

Circuit Court for Montgomery County  
Case No. 6-Z-19-012 (Guardianship)  
Case No. 06-I-16-190 (CINA)

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1858

September Term, 2019

No. 2649

September Term, 2018

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IN RE: L.W.

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

JJ.

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Opinion by Berger, J.

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Filed: July 1, 2020

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This case is before us on appeal from an order of the Circuit Court for Montgomery County, sitting as a juvenile court, terminating the parental rights of S.M. (“Mother”) as to her daughter, L.W. Mother’s assertion that the trial court’s termination of her parental rights constitutes reversible error is primarily premised upon Mother’s assertion that the trial court failed to appropriately consider the effect this ruling would have on L.W.’s relationship with her siblings.

In addition to appealing the trial court’s termination of parental rights order, Mother has also appealed the juvenile court’s earlier order modifying L.W.’s permanency plan in a Child of Need of Assistance (“CINA”) proceeding.<sup>1</sup> The Montgomery County Department of Social Services (the “Department”) has moved to dismiss Mother’s appeal of the change in permanency plan as moot.

For the reasons we shall explain herein, we shall grant the Department’s motion to dismiss Mother’s appeal of the order modifying L.W.’s permanency plan and shall affirm the juvenile court’s order terminating Mother’s parental rights to L.W. and granting guardianship with the right to consent to adoption to the Department.

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<sup>1</sup> A “CINA,” or “child in need of assistance,” is “a child who requires court intervention because: (1) [t]he child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) [t]he child’s parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child’s needs.” Md. Code (1974, 2013 Repl. Vol.), § 3-801(f)(1)-(2), of the Courts and Judicial Proceedings Article (“CJ”).

## FACTS AND PROCEEDINGS

### I. Background and L.W.’s Entry into the Department’s Care

The facts of this case are largely not disputed by the parties. L.W. was born on January 5, 2013, the eleventh of Mother’s fourteen children.<sup>2</sup> Mother’s first involvement with a child welfare agency began many years before L.W.’s birth in 1999 when she was investigated by the District of Columbia Child and Family Services Agency (“CFSA”) for neglect of her two oldest children; no finding of neglect was made at that time. In January 2001, CFSA made its first finding of neglect, having determined that Mother failed “to provide adequate clothing, nutrition, and medical attention” to her first three children. In September 2001, CFSA made another finding of neglect as well as a finding of abuse. The abuse finding was based upon Mother beating her then-five-year old child with a belt. Bruises and scars were observed on the child’s arms, back, neck, and face. In addition to the CFSA finding, Mother was charged with second-degree child cruelty.

In 2003, Mother was hospitalized for mental health problems. Mother did not recall what led to the need for hospitalization, but she reported that she was diagnosed with “manic depression” and prescribed several medications. Mother discontinued her medications due to concerns that they were causing her to gain weight.

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<sup>2</sup> On L.W.’s birth certificate, B.W. is named as her father, but Mother later identified A.F. as L.W.’s biological father. Neither B.W. nor A.F. has ever asserted parental rights to L.W. and neither is a party to this appeal.

In August 2004, Mother gave birth to her fourth child, and, in August 2005, she gave birth to her fifth child. CFSA indicated Mother for neglect again in 2006 based upon Mother exposing the children to domestic violence. CFSA took no further action at that time because Mother and the children went to a shelter. Mother's sixth child was born in August 2006 and her seventh child in April 2008. The seventh child tested positive for phencyclidine ("PCP") at birth, as did Mother at the time. Mother reported that she had been diagnosed with bipolar disorder and depression but was not being treated at the time. At this time, Mother had relocated to Montgomery County. The Department investigated, made a neglect finding, and referred Mother for in-home services. The case was closed in January 2009.

Mother's eighth, ninth, and tenth children were born in March 2009, March 2010, and August 2011, respectively. L.W. was born in January 2013. Mother's twelfth child was born in April 2014. In October 2014, an Alternative Response Assessment was completed, but Mother refused any further services. In February 2015, the Department became involved with the family again after concerns arose regarding one child's sexualized behaviors and after Mother failed to attend another child's Individualized Education Plan meeting. In April 2015, Mother's thirteenth child was born and tested positive for PCP. Mother refused a urinalysis at this time and denied both having used PCP in the past and having previously given birth to a child who tested positive for PCP at birth. In 2016, the Department continued to be involved with the family due to allegations of domestic violence.

The Department's involvement with the family increased in December 2016 following a particularly troubling incident. On December 16, 2016, Mother went for a drive with ten of her children, who then ranged in age from one to twelve years old. Many of the children were not properly secured in the vehicle. Mother and the twelve-year-old child, W.M., began arguing after Mother requested that W.M. drive the car and he refused. Mother "put [W.M.] out of the car," alone, under a bridge on I-495 in Greenbelt, Maryland. W.M. was able to flag down a police officer, who contacted W.M.'s father and arranged for W.M. to stay with an older sister. Police went to Mother's home late on December 16, 2016 and observed that the home was cold, dirty, and had very little food. The home had broken windows that had been patched with cardboard.

Mother continued to drive with the remaining children to Baltimore, but she got lost, turned around, and ultimately ran out of gas on a state highway in Takoma Park, Maryland. Mother and the children stayed overnight in the car, while the outside temperature dropped to approximately twenty-five degrees Fahrenheit. At some point on December 17, 2016, Mother left the children in the vehicle while she went to look for gasoline. Mother, however, did not return. The children had nothing to eat or drink. The three oldest children left the car and walked to a nearby convenience store, where they stole some cookies and juice. They returned to the car and gave most of the juice to the one-year-old child. The children stayed in the car overnight on December 17. There were no extra diapers or wipes in the car, and the youngest children remained in soiled diapers for the entire weekend. Other children urinated and defecated outside the car or in their pants. On December 18,

2016, the children walked to a nearby restaurant. Restaurant staff gave the children food and contacted the police.

Police located Mother on December 18, 2016 when she was found “wandering aimlessly in the middle of the street” and was “confused and unaware of her surroundings.” Mother was transported to Washington Adventist Hospital and was admitted for psychiatric treatment. The Department’s worker met with Mother while she was hospitalized. Mother stated that she had gone to the hospital because she was not feeling well but did not remember what had happened that weekend. When specifically asked about her substance use, Mother admitted that she smoked PCP once per week on Fridays, which were her “party days.” Mother further admitted that she drank wine or margaritas daily and smoked marijuana a couple of days each week.

Mother was charged with multiple counts of criminal child neglect and confining an unattended child, and the children were placed with relatives. On December 21, 2016, the Department’s social worker observed that L.W.’s skin on her behind and the back of her thighs was so raw that it was cracked and peeling. Her skin had been irritated by sitting in urine and fecal matter when left in the car for multiple days.

The Department subsequently filed a petition in the Circuit Court for Montgomery County, sitting as a juvenile court, asking that L.W. and Mother’s other minor children be found to be CINA. On January 24, 2017, with the agreement of the parties, the juvenile court found the ten children to be CINA and committed them to the custody of the

Department for relative placement. L.W. was originally placed with her maternal aunt.<sup>3</sup> In March 2017, L.W.'s aunt informed the Department that she was no longer able to provide care for L.W. due to health problems. On March 17, 2017, L.W. was placed in a foster home. The Department was unable to place L.W. with potential relative resources due to the size of their homes. The Department continued to investigate other relative placements but was unable to identify an appropriate caregiver.

## **II. Mother's Progress with Reunification Services**

L.W.'s initial permanency plan was reunification. The juvenile court required Mother to participate in a range of reunification services, including intensive outpatient substance abuse and mental health treatment, twice-weekly urinalysis testing, participation in an abused persons program, a psychological evaluation, participation in supervised visitation with her children, anger management services, and a psychiatric evaluation. Mother was also assigned a parenting educator. Mother's participation in reunification services was generally inconsistent.

Mother initially enrolled in intensive outpatient substance abuse and mental health treatment, but after inconsistent participation, she was discharged from the program in January 2018. Mother also did not authorize the program to share her urinalysis test results with the Department. With respect to the abused persons program, Mother attended group

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<sup>3</sup> The children were placed with several different relatives. L.W. does not share a father with any of her siblings, and many of the siblings were placed with family members who were not L.W.'s relatives.

sessions but did not attend required individual sessions and was unsuccessfully discharged from the program in April 2018. Mother also declined to participate in a psychological evaluation while her criminal charges were pending, did not participate in the psychiatric evaluation, and did not provide the Department with evidence that she had participated in anger management counseling.

Mother's visits were also inconsistent. After the children were found to be CINA, Mother initially attended most visits. During the first several months during which Mother was having supervised visitation with the children, Mother attended nineteen out of twenty-one scheduled visits. The visits largely went well.

By the summer of 2017, the Department began noting several concerns regarding Mother's participation in visits. Mother argued with supervising social workers and attempted to have private conversations with the children out of earshot of the supervisors. At one visit, Mother refused to take a child to use the restroom and made the children play the "quiet game" for the entire one-hour visit, during which the children were required to remain silent. When the children expressed that they were hungry, Mother told them that she did not "have to bring you lunch. It's an option not an obligation to bring you food." Mother criticized the Department in front of the children and told the children that the Department was "fucking with the [c]ourt system" and referred to the Department as "bastards." At one visit, when one of the children expressed a desire to leave the visit early, Mother told the child that she did not want to be there and "wanted to leave too."



Mother also began to threaten corporal punishment to the children during visits. Mother told a child that his behavior would have been different “[if [she] had [her] red belt” with her at the visit. She threatened to “smack” a three-year-old child and told him she was “gonna hit you back” if he hit her. The supervising social worker observed the children running and hiding from Mother when she would glare at them. The supervising social worker advised Mother that if she continued to threaten corporal punishment, the visit would have to end. Mother stated that the Department could end the visit and she did not care. One of the children became visibly upset as a result. Following the visit, the Department requested that the court issue an order controlling conduct prohibiting Mother from threatening the children at visits. The Department found it “concerning” that “a threat [was] made in front of supervising social workers” and expressed further concern about “what would happen if the social workers were not there supervising.”

At other visits, Mother allowed the children to engage in inappropriate and even dangerous behavior, including throwing toys, hitting each other, standing on furniture, playing with the lights, and physically fighting with each other. At one visit, the two-year-old and three-year-old children were playing with balloons and the balloon strings became tangled around their necks. The children tried to free themselves, but the strings became tighter. Mother did not assist the children until another adult in the room prompted her to do so.

Mother began working with parenting educator Michaelyn Woofter on April 11, 2017, but Mother was reluctant to engage in parenting education and Ms. Woofter observed

minimal progress. Mother ignored Ms. Woofter during some visits and walked out on her on at least once occasion. Mother declined to follow Ms. Woofter's suggestions. After Mother expressed that she no longer wanted to work with the parenting educator, Ms. Woofter stopped working with her in June 2017.

While attempting to locate a different parenting educator, the Department continued to provide coaching and modeling of appropriate parenting techniques through visit supervisors. The Department obtained the services of a different parenting educator, Kerrie LaRosa, who began working with Mother in March 2018. At Ms. LaRosa's first session with Mother, Mother told her that she did not want Ms. LaRosa to speak during visits but only to interject if there were specific safety concerns. Ms. LaRosa ultimately participated in four visits with Mother. Ms. LaRosa observed that Mother had difficulty "keeping a close eye on everybody at the same time," including when one child was "climbing up on something" or would "open the door to leave the room." Mother asserted that the children's behavior did not create any safety issues and told Ms. LaRosa that she had no "intention of making any adjustments to her parenting methods."

In February 2018, Mother returned to Avery Road Combined Care, the substance abuse and mental health treatment facility from which she had previously been unsuccessfully discharged. Mother had told Avery Road staff that she "needed to be in treatment for court." On March 13, 2018, the Department learned from the paternal grandmother of two of Mother's children that Mother was pregnant with her fourteenth child. The grandmother estimated Mother to be approximately five months pregnant at the

time. On March 26, 2018, the Department learned that Mother had been arrested on March 24, 2018 for driving while intoxicated and associated offenses.

The Department communicated with the responding police officer, who informed the Department that when the officer attempted to speak with Mother, “she smelled strongly of alcohol, appeared visibly intoxicated, continued to yell that she was pregnant, had urinated on herself and was aggressive and uncooperative.” Mother “refused to identify herself and would not provide any form of identification” and “repeated that she did not have to tell him who she was and he had to figure it out on his own.” The officer “had concerns about [Mother’s] possible combined substance use” because she “was more unpredictable than someone solely under the influence of alcohol.”

On April 20, 2018, Mother pleaded guilty to nine counts of neglect of a minor in connection with the December 2016 abandonment incident. She was released on bond prior to sentencing. On the day she was released on bond, Mother was again arrested and charged with driving under the influence of alcohol and associated offenses. As a result, her bond was revoked and Mother was incarcerated. Mother did not provide the Department with any information regarding any participation in substance abuse or mental health treatment while incarcerated, nor did Mother sign any releases to permit the Department to speak with her correctional counselor.

Mother was released temporarily in July 2018 at the end of her pregnancy. While released from incarceration, Mother was required to participate in a residential substance abuse treatment program at Avery Road. After giving birth to her fourteenth child, Mother

was returned to prison after being sentenced for the nine counts of child neglect. Mother was sentenced to four consecutive two-year terms of imprisonment and five additional concurrent two-year years. All but eleven months were suspended. As conditions of probation, Mother was required to participate in substance abuse and mental health evaluations and treatment, abstain from alcohol and illegal substances, refrain from driving or attempting to drive after consuming alcohol, comply with conditions imposed by the court in her children's CINA cases, and abstain from engaging in "hostile contact" with her children. Mother was unable to visit with L.W. while in prison.

Following Mother's release from incarceration, Mother's engagement with the Department's services did not improve. Mother did not sign a release to allow the Department to contact her probation officer, did not participate in a psychological or psychiatric evaluation, did not participate in mental health treatment, and participated in substance abuse treatment for one month before being unsuccessfully discharged. Mother failed to obtain employment and instead relied upon her adult daughter for financial support.

In January 2019, Mother's weekly visits with L.W. resumed, but Mother participated in only two full visits out of a possible nineteen between January and June 2019. Mother was fifty minutes late to one visit, and, on two other occasions, Mother confirmed the visit but later canceled after L.W. had already arrived. A social worker observed a concerning interaction at the February 21, 2019 visit. L.W. excitedly showed Mother a book that she had brought with her to the visit and told Mother that she had

practiced reading “to my sister and to my mommy!” Mother “jerked her head sideways and glared” at L.W. and said, “to your who?” L.W. looked nervously at the social worker while Mother stared at her and then stated, “Uh, to Ms. [T],” referring to her foster mother. In July 2019, the juvenile court reduced Mother’s visits to once per month; Mother participated in one visit in July and one in September.

### **III. L.W.’s Progress in Foster Care**

L.W. has been in the care of her foster parents, Mr. and Mrs. C., since March 2017. Mr. and Mrs. C. describe L.W. as “energetic and fun-loving.” When L.W. was first placed in the C. family home at age five, she was quiet and “couldn’t express what she wanted or needed.” L.W. has autism and made significant progress since her placement. Mr. and Mrs. C. provided necessary structure and consistency for L.W. They enrolled L.W. in daycare, took her for weekly occupational and speech therapy, and enrolled her in swim lessons. L.W. has attended the same school since she was first placed with the C. family, where she receives special education services and continues to receive speech and occupational therapy as specified in her Individual Education Plan. L.W. is bonded to her foster family and is “thriving” in her placement.

Mr. and Mrs. C. have made efforts to maintain L.W.’s relationship with her siblings and extended family. L.W.’s foster parents took it upon themselves to arrange extra visits with L.W.’s siblings, including L.W.’s oldest adult siblings who were not in the custody of the Department. Mr. and Mrs. C. coordinated with the siblings’ caregivers to arrange a rotating schedule of hosting sibling visits. The visits have included birthday celebrations,

barbecues, pool parties, sporting events, and restaurant meals. L.W. has had overnight visits at her maternal grandmother's home, including three week-long visits during the summer of 2019. L.W. also communicates with her siblings over the phone.

#### **IV. The Change in L.W.'s Permanency Plan**

In April 2018, the Department requested that L.W.'s permanency plan be modified from reunification to adoption by her foster parents. At the same time, the Department requested that the plan for L.W.'s siblings be changed from reunification to custody and guardianship with relatives. After a three-day hearing, the parties agreed to the change in plan for L.W.'s siblings, but Mother continued to contest the change in L.W.'s permanency plan. Mother requested that the juvenile court "change the plan to custody and guardianship to the current foster parents." Mother conceded that "no one in here today is asking Your Honor to remove L[.W.] from the foster parents." On October 2, 2018, the juvenile court granted the Department's request to modify the permanency plan and ordered that L.W.'s permanency plan would be adoption by a non-relative. Mother noted a timely appeal. We stayed Mother's appeal pending the outcome of the termination of parental rights case. On May 16, 2019, the Department petitioned the juvenile court for guardianship of L.W. with the right to consent to adoption.

#### **V. Mother's Psychological Evaluation**

In September 2019, less than one month before the juvenile court's hearing on the Department's guardianship petition, Mother participated in a psychological evaluation. Linda Meade, Ph.D., a licenced clinical psychologist with over thirty-five years of

experience, met with Mother on September 25, 2019.<sup>4</sup> Dr. Meade expressed concerns about Mother’s inability to accept responsibility for having previously abused or neglected her children despite her twenty-year history of involvement with child welfare authorities in two jurisdictions. Mother “insisted that she is a good mother” who “provided well for her children” and “has never expressed her anger physically.” Mother “expressed no understanding or remorse for how her children must have suffered during the incident that brought them into [the Department’s] care.” Instead, Mother “attempted to absolve herself of all responsibility for their trauma . . . excusing her conduct by saying that she was coming off a ‘PCP binge’ and had no memory of her actions.”

Dr. Meade concluded that there was “minimal evidence that [Mother] is making much effort to align her behavior to conform to societal norms, and [Mother] has ready excuses for her failure to cooperate with authority figures.” Dr. Meade opined that “[t]hroughout this case, [Mother] has made it clear that she believes the rules do not apply to her.” The psychological testing performed by Dr. Meade showed Mother to have “deficient anger management skills” and was “prone to temper outbursts and quick to adopt grudges against those who do not satisfy her immediate narcissistic needs.” Dr. Meade determined that Mother exhibited a pattern of “antisocial behavior,” as well as “poor

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<sup>4</sup> Mother had been referred to Dr. Meade in January 2019. Dr. Meade had scheduled several previous appointments between January and September of 2019, but Mother had canceled or failed to appear for the scheduled appointments prior to September 25, 2019.

impulse control” and “significant persecutory ideation, such as believing others seek to harm her.”

Dr. Meade observed that Mother “evidently still believes her plan to have [L.W.’s] case settled with custody and guardianship awarded to a family member will prevail.” Dr. Meade found it particularly concerning that “aside from the problems inherent in removing the child from a family environment she has adjusted to over the past two years . . . [Mother] evidently believes that once [L.W.] is placed with a family member and her case is closed, [Mother] will be able to have unlimited access to the child at her convenience, without any [Department] or [c]ourt oversight.”

## **VI. The Termination of Parental Rights Hearing**

A hearing was held on the Department’s guardianship petition over seven days in October 2019. In Mother’s opening statement, counsel argued that Mother was not seeking custody of L.W. herself but rather was advocating against “cutting [L.W.] off legally from her family.” Counsel for Mother asserted that severing the legal relationship with her biological family would be detrimental to L.W. Mother herself testified regarding this issue, explaining that she believed that custody and guardianship would be better for L.W. than adoption because it would “guarantee[] she is still going to be around her siblings and me.”

The juvenile court heard testimony, *inter alia*, about L.W.’s continued progress in her foster placement. By the age of six, L.W. had become “really socially active” with many friends in the neighborhood and at school. L.W. participated in swimming, dance



lessons, karate, and gymnastics. L.W. refers to her foster parents as “my mommy” and “my dad” and calls her foster siblings her “brother and sister.” L.W.’s foster parents would like to adopt her. They love L.W. and L.W. tells them that she loves them. The juvenile court also heard testimony from witnesses who testified as experts in social work regarding L.W.’s attachment to her foster parents and L.W.’s need for permanency. Social worker Margaret Newton testified that L.W. was “attached definitely” to Mr. and Mrs. C. Social worker Nicholas Weiner opined that L.W. “would be harmed” if she were removed from her foster parents.

If they adopt L.W., L.W.’s foster parents intend to continue maintaining L.W.’s connections with her biological siblings. L.W.’s foster father testified that he values extended family, and L.W.’s foster mother testified as to the importance of L.W.’s relationships with her biological relatives. L.W.’s foster mother was herself adopted but did not meet her biological family until she was an adult. L.W.’s foster mother testified that she “wishes she had” close relationships with her own biological relatives and explained that, in her view, it was “extremely important” to maintain L.W.’s contact with her biological relatives.

On December 9, 2019, the juvenile court issued a comprehensive 46-page written opinion and order granting the Department’s motion for guardianship and terminating Mother’s parental rights to L.W. The court addressed each of the statutory factors set forth in Md. Code (1984, 2019 Repl. Vol.), § 5-323 of the Family Law Article (“FL”) when determining that termination of Mother’s parental rights was in the best interest of L.W.

The juvenile court found that Mother’s “current and future behavior w[ould] continue to be a significant problem for the health and safety of [L.W.] in the future.” The court further found that Mother had “refused, for the most part, to engage with the Department” and “over the last year, failed to take advantage of opportunities which the Department provided her to interact and maintain a relationship with L.W.”

The court specifically described “additional concerns that prevent reunification and demand termination of [Mother’s] parental rights,” including “her inability to accept her flaws with respect to parenting, most importantly related to keeping [L.W.] safe from her; her lack of empathy; and her refusal to accept responsibility with respect to how [L.W.], as well as her other children, came to be children in need of assistance.” The juvenile court concluded that Mother lacked the ability “to distinguish safety from danger throughout the life of their child.” For these reasons, the juvenile court concluded that Mother was an unfit parent. The court also found that exceptional circumstances existed that would make a continuation of the parental relationship detrimental to L.W.’s best interests. The juvenile court emphasized L.W.’s “strong, loving relationship with her foster family, foster-siblings, and extended foster family and community.” The court concluded that L.W. was “best served by having real permanency.” The juvenile court expressly found, “by clear and convincing evidence that Mother is unfit to parent [L.W.] and that Mother presents an unacceptable risk to [L.W.’s] future safety, health, and well-being.” For these reasons, the juvenile court terminated Mother’s parental rights to L.W.

Mother noted a timely appeal of the juvenile court’s guardianship order. On our own motion, we consolidated mother’s appeal of the October 2, 2018 order changing L.W.’s permanency plan from reunification to adoption with Mother’s appeal of the December 9, 2019 order granting guardianship with the right to consent to adoption to the Department and terminating Mother’s parental rights.<sup>5</sup>

Additional facts shall be discussed as necessitated by consideration of the issues on appeal.

### **MOTION TO DISMISS**

The Department has moved to dismiss Mother’s appeal of the juvenile court’s October 2, 2018 order changing L.W.’s permanency plan from reunification to adoption on the basis that the juvenile court’s subsequent guardianship order and termination of Mother’s parental rights rendered the appeal in the CINA case moot. As we shall explain, we agree with the Department and shall grant the motion to dismiss Mother’s appeal in the CINA case.

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<sup>5</sup> L.W. had opposed the change in permanency plan and appealed the trial court’s October 2018 order in the CINA case. On January 27, 2020, L.W., by counsel, filed an Unopposed Motion to Withdraw Appeal and Respond as Appellee. L.W. explained that she “no longer support[ed] the reversal of the lower court’s decision to change the permanency plan from reunification to adoption by a nonrelative.” L.W. further explained that “[b]y the time the termination of parental rights proceeding was filed and heard in 2019, L.W., by counsel, was in support of the trial court granting guardianship to the [Department].” For these reasons, L.W. asked this Court to permit her to withdraw her appeal in the CINA case and to “allow her to participate as an Appellee in both pieces of this consolidated appeal.” We granted L.W.’s motion on February 11, 2020.

A case is moot when there is no longer an existing controversy or when there is no longer an effective remedy the Court could grant. *Suter v. Stuckey*, 402 Md. 211, 219 (2007). Only in rare instances will the reviewing court address the merits of a moot case. *Id.* at 220 (“Under certain circumstances, however, [the Court of Appeals] has found it appropriate to address the merits of a moot case . . . [i]f a case implicates a matter of important public policy and is likely to recur but evade review, this court may consider the merits of a moot case.”)

This appeal is moot because there is no effective remedy that we could grant Mother.<sup>6</sup> Even if we were to agree with Mother that the juvenile court erred in modifying the permanency plan, there is no appropriate remedy to order. The juvenile court’s December 9, 2019 order terminated Mother’s duties, obligations, and rights to L.W. As we shall explain later in this opinion, the juvenile court’s termination of Mother’s parental rights was not erroneous.<sup>7</sup> The Court of Appeals has recognized that an appeal of a permanency plan is ordinarily rendered moot by a subsequent termination of parental rights

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<sup>6</sup> Indeed, in December of 2019, Mother conceded that her appeal of the change in permanency plan would be rendered moot if we were to affirm the grant of the Department’s guardianship petition. On December 4, 2019, the parties filed a Joint Status Report and Motion to Continue Stay of Appeal of CINA Order Changing Permanency Plan, which provided, *inter alia*, that “[t]he parties agree that if the Circuit Court’s granting of the [guardianship] Petition is affirmed on appeal, the appeal from the CINA order changing permanency plan will become moot.”

<sup>7</sup> Mother asserts that if this Court were to decide that the juvenile court erred in terminating Mother’s rights to L.W., we could then offer an effective remedy in her permanency plan appeal. Because, however, we shall determine that the juvenile court did not err by terminating Mother’s rights, no effective remedy exists.

ruling. *See In re Adoption/Guardianship of Jayden G.*, 433 Md. 50, 70-71 (2013) (noting that in a prior Court of Appeals case, “the petitioner's parental rights had been terminated by the juvenile court in the TPR case . . . [therefore the Court was] addressing an issue that was moot, unless the Court of Special Appeals reversed the TPR ruling.”).

In this case, Mother’s appeal of the order modifying L.W.’s permanency plan was rendered moot by the juvenile court terminating Mother’s parental rights. Furthermore, this case does not present a circumstance in which we choose to exercise our discretion to review a moot issue. We, therefore, grant the Department’s motion to dismiss Mother’s appeal in the CINA case.

### **DISCUSSION**

Mother does not challenge the juvenile court’s findings of parental unfitness and exceptional circumstances but nonetheless asserts that the juvenile court’s termination of her parental rights constitutes reversible error. Mother alleges that the juvenile court failed to appropriately consider the effect of a termination of parental rights on L.W.’s connection to her biological family, including Mother and L.W.’s siblings. As we shall explain, we are not persuaded by Mother’s contention that the juvenile court erred and/or abused its discretion by granting the Department’s guardianship petition and terminating Mother’s parental rights to L.W.

In child custody and termination of parental rights cases, this court utilizes three interrelated standards of review. *In re Yve S.*, 373 Md. 551, 586 (2003). The Court of Appeals described the three interrelated standards as follows:

We point out three distinct aspects of review in child custody disputes. When the appellate court scrutinizes factual findings, the clearly erroneous standard of [Rule 8-131 (c)] applies. [Second,] if it appears that the [court] erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless. Finally, when the appellate court views the ultimate conclusion of the [court] founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the [court's] decision should be disturbed only if there has been a clear abuse of discretion.

*Id.* at 586.

A juvenile court may grant a petition for guardianship if, after considering the applicable statutory factors set forth in FL § 5-323, it finds by clear and convincing evidence that the parent is unfit to have a continued relationship with the child or exceptional circumstances exist that would make a continued parental relationship detrimental to the best interests of the child. *In re Adoption of Ta’Niya C.*, 417 Md. 90, 103-04 (2010). “[U]nfitness and exceptional circumstances are two separate inquiries.” *In re Adoption/Guardianship of C.E.*, 464 Md. 26, 54 (2019).

Mother does not assert that the juvenile court erred by failing to consider the requisite factors, nor does she challenge the juvenile courts findings as to each factor. Instead, Mother challenges the way the juvenile court weighed its findings. The record reflects that the juvenile court carefully considered each statutory factor and set forth specific findings as to each. The juvenile court explained that it was required to “give primary consideration to the health and safety of the child” and expressly found that L.W. “cannot be safe with” Mother. The juvenile court considered the services offered to Mother

both before and after L.W.'s removal, observing that Mother's "child welfare history spans decades, over which time she was offered a myriad of services" including a psychological evaluation and mental health treatment, substance abuse evaluation and treatment, participation in an abused persons program, parenting education, and supervised visitation with her children. The court concluded that "[d]espite the Department's repeated attempts to engage Mother in a variety of services, it was largely fruitless in its efforts."

The juvenile court further considered the extent to which the Department and parent had fulfilled their obligations under a social services agreement, if any. The juvenile court reasonably concluded, based upon the evidence, that the Department had "abided by the initial service agreement and court orders and continually offered services to Mother throughout the CINA case in an attempt to engage her in [L.W.'s] life and to assist her at moving towards reunification. The court further considered Mother's "minimal effort to adjust [her] circumstances to make it in [L.W.'s] best interest to be returned" to her and Mother's failure "to maintain regular contact with [L.W.] since she was released from incarceration." The court further considered Mother's failure to communicate effectively with the Department. Mother's relationship with the Department "quickly became hostile, tumultuous, and contentious, and cumulated with Mother's refusal to work with the Department at all." Mother "consistently disregarded letters, emails, and phone calls from the Department" and "blatantly ignored scheduled visitations, meetings, programs, and services that the Department has set up in an attempt to get her on the right track towards reunification with" L.W.

With respect to whether additional services may be likely to bring about a lasting parental adjustment so that L.W. could be returned to Mother, the juvenile court credited the testimony of expert social worker Ms. Newton that Mother had “made minimal to no progress thus far” despite having been involved with child welfare services for two decades” and concluded that “[n]o evidence exists which demonstrates that . . . Mother’s situation[] might somehow improve with more time.” The juvenile court considered the “ample evidence” that Mother had previously neglected L.W. and observed that the December 2016 incident “was serious as Mother served significant [prison] time for her actions.” The juvenile court considered Mother’s history of substance abuse and the fact that two of L.W.’s siblings tested positive for PCP at birth, as well as Mother’s failure to successfully complete any substance abuse program in the prior decade.

Of particular relevance to Mother’s appellate argument, the juvenile court carefully considered L.W.’s emotional ties to her biological family, as well as L.W.’s adjustment to her foster care placement, L.W.’s feelings about the severance of the parent-child relationship and the likely impact of terminating parental rights on the child’s well-being. The court found that L.W. “does have a relationship” with Mother. L.W. “would hug Mother and seemed excited about visits” and L.W. was “saddened when Mother does not show up,” which “happens often, especially of late.”

The juvenile court separately addressed L.W.’s siblings, finding that L.W. is “clearly attached to her siblings.” The court credited Ms. Newton’s testimony that L.W. has grown more engaged with her siblings “over time” and “was excited to see them at



visits” and “would ask her foster [m]other about them and how they were doing.” The juvenile court commented that “[i]t is worth noting that [L.W.’s] foster parents have been integral parts in maintaining [L.W.’s] ties to her siblings and extended family,” which the foster parents did through “organiz[ing] sibling outings, as well as events with [L.W.’s] extended family.”

Regarding L.W.’s adjustment to her foster placement, the juvenile court found that there was “overwhelming evidence” that L.W.’s adjustment to her community, home, placement, and school “ha[s] been nothing short of stellar.” The court credited Ms. Newton’s expert testimony that L.W. “is definitely attached to her caregivers,” whom she calls “mommy and daddy.” The juvenile court found that L.W.’s “autism diagnosis presents difficulties for not only her everyday life, but also her primary caregivers’ lives,” who have “provided [L.W.] with a loving and nurturing environment” and a “stable, consistent routine.”

The juvenile court found that “[n]o evidence was presented concerning how [L.W.] feels about the severance of the parent-child relationship,” but that “[g]iven [L.W.’s] age, the length of the time she has been placed with Mr. and Mrs. C., the attachment [L.W.] has to her foster placement, and the bond that Mr. and Mrs. C. and their [adult] children have with her, it is reasonable to conclude that at this time in her life, [L.W.] harbors no substantial feelings about the severance of the parent-child relationship.”

Regarding the likely impact of terminating Mother’s parental rights on L.W.’s well-being, the court again credited Ms. Newton’s testimony that the termination of

Mother’s parental rights “would have a positive impact on [L.W.’s] well-being” and “would provide [L.W.] with a sense of stability and permanency in her life.” The juvenile court found that it was in the best interests of L.W. for Mother’s “parental rights to be terminated in this case because of [her] consistent inability to meet [L.W.’s] needs and have a positive impact on her life, as well as [L.W.’s] current foster parents’ consistent ability to provide a stable and predictable life for [L.W.]”

Mother argues on appeal that the juvenile court failed to properly consider the effect of a termination of Mother’s parental rights on L.W.’s relationship with her siblings, but the record fails to support such a conclusion. As we discussed *supra*, the juvenile court expressly considered -- among other factors -- L.W.’s relationship with her siblings and extended family. Mother does not assert that any of the juvenile court’s specific factual findings regarding her sibling relationships (or any other factor) were clearly erroneous. Instead, Mother asserts that the trial court failed to weigh L.W.’s attachment to her siblings properly.<sup>8</sup> Mother expresses concern that once Mr. and Mrs. C. adopt L.W., there will be no way for the relationships between L.W. and her biological relatives to be protected by the court. Mother further contends that L.W. herself will have no recourse to gain access

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<sup>8</sup> Specifically, Mother argues in her brief as follows:

[T]he extent of L.W.’s connection to her family is not at issue here; what *is* at issue is how the court should have weighed this factor in determining [L.W.’s] best interest when deciding to end that connection.

(Emphasis in original).

to her siblings or extended family. Mother asserts that, had the juvenile court weighed L.W.’s connection with her siblings and extended family appropriately, the court would not have terminated Mother’s parental rights.

A child’s attachment to her siblings and other family members is certainly important factor for the juvenile court to consider when assessing whether terminating a parent’s rights would serve the child’s best interests. It is, however, one factor among many that should not be elevated above all others. *C.E., supra*, 464 Md. at 57 (explaining that “[a]ll of the statutory factors deserve equal consideration” and it is impermissible for a court to elevate any one factor “as a factor that surpasses all others”). The record reflects that the trial court appropriately considered all of the statutory factors and appropriately considered L.W.’s “health and safety as the primary consideration, along with [L.W.’s] special needs as an autistic child being an important secondary consideration.” The juvenile court did not inappropriately weigh the importance of maintaining natural familial relationships above all of the other factors when determining that the termination of Mother’s parental rights served L.W.’s best interests. To elevate this factor above all others would be inappropriate and unsupported by legal authority.

Moreover, Mother presented no evidence that L.W.’s relationship with her siblings and other biological family members would be negatively impacted by the termination of Mother’s parental rights. The record reflects that Mr. and Mrs. C. actively fostered L.W.’s relationship with her biological relatives by arranging overnight visits and regular family gatherings with L.W.’s siblings. Mother presented no evidence that she played any role

whatsoever in fostering these relationships or that the continuation of her parental relationship would be in any way necessary for L.W.’s sibling relationships to endure.

The juvenile court, having carefully considered all of the evidence presented, concluded that L.W. “is best served by having real permanency” and, therefore, that the termination of Mother’s parental rights would serve L.W.’s best interests. The juvenile court’s factual findings were supported by the evidence and not clearly erroneous. Furthermore, the juvenile court considered the appropriate statutory factors, and the court’s decision was founded upon sound legal principles. Finally, the juvenile court’s ultimate conclusion that a continuation of the parental relationship was detrimental to L.W.’s best interests such that termination of Mother’s parental rights best served L.W.’s interest does not constitute an abuse of discretion. Indeed, the juvenile court’s ruling was eminently reasonable based upon the record. Accordingly, we affirm the judgment of the Circuit Court for Montgomery County, sitting as a juvenile court.

**MOTION TO DISMISS CASE NO. 2649,  
SEPTEMBER TERM, 2018 GRANTED.  
JUDGMENT OF THE CIRCUIT COURT  
FOR MONTGOMERY COUNTY, SITTING  
AS A JUVENILE COURT, AFFIRMED IN  
CASE NO. 1858, SEPTEMBER TERM, 2019.  
COSTS TO BE PAID BY APPELLANT.**