption by a non-relative. Thereafter, Mother filed a notice of appeal contending that the juvenile court erred in removing reunification from the permanency plan.

On November 1, 2018, after filing her notice of appeal, Mother conditionally consented to a termination of her parental rights ("TPR") to the children, provided that the children were adopted by their foster parents, Ms. J.T. and Ms. P.H. On the same day, the juvenile court terminated Mother's parental rights to the children and further entered a final decree of guardianship.

MOTION TO DISMISS [4]

The Department and the children contend that Mother's appeal is moot because the juvenile court's guardianship decree and TPR order effectively closed the CINA case. The Department and the children further argue that by consenting to the TPR, Mother has waived her right to challenge the children's permanency plan. We agree.

A case is moot when there is no longer an existing controversy or when there is no longer an effective remedy the Court could grant. *Suter v. Stuckey*, 402 Md. 211, 219 (2007). Only in rare instances will the reviewing court address the merits of a moot case. *Id.* at 220 ("Under certain circumstances, however, [the Court of Appeals] has found it appropriate to address the merits of a moot case . . . [i]f a case implicates a matter of

[4] Mother has not filed any response to this motion to dismiss.

important public policy and is likely to recur but evade review, this court may consider the merits of a moot case.") (citations omitted).

This appeal is moot because there is no effective remedy that we could grant Mother. Even if we were to agree with Mother that the juvenile court erred in modifying the permanency plan, there is no appropriate remedy to order.[5] Indeed, the juvenile court's November 1, 2018 order terminated Mother's duties, obligations, and rights to the children. The juvenile court further entered a final decree of guardianship. Consequently, Mother no longer has the ability to reunify with the children because she is not a "parent" entitled to seek reunification. CJ § 3-823(e)(1) ("At a permanency planning hearing, the court shall . . . [determine whether the plan should be] [r]eunification with the parent or guardian"); CJ § 3-801(t) ("'Parent' means a natural or adoptive parent *whose parental rights have not been terminated*.") (emphasis added).

Moreover, we observe that the Court of Appeals has recognized that an appeal of a permanency plan is ordinarily rendered moot by a subsequent TPR ruling. *See In re Adoption/Guardianship of Jayden G.*, 433 Md. 50, 70-71 (2013) (noting that in a prior Court of Appeals case, "the petitioner's parental rights had been terminated by the juvenile court in the TPR case … [therefore the Court was] addressing an issue that was moot, unless the Court of Special Appeals reversed the TPR ruling.").

For the reasons explained, *supra*, Mother's appeal was rendered moot by the juvenile court terminating Mother's parental rights. Furthermore, this case does not present

[5] We do not suggest in any way that the juvenile court erred.

a circumstance in which we should exercise our discretion to review a moot issue. *Cf. In re Karl H.*, 394 Md. 402, 410-11 (2006). We, therefore, grant the Department's motion to dismiss.

MOTION TO DISMISS GRANTED. COSTS TO BE PAID BY APPELLANT.