Circuit Court for Caroline County
Case No. 05-C-15-018409

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 913

September Term, 2018

KI., ET AL.

v.

KO., ET AL.

Fader, C.J.,
Kehoe,
Beachley,

JJ.

Opinion by Fader, C.J.

Filed: March 22, 2019

A. and J. Ki.,[1] the appellants, appeal from the denial of their motion to intervene in this matter for the purpose of seeking visitation and custody over minor children we will refer to as A. and I. (the "Children"). Ms. Ki. is the Children's grandmother and Mr. Ki. is their great-grandfather. The Circuit Court for Caroline County denied the motion to intervene upon concluding (1) that D.B., an appellee and the current custodian of the Children, is their *de facto* parent and (2) the motion to intervene was insufficient to establish that the putative intervenors have a claim to assert. We find no error in either determination and affirm.

BACKGROUND[2]

The Players

The Children are half-siblings. A. was born in August 2007 and is the biological child of R. Ko. ("Mother") and J. Ko. I. was born in June 2012 to Mother. I.'s biological father is unknown.

Mother and Mr. Ko. were married at the time both Children were born. Mr. Ko. was incarcerated at the time I. was conceived and acknowledges that he is not I.'s biological father, although he asserts that he is I.'s legal parent.[3] Mother died in September 2015 as the result of a heroin overdose.

[1] Due to the sensitive nature of the issues and to protect the privacy of the minors involved, we have abbreviated the names of the parties.

[2] The facts and basic procedural history stated in this Background section are drawn from the Memorandum Opinion and Order of the circuit court issued on July 8, 2016.

[3] The issue of Mr. Ko.'s paternity of I. was raised at a 2016 pendente lite hearing before a magistrate. Mr. Ko. asserted that he is I.'s "legal father," noted that I. shares his last name, and stated that he is "the only father she knows." According to a docket entry,

Appellee D.B. is Mr. Ko.'s former spouse, with whom he had two children before he married Mother. Ms. B. is also the current legal and physical custodian of the Children.

Appellants A. and J. Ki. are Mother's mother and grandfather, respectively. We refer to them based on their relationship to the Children as, respectively, Grandmother and Great-Grandfather.

Appellee L. Ki. was Mother's sister. We refer to her as Aunt.

At the time of the hearing on the motion to intervene that is the subject of this appeal, Mother was deceased, Mr. Ko. acknowledged that he could not care for the children, and Aunt had apparently suffered a relapse of her own drug addiction and did not participate in the proceedings. As a result, the parties contesting custody were Ms. B., who had sole physical custody of the Children and joint legal custody (along with Aunt) pursuant to court order, on the one hand, and Grandmother and Great-Grandfather, on the other.

Custody of the Children

Over the years, actual physical custody of the Children transferred on multiple occasions as a result of drug addictions afflicting Mother, Mr. Ko., Aunt, and Grandmother. Before they separated in late 2009 or early 2010, Mother and Mr. Ko. lived together with A. in a house on property owned by Great-Grandfather. After I.'s birth, Mother and the Children moved into the main home on the property with Grandmother, Great-Grandfather, and Aunt. At one point while Mother was struggling with her addiction, the Children—at

the magistrate noted that the parties—who at that time included Aunt but not the putative intervenors—all advised that Mr. Ko.'s paternity was "not an issue."

Mother's request—were sent to live with Ms. B. The Children later returned to live with Mother on Great-Grandfather's property.

At some point after the Children's return, Mother began to receive inpatient treatment for her addiction and left the children in Grandmother's care. It was during that period that the Caroline County Department of Social Services (the "Department") became involved to investigate an allegation of neglect after I. suffered a cigarette burn caused by another relative. The neglect allegation against Grandmother was "grounded in her decision to allow this relative to care for [I.] knowing that the relative was an alcoholic." The Department ultimately found that the allegation was unsubstantiated.

A year and a half after that initial interaction with the Department, and after at least two inpatient attempts at recovery by Mother, the Department again became involved based on a report that Mother was using drugs while caring for the Children. As a result, in November 2014, Mother signed a safety plan in which she agreed that Grandmother and Great-Grandfather would supervise her interactions with the Children "at all times." At that time, Mother informed the Department, and Grandmother confirmed, that Grandmother was herself a recovering drug addict who had relapsed a month before Mother signed the safety plan. Mother also told the Department that Ms. B. was capable of taking care of the Children when Grandmother and Great-Grandfather were unable.

Less than a month after signing that first safety plan, as she was preparing to enter yet another inpatient treatment program, "Mother arranged for [the Children] to live with [Ms.] B." Mother then agreed to another safety plan requiring that any contact between

the Children and Grandmother or Great-Grandfather be supervised. Aunt, who was then participating in a court problem-solving program while on probation following a conviction for possession of heroin, was not considered an available resource. During that time, Mother, Grandmother, and Great-Grandfather all had visits with the Children that were supervised by Ms. B.

The Children stayed with Ms. B. from December 2014 through early August 2015, when they returned to live full time with Mother after her successful completion of another inpatient treatment program. At the time, Mother had secured housing separate from the Ki. property and "assured the Department that she would not permit any unsupervised contact between the children and [Grandmother and Great-Grandfather] . . . ." Mother died of an overdose the following month.

Immediately after Mother's death, Ms. B. took custody of the Children with Mr. Ko.'s consent and over the objection of Grandmother.[4]

Initial Custody Proceedings

One day later, both Aunt and Ms. B. filed custody actions, which the court then consolidated. A magistrate held a hearing in January 2016, which resulted in a pendente lite order granting Ms. B. legal and physical custody of both Children and granting Aunt visitation. The order specified that while the Children were visiting with Aunt, who was

[4] The day that Mother overdosed, Mr. Ko. declared in a notarized statement that: the Children were to live with Ms. B. after Mother's death; Ms. B. "could make legal decisions for the" Children; the Children could not visit Grandmother and Great-Grandfather's home; contact with Grandmother had to be supervised; and he wanted to share legal custody with Ms. B. but she should have sole physical custody.

then living with Grandmother and Great-Grandfather, Aunt was required to supervise the Children "at all times."

In February 2016, one month after the pendente lite hearing on the consolidated custody actions, Grandmother and Great-Grandfather filed a motion to intervene for the purpose of seeking custody on the grounds that Ms. B.: was not paying sufficient attention to the Children; lacked sufficient room for the Children; allowed the Children to travel without car seats; "is after custody of the children for their social security benefits"; was not putting money away for the Children; had "cut off visitation from family in the past"; and was preventing Grandmother and Great-Grandfather from attending the Children's school activities. They further alleged that they "want[ed] to be involved in all aspects of the children's lives" and requested unsupervised visitation until trial. After a hearing, the magistrate recommended that the motion be denied. Grandmother and Great-Grandfather did not file any exceptions to the recommendation, the court entered an order denying their motion, and they did not take any appeal.

In March 2016, one month after filing their first motion to intervene, Grandmother and Great-Grandfather filed an independent complaint for custody in the circuit court naming as defendants Aunt, Ms. B., and Mr. Ko. However, they never served that complaint, which the court eventually dismissed for lack of service.

As a result of their failure to contest the denial of their first motion to intervene or to prosecute their separate custody action, Grandmother and Great-Grandfather were not parties to the resolution of the consolidated custody actions filed by Aunt and Ms. B. On

July 8, 2018, following a hearing on those competing claims, the court granted primary physical custody to Ms. B., shared legal custody to Ms. B. and Aunt, and visitation to Aunt. In its memorandum opinion, the court made factual findings consistent with the recitation above, including that Mother directed that the Children live with Ms. B. on two separate occasions, most recently the period from December 2014 through early August 2015, just before Mother died. The court also found that:

- Mr. Ko. encouraged the Children to develop relationships with their half-siblings, Ms. B.'s children, and Mother fostered that contact;
- The Department reached out to Ms. B. to care for the Children after Mother's overdose;
- Mr. Ko. acknowledged that he could not care for the Children, "which in effect is a concession of his own unfitness," and wants the Children to remain with Ms. B.;
- Both Aunt and Ms. B. are stable, as Aunt by that point had been in recovery from her own drug addiction for a year;
- Mr. Ko.'s preference is that Ms. B. care for the Children, although he "had no concerns about [Aunt's] ability to care for the [Children]"; and
- As between Aunt and Ms. B., Ms. B. was "more financially stable" and "offers the more stable and routine environment with the most support."

The court's order contained a detailed schedule for visitation with Aunt and requirements that Aunt and Ms. B. share information and consult and cooperate with each other. The court expressly declined to enter a support order "as neither party has any obligation to provide support for the children, support being the legal obligation of [Mr. Ko.]."[5] The court did, however, encourage Ms. B. to share the social security benefits she was receiving

[5] There is nothing in the record indicating that Mr. Ko. or any other party involved was ordered to pay, or paid, Ms. B. any money to assist her in supporting the Children.

for the Children with Aunt to assist "with any expenses associated with caring for the children during the summer school recess."

Notably for our discussion below, the court also observed, in a footnote, that the Court of Appeals had issued a decision just the day before in *Conover v. Conover*, 450 Md. 51 (2016), in which the Court recognized *de facto* parenthood status for the first time. The court observed that because none of the parties before it had raised the issue of *de facto* parenthood, that issue "will not be addressed here."

Attempts to Modify Custody

Approximately seven months later, Ms. B. petitioned the court for modification, asserting that "there has been a material change in circumstances necessitating a modification of the access schedule and the legal custody arrangement." In support of that claim, she alleged that (1) Aunt was not spending "meaningful time with the" Children, but was instead just handing them over to Grandmother and Great-Grandfather in violation of the custody order, (2) Aunt had relapsed into her drug addiction and her place of residence was unclear, (3) Great-Grandfather had physically assaulted Ms. B. in the Children's presence; and (4) the Children were being adversely affected by the visitation schedule. Ms. B. therefore asked the court to limit Aunt's visitation and to restrict Great-Grandfather from being left alone with the Children.

In response, Aunt filed her own petition for modification, alleging that Ms. B. "[u]nilaterally refus[ed] to comply with the Custody Order" by "refusing [Aunt] access to the minor children" and failing to consult Aunt about decisions affecting the children. Aunt

asked the court to award her immediate custody of the Children and order Ms. B. and Mr. Ko. to contribute financially to the Children's care.

Those filings set the stage for Grandmother and Great-Grandfather's third attempt to seek custody of the Children by filing their second motion to intervene in this action. In their motion, they allege, erroneously, that the court had previously "awarded [Aunt] shared physical and joint legal custody of the minor children." The filing does not identify with whom Aunt shared custody or even mention Ms. B. by name at all. The filing claims that Aunt "joins in this Motion to Intervene," although it also alleges that she had recently suffered a relapse and so "is not currently a fit and proper person to provide" care for the Children. As to their own relationship with the Children, Grandmother and Great-Grandfather allege in the motion "[t]hat since the birth of the children . . . the Petitioners have provided the children with full support and complete care, love and affection" and "have been a significant part of their lives and have regularly visited with the children." They further allege in conclusory fashion that they "are fit and proper persons to have the care and custody of the minor children in the event the Court finds the Plaintiff [i.e., Aunt] and Defendants [i.e., Ms. B. and Mr. Ko.] to be unfit, as since the birth of the minor children, they have been involved in the children's lives." The motion does not allege that Ms. B. is unfit, that exceptional circumstances exist, or that there had been a material change in circumstances since the court made its original custody decision.

Grandmother and Great-Grandfather attached to their motion the complaint for custody or visitation they would have filed if permitted to intervene. The complaint, also

just two pages long, identifies Ms. B. by name and as "the primary physical custodian of the minor children." It also alleges that (1) Grandmother and Great-Grandfather "have been *de facto* parents for the minor at children times [sic] since the birth of the minor children," (2) they "have maintained regular and continued contact with the minor children throughout their lives and have formed a loving bond," and (3) Ms. B. has denied them access to the Children. The final paragraph of the proposed complaint makes a conclusory allegation that "[e]xceptional circumstances exist demonstrating the current or future detriment to the minor children absent Intervenors being awarded custodial rights or, in the alternative, visitation, with the minor children." The complaint does not identify what those exceptional circumstances are or allege that Ms. B. is unfit to care for the Children.

In opposing intervention, Ms. B. argued that she is a *de facto* parent under *Conover*, therefore "stands in the shoes of a natural parent," and, as a result, that the motion to intervene was insufficient because it failed to make a prima facie showing that she was either unfit or that exceptional circumstances exist as required by *Burak v. Burak*, 455 Md. 564 (2017).

The Circuit Court's Ruling

In a hearing before a magistrate, counsel for Grandmother and Great-Grandfather (and for Aunt as well) conceded that Ms. B. "is a *de facto* parent,"[6] but asserted that they

[6] During the hearing, the following dialogue took place between the magistrate and Philip Cronan, counsel for Grandmother, Great-Grandfather, and Aunt:

MR. CRONAN: But what we have now.

THE MAGISTRATE: Okay.

should nonetheless be permitted to intervene. At the conclusion of the hearing, the magistrate noted that, "one thing everyone agreed upon at some point is that the best custodian was Ms. B." The magistrate recommended denying the motion to intervene because there was no "basis for it." Grandmother and Great-Grandfather then filed exceptions, which the circuit court denied, and then a motion to revise.

In June 2018, after a hearing on the motion to revise that was held before a different judge than the one who had made the custody decision two years earlier, the court issued a memorandum opinion and order in which it (1) deemed Ms. B. to be a *de facto* parent of the Children, (2) accepted the magistrate's recommendation to deny the motion to intervene, and (3) confirmed the existing custody arrangement pending a ruling on the cross-motions to modify that had been filed by Aunt and Ms. B. As to its determination that Ms. B. was a *de facto* parent, the court relied upon the findings of fact contained in the 2016 custody decision by a different judge, the representations of both counsel at the hearing before the magistrate, and the court's review of the *Conover* decision. Applying the *Conover* factors, the court explained that (1) Mr. Ko. "consented to and fostered" a parent-like relationship between the Children and Ms. B., and that the court had also received evidence that, prior to her death, Mother had conveyed that "she did not believe

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MR. CRONAN: As it stands right here.

THE MAGISTRATE: Right now.

MR. CRONAN: Is a defacto [sic] parent in Ms. [B.]

THE MAGISTRATE: Mmm-hum. Yeah.

Mr. Cronan proceeded to identify Aunt as a *de facto* parent as well.

that her family (including [Grandmother and Great-Grandfather]) could provide a good and safe place for her children and that [Mother] believed her kids would be in a more stable and permanent home with Ms. [B.]," (2) the children had been primarily living with Ms. B. for four years, (3) Ms. B. had assumed "parental obligations," and (4) "these events have resulted in a bonded, dependent relationship that is parental in nature." With that conclusion, the court determined that the motion to intervene had to be denied because Grandmother and Great-Grandfather had not established the threshold showing, necessary to contest custody of a parent, that "Ms. [B.] is not a fit and proper custodian and/or that extraordinary circumstances exist that would permit them to intervene."

Grandmother and Great-Grandfather noted this appeal, in which they challenge the court's denial of their motion to intervene and its determination that Ms. B. is a *de facto* parent.

DISCUSSION

We review a circuit court's child custody determination for abuse of discretion, but if "the order involves an interpretation and application of statutory or case law, we review the trial court's conclusions *de novo*." *Kpetigo v. Kpetigo*, 238 Md. App. 561, 568-69 (2018). We give deference to the circuit court's findings of fact unless they are clearly erroneous. *Burak*, 455 Md. at 616-17.

We review a denial of a motion to permissibly intervene for abuse of discretion. *Id.* at 616. A trial court abuses its discretion when its decision is "manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons[,]" *Levitas v. Christian*, 454 Md.

233, 243 (2017) (quoting *Neustadter v. Holy Cross Hosp. of Silver Spring, Inc.*, 418 Md. 231, 241 (2011)) (emphasis removed), or when it acts "without reference to any guiding rules or principles," *Santo v. Santo*, 448 Md. 620, 626 (2016) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997)).

THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION WHEN IT DENIED THE MOTION TO PERMISSIBLY INTERVENE.

The decision to permit a party to intervene, "as of right or permissively . . . is dependent upon the individual circumstances of each case." *Burak*, 455 Md. at 616 (quoting *Md. Radiological Soc'y, Inc. v. Health Servs. Cost Review Comm'n*, 285 Md. 383, 388 (1979)). To intervene in a custody proceeding, a proposed intervenor "must include detailed factual allegations in his or her pleading that, if true, would support a finding that both biological parents are either unfit or that exceptional circumstances exist" to warrant intervention. *Burak*, 455 Md. at 624.[7]

Here, Mother is deceased, I.'s biological father is unknown, and all parties, including Mr. Ko., agree that he is unfit to parent the Children. Grandmother and Great-Grandfather thus need not have done more to establish the unfitness of the Children's biological parents. The critical question in this action is whether Grandmother and Great-

[7] Ms. B. argues that Grandmother and Great-Grandfather lack standing to challenge the court's *de facto* parenthood determination because, in light of the denial of their motion to intervene, they were not parties to the case. Had the court made its decision regarding *de facto* parent status at a different stage of the proceedings, we would agree. Here, however, the circuit court's decision that Ms. B. is a *de facto* parent was made only in the context of, and as the basis for, its ruling on the motion to intervene. The ruling on *de facto* parent status is thus inextricably connected to the court's ruling on the motion to intervene.

Grandfather were required to satisfy the same burden with respect to Ms. B. Grandmother and Great-Grandfather contend that they need not do so because Ms. B. is not a biological parent and the circuit court was wrong to find that she is a *de facto* parent. We disagree.

As an initial matter, it is clear that if Grandmother and Great-Grandfather were required to satisfy the requirements of *Burak* by pleading "detailed factual allegations" of unfitness or exceptional circumstances to support their motion to intervene, *id.* at 629, they failed to do so. Neither the motion to intervene nor the proposed complaint contain any allegations at all of Ms. B.'s unfitness and the proposed complaint contains only a bald, conclusory allegation that "[e]xceptional circumstances exist" demonstrating that the Children would be harmed if they are not "awarded custodial rights or, in the alternative, visitation." Grandmother and Great-Grandfather do not mount a serious argument that this allegation satisfies the requirements of *Burak*. They instead contend that they were not required to do so.[8]

We therefore turn to whether Grandmother and Great-Grandfather were required to satisfy the requirements of *Burak* even though Ms. B. is not a biological parent. Because we agree with the circuit court both that it was appropriate for the court to consider Ms. B.

[8] Grandmother and Great-Grandfather's motion to intervene is also insufficient because it fails to identify a material change in circumstances that would justify a change in custody. *See Santo*, 448 Md. at 639 (explaining that a custody modification requires both (1) "a material change in circumstances" and (2) that modification is in the best interests of the children). Here, however, both of the defendants who had custody (Ms. B. and Aunt) had themselves recently filed motions to alter custody in which they had alleged a change in material circumstances. Presumably for that reason, no party challenged the motion on that ground.

to be a *de facto* parent on this record and that the requirements of *Burak* apply to a *de facto* parent to the same extent as a biological parent, we conclude that Grandmother and Great-Grandfather were required to satisfy the requirements of *Burak*. To explain why, we first review briefly what it means to be a *de facto* parent.

A. A Party Challenging Custody of a *De Facto* Parent Must Make the Same Showing of Unfitness or Exceptional Circumstances as a Party Challenging Custody of a Biological or Adoptive Parent.

We recently summarized *de facto* parent status as follows: "A putative *de facto* parent transcends third party status when she can establish, first and foremost, 'that the biological or adoptive parent consented to and fostered the petitioner's formation and establishment of a parent-like relationship with the child.'" *Kpetigo*, 238 Md. App. at 573 (quoting *Conover*, 450 Md. at 74). Such a "parent-like relationship" requires that "the putative *de facto* parent and the child must have lived together in the same household, with the *de facto* parent taking on real parenting responsibilities over a sustained period of time." *Kpetigo*, 238 Md. App. at 573. As set forth in *Conover*, to qualify as a *de facto* parent, the proponent must show that (1) "the biological or adoptive parent consented to, and fostered, the petitioner's formation and establishment of a parent-like relationship with the child"; (2) proponent and child "lived together in the same household"; (3) proponent "assumed obligations of parenthood by taking significant responsibility for the child's care, education and development, including contributing towards the child's support, without expectation of financial compensation"; and (4) proponent "has been in a parental role for a length of

time sufficient to have established with the child a bonded, dependent relationship parental in nature." 450 Md. at 74.

The "*de facto* parenthood test measures the relationship between the putative *de facto* parent and the child . . . without reference to the parent's characteristics or the relationship's origins." *Kpetigo*, 238 Md. App. at 574. "What matters . . . is the relationship between the putative *de facto* parent and the child and the child's best interests, not the relationship's title or consanguinity." *Id.* at 575.

If established, such a relationship makes a *de facto* parent "distinct from other third parties." *Conover*, 450 Md. at 85. Indeed, *de facto* parent status effectively elevates a third party to equal footing with biological parents for the purpose of custody determinations, providing such an individual "standing to contest custody or visitation" without any requirement to "show parental unfitness or exceptional circumstances before a trial court can apply a best interests of the child analysis." *Id.*; *see also id.* at 71-72 (discussing Delaware's *de facto* parenthood case law, specifically that a *de facto* parent "*would also be a legal 'parent'*" with "a co-equal 'fundamental parental interest' in raising" the child) (emphasis in *Conover*) (quoting *Smith v. Guest*, 16 A.3d 920, 931 (De. 2011)). In other words, once a party is a *de facto* parent, his or her status in any dispute over custody or visitation is equal to that of a biological parent, adoptive parent, or other *de facto* parent. As among those individuals, a court rendering a custody decision must consider only the best interest of the child, not any differences in the status of the parents.

For the same reason, a third party wishing to challenge the custodial status of a *de facto* parent—one who has "transcend[ed] third party status"—must necessarily make the same showing as a third party wishing to challenge the custodial status of a biological parent. To conclude otherwise would place *de facto* parents on a less-than-equal footing with biological parents with respect to custody issues, contrary to the intent expressed by the Court of Appeals in *Conover*.[9]

B. The Circuit Court Did Not Err in Treating Ms. B. as a *De Facto* Parent.

Grandmother and Great-Grandfather's central contention on appeal is that the circuit court erred in treating Ms. B. as a *de facto* parent. For several reasons, we disagree.

First, Grandmother and Great-Grandfather conceded during argument before the magistrate that Ms. B. is a *de facto* parent. For that reason alone, their contention on appeal that the court erred in making that determination fails.

Second, Grandmother and Great-Grandfather's primary argument—that a statement in the circuit court's July 2016 opinion is inconsistent with its June 2018 decision to treat Ms. B. as a *de facto* parent—misapprehends the earlier statement. In the relevant passage from the July 2016 opinion, the circuit court observed that the Court of Appeals had filed its decision in *Conover* one day earlier, that *Conover* had been "pending at the time of the

[9] A conclusion that a party challenging custody vis-à-vis a *de facto* parent need not show unfitness or exceptional circumstances would also appear to be unworkable, as it would create a three-tier system in which a third party who could not directly challenge the custody of a biological or adoptive parent without showing unfitness or exceptional circumstances could presumably nonetheless insert himself or herself into the very same custody battle by making a lesser showing as to a *de facto* parent.

hearing" in this case, and that "the issue of de facto parenting was not raised and thus will not be addressed here." Grandmother and Great-Grandfather read this passage as a finding that the circuit court "did not have evidence before it upon which to make any finding regarding the *de facto* parent claim of any party," and argue that the later decision to recognize Ms. B. as a *de facto* parent is a "directly antithetical finding." To the contrary, in July 2016 the court simply observed that because neither Aunt nor Ms. B. had argued at the hearing that she was a *de facto* parent—an understandable choice in light of the fact that no such status was recognized in Maryland at the time—the court was not going to reach the issue. Here, by contrast, Ms. B. made that argument expressly and, as a result, the court addressed it for the first time.

Third, we discern no clear error in the factual findings on which the court based its conclusion that Ms. B. was, as of the time the court made its findings of fact in July 2016, a *de facto* parent. To the contrary, those factual findings and the record before the court provide ample support for the court's conclusion. The court's 2016 findings demonstrated that both Mr. Ko. and Mother had fostered and promoted a parent-like relationship between Ms. B. and the Children. Mother had sent the Children to live with Ms. B. on at least two occasions for many months at a time and, on the most recent occasion, had expressly chosen Ms. B. for that role over her own family members. Mr. Ko. had fostered and been supportive of the parental relationship both historically and continuing forward after Mother's death. During the lengthy periods in which she lived with the Children, Ms. B. had assumed all parental responsibilities and had developed a bonded, dependent

relationship that included not only her but also the Children's half-siblings.[10] The court properly applied the law as set forth in *Conover* to these factual findings and we find no error or abuse of discretion in the court's ultimate conclusion that Ms. B. was a *de facto* parent.

As already discussed, once the court determined that Ms. B. was a *de facto* parent, the absence of detailed factual allegations—or, indeed, any factual allegations—to support a claim that she was unfit or that exceptional circumstances exist such that the Children's best interests would be served in their custody was fatal to Grandmother and Great-Grandfather's motion to intervene. *See Burak*, 455 Md. at 623. We therefore discern no abuse of discretion in the circuit court's denial of that motion.

JUDGMENT OF THE CIRCUIT COURT FOR CAROLINE COUNTY AFFIRMED; COSTS ASSESSED TO APPELLANTS.

[10] Although the court did not engage in any new factfinding in 2018, it is undisputed that Ms. B. had had primary physical custody and at least shared legal custody of the Children since Mother's death in 2015.