Circuit Court for Baltimore City
Case Nos. 819003001J-3J, T20014003-05

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1036 & 1295, September Term, 2024

IN RE: I.C., D.D., & K.D.

Graeff,
Albright,
Battaglia, Lynne A.
(Senior Judge, Specially Assigned)

JJ.

Opinion by Graeff, J.

Filed: July 15, 2025

* 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).

D.D. ("Mother"), appellant, has five children, and the three oldest, I.C., age 8, and 6-year-old twins, D.D. and K.D. (collectively "the children"), are involved in these consolidated appeals.[1] In January 2019, the Baltimore City Department of Social Service ("the Department"), appellee, filed Child in Need of Assistance ("CINA") petitions and removed the children from Mother's custody. In June 2019, they were each found to be a CINA.[2] In January 2020, the Department filed petitions to terminate Mother's parental rights to the children ("TPR case").

The Circuit Court for Baltimore City, sitting as a juvenile court, held consolidated hearings in the CINA and TPR cases from December 2023 through May 2024, during which it addressed: (1) Mother's de novo exceptions to a magistrate's recommendation to modify the CINA permanency plans from reunification to adoption by a non-relative; and (2) the Department's petition to terminate Mother's parental rights. Ultimately, the circuit court issued opinions and orders modifying the children's permanency plans to adoption by a non-relative, and then terminating Mother's parental rights to each child.[3]

[1] We will refer to Mother's two younger children, J. and D.J., by their initials.

[2] A "Child in need of assistance" ("CINA") is a "child who requires court intervention because . . . [t]he child has been abused [or] has been neglected," and "[t]he child's parents . . . are unable or unwilling to give proper care and attention to the child and the child's needs." Md. Code Ann., Cts. & Jud. Proc. ("CJ") § 3-801(f) (2024 Supp.).

[3] I.C.'s father did not participate in the proceedings and was deemed to have consented after he failed to file an objection. The father of D.D. and K.D. consented to the termination of his parental rights.

In this consolidated appeal, Mother presents three questions for this Court's review,[4] which we have reordered, combined, and rephrased, as follows:

> 1. Did the juvenile court err by granting the Department's petition to terminate Mother's parental rights to I.C., D.D., and K.D.?
>
> 2. Did the juvenile court err by changing the children's permanency plans from reunification to adoption by a non-relative?

For the reasons set forth below, we shall affirm the judgment in the TPR case and dismiss the appeal in the CINA cases.

[4] Mother's questions presented in the termination of parental rights ("TPR") case are as follows:

> 1. Did the court err in finding that DSS made adequate efforts to reunify mother and her children, warranting reversal of the TPRs?
>
> 2. Did the court factually and legally err in concluding that mother was unfit, exceptional circumstances applied, and TPR was in the children's overall best interests?

Mother's questions presented in the CINA case are as follows:

> Did the juvenile court err when it changed the children's permanency plans from reunification to nonrelative adoption?
>
> a. Did the court err by failing to clearly make an express reasonable efforts finding before changing the plans and did insufficient evidence support any implied finding that DSS made reasonable efforts to reunify the family?
>
> b. Were many of the court's factual findings erroneous?
>
> c. Did the totality of the circumstances merit keeping reunification the plans?

FACTUAL AND PROCEDURAL BACKGROUND

I.

Mother's History

Mother entered foster care when she was three years old. She subsequently moved to Nigeria with her grandfather. Upon her return to the United States, approximately ten years later, Mother reentered the foster care system. She lived with her maternal grandmother briefly, but they did not get along, and she was placed in a residential program at Sheppard Pratt for a couple of years. At Sheppard Pratt, Mother was diagnosed with bipolar disorder and attention-deficit/hyperactivity disorder ("ADHD"), and she was prescribed medication for both conditions. She attended high school through 11th grade.

Lynette Venson, a social worker in the Intensive Case Management Unit at the Department, was assigned to Mother's case when Mother was 16 years old. Ms. Venson remained Mother's case worker until Mother aged out of the foster system when she turned 21. Ms. Venson explained that the Intensive Case Management Unit is for clients who are harder to serve and need extra attention. Ms. Venson spoke to Mother daily and met with her at least twice per week.

After Mother was discharged from the Sheppard Pratt program, she was placed in group foster homes. Mother had numerous placement disruptions because of her behavior, which included failure to comply with house rules, cursing and screaming, and destroying property.

In December 2016, a month before I.C. was born, Mother was provided a studio apartment in a semi-independent living arrangement. The Department provided Mother with a stipend to pay her rent and utilities, but after the Department received notices that her rent was past due, it began paying the rent directly to the apartment complex.

Ms. Venson noted cleanliness concerns at Mother's apartment, observing clothing everywhere and dirty dishes in the sink and on the floor. She purchased cleaning supplies for Mother and modeled how to clean and organize the apartment. Mother would keep the apartment clean for a short time, but it would soon return to "disarray."

II.

The Department's Involvement with I.C.

I.C. was born in January 2017, when Mother was 20 years old. When I.C. was an infant, the Department provided Mother with numerous services, including flexible funds to purchase baby supplies, transportation to medical appointments, parenting education, and regular visits from Ms. Venson. Ms. Venson testified that she often felt as if she was I.C.'s second parent.

Ms. Venson observed that Mother clearly loved I.C. and was often appropriate with him, but other times she left him lying in his crib for long periods. The Department was concerned that Mother left I.C. with people she did not really know. When I.C. was an infant, the Department received a report that Mother had left him unattended in the apartment, and she asked a janitor at the apartment complex to stand outside her door and

listen for him. Ms. Venson counseled Mother that it was not safe to leave I.C. alone or in the care of strangers.

Ms. Venson testified that Mother's only income during this period was Supplemental Security Income ("SSI"). The Department assisted Mother in obtaining employment and referred her to the Youth Works Program. Mother participated for only two or three weeks before deciding not to continue with the program.

When Mother aged out of foster care, she and I.C. lived with a family friend to whom she paid rent, using money that the Department provided. Ms. Venson's main concern for Mother when she aged out was mental health. When Mother was not medicated for her mental health issues, she was impulsive and unfocused, and her behavior was erratic. Mother would become angry, and she would scream and curse at Ms. Venson on occasion.

When I.C. was a year old, the Baltimore County Police Department received a report that he was left unattended in a pickup truck while Mother shopped at a flea market for 15 minutes. Multiple announcements were made over the intercom system looking for Mother. When Mother returned to the vehicle, a police officer attempted to speak to her, but she became "rude and irate" and walked away with I.C. The police issued Mother a criminal citation and referred the matter to the Baltimore County Department of Social Services.

Soon after that, the Department received a neglect report alleging that Mother was exposing I.C. to unsafe conditions. A caseworker made contact with Mother, who was living in a hotel room with I.C., and Mother signed a safety plan agreeing to place I.C. in the care of a relative while she dealt with her untreated mental health issues and obtained suitable housing. Thereafter, a family preservation worker had difficulty contacting Mother, and Mother refused to sign updated safety plans. She later refused further family preservation services.

In November 2018, the Department received a report of medical neglect of I.C. related to untreated bug bites. Mother spoke to a Department worker, but she provided a false home address and refused to provide the name of I.C.'s physician. Mother subsequently met with a worker, signed a new safety plan, and agreed to allow the worker to conduct a home assessment on a later date. Mother failed to provide her address, however, and the Department was unable to locate her or I.C. until it learned that Mother was admitted to Mercy Medical Center to give birth to D.D. and K.D.

III.

Birth of Twins and Removal of the Children from Mother's Care

In December 2018, D.D. and K.D. were born at 34 weeks gestation at Mercy. They developed neonatal bacterial sepsis and spent 19 days in the neonatal intensive care unit. Mother self-reported smoking marijuana early in her pregnancy before she knew she was pregnant. Neither she nor the twins tested positive for marijuana.

Hospital staff members, however, expressed concern about discharging the twins to Mother's care. Staff reported that Mother was resistant, and at times unwilling, to provide basic care for the twins, including feeding them when asked by nursing staff. They also reported that Mother lacked housing for herself and was living at the hospital during the twins' hospital stay. I.C., then almost two years old, was staying with Mother's friend, "Tony," who refused to provide his address to the Department.

On January 2, 2019, Tony dropped I.C. off at Mercy. The following day, the Department filed CINA petitions for the children and sought shelter care orders. The juvenile court entered shelter care orders that same day. I.C. was placed in one foster home, and D.D. and K.D. were discharged from the hospital to a foster home with R.W. and D. H.-W. ("the Ws").

On March 29, 2019, the court held an adjudicatory hearing, and by stipulation, it sustained the following facts: (1) Mercy hospital staff were concerned about discharging the twins to Mother's custody; (2) Mother had been diagnosed with bipolar disorder and ADHD, but she was not participating in mental health treatment; (3) Mother reported in January 2019 that she had not received mental health treatment since she was 17 years old, but she had recently reengaged with treatment through Healthcare for the Homeless; (4) Mother lacked appropriate housing and was currently staying with a friend; (5) the Department had received previous reports of neglect against Mother relative to I.C.; and (6) Mother reported a history of domestic violence with the fathers of I.C. and the twins. The court found good cause to delay the disposition hearing, granted limited guardianship

of the children to the Department, and granted Mother unsupervised day visits with the children.

On April 16, 2019, Mother signed a service agreement in which she agreed to "comply with her mental health regimen and take medication if prescribed," to "identify housing," and to maintain visitation with the children. Prior to the disposition hearing, the Department successfully moved to modify Mother's visits from unsupervised to supervised because she misrepresented the location where she was visiting with the children.

On June 20, 2019, the juvenile court found that the children were CINAs and committed them to the Department. Mother's next visit with the children would be supervised by the Department, but the court ordered that the weekly visits thereafter could be supervised by Mother's paternal grandmother at grandmother's home.

IV.

Mother's Housing Instability

Mother was homeless when K.D. and D.D. were born. She lived in a dormitory at the Weinberg Housing and Resource Center for part of 2019. In April 2019, Mother was injured in an auto accident. Mother testified that she was hospitalized for the next eight months.

In January 2020, Mother entered a supportive housing program at Dayspring. She was placed in a three-bedroom apartment because she was working toward reunifying with the children. Mother did not stay in her apartment all the time, however, reporting

to her case manager at Dayspring, Tonia Matthews, that she stayed with friends, and on one occasion, in an abandoned building. On several occasions, she was unavailable for home visits. Ms. Matthews noted concerns with the cleanliness of Mother's apartment at Dayspring.

Mother remained at Dayspring for 18 months. She gave birth to her fourth son, J., in February 2021. She was discharged from Dayspring fourth months later because she had not reunified with her older three children and could not continue to reside in a three-bedroom unit. Dayspring transferred her to Promise Housing.

Mother subsequently moved into an apartment on Curley Street. In September 2021, a CPS investigator with the Department went to Mother's apartment relative to J's case and observed that the condition of the first floor was "deplorable."

As we discussed in more detail, *infra*, from June 2022 through January 2023, Mother was detained on criminal charges. As a result, she lost her apartment on Curley Street.

After Mother was released from detention, she lived with her aunt until they had a disagreement over rent money. Thereafter, from March 2023 through at least May 2023, she returned to the Weinberg Center. After that, she refused to provide the Department with her address. Consequently, the Department was unable to assess the appropriateness of her housing. At the contested hearings in this case, Mother testified that she lived in a two-bedroom apartment on Streeper Street, paying $850 per month in rent.

V.

Visitation with the Children

Throughout the more than five years that the children were in care, Mother primarily was permitted only supervised visitation. At one point, the juvenile court ordered that the visits be supervised by Mother's grandmother, but Mother violated the terms of the agreement within a month by leaving her grandmother's home with the children during a supervised visit.

In early August 2019, Mother requested that her weekly visits be extended from one hour to two hours. The juvenile court granted that request over the Department's objection. Less than a month later, however, the Department moved to decrease Mother's visits to one-hour in length, alleging that Mother was "habitually late" to the visits, was rude and disrespectful to Department staff, and had threatened to do them "bodily harm." Mother also was unable to manage the children during visits and demonstrated poor judgment. For example, she failed to intervene when I.C. repeatedly attempted to stick his finger in an electrical socket. She also was distracted often during the visits and on the phone. She had to be reminded to change the children's diapers and to feed them. The Department's request for a reduction in the length of visitation was granted in September 2019.

Robyn Williams was assigned as the caseworker for the children in June 2019. She testified that Mother was entitled to weekly visits with the children. Mother was an hour late to some visits and failed to show up for other visits. I.C. was old enough to understand that he was scheduled to visit Mother, and he would become extremely upset if she did not show up. If Ms. Williams provided Mother with any feedback on parenting during a visit, Mother became hostile, cursed at Ms. Williams, and told her she could not tell her what to do.

Marsha Towson was the assigned caseworker for the children from February 2020 through August 2020. She supervised three in-person visits between Mother and the children before the COVID-19 pandemic began. Thereafter, Mother received weekly virtual visits with the children. She missed numerous virtual visits without explanation.

Ms. Towson observed that Mother's behavior during visits was volatile. If the children were a few minutes late for a visit, Mother would become very angry.

Shaneka Hunter took over the children's cases in August 2020 and remained their assigned caseworker until April 2022. For most of that time, visits were held in person at the Banja Center. When the visits were still being held virtually, Mother sometimes would forget the visits or be distracted by other people or activities during the calls.

Ms. Hunter testified that Mother's behavior during visits was inconsistent. After I.C. had oral surgery, Mother visited him and behaved wonderfully. She was very appropriate, met I.C.'s foster father, and prayed over I.C. Ms. Hunter observed that I.C. was attached to Mother, excited to see her, and tearful when in-person visits ended.

On other occasions, Mother's behavior during visits was inappropriate. During a September 2020 virtual visit, Mother asked I.C. if he was "ready to com[e] home with her." She repeated the same question during an in-person visit in November 2020 and was admonished by Ms. Hunter. Ms. Hunter spoke to Mother about appropriate topics for conversation with I.C. prior to the next in-person visit, and Mother became angry, saying "no one c[ould] tell her what to say to her child."

At an in-person visit in December 2020 at the Banja Center, Ms. Hunter was forced to end the 90-minute visit after just 30 minutes due to Mother's aggressive behavior. Mother became irate when she observed that I.C. had received a haircut since the prior visit. She began interrogating I.C. and yelling at him, telling him that he should tell his foster parents that he was not supposed to get a haircut. Ms. Hunter explained that it was a cultural tradition for Mother that the first haircut be given by a paternal relative. I.C. was shaking and was very upset.

Following that visit, the Ws reported that I.C. had scratched himself, and he "had a rough time sleeping." Ms. Hunter consulted with her supervisor and decided to temporarily suspend visits between Mother and I.C.

Cynthia Cobb-White was assigned to the children's cases in May 2022.[5] Ms. Cobb-White supervised weekly 90-minute visits at the Banja Center between Mother and

[5] As we explain, *infra*, after J. and D.J. were removed from Mother's custody, Ms. Cobb-White was assigned to their cases as well. She continued to be assigned to all five children until the conclusion of this case.

the children. Mother had difficulty managing the children and would yell at them to sit down and listen to her.

Mother sometimes became upset when the children referred to her as "Mommy D[]" and would tell them that they only had one mother. She told the children that the Ws were not their real parents. Ms. Cobb-White testified that the children were "startle[d]" by these admonishments.

During the visits that J. and D.J. attended, Mother often focused her attention primarily on J., her youngest son. She spent most of the visits engaged in braiding his hair. J.'s former caseworker, Karen Jennings, testified that, on one occasion, J., who was then two years old, cried inconsolably the entire visit. Ms. Jennings testified that Mother displayed a lack of empathy during this visit. Mother also frequently made video calls to other family members during the visits rather than engaging with the children.

Mother was inconsistent with visits after January or February 2024. At that time, Mr. B., the twins' biological father, was released from prison, and Mother wanted him to attend the visits with her. Ms. Cobb-White informed Mother that Mr. B. could schedule his own visits, but he could not attend Mother's visits because it could result in I.C. feeling left out. Thereafter, Mother attended approximately 25% of her allowed visits.

Ms. Cobb-White required Mother to confirm visits one day in advance, but Mother would confirm and then not show up the following day. Consequently, Ms. Cobb-White began requiring Mother to confirm the visit the same day, two hours in advance. At the

time of Ms. Cobb-White's testimony on May 7, 2024, Mother had not visited the children for more than a month.

VI.

Removal of Mother's Other Children from her Care

J. was removed from Mother's custody when he was six months old, and the court later determined that he was a CINA. In adjudicating J.'s case, the juvenile court sustained as facts that Mother was not compliant with her mental health treatment, was involved in altercations with staff and other tenants while housed at Dayspring, and refused to communicate with or to provide complete information to the Department about her compliance with services.

In April 2022, Mother gave birth to her fifth child, D.J., a daughter. D.J. was born exposed to marijuana, and Mother also tested positive for marijuana. At the hospital, Mother entered into a safety plan with the Department to allow a person identified as D.J.'s maternal aunt to supervise Mother's care of D.J. Five days later, D.J.'s biological father took her to a medical appointment with the consent of the Department, but he did not return her to the aunt's care and refused to provide his location. The next day, the Department located D.J. at Mother's apartment on Curley Street with Mother and D.J.'s father. The Department sheltered D.J. and later placed her with a paternal relative.

VII.

Mother's Mental Health

As discussed, Mother was diagnosed as a teenager with bipolar disorder and ADHD. While housed at Sheppard Pratt, she was prescribed antipsychotics, mood stabilizers, and a stimulant. Since age 18, however, she had been inconsistently engaged in mental health therapy and had not taken medication. She did not agree with the mental health diagnoses she had been given.

In 2019, while at the Weinberg Center, Mother saw psychotherapist Ray Woodson. He reported that she showed up for her appointments "sporadically."

At Dayspring, Ms. Matthews referred Mother to a mental health therapy program. Mother attended an intake session, but she did not continue with therapy because she did not feel that she needed it. She told Ms. Towson that she used marijuana to treat her ADHD.

Mother completed anger management classes while at Dayspring. Nevertheless, Ms. Matthews observed Mother's behavior to be volatile. Ms. Matthews described Mother displaying "out of control anger" at times. She was involved in verbal altercations with other tenants and with Ms. Matthews. On one occasion, Ms. Matthews called the police because Mother was screaming and cursing in response to being asked to wear a face mask in compliance with the COVID policies at Dayspring.

After Mother was discharged from Dayspring, she began psychotherapy at Solid Ground Wellness. She attended twelve sessions between August 2021 and March 2022. She "refused to see a psychiatrist," however, or to "tak[e] any medications."

In February 2023, after Mother was released from detention, she reentered therapy at Changing Turn Community Health. She reported during her intake that she was "coming into therapy because she lost custody of her children [and] has been mandated by [the Department] to be in . . . therapy." She was agitated and exhibited "significant mood swings" during her intake. Her thinking was disorganized and distracted and her tone was "aggressive and combative," causing the clinician to suggest ending the intake early. She reported having "intense mood swings" since she was a teenager. The intake worker concluded that Mother met the criteria for Bipolar I due to "chronic Manic episode . . . characterized by extreme irritability and impairment in social functioning, inability to maintain employment and poor decision making that put her at risk for incarceration."

Mother was referred to a therapist, Derrick Henson, and psychiatric rehabilitation program worker ("PRP"), Robert Hipplewitz. Mr. Hipplewitz discharged Mother from the PRP program in March of 2024 for disrespectful behavior and non-compliance. Mr. Henson's notes from his sessions with Mother reflect that she was frequently agitated, angry, and distracted during the sessions, and she made little progress in meeting the treatment goals, which included identifying "triggers to her extreme irritability and impairment in social functioning."

Mother submitted to four psychological evaluations during the CINA case. Each evaluation was introduced into evidence at the contested hearings.

A.

Harriel Evaluation – December 2019

In October 2019, Mother was referred to the circuit court medical service division for an evaluation. In December 2019, Brenda Harriel, a licensed clinical social worker employed by that division, completed an evaluation. Ms. Harriel, who was accepted by the juvenile court as an expert in parental fitness by agreement of the parties, was asked to offer an opinion about whether Mother's mental health diagnoses and cognitive abilities impacted her ability to parent the children, and what, if any, additional services the Department could offer her to improve her ability to parent. Ms. Harriel opined that Mother ignored the symptoms of her mental health illnesses – which she determined to be Bipolar Disorder I, ADHD, and post-traumatic stress disorder – and was non-compliant with treatment for those conditions. Cognitive testing was not administered because Mother did not appear for the testing date.

Ms. Harriel observed that when Mother was asked about I.C., she responded "in terms of her needs" rather than his needs. Specifically, she referenced her sadness that I.C. was not with her after she was hit by a car because his "smiles, hugs, and kisses" made her feel like "the best mother ever."

Ms. Harriel's ultimate conclusion was that Mother's "noncompliance with mental health treatment and her cognitive functioning seriously compromise[d] her capacity to

provide for the safety of her children." In Ms. Harriel's opinion, there were no additional services that the Department could provide to Mother that would adjust her circumstances to allow her to safely parent her children.

B.

Dr. Mormile Evaluation – May 2022

In December 2021, Mother's attorney in her CINA case involving J. referred Mother to Beverli Mormile, PsyD. Dr. Mormile administered intellectual/cognitive and personality/emotional functioning tests. She concluded that Mother met the diagnostic criteria for Bipolar II Disorder and Posttraumatic Stress Disorder and demonstrated dependent and depressive personality traits. Her verbal reasoning abilities were in the low average range, while her nonverbal reasoning was average. Her ability to focus was borderline. Dr. Mormile concluded that Mother did not have cognitive or emotional limitations that would endanger J. or interfere with her ability to parent him. She recommended that Mother engage with a therapist specializing in trauma and mood dysregulation.

C.

Dr. Mormile Evaluation – October 2022

Mother was referred to Dr. Mormile for a reevaluation in September 2022 in relation to then pending criminal charges, which we discuss, *infra*. Much of the reevaluation was based upon the same testing and results discussed above. Dr. Mormile observed that Mother lacked "abstract reasoning in interpersonal relationships," which

made it difficult for her to deescalate conflicts. Dr. Mormile opined that "intensive psychotherapy" was vital to Mother's healing, and she would benefit from a "psychiatric assessment to determine if medication intervention [was] needed."

D.

Dr. Negi Evaluation – May 2023

In May 2023, Dr. Shobhit Negi, a psychiatrist with the circuit court medical services office, completed a parental fitness and "cognitive/intellectual/developmental functioning" evaluation. He concluded that Mother's "mental health and cognitive limitations seriously compromise her ability to provide for the safety and basic needs of [the children]." He observed that Mother had "poor insight" into her mental health, which seriously impaired her ability to maintain consistent treatment. Consequently, her "irritability and impulsivity continue[d] to impact her parenting." Her cognitive limitations also played a role in Mother's inability to effectively parent the children.

Dr. Negi was accepted as an expert in parental fitness evaluations at the contested hearings. He explained that Mother's lack of insight into her own mental health conditions compromised her ability to care for I.C., who also was diagnosed with ADHD and was prescribed medication. Mother told Dr. Negi that she believed that I.C. was medicated because he was "not in her care." In Dr. Negi's opinion, Mother's mistaken belief that I.C.'s mental health condition was situational made it likely that if he were returned to Mother's care, she would not comply with treatment recommendations for

him. Mother's inability to self-regulate her emotions also was a significant concern because children cannot learn self-regulation when it is not modeled for them.

VIII.

Mother's Criminal Charges

On June 3, 2021, Mother was arrested and charged with disorderly conduct, making a threat of arson, and resisting arrest after an incident at a grocery store. Mother was walking through the store with a cart filled with Dove soap products and an empty book bag at the bottom of the cart. An employee was following her, and Mother proceeded to throw the items she had in her cart across the store, knocking items off the shelves. When the police arrived, Mother was "extremely uncooperative" and ignored police directions not to reenter the store. She yelled that she would "blow that bitch up," referring to the grocery store. When officers attempted to place her under arrest, she pulled her body away and had to be taken to the ground for the officers to safely handcuff her. She pleaded guilty to resisting arrest, and the court sentenced her to a term of six months, all suspended.

A year later, in June 2022, Mother was arrested after she was involved in a physical fight with another woman outside Mother's home. She was charged with first and second-degree assault, possession of a dangerous weapon with intent to injure, and

affray.[6] She was detained pending trial, and in January 2023, she pleaded guilty to affray and was sentenced to two years, all suspended in favor of 18 months' probation.

IX.

Mother's Engagement with the Department

Mother entered into one service agreement with the Department prior to the disposition hearing in April 2019. Ms. Williams attempted to get Mother to enter into a new service agreement in July 2019, but Mother refused to meet with her.

Ms. Jennings, who was assigned to J.'s case, testified that Mother was extremely "hard to engage." If Ms. Jennings attempted to speak to Mother about the case, Mother would reply, "give it to my attorney," and walk away.

Ms. Towson testified that Mother's communication with the Department was spotty. Her phone number changed numerous times while Ms. Towson was assigned to the case.

Ms. Hunter testified that Mother did not provide documentation of programs that she completed at Dayspring. She tried to get Mother to enter into a new service plan when she was assigned the case, but all Mother would say was: "I want my children home." Mother refused Ms. Hunter's attempt to refer her for mental health treatment.

[6] "Affray is a common law crime consisting of 'the fighting of two or more persons in some public place to the terror of the people[.]'" *Lewis v. State*, 263 Md. App. 631, 659 (2024) (alteration in original) (quoting *Hickman v. State*, 193 Md. App. 238, 242 (2010)).

Ms. Cobb-White testified that Mother would not communicate with her about anything. If she attempted to speak to Mother after a visit, Mother became angry and defensive.

X.

The Children's Placements and Progress

K.D. and D.D. were placed with the Ws upon their discharge from the hospital in January 2019, and they remained there throughout the proceedings. In August 2019, at the Ws' request, I.C. moved to the same placement with his younger brothers, where he remained throughout the proceedings.

I.C. was diagnosed with ADHD, referred to therapy at the Kennedy Krieger Institute, and prescribed Ritalin. He sometimes scratched himself at night, drawing blood. Ms. W. advised the Department that I.C.'s scratching behaviors worsened after visits with Mother, but there was no proof that this was the cause of the scratching.

At the time of the contested hearing, I.C. was in first grade. He was doing much better at school now that he had appropriate supports. K.D. and D.D. were both thriving in preschool, although D.D. occasionally exhibited unruly behaviors. The Ws communicated with J. and D.J.'s foster parents and arranged for them to see each other.

Caseworker, Cynthia Cobb-White testified that the Ws provided them with "excellent care." The children called the Ws "Mommy and Daddy." The Ws took them on vacations, enrolled them in sports, ensured that they received appropriate medical

care, and provided a loving and appropriate home. The Ws were an adoptive resource for the children.

XI.

Legal Proceedings at Issue on Appeal

Although Mother initially was given unsupervised day visits, the court quickly changed the visits to supervised visitation. The permanency plan initially was reunification, but by October 2019, the Department was recommending that the plan be changed to adoption and/or custody and guardianship by a non-relative.

On January 14, 2020, the Department filed petitions to terminate Mother's parental rights in the children. The parallel contested CINA proceedings were deferred pending the result of the TPR hearings. In October 2020, the circuit court terminated Mother's parental rights to I.C., but this Court concluded that Mother had not, as found by the circuit court, consented to the petition to terminate her parental rights. *In Re: I.C.*, No. 953, Sept. Term, 2020, 2021 WL 1748491 at *4 (Md. App. Ct. May 4, 2021). Thereafter, the juvenile court granted Mother's request, over objection of the Department and the children, to conduct the contested permanency planning review hearings before the rescheduled TPR hearings.

The contested permanency planning review hearings occurred over more than a year, beginning in June 2022 and concluding in November 2023. On December 4, 2023, a juvenile court magistrate recommended that the court grant the Department's request to

change the permanency plan to adoption by a non-relative. Mother filed an exception de novo to that recommendation.

The TPR proceedings and Mother's de novo exceptions in the CINA case were consolidated for trial, which began in December 2023 and continued until July 2024. On July 1, 2024, the juvenile court issued an opinion and order modifying the children's permanency plans to adoption by a non-relative.

On August 9, 2024, the juvenile court issued an order and opinion terminating Mother's parental rights to the children. As discussed in more detail, *infra*, the court assessed the factors set forth in Md. Code Ann., Fam. Law ("FL") § 5-323(d) (2019 Repl. Vol.), finding that: the Department provided Mother with a "myriad" of services prior to the children's removal from her custody; it made meaningful efforts to reunify Mother with the children after their removal, including by facilitating visits between Mother and the children and attempting to engage with Mother on other services she required; but despite those efforts, Mother failed to engage with needed services, most notably mental health treatment, or to comply with the only service agreement she agreed to sign. The court found that there was "nothing that [would] adjust Mother's circumstances as Mother herself does not believe that her circumstances require adjustment," and the evaluations by Dr. Negi and Ms. Harriel confirmed that there were no additional services that could be offered to Mother that could bring about a lasting parental adjustment to make reunification feasible.

The court found that D.D. and K.D. had been placed with the Ws since they were less than a month old and that I.C. joined them in that placement before he turned three years old. The children referred to the Ws as "Mommy" and "Daddy," were fully integrated into their family, and were very bonded with them. Although the children were happy to see Mother at visits, the court noted that there was evidence that I.C.'s behavior worsened after visits with Mother, and I.C. did not ask about visits while Mother was incarcerated for six months. The court found that the children no longer had a strong emotional tie to Mother, who had never had custody of her twin sons and had not had custody of I.C. for more than five years, and that severance of the children's ties with the Ws would be far more traumatic than severance of their ties with Mother.

The court concluded that Mother was unfit to remain in a parental relationship with the children and that exceptional circumstances existed justifying termination of her parental rights. Mother's denial of her mental health problems, coupled with her failure to abide by the service agreement, her "sporadic and unproductive visitation" with the children, and her inability to maintain stable employment all were factors that made her unfit, and they constituted exceptional circumstances.

Mother noted timely appeals from both the July 2024 order changing the permanency plans to non-relative adoption and the court's August 2024 decision terminating her parental rights. This Court consolidated the appeals on October 2024.

STANDARD OF REVIEW

We apply three interrelated standards of review to a juvenile court's determinations in a CINA and TPR proceeding. *In re R.S.*, 470 Md. 380, 397 (2020). The court's factual findings are reviewed for clear error. *Id.* Matters of law are reviewed de novo, without deference to the juvenile court. *Id.* We review final conclusions for abuse of discretion when they are based on "'sound legal principles' and factual findings that are not clearly erroneous." *Id.* (quoting *In re Yve S.*, 373 Md. 551, 586 (2003)). An abuse of discretion occurs "'where no reasonable person would take the view adopted by the [trial] court' or when the court acts 'without reference to any guiding rules or principles.'" *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997) (alteration in original) (quoting *North v. North*, 102 Md. App. 1, 13 (1994)).

"Legal conclusions of unfitness and exceptional circumstances are reviewed without deference." *In re Adoption/Guardianship of C.E.*, 464 Md. 26, 47 (2019). Our function, however, when reviewing the findings of the juvenile court, "is not to determine whether, on the evidence, we might have reached a different conclusion." *In re Adoption/Guardianship of C.A. & D.A.*, 234 Md. App. 30, 46 (2017) (quoting *In re Adoption No. 09598*, 77 Md. App. 511, 518 (1989)). Instead, our function is to decide "whether there was sufficient evidence–by a clear and convincing standard–to support [the court's] determination that it would be in the best interest of [the child] to terminate the parental rights of [the parent]." *Id.* (alterations in original) (quoting *In re Adoption No. 09598*, 77 Md. App. at 518).

DISCUSSION

I.

TPR Appeal

We begin with the appeal from the order terminating Mother's parental rights. Two competing interests are at stake in termination of parental rights cases. First, "parents have a fundamental right to raise their children and make decisions about their custody and care." *In re Adoption/Guardianship of H.W.*, 460 Md. 201, 215-16 (2018). There is "a presumption of law and fact–that it is in the best interest of children to remain in the care and custody of their parents." *Id.* at 216 (quoting *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 495 (2007)). Second, the State has a strong interest in "protect[ing] children[ ] who cannot protect themselves[ ] from abuse and neglect." *In re Rashawn H.*, 402 Md. at 497. The transcendent standard that governs the balancing of those interests is the best interests of the children. *In re H.W.*, 460 Md. at 216.

Under FL § 5-323(b), a court may terminate parental rights only after finding that a parent is unfit or that exceptional circumstances exist and that continuing the parental relationship is detrimental to a child's best interests. The statute provides:

> If, after consideration of factors as required in this section, a juvenile court finds by clear and convincing evidence that a parent is unfit to remain in a parental relationship with the child or that exceptional circumstances exist that would make a continuation of the parental relationship detrimental to the best interests of the child such that terminating the rights of the parent is in a child's best interests, the juvenile court may grant guardianship of the child without consent otherwise required under this subtitle and over the child's objection.

Id.

Mother contends that the court erred in finding that she was unfit and/or exceptional circumstances justified terminating her parental rights to I.C., K.D., and D.D. She asserts that the court erred in its findings about her "compliance with service agreement tasks and overall efforts to adjust her circumstances," the emotional bonds the children had to her, and that the Department provided reunification services to the family.

The Department contends that "the court acted within its broad discretion and in the children's best interests in granting the guardianship petitions."[7] It asserts that the court considered all the requisite factors, including that the Department made efforts to facilitate reunification, but Mother did not accept reunification services because she did not believe that they were needed.

A non-exclusive list of factors governing the determination whether to terminate parental rights is set forth in FL § 5-323(d). These factors "serve both as the basis for a court's finding (1) whether there are exceptional circumstances that would make a continued parental relationship detrimental to the child's best interest, and (2) whether termination of parental rights is in the child's best interest." *In re Adoption of Ta'Niya*, 417 Md. 90, 116 (2010); *In re Rashawn H.*, 402 Md. at 499 ("[The statutory] factors, though couched as considerations in determining whether termination is in the child's best interest, serve also as criteria for determining the kinds of exceptional circumstances

[7] The children were represented by counsel in the proceedings below. Counsel supported the change in the permanency plan and asked the court to grant the Department's petition to terminate Mother's parental rights. Children's counsel did not file a brief in this Court.

that would suffice to rebut the presumption favoring a continued parental relationship and justify termination of that relationship.").

FL § 5-323(d) requires that:

> [I]n ruling on a petition for guardianship of a child, a juvenile court shall give primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether terminating a parent's rights is in the child's best interests, 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.

We thus turn to the court's analysis of these factors. With respect to FL § 5-323(d)(1), the court looks to the services offered to the parent and the extent to which the Department and the parent fulfilled their obligations under their service agreements. The trial court found, and Mother does not contest, that the Department offered a "myriad" of services to her prior to the removal of the children.

Mother contends, however, that the court erred in finding that the Department provided adequate reunification services after the children were removed from her care. In support, she argues that the Department wrongfully abandoned reunification as the permanency plan prior to the time the permanency plan was judicially changed in July 2024, and as a result, it made no meaningful efforts to engage Mother in services that could have assisted her in adjusting to her circumstances.

The court noted that, at one point, "the Department had concurrent plans of reunification and adoption," but "the Court orders still stated that the plan was reunification." The Department then "abandoned the presumptive plan of reunification by reducing the number and duration of visits."

The Department acknowledges that "the Department's caseworkers may have been mistaken as to the permanency plan in effect for the children" at a certain point. It argues, however, that the Department continued to offer and coordinate visits, and Mother did not cooperate with efforts to provide services.

The record supports the assertion that caseworkers assigned to the children at different points incorrectly believed that the permanency plan was adoption at a time when it remained reunification. The evidence, however, does not support Mother's contention that this mistake resulted in the Department not attempting to provide services to Mother. Ms. Towson testified that, although she believed that I.C.'s permanency plan was adoption when she was assigned his case in February 2020, she continued to facilitate visitation between Mother and the children, and the reunification services she

offered Mother relative to the twins were the same services she would have offered Mother had Ms. Towson been working to reunify her with I.C.

Similarly, Ms. Hunter testified that she believed that the children's permanency plan was adoption when she took over the case in August 2020, but she nevertheless talked to Mother about mental health treatment and requested confirmation that she was engaged in psychotherapy, attempted to arrange a home visit, facilitated visits between Mother and the children, made herself available to Mother by telephone and text, and praised Mother when she behaved appropriately during visits.

Mother points to periods of time when she received monthly or bi-weekly visitation with the children, rather than weekly visits. The record reflects, however, that Mother was offered weekly visits for most of the five-year period that the children were in care, even during the stretch of time when Mother's parental rights had erroneously been terminated in I.C.'s case. Ms. Hunter testified that there was a period during the COVID-19 pandemic, when visits were being held virtually, during which she reduced the number of virtual visits to twice per month because the children were young and the virtual visits were not productive. She also testified to a temporary pause in visits with I.C. after Mother's extreme outburst during a visit related to I.C.'s haircut.

Mother contends that the Department failed to schedule regular meetings to discuss services needed to facilitate reunification. The record does not support this assertion. The evidence showed that the caseworkers routinely sought to engage with Mother at the end of the weekly visits, but she was unwilling to discuss her case with

them. The record reflects that, for a period of four years and four months, the Department repeatedly asked Mother to sign updated service agreements, but she refused or deflected the requests.[8]

The juvenile court stated that the Department is "required to make reasonable efforts," but it is "not required to make *extraordinary* efforts." The court found that "Mother did not accept reunification services, claiming in part they were unneeded," and "[t]here is only so much work the Department can do with a client who is unwilling to work with the Department."

This Court has explained "the Department's efforts need not be perfect to be reasonable, and it certainly need not expend futile efforts on plainly recalcitrant parents." *In re James G.*, 178 Md. App. 543, 601 (2008). Here, the Department's efforts, in the face of Mother's recalcitrance, were reasonable, and the court did not err by so finding.[9]

With respect to the second factor, FL § 5-323(d)(2) requires the court to assess "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

[8] The Department stipulated that, on a single occasion in August 2023, four years after the children entered care and at a time when the parties had been engaged in contested permanency planning review hearings for more than a year, Mother's attorney emailed counsel for the Department and Ms. Cobb-White a proposed service agreement, but counsel failed to respond.

[9] Mother also argues that the court erred in finding that she was evicted from the Dayspring program. The Department concedes that this was error, noting that Mother was transferred out of Dayspring because of space constraints. This error was harmless as it is clear from the juvenile court's opinion that it was not a significant fact informing the court's findings under any of the statutory factors or in its ultimate decision.

home." This includes "the extent to which the parent has maintained regular contact with" the children and the Department. FL § 5-323(d)(2)(ii).

The juvenile court found that "Mother made little to no progress" and "repeatedly failed to adjust her own circumstances" over the more than five years the children were in care. It found that there was "nothing that will adjust Mother's circumstances as Mother herself does not believe that her circumstances require adjustment." The court noted testimony that Mother "refused therapy because she did not believe she needed it," and although Mother did complete parenting and anger management class, no change in behavior was seen afterwards. Mother's behavior throughout the case was consistently erratic. She struggled with "mood swings and agitation, impulse control, and irritable and impulsive behaviors." Mother had hostile interactions with Department caseworkers, fellow tenants, and her case manager at Dayspring, and she was twice arrested. The court found that Mother missed many visits, was habitually late to visits, had numerous negative interactions with the children during visits, and was unwilling to accept constructive criticism offered by the caseworkers relative to parenting.

Mother contends that the juvenile court erred in several findings with respect to the FL § 5-323(d) factors. Specifically, she alleges that the court erred in: (1) miscalculating the number of visits that Mother missed; (2) erroneously concluding that her contact with the Department was sporadic; and (3) failing to appropriately account for the services Mother did engage in and the services she sought out on her own.

With respect to the frequency of visitation, the court stated that Mother participated in only 55 of 95 documented visits, a figure that Mother attributes to the Department's written closing argument in the CINA matters. The Department does not dispute this assertion. Instead, it states that, "[a]lthough the visitation records could have been clearer, there is no doubt that Mother missed a significant number of visits." Moreover, it asserts that Mother's conduct "during the visits she did attend often worked against the development of a parent-child bond." It argues that, "even if the court's precise calculation was erroneous as Mother alleges . . . that error was harmless under the totality of the circumstances."

A review of the record shows that Mother was very inconsistent with visits when the children first entered care, that she was routinely late for visits that she attended, that she missed many of her virtual visits during the COVID-19 restrictions, that she had begun missing the majority of her visits when the Department declined to allow the twins' father to attend Mother's visits with the children, and that some scheduled visits ended early due to Mother's conduct. Even if the court erred in calculating the precise number of visits missed by Mother, any error did not result in prejudice to Mother with respect to the court's overall assessment of Mother's inconsistent contact with the children.[10]

[10] This assessment included the court's summary of "many problems" that occurred during visits, including:

With respect to the court's findings that Mother had, at best, "sporadic" contact with the Department, she argues that, although "communications with the agency may have been fraught at times, the only worker testimony on this issue reflected that [she] was in regular contact with the agency or, at most, lost contact for periods no longer than three weeks when she had issues with her phone." The record, however, shows that Mother routinely refused to meaningfully engage with the assigned caseworker beyond facilitation of visitation. She changed her phone number frequently, which made it difficult to communicate with her. She frequently refused to disclose her address, employment or treating providers. The record supports the court's finding that Mother rejected the Department's offers to help.

The second factor also requires the juvenile court to assess "whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the parent within an ascertainable time not to exceed 18 months from the date of placement." FL § 5-323(d)(2)(iv). At the time of the hearing, the children had been in care for more than five years, and the court found that "no services would be likely to bring about a lasting parental adjustment."

> Mother became irate due to the children's behavior, Mother became irate when caseworkers attempted to assist her, Mother became irate when Respondents referred to their foster parents as "Mommy" or "Daddy," Mother became irate when [I.C.] got a haircut, Mother focused solely on another child's hair and excluded the other 4 children that were present, and Mother scared [D.D.] when she put him on her shoulder and held him upside down when he was 5 years old.

Mother contends that the juvenile court "erroneously credited" the evaluations completed by Dr. Negi and Ms. Harriel, rather than the evaluations by Dr. Mormile, in reaching this conclusion. It is the province of the factfinder, however, to weigh the testimony of witnesses, including expert testimony, and to credit or discard it. *See Walker v. Grow*, 170 Md. App. 255, 275, *cert. denied*, 396 Md. 13 (2006). The court did not clearly err by crediting the testimony of the experts proffered by the Department.[11]

The third factor addresses the presence of aggravating circumstances, including whether the parent has abused or neglected the child and the "seriousness of the abuse or neglect." FL § 5-323(d)(3)(i). Mother contends that the court found parental neglect only "by relying on the sustained CINA petitions and agreed-to CINA declarations." She argues that the CINA findings did not definitively prove parental neglect in the TPR cases because a "CINA 'court finding by a preponderance of the evidence' does not prevent a TPR court from 'scrutinizing that decision in an irreversible [TPR] case requiring proof by clear and convincing evidence.'" (Alteration in original) (quoting *In re Adoption/Guardianship No. 87A262*, 323 Md. 12, 22 (1991)).

In addressing this factor, the court stated that, "by definition," a CINA disposition requires a finding of abuse or neglect. Apart from this correct statement, the court did not make any adverse findings under this factor because there was no evidence of

[11] We observe that Mother testified at the TPR hearing that the only service she required to reunify with the children was "a stable job. That's it." This testimony supported Dr. Negi's conclusion that Mother lacks insight into her mental health conditions and into the circumstances that caused her children to be removed from her custody.

aggravating circumstances such as substance exposure at birth, FL § 5-323(d)(3)(ii), sexual abuse or torture, FL § 5-323(d)(3)(iii), conviction for certain crimes of violence, FL § 5-323(d)(3)(iv), or involuntary loss of parental rights to any other child, FL § 5-323(d)(3)(v).

The fourth factor requires the court to consider:

> (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.

FL § 5-323(d)(4).

The juvenile court found that the children had strong emotional ties with the Ws and their siblings, but they did not "have a strong emotional tie to Mother." It noted that the children had been placed in the Ws home for more than five years, that they called the Ws "Mommy" and "Daddy," and that all the caseworkers testified that the children were happy and well cared for in their placement. The court stated that it had conducted a child consultation with the children in the CINA case, and it found, based in part on this consultation, that the children were "happy and thriving with their foster parents."

The juvenile court concluded that termination of the children's bond with the Ws would be "more traumatic and damaging than a termination of the bond with Mother"

based upon the length of time that the children had been in care, evidence of I.C.'s emotional dysregulation following visits with Mother, and the poor quality of many of Mother's visits. It stated that the children "deserve a permanent placement as soon as is practicable," and it concluded that the likely impact of terminating Mother's parental rights would be beneficial to the children. It noted that I.C.'s evaluation through Kennedy Krieger stated that he would benefit from "maintenance of secure attachment with his foster parents and siblings."

Mother contends that the court erred in two respects in making these findings about the children's emotional bonds to her. First, she asserts that the court should not have considered its observations during the child consultations in the CINA cases as evidence in the TPR case.

The Department does not address this contention on the merits. Rather, it asserts in a footnote that, "[t]o the extent that the court committed any error in considering the consultation in the guardianship case, it is harmless because the results of the consultation were merely cumulative of other evidence regarding the children's attachment to the W.s and their view that the W.s' home was their own."

Mother cites no case law that supports her argument that a court in a TPR proceeding cannot consider a discussion with the children, either in the course of the TPR proceeding or in a related CINA proceeding. Under these circumstances, we decline to consider this contention. *See Torbit v. Balt. City Police Dep't*, 231 Md. App. 573, 591 (appellate courts are not expected to "search for the law that is applicable to the issue

presented") (quoting *Ruffin Hotel Corp. of Md. v. Gasper*, 418 Md. 594, 618 (2011)), *cert. denied*, 453 Md. 30 (2017).

Mother next contends that the court "gave no explanation for its erroneous conclusion that the children 'do not have a strong emotional tie' with" her. The record, however, supports the court's finding in this regard. The five-year-old twins had never lived with Mother, and I.C. had been in foster care since shortly after his first birthday. Other than a short period in 2019, Mother's visits had been supervised. She missed visits, and when she was there, she had difficulty appropriately interacting with the children. There was testimony that I.C. experienced distress at the end of visits with Mother, and his therapist recognized "steady improvement" when Mother's visitation stopped during her incarceration.

The court's analysis of the FL § 5-323(d) factors was thorough. Mother has stated no claim for relief with respect to the court's analysis in this regard.

Mother finally contends that the juvenile court erred in finding that Mother was unfit and/or that exceptional circumstances existed making continuation of the parent child relationship detrimental to the children's best interests. We disagree.

The juvenile court's ultimate role in a TPR case is

> to give the most careful consideration to the relevant statutory factors, to make specific findings based on the evidence with respect to each of them, and, mindful of the presumption favoring a continuation of the parental relationship, determine expressly whether those findings suffice either to show an unfitness on the part of the parent to remain in a parental relationship with the child or to constitute an exceptional circumstance that would make a continuation of the parental relationship detrimental to the best interest of the child, and, if so, how.

In re Rashawn H., 402 Md. at 501. As set out above, the court's non-clearly erroneous findings under each of the FL § 5-323(d) factors amply supported its conclusions that Mother was unfit to remain in a parental relationship with the children and that exceptional circumstances existed based upon her unwillingness to acknowledge and treat her mental health issues. During the more than five years that the children had been in out-of-home placements, Mother continued to have unstable housing and employment, use marijuana to treat her mental health conditions, engage in only sporadic therapy, and to exhibit volatile behavior and impulsivity. There was no evidence that Mother recognized the need to make any changes besides finding stable employment. The court did not err or abuse its discretion in determining that it would be in the best interest of the children to grant the petitions.

II.

CINA Appeal

Mother's second appeal is from the order in the CINA cases modifying the children's permanency plans from reunification with her to adoption by a non-relative. The Department moves to dismiss this appeal as moot in light of the decision terminating her parental rights. It states that, under FL § 5-325(a)(4), "the legal effect of an order granting guardianship is to terminate the child's CINA case."

Mother acknowledges "that a TPR ruling 'may' render moot a parent's appeal from a permanency plan change in a CINA case." *In re Adoption of Jayden G.*, 433 Md. 50, 78 (2013). She argues, however, that, until this Court affirms the TPR judgment

(which we have) and the possibility that the Supreme Court grants a petition for writ of certiorari and reverses the TPR judgment expires, there is still a live controversy between the parties in the CINA appeal.

Our determination of whether a case of moot, however, is made when the case is before this Court. *See Adkins v. State*, 324 Md. 641, 646 (1991) (emphasis added) ("The test of mootness is whether, *when it is before the court*, a case presents a controversy between the parties for which, by way of resolution, the court can fashion an effective remedy."). At this time, considering our resolution of the TPR appeal, there is no effective remedy we can provide to Mother with respect to the CINA cases. Consequently, we grant the Department's motion to dismiss this appeal as moot.

JUDGMENT OF THE CIRCUIT FOR BALTIMORE CITY, SITTING AS A JUVENILE COURT, IN CASE NO. 1295 AFFIRMED. APPEAL IN CASE NO. 1036 DISMISSED AS MOOT. COSTS TO BE PAID BY APPELLANT.