Circuit Court for Baltimore County
Case Nos. C-03-JV-21-000300, C-03-JV-21-000344

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2004

September Term, 2021

In Re I.M, S.M.

Nazarian,
Zic,
Tang,
JJ.

Opinion by Tang, J.

Filed: August 25, 2022

The Baltimore County Department of Social Services ("Department") filed a petition to have I.M. and S.M., the minor children of Iesha M. ("Mother") and Jamal S. ("Father"), declared children in need of assistance ("CINA") by the Circuit Court for Baltimore County, sitting as a juvenile court. Following the consolidated adjudication and disposition hearings, the court found I.M. and S.M. (the "children") to be CINA and ordered that they be placed in the care of the Department. On appeal, Mother, appellant, presents two questions, which we have rephrased slightly:[1]

1. Did the court err in finding that the Department made reasonable efforts to prevent placement of the children in the Department's custody?

2. Did the court err in committing the children to the custody of the Department?

For reasons to follow, we hold that the court did not err in finding that the Department made reasonable efforts to prevent placement or in committing the children to the custody of the Department. Accordingly, we affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

I. The Adjudication Hearing

Mother has seven children, two of whom are the subjects of this appeal: I.M. and S.M. On February 16, 2022, the juvenile court sitting in Baltimore County held

[1] The questions as phrased by Mother in her brief are:

1. Did the court err by finding that the department made reasonable efforts when the evidence did not support such a finding?

2. Did the court err by refusing to place the children with [Mother] when she had established supports so that she could meet the medical needs of the children?

adjudication and disposition hearings for the children. Participating in the hearings were Mother, Father, their respective attorneys, the children's attorney, and the Department's attorney. The parties streamlined the adjudication hearing by relying on amended petitions ("Petitions") containing agreed-upon allegations of facts.

The allegations contained in the Petitions were separated by sections, in pertinent part, as follows: (1) one section comprised enumerated paragraphs of factual allegations (thirteen paragraphs in I.M.'s Petition and fifteen in S.M.'s Petition) demonstrating that the children had been neglected and the parents were unable or unwilling to give proper care and attention to the children, and (2) another section titled, "Reasonable Efforts," which summarized the efforts the Department made to prevent or eliminate the placement of the children from the home.

Because Mother had pending criminal charges arising from the allegations in the Petitions, Mother neither admitted nor denied the allegations, but she agreed that the uncontested allegations supported a finding, by a preponderance of the evidence, that the children were CINA. Based on the foregoing, the court determined that the children were CINA. The allegations contained in the Petitions, which Mother did not contest, established the following:

A. The Children's Medical Issues

I.M. and S.M. have sickle cell disease. Stroke and acute chest syndrome ("ACS")[2] are two life-threatening complications associated with the disease. Both children have

[2] Acute chest syndrome is associated with pneumonia, chest pain, low oxygen level, fevers, or any combination thereof.

variously experienced complications from the disease. When he was three years old, I.M. suffered two strokes. I.M.'s history of strokes places him at "greater risk of experiencing another [stroke]," which can cause severe brain damage or death. S.M., on the other hand, has experienced multiple episodes of ACS.

I.M.'s treatment plan requires both monthly blood transfusions "to dilute the [] sickled blood cells and replace [them] with non-sickled blood cells" and daily consumption of Jadenu, a chelation medication, to reduce his blood iron levels, which are elevated from receiving transfusions. S.M.'s treatment plan requires medical assessments every two months when she is stable, hydroxyurea consumption, and an annual transcranial doppler ("TCD") ultrasound to evaluate her risk of stroke. The consequences of noncompliance with these treatment plans can be life-threatening.

B. The Department's Investigation and Intervention

Since 2019, the children have been under the care of Dr. Yoram Unguru, a pediatric hematologist, at Sinai Hospital ("Sinai"). On January 22, 2021, the Department received an urgent referral from Sinai about I.M. because he was two weeks late for his scheduled blood transfusion, the delay placing him at risk of stroke. Sinai attempted to call, email, and text Mother, but it was unable to reach her for a period of two weeks. According to Mother, her phone was "broken at the time." The Department assigned a worker, who ensured that I.M. received the necessary transfusion.

On January 26, 2021, the Department contacted Dr. Unguru about the children's medical history. Dr. Unguru shared that I.M. was discharged previously from Johns

Hopkins Hospital ("Hopkins") "due to issues with the family's treatment non-adherence." With respect to I.M.'s health status, Dr. Unguru reported that I.M.'s iron levels were in the 6,000 range when a normal level is closer to 100. The elevated iron levels suggested that I.M. was "not receiving his iron [c]helation medication as prescribed at home." Dr. Unguru expressed similar concerns about Mother's noncompliance with S.M.'s treatment due to a history of "multiple missed appointments." Records subsequently reviewed by a Department worker confirmed that Mother had missed, cancelled, or rescheduled eleven appointments for S.M. between January 2020 and January 2021.

A Department worker made multiple attempts to schedule a home visit with Mother, but Mother did not respond to those requests. A Department worker proceeded with an "unannounced" visit at Mother's home on January 28, 2021. During the visit, Mother admitted to missing I.M.'s recent transfusion appointment because it was scheduled two weeks after the previous appointment, when the appointments were usually three to four weeks apart. According to the Department, Mother expressed her intention to follow the children's medical plans "for now" because she believed that the children "can be treated solely by alternative medicine approaches." Mother later denied making the statement, though she did not dispute that she "has an alternative medicine provider."

On April 23, 2021, Sinai contacted the Department after I.M. "missed another essential appointment" and did not appear for his scheduled transfusion. After making several unsuccessful attempts to contact Mother, Sinai sent Mother an email stating the hospital would contact Child Protective Services ("CPS"). Thereafter, Mother contacted

Sinai and admitted she missed I.M.'s recent appointment because she had been hospitalized overnight with medical issues. She brought I.M. to the hospital later that evening for the transfusion, which was several hours after his scheduled admission time.

On April 26, 2021, Dr. Unguru informed the Department that he had to add a monthly intravenous medication to I.M.'s treatment plan because I.M.'s elevated iron levels placed him at risk of severe liver damage. Mother admitted to Dr. Unguru that she "sometimes fail[s] to give [I.M.] his second daily dose of Jadenu . . . as prescribed." That same day, Sinai informed the Department that S.M. was a year and nine months overdue for her annual TCD ultrasound. Sinai also expressed concern that S.M. was not receiving her hydroxyurea medication.

On April 29, 2021, the Department again raised noncompliance concerns with Mother during another home visit. Mother denied failing to give the children their medications. She said it was "rare" that she missed I.M.'s second dose of Jadenu and claimed that he needed a higher dose because he gained weight. Mother indicated that she and the children were moving, but she refused to provide the Department worker with her new address. She also stated that she requested a new caseworker.

That same day, Mother executed a safety assessment and plan, which was admitted by stipulation at the adjudication hearing. It noted that the "specific danger influence" was Mother's "non-compliance with [I.M.'s] medical recommendations and missing appointments." The Department's plan was for Mother to "give [I.M.] all medication as prescribed and follow all medical recommendations. She will attend all medical

appointments on time and stay in constant communication with this worker." The safety assessment indicated that Mother "has supportive relationships with one or more persons who may be willing to participate in safety planning AND [Mother] is willing and able to accept their assistance." Mother executed the safety plan, memorializing her agreement to comply with the Department's plan. A reevaluation of the issues was scheduled to take place on May 29.

C. I.M. is Sheltered After His Condition Worsens

On May 21, 2021, Dr. Unguru informed the Department that I.M.'s condition had "worsened." His iron levels had reached the "worst levels [Dr. Unguru] ha[d] ever seen in his career[,]" which placed I.M. "at risk of severe medical complication and ultimately death." Dr. Unguru believed that I.M.'s condition had worsened because he was not receiving his iron chelation medication, as prescribed, at home. Accordingly, the Department sheltered I.M. that day.[3] On May 24, 2021, the Department held a family team decision meeting with Mother.

D. S.M. is Sheltered After Her Condition Worsens

On May 20, 2021, the Department contacted Sinai to confirm that S.M. had attended her TCD ultrasound appointment, and it discovered that S.M. arrived an hour late for the appointment. Consequently, S.M. was not able to receive the screening. Due to S.M.'s previous abnormal TCD, Sinai advised Mother to schedule an appointment at the

[3] The court granted Mother supervised visitation rights with I.M. and ordered her to cooperate with the Department.

University of Maryland medical facility ("UM") as soon as possible. On May 27, 2021, Sinai informed the Department that, because Mother had issues reaching UM, a nurse navigator at Sinai contacted UM on her behalf and scheduled an appointment for S.M. After an unsuccessful attempt to reach Mother by phone, the nurse texted Mother to inform her that the appointment had been scheduled.

On May 28, 2021, the Department attempted to complete another home visit at Mother's new residence, located at an address provided by Mother's counsel, but when the Department worker arrived, the worker learned that Mother did not live at that address.

On June 25, 2021, S.M. was hospitalized in Delaware for back and stomach pain. A social worker at the Delaware hospital informed the Department that it was unclear if S.M. was receiving treatment for her sickle cell disease because Mother "did not mention or ask the doctors [at the Delaware hospital] to alert Dr. Unguru or [S.M.'s] care team at Sinai Hospital" about her current hospitalization. According to Mother, she "gave the Sinai doctor's information and insurance information to the [Delaware hospital] staff." Mother was unable to verify the correct dose of hydroxyurea, because she did not have the bottle of medication with her. The social worker learned that the attending physician "called the family's pharmacy in Maryland and was informed that [S.M.'s] medications had not been filled in a while[.]" The Department worker alerted Dr. Unguru, and S.M.'s medications were subsequently ordered. Accordingly, the court sheltered S.M. that day.[4]

[4] As in the case of I.M., the court granted Mother supervised visitation rights with S.M. and ordered her to cooperate with the Department.

E. The Children's Poor School Attendance

While monitoring the children's medical issues, the Department learned that the children "had extremely poor school attendance and participation," despite "multiple attempts" by a Pupil Personnel Worker ("PPW") to "assist the family in various ways," such as providing "food, food resources, electronic equipment for virtual learning[,] and household furniture." S.M. missed sixty-two school days between December 2020 and May 2021, and I.M. missed forty-four school days during that same period. The children also missed numerous individual class periods, increasing the total amount of lost instruction time. Those absences were reflected on the children's school attendance records, which were admitted by stipulation at the adjudication hearing.

F. The Mother's History with CPS

Mother has an "extensive history" with CPS due to neglect. This history includes, in relevant part, the following:

- In October 2014, CPS indicated Mother for neglecting I.M. because he missed appointments to receive treatment for his sickle cell disease.
- In April 2019, Mother was reported to CPS due to concerns that she was not meeting the children's medical needs.
- In March 2021, CPS indicated Mother for neglecting I.M.'s medical needs.
- In June 2021, Mother was indicated for neglecting the children's medical needs.

G. The "Reasonable Efforts" by the Department

The Department concluded each Petition with a summary of efforts it made to prevent placement of the children from the home as follows:

> [I.M.'s Petition:] Specifically, the Department conducted a [CPS] investigation for 60 days, and has been conducting a second investigation for approximately 30 days. The Department has made numerous attempts to interview those in the home and assess home conditions, spoke with and collaborated with a significant amount of collaterals such as medical providers and school staff, safety planned with the family, and conducted a Family Team Decision Making Meeting on 5/24/21.
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> [S.M.'s Petition:] Specifically, the Department conducted a [CPS] investigation for 60 days, and has been conducting a second investigation for approximately 30 days. The Department has made numerous attempts to interview those in the home and assess home conditions, spoke with and collaborated with a significant amount of collateral contacts such as medical providers, pharmacies and school staff; safety planned with the family. A Family Team Decision Making Meeting was held.

In addition to the foregoing, the Department located Father and attempted to assess whether he could be a resource for the children. Although Father indicated that he was willing to be a resource for the children, Father "did not follow through with completing the necessary steps in order to be assessed by the Department."

II. The Disposition Hearing

After the court sustained the findings in the Petitions, the parties proceeded immediately to the disposition hearing, during which Mother and Dr. Unguru testified. Their testimony established the following:

A. The Children's Improvement Under the Aunt's Care

After removal, the children were initially placed in foster homes pending the adjudication and disposition hearings. On August 26, 2021, the children were transferred to their maternal aunt's house, where they remain. Mother agreed to have the aunt take the children to their medical appointments and give them their medications. Mother

acknowledged that the children have thrived while in the aunt's care. Dr. Unguru testified that the children have been eating regular meals, they seem happy, and "truly from a medical, from a lab standpoint, imaging standpoint, they're also doing considerably better." Dr. Unguru attributes the children's improvements to receiving the required medications, attending appointments as scheduled, and receiving the appropriate surveillance and screenings. He testified that, medically speaking, he would want the children to stay with the aunt.

B. The Future Healthcare Needs of the Children

Mother plans to have the children undergo bone marrow transplants, which has curative potential for sickle cell disease. She testified that she moved to Prince George's County to be closer to Children's National Hospital in Washington, D.C., which has bone marrow transplant capabilities (Sinai does not). Hopkins also has bone marrow transplant capabilities but, according to Dr. Unguru, Hopkins "refused to do it" because it "had concerns about …poor compliance with [] follow-up."

According to Dr. Unguru, "[a] lot needs to fall in line," and the children need "to be in a perfect situation with your T's crossed and your I's dotted before going into transplant" to minimize complications from the procedure. Dr. Unguru testified, "[I]f you have a child with [a] significant degree of iron overload for transplantation. . . you can't do [a transplant] safely." For I.M., "[i]t wasn't until the summer when he was placed in [] [the aunt's] care [] when he started getting his medicine regularly, [and his iron levels] started going down . . . And so, hopefully that trend will continue so that should transplant happen, he will be

able to have fewer complications." Dr. Unguru further testified that a bone marrow transplant is not a benign procedure, typically requiring a month-long stay in the hospital, and even under the best of circumstances, there would be potentially serious complications. The process following the transplant is long and arduous, requiring a greater level of hypervigilance from a caregiver as compared to the daily management of the disease.

C. The Mother's Plan to Care for the Children

Since the children have been in the aunt's care, Mother has seen the children approximately once or twice a week, supervised by the aunt. She has talked to the children on the phone every day before and after school. She has been in contact with the aunt about the children's medical care and has been involved with medical decisions, including signing off on I.M.'s blood transfusions and COVID vaccination.

The last medical appointment she attended with the children, however, was in August or September 2021, after which the aunt assumed the caregiving role as the two agreed. Thereafter, Mother was not able to attend every medical appointment because, based on her knowledge of the hospital's COVID protocols, only one person could physically attend appointments, and her time with the children had to be supervised by the aunt. On cross-examination, when asked about her decision not "to go" to the children's medical appointments after the aunt "took over on the appointments," Mother stated, "It was my choice that as long as they [are] getting the medical treatment that they need, what differen[ce] does it matter if I'm taking them or my sister [is] taking them, who is my

support system, part of my support system, as long as they [are] getting their medical needs?"

Mother assured the court that she can now meet the children's medical needs because she "ha[s] a support system that's willing to also take [the children] to their appointment[s] and assist." The aunt would continue to meet the children's medical needs, including attending medical appointments. And, Mother planned to hire a technician to administer daily medications for the children. Although she previously had the support of her family, Mother "didn't take that help" then. She testified that she is now "more than willing" to accept her family's support.

D. The Court's Ruling

The Department recommended that the children be committed to the care of the Department and the children's counsel agreed. Mother, through counsel, stated that she did "not oppos[e] the [c]ourt finding these children are children in need of assistance. But [she asked] the children be returned to her care." She wanted the opportunity to attend to the children's daily medical needs and demonstrate to the Department that she could, in fact, ensure their care.

At the conclusion of the disposition hearing, the court gave its oral ruling, in relevant part, as follows:

> We've got a lot of evidence today, [] it mostly circles around the same thing. We've got evidence from both mother and from Dr. Unguru. I thought that [] Dr. Unguru's testimony was excellent, as well as enlightening. I'm most struck by the marked difference that Dr. Unguru testified to on a variety of different ways of doing it, from when these children were in the care of their mother to when they're in the care [] of their aunt.

* * *

As you all know, [] the determinations here are made on a variety basis, but the main basis is always the best interest of the child, or in this case, children . . . I understand . . . it is . . . the mother's preference that the children be returned to her. That, I think, has lots and lots of problems. It has lots and lots of problems as what we've seen here before that we have a demonstrated history that these children, who have an extreme form of sickle cell, have been in the treatment of Dr. Unguru and, [] by all accounts, have done very well with it. And the two things that have happened here is continuing to receive care from him and to be in the care of their aunt, who, and again, what he testified to, is the only reason why…their test results weren't going in the right direction is they weren't getting their medication. From what I gather from his testimony, that with the aunt, they have improved consistently and done nothing but better in each and every step. He did go as far to say medically speaking they're better off to stay with the aunt.

Again, looking at the best interest of the child, [] it is impossible, I think, for me to say it would be a good time to remove them from the aunt's care. That said, I don't want to make this sound as if this is, this is not, certainly not a permanent decision. This is not a, it's not never . . . but it's not now. These children are doing well in a very precarious situation and [] they made great strides. We did have a lot of testimony about the bone marrow transplant, which I thought was fascinating. It's also not now. The [] children are not getting the bone marrow transplant next week, next month, maybe not ever. Those are all things that have to be considered as time wears on and goes forward.

. . . I don't know if Hopkins is better than the Washington Children's Center or [] not . . . I would anticipate they're fine places to get this kind of treatment. And the fact that the people at Hopkins were turned off because they did not think there would be the appropriate follow-up care is problematic and that speaks to the mother.

* * *

. . . [I]t is extra concerning that the children weren't getting their medication in this most severe and significant, I mean, really in the life-threatening circumstances here . . . [T]here is a, certainly a question here of [] does this mother get it as far as dealing with these children and this illness. I mean, she clearly is better now, I suspect, than she was when all this went down. She's made some strides. I think there's probably still some strides to be

> made . . . [W]e found in the adjudication the State has proved its case to a preponderance and I think from a disposition perspective, I am in a similar [] position. Where I think, by at least a preponderance of the evidence, if not greater, that the [] appropriate thing to do here at this point in time is to sign the Order as has been submitted to me. And again, I don't mean this as a negative as to the mother, who seems like she's making strides in the right direction. But it would seem as though right now, these kids, while they're doing well, are not out of the woods and they need the care they're getting now and that, I think the Order is appropriate at this point in time. And I think as time wears on, that may change as Mother makes improvements, but as for today, the evidence . . . that I've received, what I've seen today, I am going to sign the Order as it is.

III. The Adjudication and Disposition Order

The court entered an Adjudication and Disposition Order ("Order"), in which it sustained "Paragraphs 1-13" of I.M.'s Petition and "Paragraphs 1-15" of S.M.'s Petition, and found that continuation of the children's care with Mother

> is contrary to the [children's] welfare and that it is not possible to return the [children] to that home because the following circumstances exist: [the children] suffer from sickle cell disease and [M]other has been unresponsive attending to their specialized medical needs, which include periodic tests, medication compliance and transfusions. [The children], therefore, are at significant risk for stroke or death. Mother has an extensive history of CPS indicated findings related to [the children] and siblings. There were also housing stability and poor school attendance concerns. Father reportedly has not been consistently involved or cared for the [children] and their needs.
>
> It is further found that the evidence presented sustained that reasonable efforts to prevent or eliminate the need for removal of the [children] [] were made as follows: a [CPS] investigation/risk safety assessment completed; opened a new CPS investigation; attempted to conduct a home inspection and meet with household members, treatment/service providers contacted; records reviewed; relative resources contacted and explored; and Family Team Decision Making and other meetings conducted;
>
> It is further found, in accordance with § 9-101 of the Family Law Article, Annotated Code of Maryland, that there is no further likelihood that abuse or

> neglect would occur with custody and visitation rights granted as ordered below.

The court ordered that the children be committed to the custody of the Department pending further dispositional review and granted Mother liberal and supervised visitation with the children.[5] Mother noted a timely appeal of that Order.

STANDARD OF REVIEW

There are "three distinct but interrelated standards of review" applied to a juvenile court's findings in CINA proceedings. *In re Adoption/Guardianship of H.W.*, 460 Md. 201, 214 (2018). First, the juvenile court's factual findings are reviewed for clear error. *In re Adoption/Guardianship of Amber R.*, 417 Md. 701, 708 (2011). In evaluating the juvenile court's findings of fact, we must give "the greatest respect" to the court's opportunity to view and assess the witnesses' testimony and evidence. *Id.* at 719. Second, we determine "without deference" whether the juvenile court erred as a matter of law; if the court erred, further proceedings are ordinarily required unless the error is harmless. *H.W.*, 460 Md. at 214. Finally, we evaluate the juvenile court's ultimate decision for abuse of discretion. *In re Yve S.*, 373 Md. 551, 583 (2003). A decision will be reversed for abuse of discretion only if it is "well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *Id.* at 583-84 (quoting *North v. North*, 102 Md. App. 1, 14 (1994)).

[5] Father was granted liberal and supervised visitation with the children subject to an assessment by the Department and a visitation plan.

DISCUSSION

I. Reasonable Efforts

The Department is required to make reasonable efforts to preserve and reunify families "prior to the placement of a child in an out-of-home placement, to prevent or eliminate the need for removing the child from the child's home[,]" and "to make it possible for a child to safely return to the child's home." Md. Code Ann., Family Law § 5-525(e)(1) (1984, 2019 Repl.). "Reasonable efforts" are "efforts that are reasonably likely to achieve the objective" of preventing the child's placement in the Department's custody. *See* Md. Code Ann., Cts. & Jud. Proc. § 3-801(w) (1973, 2020 Repl.). The definition is "amorphous without any bright line rule to apply to the reasonable efforts determination[, meaning that] each case must be decided based on its unique circumstances." *In re Shirley B.*, 419 Md. 1, 25 (2011) (internal quotations omitted). "In determining the reasonable efforts to be made and in making the reasonable efforts . . . the child's safety and health shall be the primary concern." Family Law § 5-525(e)(2).

In the context of adjudication and disposition hearings, the juvenile court is required to make a finding regarding whether the Department made reasonable efforts to prevent placement of the children. Cts. & Jud. Proc. § 3-816.1(a), (b)(1). Mother challenges the reasonable efforts finding at the dispositional phase, which occurred several months after the children were sheltered.[6]

[6] As noted, I.M. was sheltered on May 21, 2021, and S.M. was sheltered on June 25, 2021. Although the consolidated adjudication hearing initially had been scheduled relatively soon after the shelter dates, the hearing was postponed multiple times for different reasons (i.e., Mother needed "additional time for discovery and case preparation,"

Section 3-816.1(c) of the Courts Article, provides that in making its finding of reasonable efforts, the court shall consider, in relevant part,

> (1) The extent to which a local department has complied with the law, regulations, state or federal court orders, or a stipulated agreement accepted by the court regarding the provision of services to a child in an out-of-home placement;
>
> (2) Whether a local department has ensured that:
>
> > (i) A caseworker is promptly assigned to and actively responsible for the case at all times;
> >
> > (ii) The identity of the caseworker has been promptly communicated to the court and the parties; and
> >
> > (iii) The caseworker is knowledgeable about the case and has received on a timely basis all pertinent files and other information after receiving the assignment from the local department;
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> . . .
>
> (4) Whether the child's placement has been stable and in the least restrictive setting appropriate, available, and accessible for the child during the period since the most recent hearing held by the court;
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> . . .
>
> (7) Whether a local department has provided appropriate and timely services to help maintain the child in the child's existing placement, including all services and benefits available in accordance with State law, regulations, state and federal court orders, stipulated agreements, or professional standards regarding the provision of services to children in out-of-home placements.

and the court, a party, witnesses, or counsel were variously unavailable). Mother did not appear to oppose any of the postponement requests. The record indicates that Mother waived the statutory "timelines for the Adjudication Hearing because time is needed for [d]iscovery."

There are, however, limits on what the Department must do to satisfy the "reasonable efforts" requirement. *Shirley B.*, 191 Md. App. at 711. The Department "must provide reasonable assistance in helping the parent" to "cure or ameliorate any disability that prevents the parent from being able to care for the child[,]" "but its duty to protect the health and safety of the children is not lessened and cannot be cast aside if the parent, despite that assistance, remains unable or unwilling to provide appropriate care." *Rashawn H.*, 402 Md. at 500-01.

A. The Department's Efforts Were Reasonable.

"[W]e apply the clearly erroneous standard when reviewing the juvenile court's factual finding that the Department made reasonable efforts[.]" *Shirley B.*, 419 Md. at 18. Mother argues that the efforts found by the court to be reasonable, *supra*, comprised investigatory and information-gathering tasks that the Department was statutorily required to complete. According to Mother, those efforts "were not designed to meet [Mother's] goals and the court did not explain how they would or did."[7] She further argues that, during the period between the children's initial removal in May/June 2021 and the disposition hearing in February 2022, the Department did not make efforts to prevent removal other than "continued meetings and information-seeking from Dr. Unguru and service of its own case[.]"[8]

[7] We note that, "[b]ecause trial judges are presumed to know the law, not every step in their thought process needs to be explicitly spelled out." *Zorich v. Zorich*, 63 Md. App. 710, 717 (1985).

[8] At the disposition hearing, Mother acknowledged that in November 2021, the Department completed a home assessment and noted that there were some boxes that

As noted, *supra*, the investigation and information-gathering performed by the Department are tasks that the court must consider in determining whether efforts were reasonable. *See* Cts. & Jud. Proc. § 3-816.1(c). The initial and ongoing assessments are necessary for the Department to identify a family's needs and any emergent circumstances, all of which might inform the Department of "how much effort is reasonable." *In re James G.*, 178 Md. App. 543, 579 (2008) (citing to Title IV-E Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews, 63 FR 50058-01 (1998)). The level of effort by the Department must be designed to address both the root cause and the effect of the problem. *See Rashawn H.*, 402 Md. at 500.

In the case before us, the "problem" was that the children's medical needs were not being met. The "root cause" of the problem was Mother's noncompliance with the children's treatment plans. Therefore, the goal was to ensure that the children's specialized treatment plans were managed and met by Mother. Successful management of the children's medical needs required Mother to transport the children to regularly scheduled medical appointments for treatment and screenings and administer their medications in proper doses as prescribed, among other tasks. The risks of potential complications from the children's illness left no room to deviate from strict adherence to their treatment plans. If one appointment was missed or delayed, or if the incorrect dose of medication was administered, the consequences could be life-threatening. It was under these challenging

Mother needed to discard but found no other significant issues. Mother indicated that her husband had since disposed of the boxes, but the Department has not returned to complete another home assessment.

and unique circumstances that the Department had to satisfy the reasonable efforts requirement, while keeping the children's health and safety at the forefront.

Based on the circumstances, the record supports the court's finding that the Department made reasonable efforts to avoid continued removal of the children. We do not agree with Mother's view that the court's reasonable efforts finding was premised merely on a list of perfunctory investigatory and information-gathering tasks. Rather, the court's reasonable efforts finding was a summary of the multitude of actions by the Department to gain Mother's compliance with the children's treatment plans, while contemporaneously ensuring that the children's medical needs were met, as detailed in the Petitions. *See In re J.R.*, 246 Md. App. 707, 756–57 (2020) (citing *In re E.R.*, 239 Md. App. 334 (2018) for the proposition that the court can rely on an amended petition for purposes of a disposition hearing).

Significantly, the undisputed facts set forth in the Petitions, and corroborated, in part, by the testimony at disposition, chronicled a repeated inability or unwillingness by Mother to manage the children's dire medical needs. The recent history demonstrated that Mother missed critical medical appointments and undermedicated the children, and was, at times, unresponsive, unreachable, and/or uncooperative with healthcare providers and support agencies, including the Department. Although she was not able to enter a hospital due to COVID restrictions during the approximate five months preceding disposition when the aunt had assumed the caregiving role, Mother appeared disinclined to, at least, transport the children to their medical appointments, with the aunt's supervision ("what differen[ce]

does it matter if I'm *taking them* or my sister [is] *taking them* . . . ?") (emphasis added). With respect to its level of effort, the Department was not required to further jeopardize the children's health when Mother continued "to exhibit an inability or unwillingness to provide . . . support for them." *Rashawn H.*, 402 Md. at 501. As this Court has held, the Department's "efforts need not be perfect to be reasonable," and "it certainly need not expend futile efforts on plainly recalcitrant parents." *James G.*, 178 Md. App. at 601. The court did not err in finding reasonable efforts.[9]

B. Any Error in the Reasonable Efforts Finding is Harmless.

Assuming *arguendo* that the court erred in finding reasonable efforts, we assess whether that error was harmless. It is this Court's policy "not to reverse for harmless error." *In re Adoption/Guardianship of T.A., Jr.*, 234 Md. App. 1, 13 (2017) (quoting *Yve S.*, 373 Md. at 618). A reversible error must be one that affects the outcome of the case, the error must be "substantially injurious," and "[i]t is not the possibility, but the probability, of prejudice" that is the focus. *Id*. In a harmless error review, we balance "the probability of

[9] Mother analogizes the efforts made by the Department to a single referral by the department in *James G.*, which this Court determined did not constitute reasonable efforts. *See* 178 Md. App. at 597. The facts in *James G.*, however, are distinguishable from this case. First, in that case, the only impediments to the parent regaining custody of the child were the parent's lack of stable employment and lack of housing. *Id*. at 599. Second, there was no concern by the department for the child's safety with the parent. *Id*. at 590. By contrast, in the case before us, Mother's repeated inability or unwillingness to meet the children's specialized medical needs placed the children's health and well-being in immediate jeopardy. *See e.g. id*. at 593-95 (discussing *Ashley E.*, 158 Md. App. at 165-67 (upholding the change in permanency plan where children had been exposed to sexual abuse and mother did not comply with service agreements, among other obligations, despite efforts by the department to offer reunification services)).

prejudice in relation to the circumstances of the particular case." *Yve S.*, 373 Md. at 618 (citations omitted).

After a disposition hearing, if the court finds the children CINA, it must decide whether to commit the children. Cts. & Jud. Proc. § 3-819(b)(iii). The purpose of the disposition hearing is to determine "the nature of the court's intervention *to protect the child's health, safety, and well-being*." *Id.* § 3-801(m) (emphasis added). Here, Mother did not contest that the children were CINA, so the next step was for the court to determine whether the children would remain in the Department's custody or be returned to Mother with the protective purposes in mind. As the court explained, *supra*, it had grave concerns about the children's health and well-being if the children were returned to Mother's custody at that time. There is nothing in the record to indicate that any error by the court affected the outcome at disposition given the circumstances presented at the hearing.

Mother suggests that the Department could have offered her, prior to disposition, other options to avoid continued removal of the children. Specifically, she contends "[t]here was evidence of reasonable alternatives to continued removal, such as [Mother] working with [the aunt] to provide transportation and supervision at medical appointments, and [Mother] utilizing a professional to administer all dosages of medication for her children." The record, however, does not demonstrate that the outcome at disposition would have been different if the Department previously offered those alternatives. To the contrary, the record indicates that the children's health and well-being would have remained vulnerable to Mother's inaction.

As indicated, in April 2021, Mother acknowledged, in the safety assessment, that she "ha[d] supportive relationships with one or more persons who may be willing to participate in safety planning *AND [Mother] is willing and able to accept their assistance*." (Emphasis added). At the disposition hearing in February 2022, however, Mother admitted that, although she had supportive relationships available then, she was less willing to accept their assistance at that time. In other words, the record demonstrates that even if the Department provided the alternatives suggested by Mother, it was unlikely that Mother would have availed herself of the assistance. The effect would have placed the children at continued risk of severe medical complications and possibly, death. We conclude that any error in finding reasonable efforts was harmless.

II. Continued Placement with the Department

"[O]nce a child is declared a CINA, a juvenile court must only make a custody determination that abides by the requirements provided in § 9-101 of the Family Law Article. *In re X.R.*, 254 Md. App. 608, 626 (2022). Section 9-101 provides,

> (a) *Determination by court*. – In any custody or visitation proceeding, if the court has reasonable grounds to believe that a child has been abused or neglected by a party to the proceeding, the court shall determine whether abuse or neglect is likely to occur if custody or visitation rights are granted to the party.
>
> (b) *Specific finding required*. – Unless the court specifically finds that there is no likelihood of further child abuse or neglect by the party, the court shall deny custody or visitation rights to that party, except that the court may approve a supervised visitation arrangement that assures the safety and the physiological, psychological, and emotional well-being of the child.

As noted, Mother did not contest that the children were CINA – specifically, that the children had been neglected, and Mother was "unable or unwilling to give proper care and attention to the [children] and [their] needs." Cts. & Jud. Proc. § 3-801(f); *X.R.*, 254 Md. App. at 634 ("It thus cannot be said that the juvenile court erred by denying custody to Mother if it similarly did not err in finding the children to be CINAs."). Mother contends, however, that despite the children's designation as CINA, the court should have committed the children to her custody, because she had plans to meet the medical needs of the children moving forward.

Mother argues that the court dwelled on past events and missteps rather than focusing on her present and future plans to support the children's medical needs. "[A] history of abuse[, however,] is clearly relevant to the best interests analysis as well as the § 9-101 analysis." *Baldwin v. Baynard*, 215 Md. App. 82, 108-09 (2013).

> Even without regard to § 9-101, if the court concludes that there is a likelihood of a party subjecting a child to abuse or neglect, whether that conclusion is drawn from evidence of past abuse directed against the child whose custody or visitation is at issue or against another child, it has been authorized to deny custody to and limit visitation with that party.

In re Adoption No. 12612 in Cir. Ct. for Montgomery Cnty., 353 Md. 209, 238 (1999). It was appropriate for the court to consider the history of Mother's past pattern of omissions as a predictor of future conduct. By committing the children to the custody of the Department, the court implicitly rejected or assigned little weight to Mother's testimony regarding her plans for medical care for the children, which the court was well within its discretion to do. *See In Re: Timothy F.*, 343 Md. 371, 379 (1996) ("Judging the weight of

evidence and the credibility of witnesses and resolving conflicts in the evidence are matters entrusted to the sound discretion of the trier of fact.").

Separately, Mother contends that, because the court made a finding that no further abuse or neglect was likely pursuant to § 9-101 of the Family Law Article, the court should have returned custody of the children to Mother. We disagree with Mother's reading of § 9-101. Subsection (a) of 9-101 states that if the court has reasonable grounds to believe that a party to the proceeding has abused or neglected a child, it "shall determine" whether abuse or neglect is likely to occur if that party is granted custody or visitation rights. Prior to "sanctioning visitation beyond nil[,]" "a court has an *additional* statutory obligation [under subsection (b)] to make a *specific finding* of 'no likelihood of further child abuse or neglect[.]'" *In re Mark M.*, 365 Md. 687, 709 (2001) (emphasis in original). Subsection (b) "permits, *as an exception* to the finding requirement that must be made generally to allow custody or visitation in the face of pre-existing abuse/neglect, the trial court to establish *supervised* visitation as long as the arrangements assure the safety and well-being of the child." *In re Billy W.*, 387 Md. 405, 455 (2005) (emphasis added).

Simply stated, § 9-101 of the Family Law Article "merely requires the court, when faced with a history of child abuse or neglect by a party seeking custody or visitation, to give specific attention to the safety and well-being of the child in determining where the child's best interest lies and not place the child in harm's way." *Adoption No. 12612*, 353 Md. at 238. "Section 9-101 does not scrap the overall best interest of the child standard[.]" *Id*. The selection of a custodial arrangement that best serves the children's interests was

one "for [the trial judge] to make in the exercise of his discretion." *Gizzo v. Gerstman*, 245 Md. App. 168, 206 (2020) (citation omitted). Based on the record, the court did not err or abuse its discretion in committing the children to the Department's custody.

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