UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0055

September Term, 2016

In Re: B.P., W.P., and J.P.

Meredith,
Nazarian,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Harrell, J.

Filed: November 10, 2016

In this child custody matter arising in the context of a child-in-need-of-assistance (CINA) case, the children's father, Brian P. (Mr. P.), appeals two determinations by the Circuit Court for Cecil County, sitting as the juvenile court, regarding his three biological children, B.P., W.P., and J.P., ages 13, 8, and 6, respectively, at the time of the filing of this opinion. First, the court determined the children to be CINA, and second, the court placed the children in government custody pending an investigation of Mr. P.'s parental and Delaware residence fitness pursuant to the Interstate Compact on the Placement of Children (ICPC).[1] Mr. P. had waived his right to a contested hearing and offered no arguments against either finding at the time the circuit court ruled. He challenged these determinations for the first time in a Motion for Reconsideration filed in the circuit court (as to the CINA finding) and later in this appeal (as to the CINA finding and the allowance that an on-going ICPC investigation be completed). We affirm the circuit court's CINA finding and, because Mr. P.'s challenge to the ICPC investigation was not made until his prosecution of this appeal, we decline to consider his argument as to that determination.

[1] The Interstate Compact on the Placement of Children (ICPC) creates uniform laws and practices for the relocation of children across state lines. Maryland codified the ICPC at Md. Code, Family Law Article, §§ 5-601 to 5-611 (1984, 2012 Repl. Vol.) (Fam. Law).

FACTS AND LEGAL PROCEEDINGS

B.P., W.P., and J.P. are the children of Ms. H. and Brian P. In the summer of 2014, Ms. H. moved with the children from Delaware to Elkton, Maryland, to live with Mr. Po., Ms. H.'s paramour, and Mr. Po.'s children. Mr. P. remained in Delaware.

Ms. H. and Mr. Po. engaged systematically in emotionally and physically degrading and abusive disciplinary conduct toward Ms. H.'s children in their Maryland home.[2] After receiving several reports of alleged child abuse over July to November 2015, Elkton police arrested Mr. Po. and Ms. H., on 20 November 2015 and 23 November 2015, respectively, on child abuse-related charges.

The Cecil County Department of Social Services (DSS) removed the children from the Elkton home on the day of their mother's arrest. Investigating the reports of abuse, the DSS noted the children's poor physical condition and their many exposures to abuse at the hands of Ms. H. and Mr. Po. In the course of the DSS investigation, Ms. H. and B.P. informed the DSS that the children's biological father, Brian P., was a registered sex offender in his home state of Delaware; the DSS discovered also that the children's natural parents had a history of encounters with the Delaware social services department concerning child abuse while they resided in that State.

[2] The children reported beatings by hand, belt, wooden spoon, switch, and "cat of nine tails," neglect and isolation in the basement, hot sauce applied to the mouth (as punishment), inadequate medical care, and "downgraded" meals. The children appeared malnourished to the Cecil County Department of Social Services (DSS).

A couple of days following Ms. H.'s arrest, the Circuit Court for Cecil County, sitting as a juvenile court, held an Emergency Shelter Care hearing on 25 November 2015. Mr. P. was not notified of this hearing date and, consequently, did not participate at that hearing.[3] The DSS submitted as evidence its Emergency Shelter Care Report (ESCR), which alleged five circumstances that "place[d] the child[ren] in immediate danger," including physical maltreatment, "the caregiver's extremely negative behavior," a lack of parental ability, parental denial or justification of such treatment, and a lack of a "caregiver or substitute caregiver to adequately plan for the child's supervision." The ESCR noted also that B.P. stated that "she was not allowed to see [Mr. P.] because he was a registered sex offender," and that Ms. H. stated similarly that "[Mr. P.] is a registered sex offender in DE and cannot have contact with children under the age of 15." Detailing further recollections of Ms. H. regarding Mr. P., the ESCR stated the following:

> Ms. H[.] stated B[.P.] was placed in foster care in DE as a baby, due to physical abuse. Ms. H[.] stated she came home from work and saw a mark on B[.P.]'s head. Ms. H[.] stated she did not believe the excuse Mr. P[.] gave her . . . . Ms. H[.] stated Mr. P[.] was arrested and B[.P.] was taken into foster care. Ms. H[.] stated B[.P.] was in foster care for five months because DE did not think she could protect B[.P.] from Mr. P[.]
>
> Ms. H[.] stated approximately six months after getting B[.P.] back, she got back together with Mr. P[.] and they had two more children. Ms. H[.] stated the children were taken from her again several years later when B[.P.] allegedly accused Ms. H[.] of throwing a bottle at her head. The children were safety planned with the paternal grandfather in DE. Ms. H[.] reported there were several

[3] According to our review of the record, Mr. P.'s Delaware residence address appears for the first time in DSS records when it was mentioned in the Department's Juvenile Petition filed 23 November 2015 and received in evidence at the circuit court's 25 November 2015 emergency hearing.

> CPS [Child Protective Services] investigations in the State of DE due to physical abuse allegations and allegations regarding the children's small size and appearance.

The court upheld the children's emergency placement in shelter care.

Mr. P. attended the adjudication/disposition hearing scheduled originally for 16 December 2015, stating that he "was unaware" of the Emergency Shelter hearing. The court rescheduled the hearing to allow Mr. P. to obtain counsel.

On 17 February 2016, the circuit court held the adjudication/disposition hearing. The DSS submitted as evidence a further departmental report that included the information from the earlier ESCR, as well as information gathered since the shelter hearing. Regarding Mr. P.'s status as a sex offender in Delaware, the more recent report stated that the nature of Mr. P.'s underlying offense in Delaware "was 'consensual,'" but the victim was under the age of consent. It was noted also that he was not a repeat offender. He "successfully completed probation ten years ago" and "after Mr. P. completed probation, he had no restrictions concerning his children." Although "he is not allowed to loiter at a day care or at a school, [Mr. P.] can go to a school or day care to pick up or drop off his children, or attend their functions."

Mr. P., who was represented now by counsel, and Ms. H. waived knowingly and voluntarily their rights to a contested hearing in the circuit court, accepted as admissible evidence the DSS reports, and presented no evidence of their own. Although Mr. P. indicated a desire for custody to care for his children, he did not object to the completion of a pending ICPC investigation, which was initiated to assist in determining his parental

fitness and the suitability of his Delaware residence as a home for the children. The court found the three children to be CINA and granted custody to the DSS for their future placement. Mr. P. filed with the circuit court both a Motion for Reconsideration[4] and a Notice of Appeal on 17 March 2016. Additional facts will be provided in our discussion, as necessary.

QUESTIONS PRESENTED

Mr. P. articulates his questions on appeal as follows:

1. Did the Circuit Court Judge erred [sic] in finding the children to be Children in Need of Assistance (C.I.N.A.) in this case?[5]

2. Does an Interstate Compact on the Placement of Children investigation need to be completed in order to return children to a parent who is fit to care for his children?

STANDARD OF REVIEW

Tripartite standards of appellate review apply to the various aspects of CINA cases: we review factual findings for clear error only, legal conclusions without deference to the circuit court, and ultimate determinations by the court for abuse of discretion. *In re Yve S.*, 373 Md. 551, 586, 819 A.2d 1030, 1051 (2003) (citing *Davis v. Davis*, 280 Md. 119, 125–26, 372 A.2d 231, 234 (1977)); *see also In re Ryan W.*, 434 Md. 577, 593–94, 76 A.3d 1049, 1058 (2013).

[4] The juvenile court did not decide this motion, perhaps in the belief that the contemporaneously-filed order of appeal divested it of jurisdiction.

[5] This was the sole subject of Mr. P.'s Motion for Reconsideration filed in the circuit court.

DISCUSSION

Appellant contends first that the circuit court found erroneously the children to be CINA because "there are no facts provided to suggest that the natural father, Brian P., is unable or unwilling to give proper care and attention to the Respondents who are his children." Second, Appellant claims that Maryland courts should not require an ICPC investigation in the absence of evidence of the unfitness of the out-of-state noncustodial parent. Appellee DSS, in its brief here, moves to dismiss Mr. P.'s appeal because he "failed to preserve any issues for appellate review;" even if preserved, the ICPC issue is unripe for review because the trial court did not act on the conclusions of a completed ICPC report; and, in the event that we consider the merits of Mr. P.'s arguments, the DSS argues that we should affirm the lower court's findings that the children are CINA and awaiting the completion of an ICPC investigation before determining *vel non* Mr. P.'s fitness is proper under the circumstances. Counsel for the children argues similarly that the circuit court determined properly the children to be CINA and properly did not grant custody to Mr. P., pending completion of the ICPC investigation. Ms. H. did not participate in this appeal.

I. The DSS's Motion to Dismiss

The DSS alleges that "Mr. P. consented to the CINA findings and current placement with the department" and thereby "failed to preserve any issues for appellate

review."[6] After the court's decision, Mr. P. challenged the court's CINA findings for the first time in his Motion for Reconsideration and again in this appeal; however, he did not challenge the propriety of the ICPC investigation until this appeal. The DSS argues that the concurrent filing of the Motion for Reconsideration and the Notice of Appeal divested the trial court of jurisdiction such that the trial court could not consider the CINA challenge raised in the Motion for Reconsideration. This should operate, according to the DSS, to preclude Appellant's arguments from review by an appellate court, as no issues were preserved for review. Md. Rule 8-131(a). Because the circuit court did not find expressly, in finding the children CINA, Mr. P. to be unfit to be a custodial parent, his "consent"[7] to the court's CINA finding did not waive his right on appeal to allege the

[6] The DSS argues more specifically that "[t]he Department's report recommended finding each child CINA and granting custody to the Department for appropriate placement. Mr. P. did not dispute the contents of the Department's report, argue that the children were not CINA, request the court to grant him custody at that time, or ask the court to dismiss the CINA petitions." (citations omitted).

[7] At the 17 February 2016 hearing, Mr. P's attorney at the time elicited Mr. P.'s knowing and voluntary waiver of a contested hearing. The court announced its CINA finding, against which neither Mr. P. nor his counsel mounted any argument. The relevant portion of the transcript reads as follows:

> [Mr. P.'s atty.]: In summary, you understand you have a right to have a contested hearing in this matter, notwithstanding the fact, as I've indicated, and you and I have gone over, there really are no facts related to you in this report. Do you understand that?
> Mr. P[.]: Yes.
> [Mr. P.'s atty.]: And it's my understanding you do not wish to have a contested hearing.
> Mr. P[.]: Yes.
>
> * * *

(Continued…)

court's failure to find him unfit to have custody of the children and, accordingly, the CINA finding as error. With respect to the propriety of completion of the ICPC investigation, we agree with the DSS that Mr. P.'s acquiescence in the court ruling and failure to raise an argument below failed to preserve this question for our consideration.

The CINA ruling was filed on 18 February 2016 and entered on the docket on 22 February 2016. Appellant filed his Motion for Reconsideration and Notice of Appeal 24 days later on 17 March 2016. A Notice of Appeal to the Court of Special Appeals must be filed within 30 days of the trial court's entry of judgment, Md. Rule 8-202(a), and therefore, Appellant filed timely his appeal. Because revisory motions are cognizable in trial courts, Mr. P.'s so-titled Motion for Reconsideration may be treated as a post-trial

(…continued)

> [Mr. P.'s atty.]: Are you giving up your – waiving your right to have a contested hearing, is that a knowing and voluntary waiver?
> Mr. P[.]: Yes, it is.
> [Mr. P.'s atty.]: Okay. Thank you.
> The Court: And, again, the court notes that father has freely and voluntarily waived a contested hearing, that the court should also note that there is nothing – there are no allegations against him in any of the – I guess I saw a shelter care and then a final report. There's nothing there. He wasn't present. The court notes his visits with the children and the pending ICPC, and finds that the children are, in fact, children in need of assistance based on the contents of the report, noting the denial of mom and the situation with dad, and will sign the order. Anything else?
> Mr. P[.]: No.
> [Mr. P.'s atty.]: No.

Motion to Revise,[8] which must be filed within 30 days after entry of the trial court's judgment. Md. Rule 2-535(a).

In general, a trial court may not revise its judgment while it is on appeal. "After an appeal is filed, a trial court may not act to frustrate the actions of an appellate court. Post-appeal orders which affect the subject matter of the appeal are prohibited." *In re Emileigh F.*, 355 Md. 198, 202–03, 733 A.2d 1103, 1105 (1999) (citing *State v. Peterson,* 315 Md. 73, 553 A.2d 672 (1989) and *Dent v. Simmons,* 61 Md. App. 122, 485 A.2d 270 (1985)).[9] The Court of Appeals held, however, that a juvenile court may revisit a case pending on appeal if necessary to protect the best interest of the child,[10] particularly when a material change regarding the child's best interest occurs after the original trial court

[8] Maryland's appellate courts may consider motions "unartfully drawn and titled" to be properly-named motions. *Pickett v. Noba, Inc.*, 122 Md. App. 566, 571, 714 A.2d 212, 214 (1998) (citing *Gluckstern v. Sutton,* 319 Md. 634, 574 A.2d 898, *cert. denied, Henneberry v. Sutton,* 498 U.S. 950, 111 S. Ct. 369 (1990) ("While Pickett's 'Motion to Remove and Not Enforce Lien' was unartfully drawn and titled, we think it was intended to be a motion to revise under Md. Rule 2–535. A motion may be treated as a motion to revise under Md. Rule 2–535 even if it is not labeled as such.")).

[9] The Court of Appeals cited "the rule of *In re Emileigh F.*" and the above quoted passage as recently as 2009, suggesting that this interpretation of the rule remains valid. *In re Joseph N.*, 407 Md. 278, 305, 965 A.2d 59, 74-75 (2009).

[10] "A juvenile court may hold a disposition review hearing during the pendency of a CINA appeal and issue orders modifying custody, even where those orders may moot the appeal, as the court has the duty to modify a custody order when necessary to protect the health, safety, and well-being of a child designated as a CINA." *In re Ashley S.*, 431 Md. 678, 705, 66 A.3d 1022, 1037 n.17 (2013) (citing *In re Deontay J.,* 408 Md. 152, 164, 968 A.2d 1067, 1074 (2009)).

ruling.[11] Here, the trial court determined that finding the children CINA and allowing the in-process ICPC investigation to proceed served best the children's interests.[12] Moreover, no material change in circumstances were alleged post-trial that could warrant, let alone require, the circuit court's reconsideration of its rulings. Thus, the circuit court need not, and did not, consider the arguments raised in Mr. P.'s motion. In any event, his arguments as to the CINA finding will be considered by us.

The circuit court did not determine expressly that Mr. P. is an unfit parent, as consideration of fitness was to abide the results of the ICPC investigation. Even though Mr. P. consented to the trial court's CINA and ICPC process determinations, he did not consent explicitly to an implicit finding of parental unfitness, if in fact that could be presumed on this record. Rather, "'it is presumed that it is in the best interest of a child to be returned to his or her natural parent,'" assuming the fitness of the parent and the home. *In re Ashley S.*, 431 Md. 678, 687, 66 A.3d 1022, 1027 (2013) (quoting *In re Yve S.*, 373 Md. 551, 582, 819 A.2d 1030, 1049 (2003)). Appellant, therefore, may challenge

[11] "'We are persuaded that the appeal of a custody order does not divest the circuit court of jurisdiction to decide the merits of a claim that, as a result of a *material* change in circumstances that has occurred *after* that order was entered, a change in custody is in the child's best interest.'" *Deontay J.*, 408 Md. at 165, 968 A.2d at 1074 (quoting *Koffley v. Koffley*, 160 Md. App. 633, 642, 866 A.2d 161, 167 (2005)).

[12] As discussed *infra*, courts have a transcendent duty to protect the best interests of the children. Md. Code, Courts and Judicial Proceedings, § 3-802(a) (1973, 2013 Repl. Vol.) (CJP).

the trial court's CINA finding. We will not consider meaningfully on its merits, however, his ICPC argument because it was not raised below.

II. The Circuit Court for Cecil County Concluded Correctly that the Children are CINA.

Appellant contends that the Circuit Court for Cecil County found erroneously the children to be CINA, arguing that "[t]his determination was made despite there being no allegation, testimony, [or] evidence of sustained fact(s) to indicate Brian P. is unfit, unable[,] or unwilling to care for his children." This argument implies that the court failed to find the second element of a CINA determination. Section 3-801 of the Maryland Code, Courts and Judicial Proceedings Article (1973, 2013 Repl. Vol.) (CJP), provides:

> (f) "Child in need of assistance" means a child who requires court intervention because:
> (1) The child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and
> (2) The child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs.

Section 3-802 provides:

> (a) The purposes of this subtitle are:
> (1) To provide for the care, protection, safety, and mental and physical development of any child coming within the provisions of this subtitle;
> (2) To provide for a program of services and treatment consistent with the child's best interests and the promotion of the public interest;
> (3) To conserve and strengthen the child's family ties and to separate a child from the child's parents only when necessary for the child's welfare;
> (4) To hold parents of children found to be in need of assistance responsible for remedying the circumstances that required the court's intervention;
> (5) Except as otherwise provided by law, to hold the local department responsible for providing services to assist the parents with remedying the circumstances that required the court's intervention;

> (6) If necessary to remove a child from the child's home, to secure for the child custody, care, and discipline as nearly as possible equivalent to that which the child's parents should have given;
> (7) To achieve a timely, permanent placement for the child consistent with the child's best interests; and
> (8) To provide judicial procedures for carrying out the provisions of this subtitle.
> (b) This subtitle shall be construed liberally to effectuate these purposes.
> (c) (1) In all judicial proceedings conducted in accordance with this subtitle or § 5-326 of the Family Law Article, the court may direct the local department to provide services to a child, the child's family, or the child's caregiver to the extent that the local department is authorized under State law.
> (2) The court shall exercise the authority described in paragraph (1) of this subsection to protect and advance a child's best interests.

Mr. P.'s argument that the circuit court failed to find the second element of a CINA determination is unavailing because, even though the trial court did not adjudicate Mr. P. unfit as a parent, it exercised its discretion[13] to allow the on-going ICPC investigation to proceed. Its outcome will bear directly on making a determination in regard to fitness. Circuit courts retain broad discretion in child custody cases:

> [I]t is within the sound discretion of the [trial court] to award custody according to the exigencies of each case, and . . . a reviewing court may interfere with such a determination only on a clear showing of abuse of that discretion. Such broad discretion is vested in the [trial court] because only [it] sees the witnesses and the parties, hears the testimony, and has the opportunity to speak with the child; [it] is in a far better position than is an appellate court, which has only a cold record before it, to weigh the evidence and determine what disposition will best promote the welfare of the minor child.

[13] The law authorizes the court to use its discretion to construe liberally this subtitle to protect the best interests of the children. CJP § 3-802(b). "The purpose of CINA proceedings is 'to protect children and promote their best interests.'" *In re Priscilla B.*, 214 Md. App. 600, 622, 78 A.3d 500, 513 (2013) (quoting *In re Rachel T.*, 77 Md. App. 20, 28, 549 A.2d 27, 31 (1988)).

Reichert v. Hornbeck, 210 Md. App. 282, 304, 63 A.3d 76, 89–90 (2013) (quoting *In re Yve S.*, 373 Md. 551, 585–86, 819 A.2d 1030, 1051 (2003)) (quotation marks omitted).

The record contains ample, unobjected-to evidence that raises significant questions regarding Mr. P.'s parental fitness. This evidence includes Appellant's inconclusive present status as a sex offender in Delaware; Delaware's removal of Ms. H.'s and Mr. P.'s custody over B.P. as an infant and the State's placement of B.P. in foster care to avoid Mr. P.'s further abuse; multiple investigations by Delaware regarding alleged abuse of the children in the household; Delaware's placement of the children with their paternal grandfather to escape further abuse; and Mr. P.'s lack of contact with the children after Ms. H. moved them to Maryland (although, while they were in foster care in Maryland, he visited them on two occasions under supervision), including no efforts to discover or protect the children from the rampant abuse committed by Mr. Po. and Ms. H. At the 17 February 2016 hearing, Mr. P. neither contested any of these facts nor produced any evidence to resolve or clarify the fitness ambiguities looming in the record.

Appellant notes that, in 1996, this Court reasoned that "[a] child who has at least one parent willing and able to provide the child with proper care and attention should not be taken from both parents and be made a ward of the court." *In re Russell G.*, 108 Md. App. 366, 377, 672 A.2d 109, 114 (1996). As the DSS retorts, however, *Russel G.* involved a father who responded appropriately upon discovering the mother's misconduct: "[r]ather than choosing to ignore indications that [the mother] was not properly caring for their child, when he became aware of problems [the father] took

appropriate steps to protect the welfare of the child." *Russel G.*, 108 Md. App. at 379, 672 A.2d at 115. The current case differs substantially from *Russel G*. because, according to the record, Mr. P. abused allegedly Respondents when they lived with him in Delaware and he demonstrated an inability or unwillingness "to give proper care and attention to the child[ren] and the child[ren]'s needs," both while residing in Delaware and after the children moved to Maryland with Ms. H. CJP § 3-801(f)(2). Moreover, Mr. P. adduced no evidence as to the living conditions in his Delaware residence and its ability to accommodate the children appropriately. The ICPC process is intended ideally to flesh-out the facts and endeavor to resolve the material ambiguities as to Mr. P.'s fitness to have custody of the children.

Under Maryland statutory and common law, the ultimate purpose of a court adjudicating a child custody case is to act in the best interest of the children, even if that conflicts with or trumps the presumption of a parent's fundamental right to custody. "'[W]here the fundamental right of parents to raise their children stands in the starkest contrast to the State's effort to protect those children from unacceptable neglect or abuse, the best interest of the child remains the ultimate governing standard.'" *In re Shirley B.*, 419 Md. 1, 21, 18 A.3d 40, 52 (2011) (quoting *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 496, 937 A.2d 177, 189 (2007)). The record indicates a history of abuse by Mr. P. while the children were living with him and Ms. H. in Delaware and raises the risk of future abuse and, accordingly, the trial court acted in the best interest of the children by finding them CINA for now, while awaiting the ICPC's assessment of

Mr. P.'s fitness before allowing him to remove the children from Maryland to Delaware. Based on the record here, the broad discretion afforded to trial courts in child custody cases, and the trial court's overriding legal and policy purpose of protecting the children's best interests, we conclude that the trial court did not abuse its discretion by finding the children CINA, without an explicit finding as yet as to the parental fitness of Mr. P. and the fitness of his home.

III. Appellant's Argument as to the ICPC Investigation is Not Preserved in the Record.

On appeal (and for the first time in this litigation), Mr. P. argues that the ICPC investigation should not continue to completion because ICPC Regulation No. 3 refers to the appropriate placement of a child with a parent about whom the court has no evidence of parental unfitness,[14] and because, in the absence of evidence of parental unfitness, Maryland law does not require an ICPC investigation before placing a child with an out-

[14] ICPC Regulation No. 3, § 3(a), as quoted by Appellant, provides:

> A placement with a parent from whom the child was not removed. **When the court places the child with a parent from whom the child was not removed, and the court has no evidence that the parent is unfit**, does not seek any evidence from the receiving state that the parent is either fit or unfit, **and the court relinquishes jurisdiction over the child immediately upon placement with the parent**, Receiving state shall have no responsibility for supervision or monitoring for the court having made the placement. (emphasis added by Appellant).

We note, in passing, that Appellant's reliance on this passage seems undermined by the evidence in the record raising questions as to his parental fitness to be custodian of the children.

of-state noncustodial parent.[15] Mr. P. failed to raise these arguments in the hearing before the circuit court. The DSS responds, as discussed *infra*, that: failure to raise his argument in the circuit court renders Appellant's contention unreviewable by an appellate court because it is not preserved; the ICPC issue is unripe for appellate review because the circuit court did not base its decision on an ICPC determination; or, on the merits, case law from Maryland and elsewhere supports continuation of the ICPC investigation of Mr. P.'s parental fitness to be custodian and the fitness of his home in Delaware as the children's residence.

As noted earlier, we agree with the DSS that Mr. P.'s argument is unpreserved. Md. Rule 8-131 authorizes us, therefore, to disregard his contention, which, in the main, we shall do. In any event, the potential for success of his arguments with respect to both ICPC Regulation No. 3 and Maryland's statutory codification of the ICPC depends on the absence of evidence indicating unfitness, not merely the absence of a finding of unfitness. As discussed *supra*, the record contains ample evidence raising significant questions as to Mr. P.'s parental fitness and, therefore, as a matter of law, Appellant's arguments as to the ICPC would be unpersuasive, even if preserved. The circuit court may revisit the question of Mr. P.'s fitness after the ICPC investigation is completed and its

[15] Appellant cites Fam. Law § 5-604 and argues that "[a]t no point does the Maryland language indicate that a child being placed with a noncustodial parent, without evidence of unfitness on the part of that parent, require the initiation of an ICPC investigation."

determinations presented to the court and parties. A further evidentiary hearing may be necessitated, if Mr. P. disagrees with the ICPC report and recommendations.

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