Circuit Court for Cecil County
Case No.: C-07-JV-22-000111

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1189

September Term, 2025

IN RE: J.S.

Berger,
Friedman,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: January 14, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

On July 22, 2025, the Circuit Court for Cecil County, sitting as a juvenile court, granted custody and guardianship of five-year-old J.S., who was found to be a child in need of assistance in 2022, to the child's maternal aunt and uncle and terminating the juvenile court's jurisdiction. Mr. S. ("Father") raises three questions on appeal which we have rephrased and condensed as follows:[1]

> I. Whether the juvenile court erred in its October 22, 2024 Order by determining that the Cecil County Department of Social Services had made reasonable efforts to reunify Father and J.S.

[1] Father phrased the questions as follows:

> 1. Did the court err when finding in October 2024 that DSS made reasonable efforts to reunify Father and J.S., and as a result, should reunification services be reinstated?
>
> 2. Did the court err and abuse its discretion when it granted Aunt and Uncle custody and guardianship of J.S. and terminated jurisdiction?
>
> 3. Did the court fail to make adequate statutory findings, including express finding about J.S.'s best interests, before permanently granting Aunt and Uncle custody and guardianship of J.S.?
>
> 4. Did insufficient evidence support the determination that it was in J.S.'s best interests for Aunt and Uncle to be granted custody and guardianship of him with case closure, and instead, did the evidence show that reunification with Father should have been reinstated as a permanency plan?
>
> 5. Did the court err as a matter of law and abuse its discretion when it refused to address parent-child visitation whatsoever before permanently granting Aunt and Uncle custody and guardianship of J.S. and terminating jurisdiction?

II. Whether the juvenile court erred in granting custody and guardianship of J.S. to child's aunt and uncle and terminating the court's jurisdiction because the court failed to make statutorily required findings of fact on the record and the evidence did not support the court's Order.

III. Whether the juvenile court erred when it refused to address visitation between Father and child.

For the following reasons, we shall answer the first two questions in the negative but the third in the positive. Accordingly, we shall affirm the judgment of the circuit court but remand to the circuit court to hold a hearing regarding Father's visitation with child.

BACKGROUND FACTS

This is the second time this case has come before us. We shall provide a brief summary of relevant facts to place the questions raised in context and then provide more detailed facts in the discussion portion to address the questions raised.

J.S. was born in January 2020 to Father and Mother, an unmarried couple who lived together in North East, Maryland. J.S. has a brother who was born four years earlier.[2] In September 2022, the Cecil County Department of Social Services ("CCDSS") filed an emergency request for shelter care, which the juvenile court granted, finding that the brothers were not safe in their parents' home due to the parents' substance abuse and domestic violence.[3] The CCDSS subsequently filed child in need of assistance ("CINA")

[2] Mother is not a party to this appeal, nor is J.S.'s brother. We shall only refer to them to place the questions raised in this appeal in context.

[3] The CCDSS were initially involved with the family when J.S.'s older brother was born substance exposed, and the CCDSS provided services to the family for several (continued…)

motions. Additionally, the court ordered the appointment of counsel for the children and a special advocate ("CASA").

CINA finding

On October 4, 2022, the juvenile court found the children to be CINAs and committed them to the custody of the CCDSS. The parents were granted separate, supervised visitation because of their violent histories. The court ordered the parties to participate in various services.

Permanency plans between 2023 and 2025

At the initial permanency plan hearing on October 31, 2023, the court ordered a permanency plan for parental reunification. Six months later, on April 30, 2024, by consent of all parties, the juvenile court changed the children's permanency plans to a primary plan of relative custody/guardianship (the children's paternal Aunt and Uncle) and a secondary plan of reunification with parents. The court found that the CCDSS had made reasonable efforts to achieve the permanency plan. On October 22, 2024, a permanency plan review hearing was held, during which the court admitted a CCDSS and a CASA report. At that

months. When J.S. was born, the CCDSS became involved again. Although he tested negative for all controlled substances, Mother tested positive for amphetamines, THC, and prescribed Suboxone. Additionally, in September 2020, the CCDSS opened an investigation for domestic violence involving the parents and substance abuse by Mother; in December 2021, the CCDSS opened an investigation for the same and neglect by Father; and in February 2022, the CCDSS opened an investigation for neglect by Mother. The underlying shelter care petition arose in August 2022, when the CCDSS opened an investigation for neglect by Father, who had been arrested while intoxicated and asleep in a parked car while J.S.'s older brother played in a nearby park unsupervised. Further, there were reports of substance abuse by the parents, domestic violence, and Father had left two-year-old J.S. at home alone.

time, the court ordered a continuation of the children's permanency plan and again found that the CCDSS had made reasonable efforts.

In March and April of 2025, the court held review hearings and took evidence. On May 6, after extensive review of the six factors codified in Md. Code Ann., Family Law ("FL") Art., § 5-525(f)(1), the court changed five-year old's J.S.'s permanency plan to a sole plan of relative custody/guardianship.[4] The court noted that "we are pushing three years here and we just have not gotten to the point where we are even on the precipice of being able to return the boys to their parents." The court found that the CCDSS had made reasonable efforts. The court stated that "[v]isitation will remain status quo." The court subsequently entered a written Order**.** Father appealed that ruling to our Court. We affirmed on appeal. *See In re C.G.S. and J.S.*, Nos. 515 & 516, Sept. Term, 2025 (filed October 31, 2025).

July 22, 2025 contested hearing and subsequent order

After the court changed J.S.'s permanency plan to custody/guardianship to Aunt and Uncle, the CCDSS had unilaterally reduced Father's visitation with J.S. from twice a month for two hours to once a month for two hours. About six weeks after changing J.S.'s permanency plan, on July 22, 2025, the juvenile court held a contested hearing on the CCDSS's recommendation that the court grant Aunt and Uncle custody/ guardianship of J.S. and terminate jurisdiction. The court received into evidence a July 2025 CCDSS report; a home study for Aunt and Uncle; and a July 2025 CASA report.

[4] The court changed the permanency plan of J.S.'s nine-year-old brother to nonrelative custody/guardianship.

J.S.'s court appointed attorney agreed with the CCDSS's recommendations, stating that she had visited J.S. at his Aunt and Uncle's home several times, and that: J.S. is "doing very well there" and Aunt and Uncle are "able to identify and meet his needs[.]" Father opposed the recommendations. He asked that reunification be reinstated, stating simply that he "has done [] all of the tasks that the Department has asked," and that he had "done repairs to his home" and was "open to having his home re-evaluated[.]" Additionally, he objected to the CCDSS unilaterally reducing his visits with J.S., and he asked the court to reinstate the twice monthly two-hour visits, emphasizing that the juvenile court at the last hearing had ordered that the existing visitation remain in place.

After hearing the parties' arguments, the juvenile court issued its ruling from the bench, stating that it would grant the Aunt and Uncle custody/guardianship of J.S. and terminate its jurisdiction. The court refused to rule on visitation, stating that Father can request visitation from Aunt and Uncle, and if they denied his request, Father could file a motion requesting visitation. About a week later, the court issued a written Order, providing that having "heard from all counsel and parties" and having "accepted and considered" the three exhibits, the court "finds that the permanency plan which serves the best interests of [J.S.] is a primary plan of custody and guardianship to a relative" and that "[p]ermanency has been achieved." The court ordered that J.S. no longer be considered a CINA; granted custody/guardianship of J.S. to Aunt and Uncle; and closed the case and terminated its jurisdiction.

It is from this Order that Father appeals. We shall provide additional facts to address the specific questions raised on appeal.

DISCUSSION

Standard of Review

We apply "three different levels of review" to a juvenile court's findings in a CINA proceeding. *In re Adoption/Guardianship of Jasmine D.*, 217 Md. App. 718, 733 (2014). We apply the clearly erroneous standard to factual findings; reviewing matters of law for error, unless the error is harmless; and apply the abuse of discretion standard to the juvenile court's ultimate conclusion. *In re Ashley S.*, 431 Md. 678, 704 (2013) (citing *In re Yve S.*, 373 Md. 551, 586 (2003)). "Abuse of discretion has been said to occur where no reasonable person would take the view adopted by the [juvenile] court, or when the court acts without reference to any guiding rules or principles." *Alexis v. State*, 437 Md. 457, 478 (2014) (cleaned up). *See also In re Shirley B.*, 419 Md. 1, 19 (2011) ("'Questions within the discretion of the trial court are much better decided by the trial judges than by appellate courts, and the decisions of such judges should only be disturbed where it is apparent that some serious error or abuse of discretion or autocratic action has occurred.'" (quoting *In re Yve S.*, 373 Md. at 583)).

I. Reasonable efforts of reunification

Father argues that the juvenile court erred in its October 22, 2024 Order when it found that the CCDSS had made reasonable efforts toward reunification because the record shows that the CCDSS "never" provided Father with the necessary services to resolve his "inability to control" his children's behavior, which was the primary reunification barrier. Appellant's argument is not properly before us because Father never raised any complaint

to the October 22, 2024 Order in his first appeal, on which we have already ruled. We explain.

A "reasonable efforts" finding is assessed for the period since the court's last finding of reasonable efforts. *See* Cts. & Jud. Proc. Art ("CJP") § 3-816.1(b)(5). In Father's first appeal, he challenged the juvenile court's May 6, 2025 Order that changed the children's permanency plans from a primary plan of relative custody/guardianship to Aunt and Uncle and a secondary plan of reunification with parents to a sole plan of custody/guardianship to Aunt and Uncle. In that appeal, Father argued that the juvenile court's reasonable efforts finding on May 6, 2025, which required us to review the time period between October 22, 2024 to May 6, 2025, was in error. He never argued that the reasonable efforts finding by the juvenile court in its October 22, 2024 Order (which would have included the time between April 30, 2024 and October 22, 2024) was in error. We addressed the reasonable efforts argument in Father's first appeal and found no error by the juvenile court.

In the current appeal, appellant attempts to reach further back to the juvenile court's decision on October 22, 2024. However, our decision in his appeal of the juvenile court's May 6, 2025 Order acts as a final judgment to all the decisions by the juvenile court before and up to that time. Accordingly, Father's argument is not properly before us since he could have raised it in his first appeal but did not.

II. Custody/guardianship grant and termination of jurisdiction

Father argues that the juvenile court erred in granting Aunt and Uncle custody/ guardianship of J.S and terminating jurisdiction because the court failed to expressly make on the record statutorily required findings. He also argues that even if the court was not

required to make such findings, the evidence was insufficient to support the court's decision that it was in J.S.'s best interest to place him in the custody/guardianship of his Aunt and Uncle and terminate jurisdiction. We shall address each argument in turn.

To address Father's first argument, we shall provide a brief overview of the CINA framework. When a juvenile court finds a child to be a CINA, the local department of social services must develop a "permanency plan" that is consistent with the child's best interests. CJP § 3-823(e)(1)(i). The permanency plan is "the goal toward which [they] are committed to work." *In re Damon M.*, 362 Md. 429, 436 (2001). A juvenile court must hold an initial permanency plan hearing to determine the permanency plan not less than 11 months after the child enters out-of-home placement. CJP § 3-823(b)(1)(i). The juvenile court then reviews the permanency plan "at least every six months," until the child is no longer in the department's custody. CJP § 3-823(h)(1). The juvenile court shall make "[e]very reasonable effort" to permanently place the child within 24 months after the date of initial placement. CJP § 3-823(h)(5).

At each permanency plan review hearing, the court must address eight factors, including whether a change in the permanency plan would be in the child's best interests.[5]

[5] A court must address, if relevant, the following eight factors at every permanency plan review hearing:

> (i) Determine the continuing necessity for and appropriateness of the commitment; (ii) Determine and document in its order whether reasonable efforts have been made to finalize the permanency plan that is in effect;(iii) Determine the appropriateness of and the extent of compliance with the case plan for the child; (iv) Determine the extent of progress that

(continued…)

CJP § 3-823(h)(2). At both the initial permanency plan and at each review hearing where the court decides to change the permanency plan, the court must consider an additional six statutory factors, *see* Md. Code Ann., Family Law ("FL") § 5-525(f)(1), while giving "primary consideration" to the "best interests of the child[.]"[6] CJP § 3-823(e)(2).

When the court decides to grant custody/guardianship to a non-parent, the statute provides that the court shall consider the following three factors:

> has been made toward alleviating or mitigating the causes necessitating commitment; (v) Project a reasonable date by which a child in placement may be returned home, placed in a preadoptive home, or placed under a legal guardianship; (vi) Evaluate the safety of the child and take necessary measures to protect the child; (vii) Change the permanency plan if a change in the permanency plan would be in the child's best interest; and (viii) For a child with a developmental disability, direct the provision of services to obtain ongoing care, if any, needed after the court's jurisdiction ends.

CJP § 3-823(h)(2).

[6] At the initial permanency plan review hearing and at each permanency plan review hearing where the court changes the child's permanency plan, the court must consider the following six factors:

> (i) the child's ability to be safe and healthy in the home of the child's parent; (ii) the child's attachment and emotional ties to the child's natural parents and siblings; (iii) the child's emotional attachment to the child's current caregiver and the caregiver's family; (iv) the length of time the child has resided with the current caregiver; (v) the potential emotional, developmental, and educational harm to the child if moved from the child's current placement; and (vi) the potential harm to the child by remaining in State custody for an excessive period of time.

FL § 5-525(f)(1).

> (i) Any assurance by the local department that it will provide funds for necessary support and maintenance for the child;
>
> (ii) All factors necessary to determine the best interests of the child; and
>
> (iii) A report by a local department or a licensed child placement agency, completed in compliance with regulations adopted by the Department of Human Services, on the suitability of the individual to be the guardian of the child.

CJP § 3-819.2(f)(1). An order granting custody/guardianship to a person has the following four effects: "(1) Rescinds the child's commitment to the local department; (2) Achieves the child's permanency plan; (3) Terminates the local department's legal obligations and responsibilities to the child; and (4) Terminates the child's case, unless the court finds good cause not to terminate the child's case." CJP § 3-819.2(c).

On appeal, Father argues that the juvenile court erred in granting custody/ guardianship to Aunt and Uncle and closing J.S.'s CINA case because the court failed to expressly make required statutory findings on the record, specifically, the six statutory factors in FL § 5-525(f)(1). The CCDSS argues that the juvenile court acted within its discretion in effectuating J.S's permanency plan and closing his CINA case. We agree with the CCDSS.

Under the statutory framework provided in CJP § 3-823(e)(2), the juvenile court was required to consider the FL § 5-525(f)(1) factors in determining J.S.'s initial permanency plan hearing on October 31, 2023, when it set J.S.'s permanency plan for reunification. Then, at each review hearing, the juvenile court had to evaluate, among other things, whether it would be in J.S.'s best interest to change the permanency plan. *See* CJP

§ 3-823(h)(2)(vii). If the court found that a change was warranted, the court needed to again consider the factors of FL § 5-525(f)(1). The juvenile court did that at the review hearings on April 30, 2024, and May 6, 2025. Father appealed the May 6, 2025 Order, and we affirmed.

Father now appeals the July 28, 2025 Order granting custody/guardianship to Aunt and Uncle. That Order, however, did not change J.S.'s permanency plan. Rather, the Order found that the permanency plan had been "achieve[d]." CJP § 3-819.2(c)(2). At the hearing, the court assessed, as it was required to do, "the continuing necessity for and appropriateness of [J.S.'s] commitment" and to determine if it was no longer necessary or appropriate. CJP § 3-823(h)(2)(i). Because a court does not "determine" a permanency plan when it finds that the child's commitment is no longer necessary or appropriate, it is not required to consider the FL 5-§ 525(f)(1) factors. *See* CJP § 3-823(h)(2). Accordingly, contrary to Father's argument, the juvenile court was not required to consider the factors in FL § 5-525(f)(1) at the July 28, 2025 hearing before granting custody/guardianship to Aunt and Uncle. Rather, the only factors the court was required to consider at the July 28, 2025 hearing, before granting Aunt and Uncle's custody/guardianship, were the three factors found in CJP § 3-819.2(f)(1). Specifically, the court had to consider "[a]ny assurance" by the CCDSS that it would provide funds for necessary support and maintenance for J.S. *See* CJP § 3-819.2(f)(1)(i). The court also had to consider a report by a local child placement agency regarding the suitability of Aunt and Uncle to be the guardian of J.S. *See* CJP § 3-819.2(f)(1)(iii). Father does not contend that either of these factors were in any way not considered or correctly applied.

Lastly, the court had to consider "[a]ll factors necessary to determine the best interests" of J.S. *See* CJP § 3-819.2(f)(1)(ii). The statute does not dictate what factors are "necessary" to determine J.S.'s best interests at this stage. Instead, a juvenile court has the discretion to consider what factors are necessary to its determination. *See In re M.*, 251 Md. App. at 111. The court may use the FL § 5-525(f)(1) factors, if it so chooses, but its determination of what factors are necessary to determine the child's best interest at this stage is discretionary and must not be "beyond the fringe" of what is "minimally acceptable." *In re Yve S.*, 373 Md. at 583-84 (cleaned up).

Here, the court expressly provided in its written Order, that in rendering its ruling it relied on the three exhibits admitted into evidence: (1) the July 10, 2025 CCDSS progress report; (2) the July 11, 2025 CASA report; and (3) the completed home health study of the home of Aunt and Uncle. Each of the reports showed that while Father had acted to remedy some of the issues that had led to J.S.'s removal from the home, after three years, Father's home had still not passed a home inspection, and Father's parent child visits had shown no improvement and continued to be unsafe because of his inattention to his children.

At the hearing, Father never argued that anything in the reports was false. Father only contended that he had done work on his house and was "willing" to have a home inspection. In our view, these weak proffers were too little too late. At the time Father failed his first home inspection, he was specifically told, and the paperwork given to him specifically stated in bold, that *he* was to call and set up another home inspection when he had completed the work that had caused the failure. To baldly state at the last hour *to the court* that he was now "willing" to have a home inspection is insufficient. Moreover,

Father never proffered or argued that he had made any strides to improve his visitations with J.S. Lastly, we note that the juvenile court, roughly two months earlier, had assessed in detail each of the six statutory factors of FL § 5-525(f)(1) and determined that it was in J.S.'s best interest to change his permanency plan from a primary plan of relative custody/guardianship to Aunt and Uncle and secondary plan of parental reunification to a sole plan of relative custody/guardianship to Aunt and Uncle.

Under the circumstances presented here, we cannot say that the juvenile court acted "without reference to any guiding rules or principles." *In re Yve S.*, 373 Md. at 583. Moreover, on the record before us, we cannot say that "no reasonable person" would take the view adopted by the juvenile court. *Id*. Accordingly, we find no abuse of discretion by the juvenile court in granting Aunt and Uncle custody/guardianship of J.S. and terminating jurisdiction and closing the case.

III.

Lastly, Father argues that the juvenile court erred in refusing to address his visitation rights, which the CCDSS had unilaterally reduced. He urges us to remand to the juvenile court with directions to conduct a hearing on visitation. The CCDSS agrees that a hearing on Father's right to visitation and the terms of any visitation is mandatory because a hearing is required prior to changing visitation when the parties dispute allegations related to visitations and a parent asks to be heard on visitation and was afforded no opportunity. *Cf. In re M.C.*, 245 Md. App. 215, 231-32 (2020) (holding that mother's due process rights were violated when child visitation was modified without holding a hearing where allegations supporting modification were in dispute because the burden of proof generally

falls to the party asserting to change the status quo). We agree with the CCDSS. Accordingly, we shall issue a limited remand and direct the juvenile court to hold a hearing on the issue of visitation between Father and J.S. regarding a change, if any, to visitation from the status quo of two, one-hour visits a month.

CASE REMANDED FOR A HEARING ON VISITATION CONSISTENT WITH THE FOREGOING OPINION. JUDGMENT OF THE CIRCUIT COURT FOR CECIL COUNTY OTHERWISE AFFIRMED. COSTS TO BE PAID ONE HALF BY APPELLANT AND ONE HALF BY CECIL COUNTY.