Circuit Court for Washington County
Case Nos. C-21-JV-18-000064 & 65

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1106

September Term, 2018

IN RE: C.S. AND K.S.

Graeff,
Beachley,
Eyler, Deborah S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: April 8, 2019

The Circuit Court for Washington County terminated the parental rights of Ms. S. ("Mother"), the biological mother of C.S. and K.S. Both Mother and the children, through their attorneys, opposed the termination of parental rights and both appeal from the juvenile court's ruling.

On appeal, Mother presents two questions for this Court's review, which we have rephrased slightly, as follows:

1. Did the circuit court err in finding that exceptional circumstances existed which made it in the best interest of the children to terminate Mother's parental rights?

2. Did the circuit court err when it failed to sufficiently link its findings of facts to its conclusion that termination of Mother's parental rights was in the children's best interest?

The children join in the first question above and also ask:

3. Did the juvenile court err in terminating Mother's parental rights because the Washington County Department of Social Services failed to make reasonable efforts of reunification?

For the reasons that follow, we shall affirm the judgments of the circuit court.

FACTS AND LEGAL PROCEEDINGS

C.S. was born on June 15, 2009, to Mother and Mr. S. ("Father"), who were married. K.S. was born three years later on April 20, 2011. On December 1, 2014, the Washington County Department of Social Services (the "Department") filed a child in need of assistance ("CINA") petition for both children, alleging "significant domestic violence and

alcohol abuse occurring between [Father] and [Mother] within the home."[1] On January 29, 2015, the children were found to be CINA but were returned home under an order of protective supervision with conditions, including that both parents engage in substance abuse treatment. Less than three months later, on March 12, 2015, the Department filed a contempt petition, alleging that Mother was "again abusing alcohol and had assaulted a police officer." On April 9, 2015, a hearing was held and she was found in contempt. The children were removed from the home and placed in foster care.

On August 12, 2015, the Department referred Mother to "an in-patient treatment program that permits children to reside with mothers during treatment and recovery." Eight days later, Mother was terminated from the program for not following the rules, i.e., refusing a search of her room, and the children were returned to foster care. On December 15, 2015, the juvenile court returned the children to the home of Father because he had maintained sobriety with the assistance of an alcohol monitoring "scram bracelet." Six months later, "in June 2016, the Department received information that [Father] and [Mother] were highly intoxicated and arguing outside a liquor store." The children were removed from Father's care and placed with their paternal grandmother with a safety plan. Approximately a month later, in July 2016, the plan was violated when grandmother

[1] A child in need of assistance ("CINA") 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." Md. Code (2013 Repl. Vol.) § 3-801(f) of the Courts and Judicial Proceedings Article ("CJP").

allowed the children to be in Mother's care while she was intoxicated. The children were placed in foster care, where they have remained continuously.[2]

On November 27, 2017, after a contested hearing, the children's CINA permanency plan was changed from reunification to adoption. On February 6, 2018, the Department filed a petition for guardianship with right to consent to adoption and/or long-term care short of adoption and termination of the parental rights ("TPR") of Father and Mother. Both parents filed notices of objection and a hearing was held approximately four months later, on June 12-13, 2018.

On the first day of the hearing, Father rescinded his objection and consented to having his parental rights terminated, with the conditions that the current foster parents were the adoptive family, and he be given one visit per year if he was drug and alcohol free. Additionally, the court granted children's counsel's request to change the children's position, which originally consented to the termination of Mother's parental rights, but now opposed it.

Six witnesses testified at the hearing: Cheryl Matthew, the children's therapist; Cheryl Morgan, a domestic violence program facilitator; Mother; Denise Marshall, the foster care case worker for the Department; and Mother's parents. Ms. Matthew, the children's therapist since October 2016, testified that the children had been diagnosed with post-traumatic stress disorder and reactive attachment disorder. She explained that these

[2] The children were placed with different foster care families until January 2018, when the children were placed in a pre-adoptive foster home, where they remained until the termination of parental rights hearing.

disorders, which manifested for the children as a deep fear and distrust of adults, were the result of Father's and Mother's repeated episodes of domestic violence and their frequent intoxication. The children related incidents to her where the father hit and kicked C.S. and the children's older sister had to take care of them because their mother was "too drunk to do it." Ms. Matthew testified that the children loved their parents, but they were "very fearful of both" of them because they did not trust them to make good choices. Ms. Matthew testified that her therapeutic approach focused on behavior modification therapy and trauma therapy. She believed that the children would continue to need therapy "for a very long time."

Ms. Matthew stated that the children's current foster parents had been "really good" at calming the girls' anxiety and were "excellent at telling the difference between a trauma-related reaction and an age-appropriate reaction." She noted that, when the children first came to live in their current foster home, the interactions between them and their foster parents were superficial, with little "connection," but over time, she had seen the children go to both foster parents for security and comfort. When she observed the children immediately after a visit with Mother, the children exhibited regressive behaviors, which included pulling their own hair and making infant noises, as well as angry behavior, which included hitting each other. Ms. Matthew testified that the children had consistently said that they wanted to be adopted by their current foster parents, if their parents were not sober, and they did not trust them to stay sober. The week before the hearing, however, both children said for the first time that they did not want to be adopted by their current

foster parents. They said they did not want to live with their mother right away because "she still needed to do some work[.]"

Cheryl Morgan, a domestic abuse intervention facilitator at Citizen's Assisting in Sheltering the Abused ("CASA"), with 21 years of experience in domestic violence, testified that the Department referred Mother to CASA. When Mother arrived for the initial assessment on October 11, 2017, she was "unsteady on her feet," upset, unhappy, and smelled of alcohol. Mother stated that she was going to vomit and carried around a trashcan belonging to CASA. She said that she did not want to be in this "DSS bullshit mess," and any problems in her life were because of her husband. Mother left before the assessment was completed, stating that she had to leave for another appointment. The assessment was rescheduled for October 19, 2017, but upon her arrival, Mother was agitated and stated that she was "thirty-five years old with five children and didn't need to be told about anything." She became increasingly upset, and CASA terminated the assessment early because of Mother's "rude" behavior. Ms. Morgan advised the foster care case worker, Ms. Marshall, about what had occurred and told her that CASA was willing to work with Mother, if she completed an alcohol and substance abuse program and had a mental health evaluation. Ms. Morgan was unable to contact Mother because she refused to provide them with any contact information.

Mother testified that she is the mother of five daughters: C.S., K.S., twin 16-year-olds, and a 20-year-old. None of the children are in her care. Mother testified that the instant case began because of "domestic situations." She denied ever fighting in front of the children. When confronted with reports by her children that she attempted to cut her

husband's throat and police reports that she was "extremely intoxicated" when the police responded to a motel for a domestic dispute, she denied that the events had occurred. She testified that the last time she lived with Father was in 2014, but later admitted that they had lived together in 2016. Mother also admitted that she told the police that she and Father lived together at his father's house when the police arrived there in May 2017 for an incident where Father had thrown soda on her and thrown her clothes into the street. As to her behavior at CASA, Mother testified that she was not intoxicated, but she recalled that Ms. Morgan was "very arrogant and just kept on nagging at me." She explained that, at their next meeting, Ms. Morgan was "very smart with me, so I got smart back." She admitted that her husband was not the only relationship she had that involved violence or substance abuse. She testified: "I seemed to have been attracted to these same kind of men—like [my oldest daughter's] dad shot himself and tried to shoot me. The twins' dad died of an overdose. And now [Father] just—it was a bad marriage. And I never intended—like when I got in these relationships." She testified that she had filed for divorce four months prior to the hearing.

Mother admitted that she was an alcoholic and had a problem with alcohol, but she stated: "I don't today." The Department had referred her to "Catoctin Counseling" for substance abuse treatment where she has been seeking treatment for about a year and a half. The Department also referred her for urinalysis under a random testing program called "color code." She expressed frustration with the Department with what she felt were broken promises, explaining that the Department promised and then refused to provide her with unsupervised visitation with her children after she demonstrated two weeks of sobriety

under the color code program. When asked if she is currently in an alcohol treatment program, she testified that she had started the week before the hearing. She admitted, however, that she had missed appointments, but she stated that the Department had stopped providing her with free taxi rides and only gave her bus passes. Taking the bus was much more cumbersome than taking a taxi because it required her to walk farther, took longer, and aggravated her motion sickness.

When asked the last time she had consumed alcohol, Mother said "maybe a couple months ago." Mother denied ever taking drugs, but when she was confronted with the fact that she had been administered Narcan for an overdose approximately four months earlier, she testified that it "wasn't my fault." She explained: "This girl came . . . and gave me a pain pill and said that it was a Tylenol. And here the next thing I know I'm falling over." She was taken to the hospital where it was determined that she had fentanyl in her system. When confronted about whether she had smoked "weed that day too," she said, "I don't—u'm —I—yeah, I think I might have took a hit of weed out back. I don't smoke wee[d] like that."

As to mental health counseling, Mother testified that she had been diagnosed with obsessive compulsive disorder, attention deficit/hyperactivity disorder, and bipolar disorder. She had received mental health counseling from Family Health for approximately a year and a half, but she stopped going about four months prior to the hearing. She started seeing a licensed private therapist in Washington County, whom she first saw two weeks prior to the hearing.

Mother testified that three days before the hearing she obtained nightshift work at a plastic plant working just under 40 hours a week and making $12.50/hour. She lives with her father and a cousin in a home that is big enough for the children. She admitted she previously had been convicted of failing to send her older twins and C.S. to school. When asked how she felt when the children's therapist talked about their diagnosis, she testified: "My reaction is they are acting out like that because they are in foster care and away from their family." She testified that she tells her children "[a]ll the time" that they will live with her again, and she will stop drinking. Since her children have been in foster care, her supervised visitations have gone from once a week, to every other week, to once a month.

Denise Marshall, the Department's foster care coordinator for the family since January 2016, testified that she had tried to help Mother find substance abuse and mental health providers, but Mother generally refused her help, saying she would find providers on her own. According to Ms. Marshall, the Department had no information on her new mental health therapist. Mother initially was given free cab fare to assist her in attending appointments, but after several "no shows" by Mother, she was given bus passes instead. Ms. Marshall tried to meet with Mother monthly. She acknowledged that, for about two weeks, Mother was consistent in a color code program for urinalysis and had made steps toward unsupervised visits with her children, but when Mother tested positive for her drug test before the unsupervised visits came to fruition, Mother then went through about 40 "no shows." With respect to Mother's testimony that she has filed for divorce, Ms. Marshall stated that Mother has said that before but never followed through with it. She stated that the children love their mother, and as a result, they try to meet Mother's emotional needs.

According to Ms. Marshall, the children "want [Mother] happy and they will say whatever they think that will make her happy."

Joseph, Mother's father, with whom she lived, testified that, based on the "position [the children] are in," it would be in the children's best interest if his daughter's parental rights were terminated, explaining that there are "so many issues here." Margaret, Mother's mother, testified that Mother has a wonderful relationship with the children, and Mother is "a good mother. [She] has always raised her kids and—and done a good job. She just had a flaw because she met a man who didn't care about her and—and that's what caused all this."

In closing argument, the children's attorney recognized that "it's been three years and [Mother] still has not been able to prove that she is . . . clean and sober. [Mother] testified that she's not using any substances but she has . . . not provided the Court with documentation." The attorney nonetheless argued that the court should postpone ruling on the termination of parental rights petition for three months, allowing Mother time to comply with "everything, absolutely everything that the Department has asked her to do." Mother's attorney argued, among other things, that Mother has not completed everything the Department has asked but urged the court not to terminate her rights because she had made progress.

The Department argued: "No one disbelieves [Mother] when she says she loves [the children]. No one. But she's yet to prove it in her actions to improve her position." The Department stated: "If this is about building trust, she's done very little to do that with [the children] in three years."

The circuit court took the case under advisement.

On July 30, 2018, approximately six weeks after the hearing, the court issued its written opinion. The court discussed the requisite factors in assessing the propriety of terminating Mother's parental rights to both children and granting guardianship to the Department. It concluded its analysis as follows:

> It is this Court's belief that the children's well-being will be promoted by terminating the parental rights of [Father and Mother]. The children will gain stability and finality as to their placement because the current foster parents wish to adopt both children. The children will no longer run the risk of being exposed to repeated domestic violence and alcohol abuse. They will gain the opportunity to heal mentally and emotionally from the psychological damage inflicted on them by both of their parents through continuous, regimented therapy which the [c]ourt believes would continue under the watchful eyes of the foster parents and the department, as well as permanent placement in a calm household to nurture and foster safety, trust and bonding that will encourage the children develop appropriate relationships in the future.
>
> Based on the above-finding, by clear and convincing evidence, the [c]ourt finds that continuation of the parental relationship is detrimental to the best interest of the children [C.S.] and [K.S.] [Father] consented to this termination of parental rights, and the [c]ourt finds, by clear and convincing evidence, that [Mother] is an unfit parent.
>
> The [c]ourt finds that termination of [Father and Mother's] parental rights would be positive toward the children's well-being.

In the written order issued that day, the court stated:

> **Exceptional circumstances exist** that cause it to be in the child's best interest to terminate the parental rights. [Mother] is an unfit parent and a continued relationship with this parent is contrary to the welfare of the child. [Father] conditionally consented to the termination of his parental rights through a post adopt agreement. It is in the child[ren]'s best interest to terminate the parental rights of both parents.

(Emphasis in original.)

Both Mother and the children noted this timely appeal.

Standard of Review

"We utilize three different but interrelated standards" when reviewing a juvenile court's decision to terminate parental rights. *In re Ta'Niya C.*, 417 Md. 90, 100 (2010) (citing *In re Adoption/Guardianship of Victor A.*, 386 Md. 288, 297 (2005)). We review the court's factual findings under the clearly erroneous standard. *Id.* We review the court's legal conclusions under the *de novo* standard. *In re Yve S.*, 373 Md. 551, 586 (2003). *Accord In re Adoption/Guardianship of C.A. and D.A.*, 234 Md. App. 30, 45 (2017). We review the court's ultimate conclusions under an abuse of discretion standard. *In re Yve S.*, 373 Md. at 583. 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." *Id*. (quotation marks and citation omitted).

DISCUSSION

TPR Law

Before we address appellant's questions, we shall first set forth the applicable law regarding the termination of parental rights.

When the State petitions to terminate parental rights without a parent's consent, the court's paramount consideration is the best interests of the child. *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 496 n.9 (2007). Because parents have a constitutional protected interest in raising their children without undue State interference, Maryland law presumes "that it is in the best interest of children to remain in the care and custody of their parents." *Id*. at 495. This right is not absolute, however, for

the State has a "fundamental right and responsibility . . . to protect children, who cannot protect themselves, from abuse and neglect." *Id*. at 497.

Md. Code (2012 Repl. Vol.), § 5-323 of the Family Law article ("FL") governs termination of parental rights and gives the court the right to terminate a parent's rights when either of two circumstances exist:

> 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.

FL § 5-323(b) (emphasis added). Thus, the parental presumption "may be rebutted upon a showing *either* that the parent is unfit *or* that exceptional circumstances exist which would make continued custody with the parent detrimental to the best interest of the child." *In re Adoption/Guardianship of Ta'Niya C.*, 417 Md. at 103 (quotation marks and citation omitted) (emphasis added).

The statute then lists factors to be considered in determining whether terminating parental rights is in the child's best interest. *In re Adoption/Guardianship of Darjal C.*, 191 Md. App. 505, 530, *cert. denied*, 415 Md. 42 (2010). Specifically, the statute provides:

> [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 . . .;

(ii) the extent, nature, and timeliness of services offered . . .; 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 . . . 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.

FL § 5-323(d). In addition to the above statutory factors, a juvenile court "may consider [other] parental characteristics [such] as age, stability, and the capacity and interest of a parent to provide for the emotional, social, moral, material, and educational needs of the child." *In re Adoption/Guardianship of H.W.*, 460 Md. 201, 220 (2018) (quotation marks and citations omitted).

With this background in mind, we will discuss the contentions raised on appeal.

I.

Mother and the children argue that the juvenile court erred in finding that exceptional circumstances existed, which made it in the children's best interest to terminate Mother's parental rights. They argue that, because neither the parties nor the court ever discussed the presence or absence of "exceptional circumstances," and because it "is not at all clear that in the absence of the erroneous finding of exceptional circumstances, the [juvenile] court would still have terminated [Mother's] rights," we must remand the case and allow Mother "to argue why, in the absence of exceptional circumstances, her parental rights ought not be terminated."

The Department disagrees. It asserts that the court acted within its discretion in terminating Mother's parental rights based on its finding that she was unfit, a finding that neither Mother nor the children challenge on appeal. The Department argues that, because

the juvenile court determined that Mother was unfit, any argument regarding exceptional circumstances is irrelevant. We agree.

As indicated, a court may terminate a parent's rights if the court finds that a parent is unfit or exceptional circumstances exist that make a continuation of the parental relationship detrimental to the best interests of the child. FL § 5-323(b). Here, the juvenile court stated at the end of its written opinion: "[T]he [c]ourt finds that continuation of the parental relationship is detrimental to the best interest of the children [C.S. and K.S.]. [Father] consented to this termination of parental rights, and the [c]ourt finds, by clear and convincing evidence, that **[Mother] is an unfit parent.**" (Emphasis added.) In the termination of parental rights order issued the same day for each child, the juvenile court stated:

> The evidence presented was **clear and convincing**. The timelines, nature and extent of the services offered were appropriate and that reasonable efforts were made by the petitioner, prior to placement, to prevent or eliminate the need for removal of the youth from the home and that reasonable efforts were made by the petitioner to finalize the permanency plan for the youth.
>
> **Exceptional circumstances exist** that cause it to be in the child's best interest to terminate the parental rights. [Mother] is an unfit parent and a continued relationship with this parent is contrary to the welfare of the child. [Father] conditionally consented to the termination of his parental rights through a post adopt agreement. It is in the child[ren]'s best interest to terminate the parental rights of both parents.

(Emphasis in original.) Thus, in its order, the juvenile court stated that exceptional circumstances existed **and** Mother was unfit.

When a juvenile court determines that a parent is unfit, a parent's appellate argument regarding exceptional circumstances is immaterial. *See In re Adoption/Guardianship of*

Jasmine D., 217 Md. App. 718, 736 (2014) ("Because . . . the juvenile court determined that [the parent] was unfit, [the parent]'s arguments regarding exceptional circumstances are beside the point."); *In re Adoption/Guardianship of Amber R.*, 417 Md. 701, 718 n.13 (2011) (If a juvenile court finds a parent unfit, "it d[oes] not need to make any findings with respect to 'exceptional circumstances' requiring the termination of parental rights.") (citation omitted). Here, the court's opinion and order make clear that it found that Mother was an unfit parent. The court's additional statement regarding "exceptional circumstances" is not a basis to reverse the court's finding that it was in the children's best interest to terminate Mother's parental rights. Appellants' contention to the contrary is without merit.

II.

Mother next contends that the court erred when it failed to "specifically link" its findings regarding the statutory factors to its conclusion that Mother's unfitness rendered "it in the children's best interest to sever ties with" her. The Department argues that the "court appropriately determined that in light of [Mother's] unfitness, the children's best interest required termination of parental rights." It notes that neither Mother nor the children contest that Mother was unfit.

The Court of Appeals addressed a similar argument in *In re Rashawn H.*, 402 Md. at 504–05. In that case, the termination of a mother's parental rights was vacated, in part, because the juvenile court "did not relate the findings it made with respect to the statutory factors to the presumption favoring continuation of the parental relationship . . . that would suffice to rebut that presumption." The Court stated:

> The [juvenile] court's role in TPR cases 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*. If the court does that—*articulates its conclusion as to the best interest of the child in that manner*—the parental rights we have recognized and the statutory basis for terminating those rights are in proper and harmonious balance.

Id. at 501 (some emphasis added) (footnote omitted). The Court directed the juvenile court on remand to make factual findings as to the statutory factors and then "to the extent that any amalgam of those findings leads to a conclusion that exceptional circumstances exist sufficient to rebut the presumption favoring the parental relationship, *explain clearly how and why that is so*." *Id.* at 505 (emphasis added).

We applied the Court's directive in *In re Darjal C.*, 191 Md. App. at 517–18, where the mother of Darjal C. argued on appeal that the juvenile court erred in failing to expressly find that she was either unfit or exceptional circumstances existed. We agreed, holding that "[t]he trial court made no express finding of parental unfitness or the existence of an exceptiona[al] circumstance that justified termination of Ms. H.'s parental rights." *Id.* at 518 (quotation marks and citation omitted). We then vacated the judgment and remanded the case to the juvenile court with instructions to make an express finding of parental unfitness or the existence of exceptional circumstances and explain its reasoning consistent with *In re Rashawn H*. *Id*.

On remand, the juvenile court held a hearing and permitted no additional evidence. *Id*. at 518–19. After the parties presented their arguments, the court stated that it was "going to adopt everything that [it] said [earlier] regarding the facts and regarding the factors." *Id*. at 519 (quotation marks omitted). As to unfitness, the court stated that Ms. H. "is really, clearly, unfit[] because she could not even approach competency as a parent." *Id*. at 520. The court added: "[Ms. H.], unfortunately, can't even manage her own life. And she had a huge, huge amount of help," adding that "she did have some way to make income, but she never translated that into the ability to take care of a child." *Id*. The court stated that she had "shown no real ability to take over mothering," and she was unfit. *Id*. The juvenile court then reaffirmed its prior decision and terminated Ms. H.'s rights as to her two children. *Id*. Ms. H. again appealed, arguing, among other things, that the juvenile court erred in terminating her parental rights because it did not follow our instructions and explain why she was unfit. *Id*. at 529–30.

We disagreed and stated that, although a juvenile court must "determine expressly" whether a parent is unfit or whether exceptional circumstances exist and explain how the findings support that conclusion, it is not required to recite some formulistic language. *Id*. at 532. We stated: "mere incantation of the 'magic words' of a legal test, as an adherence to form over substance, may not cause the Genie to appear and is neither required nor desired if actual consideration of the necessary legal considerations are apparent in the record." *Id*. (quotation marks and citation omitted). We were persuaded that the court on remand had linked its findings of fact to its conclusion that Ms. H. was unfit, stating:

> Ms. H. was clearly unfit, *because* she could not even approach the competency as a parent; she couldn't even manage her own life; and she was unable to translate her ability to generate income to taking care of a child. Finding that the circumstances prove[d] that [Ms. H. was] not capable; prove[d] that it [was] not in the best interest of the children; and their safety and health would not be found in returning them to her or in continuing the parental relationship with her, the court terminated the parental rights of Ms. H. as to Darjal[.]

Id. at 532–33 (quotation marks omitted) (emphasis added). Accordingly, we affirmed the judgment, holding that the court's findings "were not clearly erroneous and that the termination of Ms. H.'s parental rights based upon those findings was not an abuse of discretion." *Id*. at 533.

Here, in concluding that Mother was an unfit parent, the court analyzed each of the statutory factors listed in FL §5-323(d). Mother does not dispute this or assert that the court's findings in this regard were clearly erroneous.[3] And based on our review of the

[3] The children argue that the court erred in its assessment of the statutory factors, but the argument primarily constitutes disagreement with the court's findings. The children do argue, however, that the court erred in considering hearsay statements made by the children to their therapist, Ms. Matthew. The Department argues that the statements of the children regarding their parents' drinking and domestic violence were "non-hearsay, observed physical reactions of fearfulness when describing these incidents." In any event, it argues that, even if the court improperly considered the statements for their truth, there was no prejudice.

We agree with the Department that, given the extensive evidence admitted regarding domestic violence and abuse of alcohol, the admission of Ms. Matthew's testimony regarding the children's statements to her was not prejudicial and does not require reversal of the circuit court's decision. *See In re Ashley E.*, 158 Md. App. 144, 164 (2004) ("It is well settled in Maryland that a judgment in a civil case will not be reversed in the absence of a showing of error *and* prejudice to the appealing party."), *aff'd*, *In re Ashley E.*, 387 Md. 260 (2005).

court's ruling, it sufficiently linked the findings of fact to its conclusion that Mother was unfit.

The court stated that "the two greatest issues in [Mother]'s life that impaired her ability to appropriately parent her children involved domestic violence and alcohol and substance abuse, [and] the Department offered services for both." It further stated that Mother's "sworn testimony [was] peppered with contradictions and statements of denial." Based on Mother's unsuccessful response to the Department's services on these issues, and for mental health services, the court found that, "unfortunately there is no likely positive resolution in the future to either life-threatening problem," and it did "not believe that any additional services [would] bring about a lasting parental adjustment so that the children could be returned to [Mother]."

The court found that Mother had neglected both children "by exposing the children to significant and repeated domestic violence . . . and a lack of supervision . . . due to alcohol abuse." Noting that the "impact on the children has been tremendous," the court characterized the circumstances as "a pattern of domestic violence and alcohol abuse so severe that it gives rise to chronic and life-threatening neglect of the children."

The court then stated:

> It is this [c]ourt's belief that the children's well-being will be promoted by terminating the parental rights of . . . [Mother]. The children will gain stability and finality as to their placement because the current foster parents wish to adopt both children. The children will no longer run the risk of being exposed to repeated domestic violence and alcohol abuse. They will gain the opportunity to heal mentally and emotionally from the psychological damage inflicted on them by both of their parents through continuous, regimented therapy which the [c]ourt believes would continue under the watchful eyes of the foster parents and the [D]epartment, as well as

> permanent placement in a calm household to nurture and foster safety, trust and bonding that will encourage the children [to] develop appropriate relationships in the future.

The court then wrote that, "[b]ased on the above-findings, by clear and convincing evidence, the [c]ourt finds that continuation of the parental relationship is detrimental to the best interest of the children . . . and the [c]ourt finds, by clear and convincing evidence, that [Mother] is an unfit parent."

The court properly linked its findings to the conclusion that Mother was unfit.

III.

The children contend that the juvenile "court erred in finding that the Department provided sufficient reasonable efforts to facilitate reunification[.]" They assert that

> the testimony reveals two things: first, that [Mother] did participate in services, and provided reasonable explanations for any services that she may not have participated in; and second, that there were few services offered for mental health, substance abuse, and domestic violence prevention, and there were no services offered to help with housing or employment[.]

The Department argues that the "court properly granted guardianship after finding that despite years of services to [Mother], she either rejected those services or failed to comply with the treatments and programs." Asserting that Mother "cast the Department's assistance aside," the Department argues that it "'need not expend futile efforts on plainly recalcitrant parents.'"

Pursuant to FL § 5-323(d)(1), in determining whether the termination of Mother's parental rights was in the children's best interests, the court was required to consider: "(i) all services offered to the parent before the child's placement"; "(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[.]" Additionally, the court must consider "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).

Here, the court properly considered those factors. It found that the Department had made efforts to provide services to Mother since 2014, but the "efforts failed due to the constant use of alcohol" by Mother. It found that the Department has offered services for "the two greatest issues in [Mother's] life that impaired her ability to appropriately parent her children," domestic violence and substance abuse. It discussed various referrals, which were unsuccessful due to Mother's failure to engage in the programs.

The court detailed that an assessment at an agency relating to domestic violence was not completed because, at the first meeting, Mother "smelled of alcohol," stated that she did "not want to be in this DSS bullshit mess," stated that she was going to vomit while carrying a trash can belonging to the Department, and then stated that she had another appointment and left, and at the rescheduled assessment, it ended prematurely when she was escorted out of the building because she was rude. With respect to the Department's efforts to assist with alcohol substance abuse treatment, the court noted that Mother did not consistently attend treatment or urinalysis, missing 44 urinalysis screenings in a row. Although Mother complains on appeal that requiring that she take the bus impeded her ability to go to treatment, the court noted that the Department initially provided free cab

service, but it stopped because she was not using it and they were being billed for dispatching the cab. After noting the Department's efforts in this regard, and with housing and mental health referrals, as well as that Mother was not consistent with her progress or sobriety, the court found that the Department "fulfilled its obligations." The court found that, "[i]n light of all of the services that have been offered to [Mother], and her disinterest or refusal in adhering to the programs and treatments offered, the [c]ourt does not believe that any additional services will likely bring about a lasting parental adjustment" permitting reunification.

In re James G., upon which the children rely, is factually dissimilar. In that case, the juvenile court changed the child's permanency plan from reunification to placement with a relative for custody and guardianship. *In re James G.*, 178 Md. App. at 548–50. At the contested hearing, a Department case worker testified that the father's main obstacles to reunification were lack of stable employment and housing, and the Department could not provide housing assistance until he had stable employment. *Id*. at 550–53. The Department made a single referral to an organization that could not address the father's employment needs. *Id*. at 552, 591–92. On appeal, we concluded that the circuit court erred in finding that the Department had made reasonable efforts, and therefore, the court erred in changing the permanency plan. *Id*. at 548. We reversed and remanded for further proceedings. *Id*.

Here, the Department made numerous attempts to help Mother address her most pressing issues—alcoholism and domestic abuse. It cannot be said that the Department "s[a]t on its hands and wait[ed] for the necessary services to materialize." *In re Shirley B.*,

419 Md. 1, 30 (2011). Given the Department's many attempts to further reunification, which were frustrated by Mother's lack of follow through, the court was not clearly erroneous in finding that the Department had fulfilled its obligations to provide support. The court acted in accordance with the children's best interests, and it did not err or abuse its discretion in terminating Mother's parental rights.

JUDGMENTS AFFIRMED.
COSTS TO BE PAID BY APPELLANT.