

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND

No. 1022

September Term, 2023

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IN RE: N.Y.

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Graeff,  
Shaw,  
McDonald, Robert N.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Shaw, J.

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Filed: January 18, 2024

\*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).

On June 7, 2023, the Montgomery County Department of Social Services (“the Department”) removed a two-year-old child, whom we shall refer to as “N.Y.”,<sup>1</sup> from the home where she lived with her mother (“Mother”), due to concerns about Mother’s mental health. The Department filed a Child in Need of Assistance (“CINA”) petition and a request for emergency shelter care in the Montgomery County Circuit Court, sitting as the juvenile court.<sup>2</sup> The court granted the request for shelter care and scheduled an adjudicatory hearing on the CINA petition.

Following an adjudicatory hearing, the court found that it was contrary to N.Y.’s welfare for her to remain in Mother’s custody. The court ruled, however, that N.Y. was not a child in need of assistance because N.Y.’s biological father (“Father”), who lived in another state, was able to give proper care and attention to N.Y.’s needs. Pursuant to § 3-819(e) of the Courts and Judicial Proceedings Article (“CJP”), the court dismissed the CINA petition and placed N.Y. in the legal care and custody of Father.<sup>3</sup> Mother was granted supervised visitation.

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<sup>1</sup> The child is referred to by her initials to protect her privacy.

<sup>2</sup> A “child in need of assistance” is “a child who requires court intervention because: (1) The child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) The child’s parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child’s needs.” Courts and Judicial Proceedings Article (“CJP”) § 3-801(f).

“‘Shelter care’ means a temporary placement of a child outside of the home at any time before disposition” of a CINA petition. CJP § 3-801(bb).

<sup>3</sup> CJP § 3-819(e) provides:

Mother filed a timely appeal and presents the following questions for our review, which we have rephrased:<sup>4</sup>

1. Did the court abuse its discretion in denying Mother’s request for a postponement of the disposition hearing?
2. Did the court abuse its discretion at the disposition hearing by granting custody to Father?

For the following reasons, we affirm the judgment of the circuit court.

## **BACKGROUND**

### ***CINA Petition***

In the petition filed on June 7, 2023, the Department alleged that it received a report that Mother, N.Y.’s sole caretaker, was unable to care for N.Y. due to Mother’s mental health concerns. According to the report, on June 6, 2023, Mother took N.Y. to an urgent care facility and to a hospital emergency room and reported that she and N.Y. had been “taken over” by a cult that had control over their minds and bodies. Mother claimed to hear “voices from the cult” and expressed a belief that the cult regulated N.Y.’s body temperature, caused N.Y. to develop premature pubic hair, and transferred a birthmark

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If the allegations in the petition are sustained against only one parent of a child, and there is another parent available who is able and willing to care for the child, the court may not find that the child is a child in need of assistance, but, before dismissing the case, the court may award custody to the other parent.

<sup>4</sup> Appellant’s questions verbatim were:

1. Did the trial court err by holding the disposition hearing when postponement of the hearing was in N.Y.’s best interest and promoted reunification?
2. Did the court commit error in its disposition of the case?

from Mother’s body to N.Y.’s body. Mother was taken into custody for an emergency evaluation and was involuntarily hospitalized.

The Department alleged that it had contacted Father, who lived in Michigan, but, at that time, Father indicated he was not a resource for the child. The Department urged that placement was required to protect N.Y. from serious immediate danger, and requested that N.Y. be declared a child in need of assistance.

#### ***Amended CINA Petition***

On July 3, 2023, the Department filed an amended petition which alleged that Father was willing to be the child’s custodian, that he had been “vetted,” and that he was found to be a suitable custodian. The Department requested that the court issue an order placing N.Y. in the care and custody of Father and awarding visitation to Mother and that the CINA case be closed.

#### ***Adjudication Hearing***

The adjudication hearing on the Department’s CINA petition was held on July 7, 2023. Mother was represented by counsel. Father was present via remote connection and was also represented by counsel. The Department called Jessica Jackson, an assessment social worker employed by the Department. Ms. Jackson testified as an expert in the field of social work, including safety and risk analysis. Mother was the only other witness to testify.

Through Ms. Jackson, the Department introduced evidence that, on June 30, 2022, Mother was forcibly removed from her home in Texas and hospitalized for a week. The hospital contacted Father and asked him to come to Texas and take custody of N.Y., who

was being cared for by N.Y.’s maternal grandmother (“Grandmother”). Father traveled to Texas but, when he arrived, Grandmother avoided his calls.

Father picked Mother up from the hospital when she was discharged. He told Ms. Jackson that Mother was “acting fine” at that time, but, three days later, Mother began saying that Grandmother was “in a secret society.” Mother regained custody of N.Y. and left Texas because, according to Father, she was no longer comfortable living in her apartment.

In October of 2022, the Department opened a “risk of harm” case after it received a referral advising that Mother left Texas and traveled to Maryland before the child welfare authority in Texas had completed its assessment. Ms. Jackson was assigned to contact Mother to ensure she was connected with the appropriate resources and support in Montgomery County. On October 20, 2022, Ms. Jackson met with Mother and N.Y. in a hotel room in Silver Spring. Ms. Jackson observed baby supplies and a car seat in the room. She had no concerns about N.Y.’s appearance.

Mother denied having any mental health issues or service needs. She told Ms. Jackson that she did not understand why she had been hospitalized in Texas in 2022. She claimed that she went to the hospital at that time only to “talk to someone[,]” and that she had been “misdiagnosed” with psychosis. Ms. Jackson provided Mother with local resources for outpatient mental health services, which Mother declined. The Department closed the risk of harm case in December of 2022 with recommendations that Mother utilize the referrals for mental health services.

Between April and June of 2023, Mother called 911 thirteen times with concerns about a “mind control cult.” Undated body camera footage of Mother’s encounter with Montgomery County police at her home was admitted into evidence and played for the court. The footage itself is not part of the record on appeal. To the extent the audio was not unintelligible, it was transcribed for the record. According to the transcript, Mother told the two police officers who responded to her home that she had been trying to contact police for about a week to “bring [the police] up to date.” She said that “[t]hey can control people” although she did not explain who she meant by “they.” She told police that “they” were able to “keep control of you” using strands of hair that were “engraved into the wall” of her apartment and a “yellow substance” that was “everywhere.” She said, “I’ve been cleaning up. It still doesn’t change the fact that my mind is open. Like, I can hear what they’re saying.” She said that she “just wanted somebody to come in and kind of document everything.” Mother denied to police that she felt like hurting herself or anyone else. She said, “Please stop asking me mental health questions. I’m trying to save the world.” Police concluded the encounter after assuring Mother that her concerns had been documented.

On May 31, 2023, Mother sent an email to Officer Jennifer Dougherty of the Montgomery County Police. Mother wrote: “[W]e spoke about the mind controlling cult yesterday. I gathered all information on the type of cult this is and how they put me under their control.” Mother then described events that she claimed had occurred in Texas in 2022.

Mother wrote that, in July 2022, she “started hearing a voice” that she recognized as the voice of her stepfather, Charles. According to Mother, Charles claimed to be a

“sorcerer who molest[s] children,” and told her that he had molested N.Y. Mother claimed her neighbor was sleeping with Charles “to get to a higher rank in their cult[,]” and was being paid by Charles to spy on her. She said that “random flies” started appearing in her house, and that Charles was “entering [her] home using these insects.” She became “terrified” and left her apartment with N.Y. On the way to a hotel, her phone died “suddenly,” and she felt “back to being controlled.”

Mother explained to Officer Dougherty that she took N.Y. to several hotels in Texas, but the cult was “able to track [them] down” at each stop. Mother said that she “felt a horny sensation as if they were trying to touch [her.]” The cult was also “putting sensations” on N.’s “private area[.]” Mother wrote:

I started smelling weird scents, hearing noises coming from animals rustling. They started screaming in my ear saying I was god and my child was Jesus. We walked to the [gas station] across the street, trying to find someone who wasn’t a child molester to help. The gas station clerk refused to let us stay inside.

Mother said “they” told her no one would help her because she did not “molest [her] child even after the sensation they put on [her].” Mother called the police for help, and the police offered her a ride home. Mother refused the ride because “they” told her that the police car had “something in it that would give them access to touch [her] child.”

Mother concluded her email by offering to provide more details, if needed. Officer Dougherty acknowledged receipt of Mother’s email and said she would review it.

On June 2, 2023, Mother emailed Officer Dougherty again. She wrote:

I’m wondering if I could file a police report here in Maryland about what that cult has been doing to me and my kid. Ever since we got our apartment here . . . they’ve been putting all types of sensations on us.

Duplicating uncleanable stains all over my home, causing breakage to my walls and making our belongings disappear. I really need to report everything they are doing to us even though we have left Texas please.

On June 5, 2023, Office Dougherty responded to Mother, stating:

Filing a police report is not going to protect you from these things. I was wondering if you would consider going to a doctor and tell them all the things you have been telling me. If this is all being done by mind control a doctor may be able to prescribe a medication that can help block the sensations that you have mentioned. . . . Neurological situations are not something that the [p]olice can stop or help with, but a doctor [may be] able to make these things go away.

On the same date, Mother responded:

Thank you for getting back to me. I really appreciate it but this has anything [sic] to do with my health. I fled to Maryland because of these people and even then they can't leave me alone. . . . I'm being harassed, my child is in danger, and our home is being destroyed right before our eyes. I need to file a police report please, I know who is responsible for all of this. Their voice gave them away.

On June 6, 2023, Mother took N.Y. to a pediatrician's office. According to Department notes, Mother told the nurse practitioner who examined N.Y. that a "cult of 36 people" were "controlling their lives." Mother said that she "heard voices," but denied that the voices told her to hurt anyone. She claimed that the cult transferred a birthmark from her body onto N.Y.'s body, regulated N.Y.'s body temperature, and caused N.Y. to have excessive body hair. Mother said that she had contacted the FBI and local police about her concerns, and that she brought N.Y. to be examined because she "wanted 'evidence.'"

The nurse practitioner examined N.Y. and reported no concerns about N.Y.'s appearance, and no bruising anywhere on her body. The nurse practitioner left the



examining room, under the pretense that she was going to prepare a vaccination that N.Y. needed, but instead, she contacted the Department.

Mother left the office because the nurse practitioner was not “helpful.” The nurse practitioner called Mother and told her to bring N.Y. to the emergency room. The nurse practitioner then called the hospital to advise them that Mother would be coming in, and asked that Mother be evaluated.

At the hospital, Mother repeated her claim that N.Y. was “controlled by a cult” that Mother could “hear in her head,” and that the cult caused N.Y. to be “covered in hair.” According to hospital notes, Mother said that she had moved from Texas because “she had too many CPS (Child Protective Services) reports and mental health evaluations.” N.Y.’s examination was normal, but Mother was noted to be “not of sound mind.” Hospital staff notified the Department and police.

While hospital staff attempted to evaluate Mother, Mother became upset and wanted to leave. The hospital was unable to “emergency petition” Mother because she was not a current patient.<sup>5</sup> Police officers who had responded to the call spoke to Mother as she left

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<sup>5</sup> Pursuant to § 10-622(a) of the Health General Article (“HG”), if there is reason to believe that an individual “[h]as a mental disorder” and “[p]resents a danger to the life or safety of the individual or of others[,]” a petition for emergency evaluation may be made. If the petitioner possesses a certain status, such as a physician; psychologist; clinical social worker; or licensed clinical marriage and family therapist, the petition is given to a peace officer. HG § 10-622(d)(i). The peace officer then transports the subject of the petition to the nearest emergency facility to be evaluated to determine whether the subject individual meets the requirements for involuntary admission. HG § 10-624. If the petitioner is a layperson, the petition must first be presented to a court for a finding of probable cause. HG § 10-623.

the hospital but were unable to obtain sufficient information to support an emergency petition. Hospital staff requested that police follow Mother home because they believed N.Y. was not safe in Mother’s custody, but police advised they could not do anything at that time.

At 11:00 p.m. on June 6, 2023, an after-hours social worker and a mobile crisis unit met police at Mother’s home. They knocked on the door for over an hour, but Mother refused to open the door. When she finally opened the door, she was taken into custody and transported to the hospital. N.Y., who was asleep in her crib, was taken into emergency foster care. There were no concerns about N.Y.’s physical condition. Mother underwent a psychiatric assessment and was involuntarily admitted to the hospital.

On June 7, 2023, Ms. Jackson spoke with Father, who was in Michigan. Father had last seen N.Y. four or five months prior to that time. Father told Ms. Jackson that he was aware of Mother’s mental health concerns, which he described as “on and off.” He said that, in the weeks leading up to N.Y.’s removal from Mother’s custody in Montgomery County, he became concerned about Mother’s social media posts, in which she made statements such as “[t]he devil is real” and “the devil is controlling minds.” Father contacted Mother and attempted to discourage her from posting such comments, but Mother “cursed him out” and then cut off contact. Father expressed that he did not want N.Y. to be in foster care, and that he thought he could care for her.

On June 9, 2023, Ms. Jackson visited Mother at the hospital. Mother told Ms. Jackson that, after their meeting at the hotel in October 2022, “things started happening again.” She told Ms. Jackson about the cult, and said that the cult was “duplicating scars”

and causing N.Y. to develop pubic hair. Ms. Jackson noted that, “[w]hile on the psych[iatric] unit,” Mother had been told that she needs medication, but Mother did not believe it was necessary.

Mother was discharged from the hospital on June 14, 2023, with a diagnosis of cannabis-induced psychosis and severe cannabis use disorder.<sup>6</sup>

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<sup>6</sup> According to the American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition, Text Revision (2022) (“DSM-5-TR”), “[t]he essential features of substance/medication-induced psychotic disorder are prominent delusions and/or hallucinations . . . that are judged to be due to the physiological effects of a substance/medication (i.e. a drug of abuse, a medication, or a toxin exposure)[.]”

The diagnostic criteria for “cannabis use disorder” are set forth in DSM-5 as follows:

A problematic pattern of cannabis use leading to clinically significant impairment or distress, as manifested by at least two of the following, occurring within a 12-month period:

1. Cannabis is often taken in larger amounts or over a longer period of time than was intended.
2. There is a persistent desire or unsuccessful efforts to cut down or control cannabis use.
3. A great deal of time is spent in activities necessary to obtain cannabis, use cannabis, or recover from its effects.
4. Craving, or a strong desire or urge to use cannabis.
5. Recurrent cannabis use resulting in failure to fulfill major role obligations at work, school, or home.
6. Continued cannabis use despite having persistent or recurrent social or interpersonal problems caused by or exacerbated by the effects of cannabis.
7. Important social, occupational, or recreational activities are given up or reduced because of cannabis use.
8. Recurrent cannabis use in situations where it is physically hazardous.
9. Cannabis use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused by or exacerbated by cannabis.
10. Tolerance, as defined by either of the following:
  - a. A need for markedly increased amounts of cannabis to achieve intoxication or desired effect.

On June 16, 2023, a Department social worker contacted Mother to schedule a supervised visit with N.Y., per the court’s order. Mother declined the visit, stating that she would love to see N.Y. but that it would be too “trauma[ti]c” for her to leave N.Y. when the visit was over. Mother insisted she was fit to care for N.Y. and asked if there was a way for her to take her home that day. She also said that she did not have the support system she thought she did, and that she was “all alone.” The social worker explained that the matter was before the court, and she advised Mother of the importance of participating in court-ordered visits to demonstrate her commitment to N.Y. Mother was also advised of the importance of following up with discharge instructions from the hospital, including medication management and outpatient therapy appointments that had been scheduled for her. Mother denied having mental health issues and informed the social worker that she had cancelled any appointments set up on her behalf.

On June 20, 2023, Mother sent another email to Officer Dougherty, describing events that she claimed occurred in Texas in July 2022. Mother said that “they” “traumatized” her “by talking about a world called ‘Mariel,’” and “instructed” her to pack a bag “as if [she] was going somewhere.” She was “so afraid of being in Texas [she] had

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- b. Markedly diminished effect with continued use of the same amount of cannabis.
11. Withdrawal, as manifested by either of the following:
- a. The characteristic withdrawal syndrome for cannabis (refer to Criteria A and B of the criteria set for cannabis withdrawal, pp. 517-578).
  - b. Cannabis (or a closely related substance) is taken to relieve or avoid withdrawal symptoms.

to leave.” She was “instructed” to “close her eyes by the street” so “they” would leave her alone.

Mother wrote that, while she was waiting, she was “1000% under control.” She saw a “small piglet appear out of nowhere” that she believed was Charles. She was afraid of the “people with red eyes[,]” and was “so controlled [she] couldn’t say a word.” She went to a gas station, “hoping to get a ride to the airport.” A man offered her a ride to the airport, which she accepted. She was taken to her mother’s house instead. Mother wrote, “[t]he chatter begins again [and] now they are claiming that ‘my daughter is Jesus and I am god’ . . . and the neighbor next door is a prophet and he knows exactly what I am doing.” Mother then “got a ride from a lady” but Charles “came out of nowhere” in a white van. He “manipulated” her into “believing [they] were ‘saving the world[.]’” She reluctantly got into the van and was taken to her home. The next day, police broke down the door to Mother’s apartment. She was taken to an emergency facility where she spoke to a nurse and told her “everything [she] knew.” Mother said she was “pressure[d]” to say that she was suicidal.

Mother concluded her email to Officer Dougherty by stating:

Since leaving Texas they’ve done a whole lot of damage across our country some things are noticeable, some aren’t. The hair/dirt floating around which I think is how they copy and paste how someone is feeling and put that same feeling on the next person. Not sure how they are able to take people’s eyelashes, scars, body hair and put it on someone else or on part of the person body but I know for a fact this is going unnoticed because a lot of people are not aware or paying attention.

On June 27, 2023, a Department employee spoke to Mother on the phone. Mother wanted to know how she could regain custody of N.Y. Mother was again advised to follow

up with recommended treatment, including medication management and outpatient therapy, but Mother said that she “refuse[d] to do anything that the hospital recommended because they held her against her will.”

Ms. Jackson testified that, in her opinion, N.Y. was not safe in Mother’s custody. Ms. Jackson’s opinion was based on Mother’s refusal to accept services to address her mental health and substance use disorders, and her refusal to engage with the Department following her discharge from the hospital. According to Ms. Jackson, Mother’s refusal to undergo mental health treatment “puts [N.Y.] at risk of harm.” She expressed concern that Mother’s “delusions” about a mind-control cult had “escalated” and were “now focused on N.Y.” She also expressed “significant” concern about the impact Mother’s refusal to engage with the Department would have on N.Y., who needed to be evaluated for a suspected “significant speech delay.”

Ms. Jackson testified that Father was willing to be a placement resource for N.Y. and that he was “eager to have his child with him.” In Ms. Jackson’s opinion, N.Y. would be safe with Father. She explained that Father and his partner, with whom he lived, had a child together and were expecting another child. In addition, Father had a “significant support system” which included two of his sisters. His home in Michigan had been assessed by child welfare authorities in that state and had been determined to be safe. He was on probation for a 2020 conviction for possession of a small amount of Xanax, but would be off probation “shortly.” His urinalysis was “negative for all substances.”

Mother testified that she had taken care of N.Y. since birth. She had been “doing it by [her]self” but was “working on getting her support system back.” She believed herself

to be a fit parent because N.Y. was healthy, and they had food and shelter. Mother insisted that she was “falsely diagnosed” with psychosis and did not need mental health treatment. She told the court that she had not smoked marijuana “in weeks,” and that she had no desire to smoke marijuana again. Mother testified that she did not participate in court-ordered visitation because it was “horrifying to see [N.Y.] once a week and just leave her in a stranger’s hands.” When asked whether it would be better for N.Y. to have visits with Mother, Mother said that she was “protecting [N.Y.’s] feeling” by “[m]aking sure that she [was] not heartbroken by seeing [Mother] and not seeing [Mother] again.”

Mother testified that she was not experiencing auditory or visual hallucinations at that time. She said she had heard Charles’s voice in the past, but she was not instructed to harm anyone. She said that she did not “feel comfortable” answering a question about what the voice said to her. When the court directed her to answer the question, her response was “Nothing.” When Mother was asked if she believed that a cult had “opened [her] mind,” Mother again responded that she did not feel “comfortable” answering the question. The court directed Mother to answer the question, and Mother answered, “No.” When Mother was asked if she believed a cult was responsible for putting hair on N.Y.’s body, Mother said, “I’m not sure.”

### ***Parties’ Requests for Relief***

The Department urged the court to find that Mother’s refusal to engage in mental health treatment amounted to neglect. The Department requested that Father be granted custody of N.Y., that Mother be granted access, and that the CINA case be closed pursuant

to CJP § 3-819(e). Counsel for N.Y. agreed with the Department’s recommendation, as did Father’s attorney.

Counsel for Mother argued that there was no evidence of abuse or neglect, and that Mother’s psychiatric disorder and use of cannabis, without more, was insufficient evidence that she was unfit. Counsel asserted that Mother’s “persistence to protect the minor child from any potential threats or cults or secret societies” demonstrated that she was a loving and caring parent. Counsel requested that the court dismiss the case so that Mother could be reunited with N.Y.

***Court’s Ruling and Request to Postpone Disposition***

Ruling from the bench, the court stated that the allegations in the amended CINA petition had been proven beyond a preponderance of the evidence. Before the court moved on to the disposition phase of the proceedings, counsel for Mother moved to postpone disposition for two weeks so that Mother could seek treatment and regain custody of N.Y. Mother argued that it was not in N.Y.’s best interest to be placed with Father, because N.Y. had never been to Father’s home and Father had not been involved in raising her.

Father opposed the motion for postponement, arguing that it was not in N.Y.’s best interest to “sit in foster care when she has an able and willing parent to take care of her.” Father argued that Mother had consistently denied the need for mental health treatment, and that, even if the court postponed disposition for thirty days, the maximum allowable



by statute,<sup>7</sup> and Mother entered treatment, it was unlikely that Mother would become stable enough during that time to regain custody of N.Y. Father pointed out that Mother retained the right to seek custody at a later date. The Department and counsel for N.Y. joined in Father’s opposition to Mother’s request to postpone disposition.

The court denied the motion to postpone disposition. The court found that it was unlikely that Mother would achieve stability in two weeks or even thirty days. The court further found that it was not in N.Y.’s best interest to remain in foster care for another thirty days when Father was ready, willing, and able to take care of her, and had been determined to be an appropriate resource.

### ***Disposition***

After hearing from the parties on disposition, the court found that N.Y. had been neglected by Mother, and that Mother was unable and/or unwilling to give proper care and attention to N.Y. The court ruled that it would award custody of N.Y. to Father, and that Mother would be granted supervised visitation with N.Y. at a minimum of once a week, virtually or in person. On July 10, 2023, the court entered a written order consistent with its oral ruling. This appeal followed.

### **STANDARD OF REVIEW**

On appeal from a CINA case, the appellate court employs three interrelated standards of review:

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<sup>7</sup> CJP § 3-819(a)(3) provides: “If the court delays a disposition hearing, it shall be held no later than 30 days after the conclusion of the adjudicatory hearing unless good cause is shown.”

Factual findings by the juvenile court are reviewed for clear error. *In re Yve S.*, 373 Md. [551, 586 (2003)]. Matters of law are reviewed without deference to the juvenile court. *Id.* Ultimate conclusions of law and fact, when based upon “sound legal principles” and “factual findings that are not clearly erroneous,” are reviewed under an abuse of discretion standard. *Id.*

*In re T.K.*, 480 Md. 122, 143 (2022). “[T]he juvenile court’s ultimate decision in finding a child in need of assistance . . . will be reversed for abuse of discretion only if ‘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.R.*, 246 Md. App 707, 731 (2020) (citation omitted).

## DISCUSSION

### **I. The court did not abuse its discretion in denying Mother’s request to postpone the disposition hearing.**

Mother claims that the court erred in denying her request to postpone the disposition hearing so that she could enter treatment. She argues that it was in the best interest of N.Y. to promote reunification with Mother, and the court’s finding that Mother would not be stable enough to regain custody of N.Y. within thirty days was based on speculation.

The Department asserts that the court acted within its discretion in declining to postpone disposition where Mother continually denied needing mental health treatment and had refused to participate in reunification services offered by the Department. Similarly, Father maintains that Mother’s “pattern of conduct of refusing any treatment” for her illness supports the court’s conclusion that it would not be safe for N.Y. to be returned to Mother’s custody. No brief was filed on behalf of N.Y.

By law, the disposition hearing must occur on the same day as the adjudicatory hearing, unless, “on its own motion or motion of a party, the court finds that there is good cause to delay the disposition hearing to a later day.” CJP § 3-819(a)(2). “The discretion with which all courts determine whether good cause has or has not been shown is broad.” *Madore v. Baltimore County*, 34 Md. App. 340, 346 (1976). “A ruling made in the exercise of that discretion is entitled to the utmost respect” and “should not be overturned by an appellate court unless there is a clear showing that the discretion has been abused -- that the result falls outside its broad limits.” *Id.*

The evidence before the court demonstrated that, in the year preceding the filing of the CINA petition, Mother had a history of behavior that was considered by medical professionals to be “psychotic.” On two occasions, including the month prior to the hearing, Mother had been involuntary hospitalized, diagnosed with psychosis, and, upon discharge, provided with referrals for outpatient behavioral health services and medication management. Mother continually insisted, however, even throughout the adjudicatory hearing, that she had been hospitalized unnecessarily and that she had been misdiagnosed. She expressed no willingness to engage in mental health treatment and claimed that she did not need it.

Based on our review of the record, we perceive no abuse of discretion in the court’s determination that there was no good cause to postpone disposition. The court could rationally infer, from the extent of Mother’s psychological history, her refusal to accept her diagnoses, and her resistance to engage in mental health treatment, that, even if the case were postponed for the maximum of thirty days, and even if Mother entered treatment, it

would be unlikely that Mother could achieve the necessary stability such that reunification would be possible within thirty days.

**II. The court did not abuse its discretion in finding that Mother neglected N.Y. and granting custody of N.Y. to Father**

Mother contends that the court erred in finding that N.Y. was neglected by Mother. She maintains that there was no evidence that N.Y. suffered actual harm or was placed at substantial risk of harm. She further asserts that the court abused its discretion in determining that it was in the best interest of N.Y. to be placed in Father’s custody.

Father and the Department maintain that the court properly found that Mother’s ongoing untreated mental health and substance abuse issues placed N.Y. at a substantial risk of harm, and that it was in N.Y.’s best interest to be placed in the custody of Father, rather than remain in foster care. We agree with Father and the Department.

“The General Assembly has adopted a statutory scheme to balance the fundamental right of parents to raise their children with the State’s obligation and prerogative to protect a child who requires court intervention for protection.” *In re T.K.*, 480 Md. at 132 (citing CJP §§ 3-801 – 3-830). Pursuant to that statutory scheme, court intervention is authorized only if “(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.” CJP § 3-801(f).

“[A]lthough a finding of abuse or neglect can inform a court’s decision concerning a parent’s ability or willingness to give proper care, the two prongs are distinct, and both

must be satisfied before a court can determine that a child is in need of assistance.” *In re T.K.*, 480 Md. at 134. “Unless both of those prongs are proven by a preponderance of the evidence . . . , court intervention is unavailable and a court ordinarily must dismiss the [CINA] case without further involvement.” *Id.* at 132.

Section 3-819(e) of the Courts and Judicial Proceedings Article provides a “limited but important exception to that general rule[.]” *Id.* It provides that: “[i]f the allegations in the petition are sustained against only one parent of a child, and there is another parent available who is able and willing to care for the child, the court may not find that the child is a child in need of assistance, but, before dismissing the case, the court may award custody to the other parent.” CJP § 3-819(e). “[T]he General Assembly enacted what is currently § 3-819(e) . . . to respond to a situation in which petition allegations sufficient to support both prongs of a CINA disposition are sustained against only one custodial parent.” *In re T.K.*, 480 Md. 122, 148 (2022). In such circumstances, the juvenile court would have no basis to intervene, even though the child remained at risk in the care of that parent. *Id.* The exception “thus permits a juvenile court that is not otherwise able to intervene in a family’s affairs to determine the most appropriate custody arrangement for the child as between the child’s parents.” *Id.* at 132.

Here, the court found that N.Y. had been neglected by Mother, and that Mother was unable and/or unwilling to give proper care and attention to N.Y. and her needs. The court further found that Father was able and willing to care for N.Y. and exercised its authority to award custody to Father pursuant to CJP § 3-819(e). We perceive no clear error in the

court’s factual findings, and no abuse of discretion in the court’s ultimate determination to award custody to Father. We explain.

**A. The court did not err in finding neglect**

In the context of a CINA proceeding, “neglect” is a statutorily defined term. As it relates to the facts of this case, neglect is the “failure to give proper care and attention to a child by any parent . . . under circumstances that indicate: [t]hat the child’s health or welfare is placed at a substantial risk of harm.” CJP § 3-801(s)(1)(i). “Neglect does not include the use of cannabis by any parent . . . unless, as a result of the use of cannabis . . . [t]he child’s health or welfare is harmed or placed at substantial risk of harm[.]” CJP § 3-801(s)(2)(i).<sup>8</sup>

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<sup>8</sup> In full, neglect is defined as follows:

(1) “Neglect” means the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or individual who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate:

- (i) That the child’s health or welfare is harmed or placed at substantial risk of harm; or
- (ii) That the child has suffered mental injury or been placed at substantial risk of mental injury.

(2) “Neglect” does not include the use of cannabis by any parent or individual who has permanent or temporary care or custody or responsibility for supervision of the child unless, as a result of the use of cannabis:

- (i) The child’s health or welfare is harmed or placed at substantial risk of harm; or
- (ii) The child has suffered mental injury or been placed at substantial risk of mental injury.

“In determining whether a child has been neglected, a court may and must look at the totality of the circumstances[.]” *In re Priscilla B.*, 214 Md. App. 600, 621 (2013). “[T]he court need not wait until the child suffers some injury before determining that he is neglected[.]” *In re J.R.*, 246 Md. App. at 753 (quoting *In re Dustin T.*, 93 Md. App. 726, 735 (1992)). “The court may find either neglect or abuse if the child is merely *placed at risk* of significant harm.” *In re Dustin T.*, 93 Md. App. at 735.

To determine if a child is placed at risk of harm, the court may consider the “track record” or past conduct of the parent or custodian of a child. *Id.* As our Supreme Court has emphasized, “[c]ourts should be most reluctant to ‘gamble’ with an infant’s future; there is no way to judge the future conduct of an adult excepting by his or her conduct in the past.” *McCabe v. McCabe*, 218 Md. 378, 384 (1958). *See also In re J.R.*, 246 Md. App. at 753 (quoting *McCabe*).

The evidence regarding Mother’s past conduct established that, in the twelve months preceding the hearing, Mother had twice been involuntarily hospitalized for mental health issues, and had been diagnosed with cannabis-induced psychosis and severe cannabis use disorder. Although these facts, without more, may not have supported a finding of neglect, the evidence supported a finding that Mother’s conduct placed N.Y. at substantial risk of harm. Mother claimed not to know why she had been hospitalized, insisted that she had been misdiagnosed, and refused to participate in recommended behavioral health and medication management services. As a result of her untreated illnesses, Mother suffered from auditory and visual hallucinations that caused her to believe that she and N.Y. were unsafe in their home. In an attempt to escape perceived dangers,

Mother uprooted N.Y. from their home in Texas and moved her from one hotel to another. With N.Y. in her custody, Mother sought refuge in a gas station and apparently solicited and accepted rides from strangers. Mother became irrationally preoccupied with the appearance of N.Y.'s pubic area and expressed to Officer Dougherty that a cult inflicted “horny sensations” on her so that she would molest N.Y. The nurse practitioner and hospital personnel who interacted with Mother the day before N.Y. was removed from her custody in Maryland were concerned that N.Y. was not safe with Mother. The Department’s expert in safety and risk analysis testified that, in her opinion, N.Y. was not safe in Mother’s custody.

Mother presented no evidence to corroborate her assertion that she did not suffer from a severe cannabis use disorder or cannabis-induced psychosis. Although Mother claimed that she had not used cannabis for weeks, and would not use it again, the court was free to discredit that testimony. *See In re Joseph G.*, 94 Md. App. 343, 349 (1993) (“The trial court has discretion as to the credibility of witnesses.”); *see also In re Adoption/Guardianship of Amber R.*, 417 Md. 701, 722 (2011) (“given the well-known difficulty of overcoming drug addiction, and the likelihood that addiction will persist if untreated, a court can infer that a parent will continue to abuse drugs unless he or she seeks treatment”).

Mother asserts that her “disinterest” in following hospital discharge instructions for substance abuse treatment and medication management services has “no nexus” to the court’s determination that N.Y. was at substantial risk of harm in Mother’s custody. Mother relies on an out-of-state case, *Care and Protection of Bruce*, 694 N.E.2d 27 (Mass.



App. Ct., 1998), where the court held that the trial court’s finding of unfitness based on failure to take medication for a personality disorder was “entirely predictive.” *Id.* at 29. Unlike the facts in this case, however, there was no evidence in *Bruce* of neglect or abuse prior to the parent being hospitalized and diagnosed with mental illness. *Id.* Furthermore, after being released from the hospital, the parent continued to receive treatment from a psychologist and a psychiatrist, but only refused to take medication that had been prescribed due to claimed “intolerable side effects.” *Id.* The appellate court noted that, because the parent had not regained custody of the child after the medication had been prescribed, there was “no empirical evidence” of the parent’s “inability to cope unless treated with lithium.” *Id.*

Here, by contrast, Mother regained custody of N.Y. after her hospitalization in Texas in 2022. Unlike the parent in *Bruce*, Mother refused all treatment. Moreover, the evidence in this case supports a finding that, as a result, N.Y. was subjected to an unstable and potentially dangerous living situation.

In sum, the evidence before the court demonstrated that Mother’s denial of her condition and refusal to comply with recommendations for treatment placed N.Y. at substantial risk of harm. On this record, the court did not abuse its broad discretion by determining that N.Y. had been neglected, and that Mother was unable or unwilling to provide proper care and attention to her.

**B. The court did not abuse its discretion in awarding custody of N. to Father**

Mother argues that although Father was able and willing to care for N.Y. immediately, and had been determined by the Department to be a fit parent, it was not in

N.Y.’s best interest to be placed with Father, because he lived out of state, had seen N.Y. only twice a year, and lacked knowledge of N.Y.’s “routines.” Mother argues that it was in the best interest of N.Y. to be reunited with Mother, “even if it meant [N.Y.] would remain in [foster] care for [a] longer” period of time.

“[T]he best interest of the child standard is applicable to the juvenile court’s exercise of discretion under § 3-819(e).” *In re T.K.*, 480 Md. at 151. “Thus, a juvenile court should exercise its discretion to award custody of a child to the parent who it finds available, willing, and able to provide care only if it determines that doing so is in the best interest of the child.” *Id.*

We perceive no abuse of discretion in the court’s determination that it was in the best interest of N.Y. to be placed in Father’s custody, rather than to remain in the custody of the Department. The evidence showed that, although Mother had been N.Y.’s sole caretaker since birth, Father had contact with N.Y. prior to the CINA proceeding, and had demonstrated concern for N.Y.’s well-being. He had willingly stepped forward as a placement resource in July 2022, when Mother was hospitalized in Texas, and again when she was hospitalized in Maryland in 2023. He was employed and lived with his partner and their children. He had been vetted and approved by child welfare authorities in Michigan, and the Department deemed him to be an appropriate placement for N.Y.

Before this Court, Mother concedes that she has “no specific negative complaints” about Father. She claims, however, that the court should have availed itself of “other less restrictive and less punitive options.” Mother argues that, if she agreed to enter treatment, “that action would eliminate any need” to deprive Mother of the custody of N.Y., and the

court could have then returned N.Y. to the custody of Mother at the conclusion of the disposition hearing with an order to follow up with recommendations for speech therapy for N.Y. We do not agree.

As an initial matter, although Mother’s counsel requested that disposition be postponed so that Mother could seek treatment for her illness, there is no evidence in the record that Mother agreed to enter therapy. Indeed, throughout the adjudicatory hearing, Mother continued to insist that she was misdiagnosed and did not need treatment. In any event, given Mother’s history of psychosis and severe cannabis use disorder, and considering the effects her illnesses had on her ability to parent, a mere agreement to enter treatment would not automatically eliminate the reasons for removing N.Y. from Mother’s custody. The only other option, therefore, was to award custody to Father or continue custody with the Department. The court did not abuse its discretion in awarding custody to Father.

**JUDGMENT OF THE CIRCUIT COURT  
FOR MONTGOMERY COUNTY  
AFFIRMED. COSTS TO BE PAID BY  
APPELLANT.**