Circuit Court for Prince George's County
Case Nos. TPR 16-0008; TPR 16-0009

CHILD ACCESS

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 851

September Term, 2017

IN RE: ADOPTION/GAURDIANSHIP OF M.F. AND A.F.

Wright,
Leahy,
Shaw Geter,

JJ.

Opinion by Leahy, J.

Filed: March 8, 2018

This case involves the consideration of two separate children, M.F. and A.F., who were declared CINA[1] at different points in time due to issues stemming from pervasive and severe mental health suffered by their mother, the appellant in this case ("Mother").[2] In March 2017, the parties appeared for a termination of parental rights (TPR) hearing. In a written opinion detailing its reasoning, the Circuit Court of Prince George's County, sitting as a juvenile court, granted the Prince George's County Department of Social Services' ("Department") petition to terminate Mother's parental rights. Mother noted her timely appeal with respect to both children.

Mother presents two questions for our review,[3] which essentially coalesce into one:

> Whether the juvenile court's findings in support of its decision to terminate Mother's parental rights—in light of her alleged mental health issues—were legally sufficient?

We hold that the court's written findings of fact were legally sufficient to support the termination of Mother's parental rights, and that the court properly considered Mother's

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[1] A "child in need of assistance" is one who requires court intervention because the child has been abused or neglected, or has a developmental disability or mental disorder; and his or her "parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs." Maryland Code (1973, 2013 Repl. Vol., 2017 Supp.), Courts and Judicial Proceedings Article ("CJP"), §3-801(f).

[2] Given the sensitive nature of these proceedings, we have omitted the parties' names to protect their privacy.

[3] Mother presents the following questions in her brief:

1. "Were the lower court's findings in support of its decision to terminate parental rights to M.F. and A.F. legally insufficient?"
2. "Was there insufficient evidence for the TPR court to conclude that the mother suffered from a mental health issue that would prevent her from parenting?"

mental health issues in its determination.

BACKGROUND

Because the circumstances regarding how each child came under the care of the Department differ, we address the background of each child separately before summarizing the March 2017 TPR hearing.

Facts Pertinent to M.F.

In November 2012, Mother gave birth to a healthy girl, M.F., at Prince George's County Hospital.[4] Shortly after giving birth, a psychiatrist at the hospital evaluated Mother after staff members observed her talking to herself and exhibiting other bizarre behavior. The psychiatrist ordered that Mother be placed on psychotropic medication and recommended that she be committed to the psychiatric ward. A Department worker conducted a visit to the hospital on the same day, and after observing Mother, concluded that M.F. should be removed from her care.

Shortly thereafter, Mother appeared before the Circuit Court for Prince George's County, sitting as a juvenile court, for a shelter-care hearing. The Department had initially filed a CINA petition on behalf of M.F., but subsequently moved to dismiss it without prejudice after Mother and the Department entered a safety plan. Under the plan, M.F. would be returned to Mother as long as the maternal grandmother, with whom Mother lived

[4] Mother alleges that S.F., who supposedly lives in Sierra Leonne, is the father of M.F. and A.F. Despite contacting the U.S. embassy in Sierra Leonne on several occasions, the father's identity and whereabouts are still unknown. Because the father failed to appear at the TPR hearing or object to the Department's TPR petition, he has consented to adoption of the children by a non-relative.

at that time, agreed to be responsible for M.F.'s care.

On January 5, 2013, the grandmother called the police to the family home during an argument over who had custody of M.F. According to the grandmother, Mother was attempting to leave the home with M.F. Two days later, a Department worker and a Healthy Start nurse made a visit to check on M.F. The nurse remarked that Mother needed psychiatric treatment, but the grandmother ordered the nurse not to speak about Mother's mental health. When the nurse attempted to show the grandmother how to safely feed M.F., the grandmother refused to follow the nurse's instructions. The Department conducted a follow-up visit to the home, and this time, the grandmother answered the door nude, and refused to clothe herself. After these visits, the Department believed that Mother and the grandmother were incapable of effectively caring for M.F., and filed a CINA petition shortly thereafter. At an adjudication hearing on February 5, 2013, M.F. was declared CINA and the Department was ordered to investigate all potential relatives for possible placement of M.F.

Unfortunately, Mother's mental health issues persisted. During visitation sessions with M.F., Mother's mental health began steadily eroding, as she started exhibiting strange and inappropriate behavior in front of M.F. During one session, police were called after Mother began yelling and accused the Department of failing to care for M.F. As a result, Mother's visitation with M.F. was temporarily suspended. In April of 2013, Mother entered a 10-day partial hospitalization program at Prince George's Hospital Center to address her mental health issues. During this treatment session, Mother was diagnosed with schizophrenia. Near the end of this program, the Department reassessed the issue of

visitation, and resumed visitation between Mother and M.F. During this period, Mother completed a parenting program and submitted to a psychological evaluation with psychologist, Dr. Katherine Graham.

In her evaluation report,[5] Dr. Graham noted that Mother "displayed no insight into why she was at the appointment. [Mother] said that the courts wanted an evaluation but she was not sure why. She also would not disclose why her daughter was in foster care[.]" During the first segment of the evaluation, "[Mother] whispered to herself, especially after answering a question." When Dr. Graham asked Mother "if she was saying something when she engaged in the whispering behavior[,]" Mother responded, "in a threatening manner and tone, 'don't mess with me[.]'" Dr. Graham ultimately concluded that it was "not clear if auditory hallucinations were being experienced by [Mother]."

In her report on Mother's parental capacity, Dr. Graham noted that Mother was in "deep denial of any emotional struggles she may have, which may be why she is unable to be attuned to the emotional needs of [M.F]." When asked about how she tends to M.F.'s emotional needs, Mother responded, "she 'doesn't really have emotions[.]'" Dr. Graham concluded her report by noting that "[a]lthough [Mother] is not believed to be a physical risk to herself or others at [the] present time she does not have adaptive coping skills to adequately parent [M.F.]"

At a permanency plan review hearing in October 2013, the court expressed concern because as of August 2013, Mother stated that she did not have mental health issues, despite

[5] This evaluation was admitted into evidence during the TPR hearing, over Mother's objection.

being diagnosed with schizophrenia in April 2013. The permanency plan continued to be reunification with Mother. Nearly a year later, the court held another permanency plan review hearing and found that there had been virtually no progress made towards reunification because of Mother's failure to address her mental health issues. The court changed the permanency plan to adoption by a non-relative, but ordered that weekly supervised visitation between M.F. and Mother continue.

After a particularly disturbing outburst at a visit on October 27, 2014, the Department filed an emergency motion to modify Mother's visitation with M.F. According to a contact note[6] that a Department worker prepared summarizing the visit, Mother attempted to call M.F. to her during the visit, but each time M.F. "drew away from her[,]" as had become the norm during visits. At the end of the visit, "Mother grabbed [M.F.] and while yelling, demanded a hug and kiss goodbye. [M.F.]'s response was to cry and fight to get away." The visitation worker instructed Mother to release M.F., and the worker "took [M.F.] into his arms." While the worker was holding M.F., Mother began yelling at M.F., and called her a "'f**king little b**ch.'" Mother then "grabbed [M.F.]'s left upper arm an[d] pushed her away." A security officer removed Mother from the room. M.F.'s foster mother arrived shortly afterwards and M.F. "ran in[]to [her] arms."

On January 5, 2015, the juvenile court held a hearing to address the Department's emergency motion. At the hearing, the court found that Mother's mental health treatment

[6] Contact notes are short summaries that Department visitation supervisors write at the end of each session to demonstrate how the parents are progressing and to monitor the reunification process.

was largely ineffective, as her behavior at visitation sessions was "upsetting and violent" and that M.F. had been harmed by the contact with Mother so much so that she had begun to see "Mother not as a source of affection and safety, but rather as a threat." The court additionally found that M.F. "receives no cognizable benefit with regard to the visits[.]" The court recommended suspension of visitation between M.F. and Mother until she was able to receive mental health treatment. Since this hearing, Mother has not been permitted to resume visitation with M.F. as there was no evidence that she received mental health treatment.

The Department then filed a TPR petition in the circuit court. On September 28, 2015, after a hearing on the matter (TPR-15-0006), the court granted the Department's TPR petition on behalf of M.F. After issuing a decree, Mother filed a notice of appeal. Shortly after the notice was filed, the parties reached an agreement to remand the case for further proceedings. On January 14, 2016, the court issued an order to re-open the case and found that M.F. continued to be CINA, Mother continued to be mentally unstable and unable to care for M.F., and the suspension of visitation between Mother and M.F. should continue. At a subsequent permanency planning hearing, the court entered a plan of adoption by M.F.'s current foster mother.

Facts Pertinent to A.F.

In May of 2014, when M.F. was roughly a year-and-a-half old, Mother gave birth to her second child, a baby boy named A.F. Around two months after A.F.'s birth, the Department notified police that a possible CINA was in Mother's care in the family home and needed to be removed pursuant to a court issued custody order. When officers arrived

at the family home, Mother was standing in the front entrance of the home, but she receded into the home and locked the door when officers approached. Police knocked on the door for several minutes, and Mother refused to open the door or respond to requests to open the door. Officers entered the residence through an unlocked window and found Mother lying on a dirty mattress in the basement. They found an infant, later identified as A.F., lying on a concrete floor unattended. Mother began exhibiting violent behavior, and attempted to attack one of the officers. Mother was placed in handcuffs and transported her to Prince George's Hospital Center. The next day, a shelter care hearing was conducted, and A.F. was removed from the care of Mother and placed in the temporary care of the Department. At a subsequent hearing, the court declared A.F. CINA and granted limited guardianship to the Department. The court took notice of Mother's inability to care for M.F. when making its determination as to A.F.

At a subsequent permanency planning hearing, the court found that the Department had begun exploring the possibility of placing A.F. with his aunt and uncle, but attempts to place A.F. in their home were unsuccessful.[7] The court also credited Mother's efforts to pursue a change of mental health treatment, and found that Mother had begun to accept her mental health challenges. The court found that the permanency plan should remain reunification with Mother.

Soon thereafter, however, Mother's mental health issues began to worsen, as

[7] Due to spatial limitations within the aunt and uncle's home, the children were not placed with them.

evidenced by her deteriorating hygiene and general inability to engage with her children during visitation sessions. On March 21, 2016, after a permanency hearing, the court changed A.F.'s permanency plan to adoption by his current foster mother at the time, who was also M.F.'s foster mother.

The TPR Hearing

On July 6, 2016, the Department petitioned the court to terminate Mother's parental rights with respect to M.F. (TPR-16-0008) and A.F. (TPR-16-0009). On March 13, 2017, the parties appeared for the first day of a two-day TPR hearing with regard to both A.F. and M.F.[8] At the beginning of the hearing, the court observed Mother talking to herself while sitting at the trial table. Mother's counsel noted that "[t]here is alleged mental health issues, [sic] I don't think she's going to stop talking[.]"

Several witnesses testified for the Department during the hearing. Ms. Sheila Ramseur-Hannah, a case manager for the Child Protective Services Unit within the Department, testified that on the day M.F. was born, she went to the hospital and met with a social worker and then met Mother. Ms. Ramseur-Hannah recalled that when she arrived, Mother

> was talking to herself as though someone was there. There was no one there in her area. And she made statements to the fact her father was the Board of, sitting on the Board at P.G. County Hospital. She just made at that time statements that just didn't make sense.

During the meeting, Ms. Ramseur-Hannah reported that Mother appeared "agitated" and

[8] At the time of the TPR hearing, Mother had given birth to a third child, Mc. F., who is not part of this appeal.

"was moving around a lot, in and out [of] the room that we were holding the meeting[.]" As a result of that meeting, Ms. Ramseur-Hannah "decided to issue a limited custody [petition] for the child [M.F.] and bring [her] into custody foster care."

With respect to A.F., Ms. Ramseur-Hannah testified that in 2014, she accompanied police to the family home to remove A.F. and place him into the same foster care home as M.F. During this incident, Ms. Ramseur-Hannah. She testified that after the police gained access into the home, "they called me in to come downstairs to a basement area where I saw the baby lying on the bare cement concrete floor and mom was lying on a mattress, on a dirty mattress and she was apprehended by the police." Ms. Ramseur-Hannah also testified that the house was "filthy[.]" One of the police officers who accompanied Ms. Ramseur-Hannah to the family home later corroborated this testimony.

The court then took testimony from Ms. Ebbony Bilo, a case worker from the Department who assists in reunification of foster children with their biological parents. Ms. Bilo testified that Mother's visits with M.F. were "up and down." During some visits, she would "interact[] appropriately with [M.F.]," using age appropriate toys and reading to her. But there were numerous visits where Mother was "disengaged. Talking to herself, mumbling to her fingers, and not being able to interact with [M.F.]." During one particular visit, Mother was observed "sleeping on the floor during the visit, just like in the fetal position, laying down, wasn't engaged with [M.F.] at all."

Regarding the children's adjustment to their foster mother and new home, Ms. Bilo testified that A.F. is "closely [bonded] with his foster parent. His foster mother." Ms. Bilo recalled that she observed A.F. crying as his foster mother attempted to transport him to

the visitation center to spend time with Mother. She also "observed [A.F.] get excited because it's the end of the visit . . . [and] he's going to see [his foster mother]." When asked how A.F. refers to Mother, Ms. Bilo told the court that she would "never hear [A.F.] verbalize anything towards [Mother] as you know, mommy[.]" Ms. Bilo noted, however, that A.F. refers to his foster mother as "mommy."

Mr. McKinney, a visitation and transportation supervisor at the Department, testified as to his involvement with M.F. and A.F. Mr. McKinney testified that during visits, Mother was frequently disengaged from the children and "would sit cross legged on the floor, she would have her head down, she would be whispering into her fist. She'd laugh sporadically." Mr. McKinney told the court that during these sessions, M.F. would either "play by herself or, or come to [him]."

He recalled that Mother had severe anger issues and "would argue against any direction that was given to her about the care of her children or of the rules during the visit." He further testified that during one visit, Mother "threatened to kill me and then she threatened to have her father kill me." At the end of another visit, on October 27, 2014, Mother "attacked [M.F.] while [he] was trying to take [M.F.] out of her lap." Mr. McKinney recalled that Mother was "holding onto [M.F.] roughly and I told her that she needed to stop." When Mr. McKinney attempted to remove M.F. from Mother's lap, Mother "jumped to her feet and started yelling profanity[,]" and called M.F. a "little b**ch[.]" After refreshing his recollection, Mr. McKinney testified that A.F. was present during this episode.

Mr. McKinney told the court that in March 2016 he referred Mother to Adult

Protective Services ("APS") to help her manage her hygiene. There were also concerns "that she was possibly homeless[.]" During Mr. McKinney's testimony on his efforts to refer Mother to APS, Mother interrupted the proceedings and said:

> I'm a bar attorney. You should not know that life for me. You said I'm married, I mean I object. You don't know that life. No one came in and told you anything. It's hearsay. You think you know nothing about nobody's illiterate son of a b**ch. He thinks he knows about this."

The trial court inquired whether the Department had any documentation of Mother's mental health treatment. Counsel for the children responded that although Mother reported that she was receiving mental health treatment, "there was never any verification[,]" and that the Department's attempts to contact the medical professionals that Mother named proved unsuccessful as "those persons did not know the mother and did not admit to treatment."

The court then heard testimony from Mother. Mother testified that she was a lawyer and was admitted to practice in several states, including Maryland.[9] When asked about therapy sessions that she had attended, she told the court:

> Yeah, I didn't think I had, I needed any psychiatry. I'm a police officer, I made vows as [a] police office in D.C. I've never had a psychiatry issue. I did not even think I should. I work for the Federal Bureau of Prisons, you know, and my bar investigated all my health issues. I didn't have any prior health issues or have complaints with anybody.

When asked whether she believed that she had a mental health issue, Mother responded: "No, I said I'm an author, lawyer and a publisher and I was a judge in the state of Maryland. Judges cannot have mental disorders." When asked why M.F. was in foster

[9] The parties stipulate that Mother is a licensed attorney in Maryland.

care, Mother responded: "Because you came to my house without a search warrant." When asked why A.F. was in foster care, Mother responded: "Because you made the same allegations for M.F. so you can build evidence when you can't." Mother also indicated that she believed that she had done nothing wrong during her visits with M.F. and A.F.

Each party then presented closing arguments. The Department requested that the court terminate Mother's parental rights to both children as Mother was "unfit to remain in a parental relationship with her children or that exceptional circumstances exist that would make continuation of the parental relationship detrimental to the child[ren]'s best interest[.]" The children's attorney largely agreed with the Department's attorney, and added that she believed that "there is really no parental relationship that exists." The children's attorney also informed the court that Mother would not be equipped to address the gastrointestinal problems that A.F. suffers from.

Mother's attorney responded that although this was a mental health case, the Department had not "really made much effort to verify" that Mother was actually receiving the treatment that she needed. Her attorney added that "[i]t seems kind of odd . . . that [the Department] basically just relied on her word that she's getting [mental health] treatment and they can't verify it, they don't do anything."

The Department explained that once a parent tells a worker that they are already receiving medical services and do not need further referrals, the procedure is not to make further referrals, but to ask for documentation. The court expressed concern that the Department was relying on the report of a psychologist that saw mother "for less than two hours" four years prior, and asked Mother whether she would be willing to undergo another

mental evaluation. Mother responded: "If I want to get my doctor, I have a doctor. I take the medicine. I'm not taking any evaluation. I'm not into any of that. I'm not into any of it at all. I'm a licensed attorney." Mother repeated her position that she was not interested in receiving a mental evaluation "to get my kids." The court then took a brief recess to discuss the possibility of receiving a mental evaluation, and Mother and her counsel left the courtroom. The court was able to hear "loud yelling from Mother and pounding sounds. When Mother and counsel returned to the courtroom, counsel for Mother informed the court that Mother declined to engage in a mental health evaluation." The court then took the matter under advisement and concluded the hearing.

On June 2, 2017, the juvenile court issued a written opinion. It found that, "due to Mother's mental health challenges and her failure to address her mental health needs," Mother was "unfit to care for the minor children." Additionally, based on evidence adduced at the TPR hearing, the court found that "exceptional circumstances exist" and that the failure to terminate her parental relationship with M.F. and A.F. would "be detrimental to the best interests of both minor children." The court granted the Department the right to consent to adoption for both children.

Mother's timely appeal followed.

STANDARD OF REVIEW

Appellate review of a juvenile court's termination of parental rights is subject to three different, but interrelated standards: "(1) a clearly erroneous standard, applicable to the juvenile court's factual findings; (2) a *de novo* standard, applicable to the juvenile court's legal conclusions; and (3) an abuse of discretion standard, applicable to the trial

court's ultimate decision." *In re C.A. and D.A.*, 234 Md. App. 30, 45 (2017) (citing *In re Yve S.*, 373 Md. 551, 586 (2003)). Likewise, "[w]e review a trial court's custody determination for abuse of discretion." *Santo v. Santo*, 448 Md. 620, 625 (2016).

An abuse of discretion is a decision that 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 Adoption/Guardianship No. 3598*, 347 Md. 295, 313 (1997) (citation omitted). The responsibility of an appellate court reviewing the grant of a TPR petition is not to reweigh the evidence and re-try the case to determine whether we might have reached a different conclusion, but "whether there was sufficient evidence—by a clear and convincing standard—to support the [factfinder]'s determination that it would be in the best interest of [the child] to terminate the parental rights of [the] natural [parent]." *In re Adoption No. 09598*, 77 Md. App. 511, 518 (1989). In determining whether this evidentiary threshold is met, "we must assume the truth of all the evidence, and of all the favorable inferences fairly deducible therefrom, tending to support the factual conclusion of the trial court." *Id.* We give due "regard to the opportunity of the trial court to judge the credibility of the witnesses[]" in drawing its conclusions. *Id.* (quoting Md. Rule 8–131(c)).

DISCUSSION

I.

Sufficiency of the Evidence

A.

Statutory Factors

Mother argues that the lower court's factual findings to support the termination of Mother's parental rights were "legally insufficient" because the court did not provide an analysis of each of the statutory factors under Maryland Code (1984, 2012 Repl. Vol.), Family Law Article ("FL"), § 5-323(d) to find that it was in the best interest of the children to terminate Mother's parental rights because of unfitness or presence of exceptional circumstances. As part of her insufficiency argument, Mother contends that the court erred in finding that "Mother suffered from a mental health issue that would prevent her from parenting."

In response, the Department and the children's attorney argue that the circuit court correctly considered each of the relevant statutory factors and made express findings as to each applicable factor to show that Mother was unfit to care for her children, and that exceptional circumstances existed to warrant termination of her parental rights.

The right to parent is fundamental, and may not be infringed upon absent a compelling reason to do so. *In re B.C.*, 234 Md. App. 698, 706 (2017). When the state lodges a petition to upset that right, the juvenile court must balance the presumption that "a continuation of the parental relationship is in a child's best interests[,]" *In re Jayden G.*, 433 Md. 50, 53 (2013), "against the fundamental right and responsibility of the State to protect children, who cannot protect themselves, from abuse and neglect." *In re Rashawn H.*, 402 Md. 477, 497 (2007). Pursuant to FL § 5-323(b), the court must find, by clear and convincing evidence, either parental unfitness or that "exceptional circumstances exist that would make a continuation of the parental relationship detrimental to the best interests of the child[.]"

Once the state overcomes the presumption that the child's best interest is to remain with the biological parent, the trial court must determine whether the facts "establish that termination of parental rights is in the child's best interest." *In re Jayden G.*, 433 Md. at 94. The best interests of the child, not of the parent, drive this determination. *In re Ta'Niya C.*, 417 Md. 90, 116 (2010). To make this decision, FL § 5-323(d) provides a statutory framework to guide the juvenile court's consideration, with the child's best interests at the forefront of the inquiry, including:

> (1) (i) all services offered to the parent before the child's placement, whether offered by a local department, another agency, or a professional;
> (ii) the extent, nature, and timeliness of services offered by a local department to facilitate reunion of the child and parent; and
> (iii) the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any;
> (2) the results of the parent's effort to adjust the parent's circumstances, condition, or conduct to make it in the child's best interests for the child to be returned to the parent's home, including:
> (i) the extent to which the parent has maintained regular contact with:
> 1. the child;
> 2. the local department to which the child is committed; and
> 3. if feasible, the child's caregiver;
> (ii) the parent's contribution to a reasonable part of the child's care and support, if the parent is financially able to do so;
> (iii) the existence of a parental disability that makes the parent consistently unable to care for the child's immediate and ongoing physical or psychological needs for long periods of time; and
> (iv) 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 unless the juvenile court makes a specific finding that it is in the child's best interests to extend the time for a specified period;
> (3) whether:
> (i) the parent has abused or neglected the child or a minor and the seriousness of the abuse or neglect;
> (ii) 1. A. on admission to a hospital for the child's delivery, the mother tested positive for a drug as evidenced by a positive toxicology test; or
> B. upon the birth of the child, the child tested positive for a drug

as evidenced by a positive toxicology test; and

2. the mother refused the level of drug treatment recommended by a qualified addictions specialist, as defined in § 5-1201 of this title, or by a physician or psychologist, as defined in the Health Occupations Article;

(iii) the parent subjected the child to:

1. chronic abuse;
2. chronic and life-threatening neglect;
3. sexual abuse; or
4. torture;

(iv) the parent has been convicted, in any state or any court of the United States, of:

1. a crime of violence against:

A. a minor offspring of the parent;
B. the child; or
C. another parent of the child; or

2. aiding or abetting, conspiring, or soliciting to commit a crime described in item 1 of this item; and

(v) the parent has involuntarily lost parental rights to a sibling of the child; and

(4)(i) the child's emotional ties with and feelings toward the child's parents, the child's siblings, and others who may affect the child's best interests significantly;

(ii) the child's adjustment to:

1. community;
2. home;
3. placement; and
4. school;

(iii) the child's feelings about severance of the parent-child relationship; and

(iv) the likely impact of terminating parental rights on the child's well-being.

While the court must faithfully consider each factor individually, "it is not necessary that every factor apply, or even be found, in every case." *In re Jasmine D.*, 217 Md. App. 718, 737 (2014). The decision of how to weigh each of these factors remains within the juvenile court's sound discretion. *In re K'Amora K.*, 218 Md. App. 287, 301 (2014). Additionally, the exact fashion that the court elects to render its findings of fact is

immaterial, so long as the court dutifully considers each applicable statutory section. "[T]he mere incantation of the 'magic words' of a legal test, as an adherence to form over substance, may not cause the Genie to appear and is neither required nor desired if actual consideration of the necessary legal considerations are apparent in the record." *In re Darjal C.*, 191 Md. App. 505, 532 (2010) (quoting *S. Easton Neighborhood Ass'n, Inc. v. Town of Easton*, 387 Md. 468, 495 (2005)).

In this case, the juvenile court, in its written opinion, made thorough factual findings to support each of the relevant factors. While the court did not set out each factor individually, it found sufficient evidence to demonstrate that Mother was unfit to care for her children and that exceptional circumstances existed—namely Mother's history of mental health issues—and that it was in the children's best interests to terminate her parental rights. We detail the court's findings below as they apply to each of the relevant the statutory factors.

> *(1) (i) all services offered to the parent before the child's placement, whether offered by a local department, another agency, or a professional;*

The juvenile court found that soon after M.F.'s birth, "Mother and the Department entered into a safety plan to prevent removal of [M.F.] from the home." When M.F. was still living in the family home with Mother and the grandmother, "the Department provided Mother with referrals for mental health services and provided a Healthy Start Nurse" to assist with the M.F.'s care. During this time period, Department employees "made announced and unannounced visits to the home to monitor the care of [M.F.]" and ensure compliance with the safety plan.

(ii) the extent, nature, and timeliness of services offered by a local department to facilitate reunion of the child and parent; and
(iii) the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any;

The court found that the since the Department first became involved with Mother and M.F., it has "continued to offer mental health services to Mother[.]" The court found that the Department:

> [E]ncouraged [Mother] to continue her mental health services with her own provider, repeatedly requested confirmation from Mother that she was obtaining treatment from her own providers, offered parenting classes[], conducted family involvement meetings (FIM) and provided Mother other life skills assistance all in an effort to seek reunification with both [M.F.] and later [A.F.]. Despite these services, "less than two months after [M.F.] was placed into Mother's care, the Department, on January 14, 2013, placed [M.F.] into the care and custody of the Department because Mother and maternal grandmother were unable to adhere to the November 2012 safety plan.

Further, the court noted that the Department consistently provided supervised visitation sessions with Mother and sought Mother's consent to perform a mental health evaluation, which Mother rejected. The court then made the following conclusion:

> As such, this court finds the Department offered services to Mother prior to the placement of the minor children and has made reasonable efforts to offer adequate and timely services to Mother to assist Mother in maintaining good mental health and enable her to care for herself and the minor children.

(2) the results of the parent's effort to adjust the parent's circumstances, condition, or conduct to make it in the child's best interests for the child to be returned to the parent's home, including:
(i) the extent to which the parent has maintained regular contact with:
1. the child;
2. the local department to which the child is committed; and
3. if feasible, the child's caregiver;

Despite a court order requiring Mother to seek out mental health treatment, the court

found that Mother had made little progress towards becoming mentally stable. While Mother may have exhibited some level of stability during some visitation sessions, her overall behavior was inappropriate, and at certain points, subjected M.F. and A.F. to at least one violent outburst, which resulted in M.F. "'looking at Mother not as a source of affection and safety but rather as a threat[.]'" The court found that "Mother is unwilling, or due to her mental health challenges, unable to adjust her circumstances and/or condition to make it in the minor children's best interest to be returned to her care." As for contact with her children and the Department, the juvenile court found that "Mother maintained consistent visits with the minor children and for the most part maintained contact with the Department except for approximately one month when Mother was pregnant with [A.F.]"

> *(ii) the parent's contribution to a reasonable part of the child's care and support, if the parent is financially able to do so;*

The juvenile court explicitly found that "Mother has never significantly[] . . . supported the minor children emotionally or financially nor has Mother for a significant period of time been mentally able to tend to the minor children's daily physical needs."

> *(iii) the existence of a parental disability that makes the parent consistently unable to care for the child's immediate and ongoing physical or psychological needs for long periods of time;*

The court found that Mother's mental health issues were a major impediment to her ability to safely and effectively care for herself and her minor children, and carefully considered the evidence presented during the TPR hearing. We address the court's findings on this factor more fully below in response to Mother's challenge that there was insufficient evidence to support the court's finding that she had a mental disability.

(iv) 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 unless the juvenile court makes a specific finding that it is in the child's best interests to extend the time for a specified period;

On this factor, the juvenile court found "that after 4 years in the Maryland foster care system for [M.F.] and nearly three years for [A.F.], that additional services for Mother would [be not] likely [to] bring about a lasting parental adjustment so that the minor children could be returned to her care." Moreover, the court found that the continuation of Mother's relationship with the children would "be detrimental to the best interests of both minor children."

(3) whether:
(i) the parent has abused or neglected the child or a minor and the seriousness of the abuse or neglect; . . .

The court did not address this factor because the children were removed from Mother's care before any significant abuse or neglect could occur.[10]

(4)(i) the child's emotional ties with and feelings toward the child's parents, the child's siblings, and others who may affect the child's best interests significantly;
(ii) the child's adjustment to:
1. community;
2. home;
3. placement; and
4. school;
(iii) the child's feelings about severance of the parent-child relationship; and
(iv) the likely impact of terminating parental rights on the child's well-being.

[10] The juvenile court briefly touched on this issue at the TPR hearing when it noted that "[t]here's been no neglect, there's been no, anything of that nature, primarily because the kids were taken when they were two months old and there really maybe wasn't an opportunity for that[.]"

With regard to this factor, the court noted the lack of a "parent-child relationship with Mother[,]" and found that "the minor children have bonded significantly to their adoptive resource, foster mother [K.M]. Both children recognize her as their [m]other and have adjusted well to their home with her; such is not and this court finds will never be the case with Mother." Additionally, the juvenile court found that termination of the children's relationship with Mother "will not negatively affect the health and safety of [the] minor children[]" and concluded that allowing Mother's relationship with M.F. and A.F. to continue would "be detrimental to the best interests of both minor children."

Despite the fact the court elected not to individually label each factor within its respective place in the overall statutory scheme, the court's written opinion was thorough and well-reasoned, touching on each relevant factor. From our review of the record and the court's written opinion, we hold that none of the factual findings were erroneous, and that the court's decision to terminate Mother's parental rights was not an abuse of discretion as it was well within "'the fringe of what that court deems minimally acceptable.'" *In re Adoption/Guardianship No. 3598*, 347 Md. at 313.

B.

Mother's Mental Health as a Disability

Mother argues that court erred in finding that she had a "disability" that would render "her unable to provide appropriate care for her children presently and in the future." She asserts that because the court considered whether Mother should be given another psychological exam at the end of the hearing, there was insufficient evidence to find that

her mental health issues prevented her from appropriately caring for her children. Even if the facts in the CINA proceedings that the court relied on were true, Mother argues, she did not pose a danger to her children as the children were removed from her care "in good health." Finally, Mother contends that without providing records from her service providers, the Department was unable to establish, by clear and convincing evidence, that she had a mental disability that prevented her from keeping her children safe.[11]

The Department contends that the trial court did not require medical records to conclude that Mother possessed a mental disability that prohibited her from appropriately caring for her children, as the court was permitted to observe Mother's behavior during trial and take judicial notice of the "evidence contained in the CINA file[.]" Additionally, the Department argues that the court possessed sufficient evidence, through witness testimony and visitation contact notes, to render an informed finding that Mother was unable to safely care for her children. Counsel for the children adds that although the Department must "aid[] parents in overcoming the circumstances that brought their

[11] Additionally, Mother contends that the court erred by relying on evidence introduced at prior shelter care hearings when it made its determination. Mother did not present this issue as a question presented on appeal, but included a conclusory sentence to the same effect assigning error near the conclusion of her brief. In doing so, Mother failed to direct our attention to any particular shelter care report that the juvenile court allegedly relied upon in making its final determination to terminate her parental rights. In any case, because of the sheer volume of evidence that the court was able to obtain directly at the TPR hearing, the court's alleged improper reliance of any information in the shelter care reports amounts to harmless error, and did not affect the ultimate outcome. *See In re T.A., Jr.*, 234 Md. App. 1, 29 (2017) (holding that the juvenile court's improper reliance on a report created by a Department worker in anticipation of litigation was ultimately harmless error because of the overwhelming evidence presented to support the court's decision to terminate father's parental rights).

children under the care of the State[,] . . . [t]he aid that the State must provide is not unlimited and" in no way obligates the State to cure the disability that caused the inability to care for the particular child.

On this point, the juvenile court found that Mother's mental health was a disability under FL § 5-323(d)(2)(iii), stating as follows in its written opinion:

> [T]he evidence shows that [Mother], for the duration of time that the minor children have been in the Department's care, is sporadic in continuing her mental health treatment with her own providers or with those recommended by the Department or she has refused to participate in mental health services when requested to do so and does not fully acknowledge that she has mental health challenges.[] Additionally, to date there is no credible evidence that Mother is maintaining an ongoing medication regime or mental health treatment to achieve stable mental health; as such Mother's ability to care for herself and the minor children has remained stagnant. In fact, **based upon the evidence presented, this court finds that Mother, without the constant assistance of another, cannot reasonably care for herself, let alone the minor children.**[] This is evidenced by the varying degrees of Mother's daily hygiene as observed by Department workers,[] her extremely odd and at times volatile behavior with others[] and [M.F.], her inability to engage with the minor children for a sufficient duration of time to care for their basic needs when they are in her care during supervised visits and her often exhibited paranoid and delusional behavior.[]
>
> (Emphasis added).

The state bears the burden of proving by clear and convincing evidence that Mother's mental health issues prevented her from parenting, and that it is in the best interest of the children to terminate Mother's parental rights. *In re K'Amora K.*, 218 Md. App. at 300-02. As stated above, we review the juvenile court's findings of fact for clear error, its legal conclusions *de novo*, and the final decision to terminate Mother's parental rights for abuse of discretion. *In re Yve S.*, 373 Md. at 586.

The plain language of FL § 5-323(d)(2)(iii) contemplates "the existence of a

parental disability that makes the parent consistently unable to care for the child's immediate and ongoing physical or psychological needs for long periods of time[.]" In this case, because of mental health issues, Mother has been unable care for her children for the majority of their lives. The Department assumed care of M.F. and A.F. when they were both roughly two months old. For the next several years, Mother was permitted to visit with the children on a weekly basis in a supervised setting—when her behavior permitted her to—and struggled to adequately care for the children during those visits. During this period, Mother struggled significantly with her own hygiene, demonstrated a lack of ability to remain engaged with her children during supervised visitation sessions or tend to their basic needs, and exhibited several documented violent outbursts, one of which was directed at M.F. while in the presence of A.F. Moreover, while Mother sought medical attention on at least on occasion to address her mental health issues, the frequency of treatment was inconsistent, as evidenced by her varying levels of mental instability. Finally, despite being diagnosed with schizophrenia in 2013, Mother denied having any mental health issues during her testimony at the TPR hearing, and expressed no indication that she understood why her children were in foster care.

Mother's argument ignores the testimony presented at the TPR hearing concerning how police officers were forced to intervene to remove A.F. from Mother's care and that Mother attempted to flee the family home with M.F. in direct violation of the safety agreement. Courts are not required to find abuse or neglect before ordering that the child be removed from his or her parent's care. *In re Dustin T.*, 93 Md. App. 726, 735 (1992). Nor does Mother cite any authority for the proposition that the court could not find her

unfit without hospital documentation. The absence of supporting documents detailing Mother's engagement with mental health services—or failure to utilize them—does not foreclose the court from finding that Mother's mental health constituted a disability under FL § 5-323(d)(2). The State is required to address the issue that made the removal of the child necessary and offer reasonable assistance to facilitate the child's safe reintegration into the family home. *In re Rashawn H.*, 402 Md. at 500. Those requirements, however, have their limits, as the State "must provide reasonable assistance in helping the parent achieve th[at] goal," but is in no way obligated "to cure or ameliorate any disability that prevents the parent from being able to care for the child." *Id.* at 500-01. Here, the Department provided Mother with numerous references for doctors and social services to assist her in management of her mental illnesses and hopefully resume care of both M.F. and A.F. It was not the Department's burden to ensure that Mother acted on those recommendations.

Further, the juvenile court was well within its discretion to consider, as it did in its written opinion, Mother's bizarre behavior during the TPR hearing as indicative of her underlying mental health issues. *See e.g. In re Amber R.*, 417 Md. 701, 719 (2011) ("In a TPR case, we must treat the juvenile court's evaluation of witness testimony and evidence with the greatest respect."). The juvenile court, in its written opinion, noted that during the TPR hearing, Mother was "Mother talking to herself and consistently spitting into a tissue." The court also noted that while Mother "at times appeared engaged in the proceedings[,]" she became disengaged at several points during the proceedings. The court also noted several of Mother's apparent delusions that Mother discussed while testifying, such as that

she was "appointed to the bench as a 'replacement judge' in Baltimore County 'handling family cases[]'" and that "she was a 'police officer for Mayor Muriel Bowser[]'" in D.C.

We discern no error in the court's factual findings, and hold that the juvenile court acted within its discretion when it terminated Mother's parental rights.

JUDGMENTS OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTYAFFIRMED. COSTS TO BE PAID BY APPELLANT.