UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

Nos. 0424 & 1012

September Term, 2015

IN RE: T.J.

Eyler, Deborah S.,
Wright,
Rodowsky, Lawrence F.
(Retired, Specially Assigned),

JJ.

Opinion by Rodowsky, J.

Filed: June 3, 2016

On December 16, 2014, the Circuit Court for Prince George's County, sitting as a juvenile court, found that the appellant's six-year-old daughter, T.J., was a Child in Need of Assistance (CINA). The court placed T.J. in the custody of the Prince George's County Department of Social Services (hereafter the Department or DSS), while providing the appellant with five days of unsupervised visitation per week. The juvenile court's CINA findings and disposition were delivered orally at the conclusion of the hearing, but for unexplained reasons a written order was not entered until April 7, 2015. Earlier, on March 25, 2015, the juvenile court reduced appellant's visitation to one supervised visit per week after DSS advised that due to the mother's obstructionism, police intervention was required to verify the child's safety.

The appellant presents three questions for our review:

> "1. Were the adjudicatory facts sustained by the juvenile court sufficient to support a determination that T.J. was a Child In Need of Assistance?
>
> "2. Assuming arguendo that T.J. was properly found to be a CINA, did the juvenile court err in removing her from the mother's physical custody?
>
> "3. Did the court err in reducing contact between the mother and T.J. from liberal, unsupervised, overnight visits five days per week to supervised visits one day per week at the Department's facilities based on alleged failure of the mother to comply with the disposition order, where the court had not issued a final order?"

For the following reasons, we shall affirm all judgments of the circuit court.

CINA Finding and Disposition

On October 7, 2014, the Department filed a CINA petition for T.J., who was not yet six-years-old at the time. The petition alleged, in part:

> "On 9-26-14 DSS received a neglect referral stating that the child's mother was routinely leaving the child alone and unattended at home at night while the mother was at work. DSS has been unable to locate the mother or child since receiving the referral. The address given is a rooming house; when the worker would go to the home she was told the family lived in the basement."

The petition also contained allegations of physical abuse stemming from events which took place on October 6, 2014:

> "On 10-6-14 the child came to school (she attends a school in Washington, DC) with a cut lip with dried blood on it, a bruise under her right eye, a scratch on her neck and a bruise on her cheek. The child said the marks were caused by her mother grabbing her by the neck and biting her. The child was referred to Child and Family Services in Washington, DC because the home address the school had for the family was in DC."

Finally, the petition stated that the child had been the subject of two prior CINA cases which were "due to her mother stating she was unable to care for the child."[1] On October 28, 2014, the juvenile court granted a request by the Department that the child be placed in shelter care pending an adjudication hearing on the petition.

[1]The petition did not indicate the outcome of either of those CINA cases. A Court Report filed by the Department on December 16, 2014, indicates that both cases were closed and that the allegations of abuse and neglect were "unsubstantiated."

A three-day adjudication hearing was conducted on December 11, 15, and 16, 2014. The appellant appeared *pro se*. The Department's first witness, and the primary witness ultimately relied upon by the juvenile court, was Ayanna Perkins. Ms. Perkins was the landlady of the rooming house located at 3912 Clark Street, Capitol Heights, Maryland, where the appellant and child had been living just before the neglect referral was made. She stated that the appellant lived at that location for approximately two months beginning in July or August of 2014. The appellant and Ms. Perkins occupied separate rooms in the basement of the house. The first floor of the house was occupied by a woman and her two children, whose ages were approximately 11 and 13. Two men lived on the upper floor of the house. Ms. Perkins testified that the appellant had complained to her about one of the men soliciting her for sex. Ms. Perkins testified that the layout of the rooming house was such that any of the residents would have had access to any of the rooms.

Ms. Perkins testified that the appellant would leave the child alone and unattended at night "about three times a week," and "usually between 5 p.m. to the early morning, around 3 or 5 in the morning." She estimated that the child was left alone and unattended between six and eight times during the time that the appellant was living there. When the child was left alone she was mostly quiet. Sometimes she would microwave her own dinner. Occasionally, the child would wander out into the hall of the rooming house to Ms. Perkins's room and Ms. Perkins would help her to heat up some food or allow the child to stay and watch movies with her. Ms. Perkins testified that the appellant only asked her to watch the

child on one occasion. Ms. Perkins informed her that she had no interest in doing so on a continuing basis due to other responsibilities.

Ms. Perkins testified that there were occasions when the appellant would be home but would leave the child alone in a vacant room across the hall from the area that she and her daughter were actually renting. She described that room as a dark, cobweb-filled storage closet containing miscellaneous furniture items such as dressers and mirrors. The appellant ceased this practice when Ms. Perkins informed her that she would be placing a padlock on the door to the vacant room. Ms. Perkins also testified that when the appellant and T.J. were together the appellant would routinely yell and curse at the child in such a manner that other residents of the house would be awakened. On one occasion she heard the appellant yell at T.J. that she had never wanted a child. She described the yelling as taking place "every morning. Every day. Constant." She described the appellant's demeanor as "[v]ery confrontational, aggressive, [and] violent."

At the end of the first day of the hearing, the presiding judge agreed to allow the appellant weekend visitation with the child. To that end, the appellant was instructed to pick T.J. up from school that Friday, December 12, 2014, and bring T.J. with her to the courthouse the following Monday, December 15, 2014, when the hearing was scheduled to resume. However, when the parties returned on Monday the child was not present. The mother initially told the court that she had dropped T.J. off at school. The child's attorney stated that she had spoken with the school and was told that T.J. was not there. At that point

the mother claimed that she had actually sent T.J. to stay with a relative in Baltimore "due to the nature of the situation," and refused to provide the court with the phone number or address for that relative.

> "THE COURT: I want the address of where she [*i.e.*, T.J.] is. I will make arrangements, but it won't be you. Where is she?
>
> "[MOTHER]: Okay. I'll write the address down.
>
> "THE COURT: That's fine.
>
> "[MOTHER]: *If you think I'm actually going to tell you where my kid's at, that's crazy.* Okay."

(Emphasis added).

Eventually, the mother provided the court with the phone number and address in the District of Columbia. The court instructed a DSS caseworker to go the address and retrieve the child. Meanwhile, the hearing resumed.

The Department called two witnesses to testify regarding October 6, 2014 – the date identified in the CINA petition as the day that T.J. arrived at school with "a cut lip with dried blood on it, a bruise under her right eye, a scratch on her neck and a bruise on her cheek." Investigator Bryan Mancuso, a member of the Metropolitan Police Department's Youth Investigation Division, testified that he responded to T.J.'s school in Washington D.C. where he and a social worker met with T.J. to ask her about marks on her face. He stated that T.J. was reluctant to speak with him but asked for his notebook, in which she wrote: "She bit me because she was mad at me." When Investigator Mancuso asked T.J. when this had

happened, T.J. wrote "t[h]is morning." He spoke to the appellant who told him that the marks were the result of a skin condition. Investigator Mancuso turned T.J. over to Child Protective Services, which transported her to Children's National Medical Center where she was seen by Doctor Lilly Moran. Dr. Moran testified that when she asked T.J. about the marks on her face T.J. said, "my mommy bit my face." Dr. Moran also noticed bruises/marks on T.J.'s neck, which T.J. said were from her mother grabbing her when her mother was mad. Dr. Moran testified that it was her conclusion that the bruises were consistent with a trauma injury and that the circumstances pointed to a non-accidental source. Neither Investigator Mancuso nor Dr. Moran made mention of dried blood, a cut lip.

At approximately 12:30 p.m., the court recessed for lunch. When the parties reconvened at approximately 2:15 p.m., T.J.'s whereabouts still had not been confirmed and no one had been able to get in touch with the occupant(s) of the address provided by the appellant. The appellant eventually admitted that she previously had instructed the occupants not to answer the phone or the door for anybody. The hearing judge told the mother, "I cannot trust you anymore." Adding to the frustration, the court soon discovered that the D.C. address belonged to the appellant's sole witness, Jacquinette Bostick, who was present in the courtroom. The court instructed two sheriff's deputies to escort Ms. Bostick to her residence, retrieve the child, and return her to the courthouse.

While Ms. Bostick went to get T.J., the appellant testified at length on her own behalf, spanning more than sixty pages of the transcript. A recurring theme of the appellant's testimony was an apparent belief that she and her daughter might, in fact, benefit from services but that she had a deep distrust of the Department, based on her own experiences growing up in foster care.

> "THE COURT: Let me ask you this.
>
> "[MOTHER]: Hmm?
>
> "THE COURT: If the Department wants to help you now, why is [it] that you don't want that help –
>
> "[MOTHER]: Because they don't want to help me. And I'm telling you why! When my very experience with the Department, okay, this is my issue, and this is the reason why I lie about everything. And I don't tell –
>
> "THE COURT: Well, that's true –
>
> "[MOTHER]: – them the truth about anything!"

The appellant vehemently denied all allegations of physical abuse, though she admitted that she regularly yells at her daughter. She did not deny that she left the child alone at night while she was living at the boarding house in Capitol Heights, but suggested that Ms. Perkins was aware when the mother was not home and could look after T.J.[2] In any event, the appellant insisted that her current living situation allowed for an adult to be

[2]At various points over the course of the three-day hearing, the appellant would refer to Ms. Perkins as a potential caregiver while at other times accusing her of being a "crackhead" who had stolen from her.

with the child while the appellant was at work. Ms. Bostick, who had since returned, was called as a witness to corroborate that claim.

Ms. Bostick testified that appellant was living with her in a three bedroom house in Washington D.C. The other occupants of the house included her fiancé, identified as "Kim" or "Kimberly," two boys who are "school age," and Ms. Bostick's daughter who was three-years-old at the time. She testified the appellant typically lets her or another member of the household know if the appellant will be gone overnight. In response to questions from the court, Ms. Bostick testified that she had never seen the appellant physically abuse the child in any way, but acknowledged that the appellant yells at T.J., and stated that it was something that "she and I have talked about."

The adjudication hearing concluded the following day on December 16, 2014, and the court delivered its findings from the bench. The court found that the Department had not met its burden with respect to the allegations of physical abuse on October 6, 2014. The court sustained the allegations of neglect and also found that the appellant's manner of yelling at the child rose to the level of mental abuse.

> "THE COURT: The findings being sustained are, that she has a history of leaving the child alone and unattended at home, at night, number one. And number two, that she has a history of yelling at the child, and cursing at her in a[n] inappropriate manner."

The juvenile court declared T.J. to be a CINA and the discussion then turned to the matter of disposition. The Department recommended: (1) that T.J. be placed in the care and

custody of the Department; (2) that the appellant should have liberal supervised visitation; (3) that the appellant attend parenting classes; (4) individual therapy for both the child and the mother; (5) family therapy; (6) anger management classes for the appellant; and (7) a psychological evaluation for the appellant. The child's attorney largely agreed with the recommendations of the Department. The appellant requested that T.J. be returned to her custody, and emphasized that her current living situation allowed for adult supervision while she was at work so T.J. would not be left unattended. The mother agreed that she and T.J. "could both benefit from counseling."

The child's attorney expressed concern at the prospect of returning the child to the mother's custody because such an arrangement would reduce the role of the Department to providing "protective supervision." This, in turn, would be problematic due to the fact that the appellant was currently living in the District of Columbia:

> "[CHILD'S ATTORNEY]: Here is the dilemma that we're going around. If she continues to reside [with] her mother in DC, the Department has told me that they cannot provide protective supervision – ".

The Department confirmed that if the court did not place the child in the "custody and care" of the Department, it would not be able to provide any of the recommended support services because the child would no longer be considered a resident of Prince George's County.

> "THE COURT: Thanks. So, all that you just asked for – in terms of anger management; therapy, family and individual; and the psychological evaluation – none of that can happen with protective supervision?

"[THE DEPARTMENT]: No.

"THE COURT: So explain to me what protective supervision would look like?

"[THE DEPARTMENT]: It would be – the Court would have to exercise jurisdiction, based on the fact that the Respondent is a child in need of assistance here in Prince George's County. If you're saying the child doesn't live here, we don't have jurisdiction –

"THE COURT: But, everyone knows she doesn't live here.

"[THE DEPARTMENT]: – so, if that's – no, but you're saying, you're giving care and custody to the mother – if you do that, that means ordered protective supervision, which means we cannot provide services. If you provided care and custody to the Department of Social Services, that could work differently."

In an effort to resolve the issue, the hearing judge proposed placing T.J. in the "care and custody" of the department, while providing the mother with three days of weekly unsupervised visitation and overnight visitation every weekend. The Department replied that such an arrangement would "essentially [be] saying she's in the care and custody of her mom," and that "administratively, I don't know how we would do it." The child's attorney was also skeptical, and explained "I've been doing this for ... over 15 years in this county. I cannot speak for the Department. But I'm telling you I have never known them to give that amount of liberal ... unsupervised visits to a parent unless that parent is cooperative and working with them." As the hearing judge endeavored to craft a workable solution, the appellant would repeatedly interrupt, object, and speak over her.

"THE COURT: You rant and rave and yell at everyone in this courtroom. Absolutely, everyone, which is why you're in the situation you're in now. You're not really listening to me at all. You're not. And I don't think that you want to listen. I don't know why you won't listen to me –

"[MOTHER]: Miss, I'm listening –

"THE COURT: – I'm trying to work with you, but you don't work with me. And it's all about how you feel about everything. This is not an easy case for me. And I have bent over backwards for you. And you don't appreciate anything that I've done on your behalf.

"And the reason that I did it, was because I felt that there was a strong bond between you and your daughter. And I didn't want to destroy it. Didn't want to destroy it at all –

"[MOTHER]: But you all are!

"THE COURT: – no, no, no, I'm not –

"[MOTHER]: They have!

"THE COURT: – because if [I] was going to destroy that bond, I would just simply say to the Department that I accept their recommendation. And you live with it or not live with it. But *what I've been trying to do, is fashion something that allows you to maintain that strong relationship with your daughter, and get the services*."

(Emphasis added).

The court then ordered that T.J. be placed in the custody and care of the Department, and that unsupervised visitation would take place "every weekend, and three nights during the week." By the time the actual visitation schedule was determined, the appellant was more than satisfied:

"THE COURT: Wednesday, Thursday, Friday, Saturday, Sunday, she returns the child back on Monday.

"[MOTHER]: *Right. So, Monday and Tuesday, that is good. It's like respite care. Monday and Tuesday with Ms. Mack, right?*[3] She'll stay with Ms. Mack?

"THE COURT: Yes.

"[MOTHER]: *Okay. That is good, that is respite care (laughing) I'm telling you*.

"[CHILD'S ATTORNEY]: All right.

"THE COURT: But you better work on your issues.

"[MOTHER]: Listen. I got you. I got you. No problem."

(Emphasis added).

The court cautioned the appellant, "And let me tell you something, lie to me again, and see what happens." A review hearing was scheduled for March 5, 2015.

Modification of Visitation

The record is unclear whether the March 2015 review hearing ever took place, but by the end of that month, it was obvious that the situation had significantly deteriorated. On March 23, 2015, the appellant filed a handwritten motion for an emergency hearing, claiming that "the department has violated court order regarding visitation they have also[,] without any information as to why[,] removed [T.J.] from my custody during court ordered

[3]"Ms. Mack" is the foster parent who had been providing shelter care for T.J. since October 28, 2014.

visitation." On March 24, 2014, the Department filed a "Joint Motion to Modify Visitation and for Injunctive Relief." The motion averred that the Department had learned that the appellant and child were no longer residing at Ms. Bostick's address and that the child was allegedly being left alone again at night while the mother was at work. The motion went on to state the following:

> "6. The Department's attempts to contact [T.J.]'s mother were unsuccessful, prompting it to request a welfare check through the District of Columbia's Child & Family Services Administration ("CFSA").
>
> "7. Upon determining [T.J.]'s whereabouts and arriving at the residence, the [appellant] would not allow CFSA to enter the home to verify the welfare and safety of the child. The police were called to assist in CFSA's effort.
>
> "8. The [appellant] refused to allow the police access into the residence by barricading herself and the child in the home. She also stated that she was going to kill her daughter.
>
> "9. The police forcibly entered the residence and removed the child. The [appellant] was taken into custody by the police for emergency psychiatric services.
>
> "10. [T.J.]'s safety and welfare are of grave concern and irreparable harm may result if the current visitation schedule and school arrangement remains in effect."

The Department's motion requested that visitation be modified to "once per week at the Department of Social Services, until an increase in visitation is therapeutically recommended." On March 25, the mother filed a response, through counsel, in which she asserted:

> "2. That Mother is unclear as to the child's status with regard to being a Child in Need of Assistance[.] The last court hearing was held on December 16, 2014, before the Honorable Beverly J. Woodward who instructed [DSS] to submit a court order. [DSS] admits that they have failed to date, to submit an order with regard to the December 16, 2014 hearing. It is unclear from counsel's examination of the case file whether it was the Court's intent to find the child to be in need of assistance, or had held a Disposition hearing in the case."

That same day, the circuit court granted, without a hearing, the Department's request to modify visitation and scheduled an emergency hearing for April 9, 2015. Incongruously, on April 7, 2015, a writing was filed memorializing the findings and disposition of the December 16, 2014 hearing.

At that hearing, DSS introduced a report evidencing the facts alleged in its motion. DSS advised the court that T.J. had been absent from school beginning March 19. The appellant was not present at the April 9 hearing, but was represented by counsel. Her attorney suggested that due to the absence of a written order the appellant may not have understood the court's directives. The court was not receptive to that suggestion.

> "THE COURT: You need to listen to the tape, then. Because we went back and forth. And, you know, to be honest with you, I bent over backwards for [appellant]. So for you to say to me now, that she misunderstood, that is not possible, not even close to possible."

The court concluded: "She's intelligent," and "she knows exactly what she's doing." The appellant filed a notice of appeal on April 20, 2015.[4]

[4]On June 3, 2015, the appellant filed an additional notice of appeal (No. 1012, Sept. (continued...)

Discussion

I

The appellant's first contention is that the findings made by the juvenile court at the conclusion of the December 16, 2014 hearing were not sufficient to support its CINA determination on the basis of neglect and mental abuse. The appellant is not challenging the factual findings themselves, but rather submits that "there were no facts sustained which could validly support a finding that T.J. was either abused or neglected, as defined by the CINA statute." We do not agree.

"Neglect," is defined at Maryland Code (1973, 2013 Repl. Vol.), § 3-801(s) of the Courts and Judicial Proceedings Article (CJP), as:

> "[T]he *leaving of a child unattended* or other failure to give proper care and attention to a child by any parent or individual who has permanent or temporary custody or responsibility for supervision of the child *under circumstances that indicate*:
>
> "(1) *That the child's health or welfare is harmed or placed at substantial risk of harm*[.]"

(Emphasis added).

The appellant argues that "the court made no finding that T.J. had been harmed or was at substantial risk of harm by having been left in the boarding house while the mother

---

[4](...continued)
Term, 2015). An order of the circuit court dated May 6, 2015, had granted limited guardianship of T.J. to the Department for the purpose of educational decision-making. The appellant presents no argument with respect to that order.

worked at night." She suggests, moreover, that the record would not support such a conclusion, and urges that "[t]he fear of harm to the child or to society must be a real one predicated upon hard evidence; it may not be simply gut reaction or even a decision to err-if-at-all on the side of caution." *In re Jertrude O.*, 56 Md. App. 83, 100, 466 A.2d, 885, 894 (1983). To that point, she asserts:

> "There was no evidence that T.J.'s being left in the boarding house, where she could reach out to Perkins, and where there were other residents in the house, caused T.J. harm or placed her at substantial risk of harm. Although Perkins was not the 'official' babysitter, clearly, T.J. could go to her if she needed something while her mother was away working."

Appellant's Brief and Appendix at 14.

While the fear of harm to the child may not be based merely on a "gut reaction," a court does not need affirmative evidence of some specified imminent threat in order to find that a parent's conduct amounts to neglect. Quite the contrary, "we need not and will not wait for abuse to occur and a child to suffer concomitant injury before we can find neglect: 'The purpose of [the CINA statute] is to protect children – not [to] wait for their injury." *In re Priscilla B.*, 214 Md. App. 600, 626, 78 A.3d 500, 515-16 (2013) (quoting *In re William B.*, 73 Md. App. 68, 77-78, 533 A.2d 16, 21 (1987)).

When a parent habitually leaves her then five-year-old daughter alone and unattended overnight in a rooming house, it is no defense to an allegation of neglect to suggest that the child had the *option* of wandering into the common hallway in the hope that another resident of the house will care for her. This is particularly true when Ms. Perkins was under no

obligation to care for the child and had affirmatively told the appellant that she had no desire to undertake such a responsibility. In addition, while we are told very little about the "other residents" of the house which the appellant refers to above, that group included two unknown men, one of whom had solicited the appellant for sex. The reality is that the appellant's five-year-old daughter was routinely left unattended overnight in a boarding house, during which time she had access to the rest of house and any of its occupants had access to her. The juvenile court did not err in finding that such conduct on the part of the appellant amounted to neglect.

The appellant also challenges the juvenile court's finding of mental abuse, premised upon the fact that the appellant "has a history of yelling at the child and cursing at her in an inappropriate manner." CJP § 3-801(b), defines "Abuse," as:

> "(2) Physical or *mental injury of a child under circumstances that indicate that the child's health or welfare is harmed or is at substantial risk of being harmed* by:
>
> "(i) *A parent* or other individual who has permanent or temporary care or custody or responsibility for supervision of the child[.]"

(Emphasis added).

The appellant asserts that the court "did not sustain any facts pertaining to T.J.'s health or welfare having been harmed or placed at substantial risk of harm by the mother's yelling or cursing." The testimony supporting this particular finding included that of Ms. Perkins, who described the appellant's yelling and cursing as "every morning. Every day. Constant," and that it was sufficient to wake the other residents of the house. Ms. Bostick

testified that the yelling was something that she and the appellant "had talked about." We cannot say that the juvenile court erred in concluding that the yelling and cursing had either caused or was at risk of causing mental injury to T.J. under the circumstances.

In addition to a finding of abuse and neglect, a CINA determination also involves a finding that the child's parent is "unable or unwilling to give proper care and attention to the child and the child's needs." CJP § 3-801(f). The appellant suggests "[t]here was no evidence that T.J. lacked housing, food, or clothing, was not enrolled in school, or has medical needs that went unattended." The appellant has conveniently ignored the central finding that she routinely left the child to fend for herself overnight while she was at work, a fact she has chosen not to contest. That is a failure to provide proper attention. The juvenile court could reasonably infer that this pattern of neglect was due either to the appellant's unwillingness or inability to provide care while she was away, it matters not which.

II

The appellant's next contention is that, even if T.J. was properly found to be a CINA, the juvenile court erred in removing her from the appellant's physical custody. She cites this Court's decisions in *In re William B.*, 73 Md. App. 68, 73, 533 A.2d 16, 18 (1987), *In re Andrew A.*, 149 Md. App. 412, 419, 815 A.2d 931, 934 (2003), and *In re Jertrude O.*, 56 Md. App. at 98, 466 A.2d at 893, for the general proposition that a parent may not be separated from his or her child except where necessary to preserve the child's safety and

welfare. She concludes, "[i]n this case, the circumstances fell far short of what is necessary to justify removing a child from her natural parent."

To be clear, the "removal" to which the appellant is now objecting relates to the decision of the juvenile court to place T.J. in the "care and custody" of the Department while allowing the appellant to have five days of unsupervised visitation per week. Appellant would have us rule that " there was no justification for placing T.J. in foster care for two days a week." Appellant's Brief and Appendix at 17. The Department had opposed this original disposition as "essentially saying she's in the care and custody of her mom," and the child's attorney described it as unprecedented. The juvenile court nevertheless structured its disposition order in this fashion for the express purpose of allowing the appellant access to services through the Department without disturbing the appellant's bond with her daughter. At the time of the decision, the appellant laughed, "That is good, that is respite care[,] I'm telling you."

The appellant goes on to suggest that there were "less drastic" alternatives to the removal, such as "ordering protective supervision, whereby the Department could drop in on the family unannounced, or the mother would be required to report to the social worker daily." Even assuming that unannounced visits by the Department or daily reporting to a social worker could be characterized as "less drastic" than the two days of "respite care," the appellant's argument fails.

The Department made clear that it would not be able to provide "protective supervision," or any of the recommended services, if T.J. were placed in the appellant's custody because the appellant had moved to Washington, D.C. The disposition order and visitation schedule, therefore, were specifically structured – against the recommendations of the Department and the child's attorney – in order to maximize the benefit to the appellant; the child would be with her in the District of Columbia three days a week and every weekend, but the two would still have access to the services from which both could benefit. The appellant indicated that she was content with the disposition arrangement as set forth on December 16, 2014, and she enjoyed the benefit of an exceedingly liberal amount of visitation until some time in March of 2015.

The juvenile court's decision not to place T.J. in the custody of the appellant was justified based on the concerns expressed by the Department and the child's attorney that they would be unable to ensure the safety and welfare of T.J. under less restrictive circumstances, because appellant had demonstrated that she had no intention of cooperating voluntarily. That concern is well-founded in light of the appellant's pattern of deceptive and manipulative behavior that was manifest at numerous points during the proceedings.

A more fundamental difficulty with appellant's position is that the disposition ordered on December 16, 2014 is no longer operative. It has been superseded by the order of March 25, 2015. The juvenile court has continuing jurisdiction and we review the sufficiency of the evidence of CINA status based on the record as a whole. Appellant did

not appeal the December 16 disposition. Even if the evidence were insufficient at that time, the case has moved on. It is like the accused who had a meritorious motion for a judgment of acquittal at the end of the State's case, but who supplies the missing proof when putting on a defense. The sufficiency of the proof for the modified disposition is unchallenged.

Viewed another way, the issue is moot. "A question is moot if, at the time it is before the court ... there is no longer any effective remedy which the court can provide." *Attorney General v. Anne Arundel County Sch. Bus Contractors Ass'n*, 286 Md. 324, 327, 407 A.2d 749, 752 (1979). This Court cannot restore the two days per week between December 16, 2014, and March 25, 2015, when appellant did not have physical custody of T.J. *See also Krebs v. Krebs*, 183 Md. App., 102, 110, 960 A.2d 637, 691 (2008) (lack of notice of, and opportunity to be heard on, *pendente lite* order of child custody mooted by subsequent hearing on merits). Further, this case does not qualify for the public interest exception to the mootness doctrine.

III

The appellant's final contention is that the juvenile court erred on March 25, 2015, by reducing the amount of visitation based on its conclusion that she had violated the court's disposition order as articulated on December 16, 2014, because a written order was not issued until April 7, 2015.

The appellant points out that the juvenile court had in fact requested a written order from the Department at the end of the December 16 hearing, and was told that one would

be provided within 30 days. That did not happen. The appellant, apparently as a matter of law, submits:

> "*The mother could not have violated a court order on or around March 24th, because there was no final order until April 7, 2015. See Waller v. Maryland Nat'l Bank*, 332 Md. 375, 377-80[, 631 A.2d 447, 448-449] (1993) ('When it ruled orally, the court contemplated, and so advised counsel, that it would sign an order, embodying that ruling, to be submitted by the appellees' counsel. Clearly, the oral ruling was not, and could not be, a final judgment')."

(Emphasis added).

For further support, the appellant refers to *Rohrbeck v. Rohrbeck*, 318 Md. 28, 566 A.2d 767 (1989), in which the Court of Appeals stated:

> "Lest there be any lingering questions about the matter, we now make clear that, whenever the court, whether in a written opinion or in remarks from the bench, indicates that a written order embodying the decision is to follow, a final judgment does not arise prior to signing and filing of the anticipated order[.]"

Id. at 42, 566 A.2d at 774.

The appellant has confused questions of appealability with questions of enforceability. The two cases relied on by the appellant, *Waller* and *Rohrbeck*, both *supra*, dealt with the rule requiring that an appeal be taken from a final judgment and whether, in those cases, a final judgment had been entered. They should not, and indeed could not, be understood as suggesting that a court's order which is articulated orally from the bench is impotent until an anticipated written order memorializing its terms is issued. Accepting

appellant's position would mean that she could neglect T.J., without consequence, during the thirty-day period for preparation of the written order.

Appellant's suggestion that absent a writing she may not have understood the requirements of the disposition order is a factual argument on which she offered no direct testimony and which was flatly rejected by the trier of fact.

For the above reasons, we affirm.

JUDGMENTS IN CASES NOS. 0424 AND 1012 AFFIRMED.

COSTS TO BE PAID BY APPELLANT.