UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0532

September Term, 2015

IN RE: L.B. AND D.B.

Meredith,
Graeff,
Sharer, J. Frederick
(Retired, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: April 29, 2016

In this child in need of assistance ("CINA")[1] proceeding, appellants Deja B. ("Ms. B."), mother of appellees L.B. and D.B., and Lawrence B. ("Mr. B."), father of L.B. and step-father to D.B. appeal from adjudicatory and dispositional orders of the Circuit Court for Baltimore County, sitting as a juvenile court.[2] On October 14, 2014, the circuit court issued a Shelter Care Order, providing that the children be placed in the custody of the Baltimore County Department of Social Services ("BCDSS"), also an appellee. The court noted that D.B. had suffered physical injury, with inadequate explanation, and L.B., age three, was too young to self-protect.[3] On March 9 and April 21, 2015, the court held a dispositional hearing, following which it found both children CINA on the grounds that Ms. B. and Mr. B. were unable to provide proper care and attention because they were physically abusing D.B., and the children were at substantial risk of harm under their care. The court considered relative resources, but after finding that the relative resources were unsuitable, the court ordered continued custody of the children to BCDSS to remain with

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

[2] In a hand-written notation on Lawrence B.'s Notice of Appeal a judge of the circuit court wrote: "[E]ntered as to the matter of [L.B.] only, Respondent is not a party/father of [D.B.]." D.B.'s father, Demetrius B., is not a party on appeal. In its disposition order, the court ordered that Demetrius B. "[p]romptly make contact with [BCDSS] upon release from incarceration for risk/safety assessment prior to initiation of visitation."

[3] These injuries received by D.B. included extensive scalding burns, a black eye, a friction burn on his wrist, multiple injuries to his face, leg, back, arm, inside of ear, and a ruptured blood vessel in his eye.

the foster therapeutic case worker. The court permitted Ms. B. and Mr. B. to have supervised visitation with L.B., but permitted only written contact with D.B. until the court approved further contact.

On appeal, Ms. B. and Mr. B. present multiple questions for our review,[4] which we have consolidated and rephrased, as follows:

> 1. Did the circuit court abuse its discretion in admitting into evidence the children's statements that Ms. B. and Mr. B. were abusive?
>
> 2. Was there sufficient evidence to support the circuit court's finding that the children were CINA?
>
> 3. Did the circuit court err in determining that the parents were not entitled to any visitation with D.B.?

[4] Ms. B. presents the following three questions:

> 1. Did the trial court commit legal error when it ruled that Md. Code Criminal Pro. Art. Sec. § 11-304 was not relevant to the case and did not follow any of the [s]tatute's protocols with respect to trial?
>
> 2. Was the evidence presented legally insufficient for the trial court to find that all of the paragraphs of the [p]etition were sustained, and ultimately, that the children were CINA?
>
> 3. Did the trial court commit legal error when it determined that the parents were not entitled to any visitation, either actual or telephonic, with [D.B.]?

Mr. B. presents the following three questions:

> 1. Did the court err in admitting hearsay statements made by [D.B.] and [L.B.]?
>
> 2. Did the court err in adjudicating the children CINA based on conjecture and speculation that [D.B.] was physically abused?
>
> 3. Did the court err in refusing to place [D.B.] and [L.B.] with relatives instead of foster care?

4. Did the circuit court err in determining that it was in the children's best interests to remain in a treatment foster home instead of being placed with relatives?

For the reasons set forth below, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

D.B. was born in September 2007. L.B. was born in September 2011. In May 2012, BCDSS investigated four allegations of child abuse relating to D.B., due to significant physical injuries he sustained while living with Ms. B. and Mr. B.

May 2012 Burns

On May 4, 2012, D.B. sustained full thickness second-degree burns to both legs and burns to other parts of his body. Photographs taken that day in the emergency room showed that the skin on his left foot was "fully blistered and sloughing off," and his shins and thighs were blistered. His right lower buttock was burned, as was the tip of his penis. The skin on the back of his left hand, wrist and right forearm also was blistered. D.B. had a bruise on his chest along the right collarbone, which was reddish/purplish in color and approximately five centimeters in length.

After D.B. was transported to Johns Hopkins Pediatric Hospital ("Johns Hopkins"), an officer with the Baltimore County Police Department ("BCPD") spoke with D.B., who stated that "he was told to wash his hands, but he wanted to take a bath." He turned the water on, threw some of his toys into the tub, and then climbed in and "got burned." The BCPD officer asked D.B. about the bruise on his chest, but D.B. stated that "he did not know."

Because his injuries required that he be sedated, the police were unable to interview D.B. again for an extended period of time. On June 5, 2012, one month after he sustained his injuries, D.B. was still under sedation and unable to be aroused for a police interview. He had multiple skin grafts at Johns Hopkins on June 21, 2012, and on June 25, 2012, he was transferred to Mt. Washington Pediatric Hospital ("Mt. Washington"), where he remained until he was discharged on September 24, 2012.

On May 4, 2012, the date of D.B.'s burns, Mr. B. told the police that he sent D.B. to wash his hands in the bathroom while Mr. B. changed L.B.'s diaper. Mr. B. heard D.B. playing with water, but he "did not think anything of it" until he heard D.B. scream. Mr. B. ran into the bathroom and saw D.B. climbing out of the tub with his lower extremities red and the skin peeling. Mr. B. placed D.B.'s legs into a container filled with water and contacted Ms. B.[5]

The police interviewed Mr. B. again on June 28, 2012. Mr. B. stated that, on the day of the burning, Ms. B. went to work at 9:00 a.m., and he stayed home with D.B. and L.B. D.B. had hernia surgery the day before and was not supposed to get his stomach wet. L.B. needed her diaper changed "very badly," and D.B., who usually helped, got his hands dirty. Mr. B. told D.B. to go wash his hands in the bathroom, and shortly thereafter, he heard water running. After he heard D.B. cry out, Mr. B. went to the bathroom and saw steaming water running in the tub and D.B. trying to climb out of the tub. D.B. was wearing two-piece pajamas and appeared to be in shock. Mr. B. estimated that there was 6-8 inches

[5] In May 2012, Mr. B. and Ms. B. were engaged, but not married.

of water in the tub. He saw the skin on D.B.'s foot immediately start to blister and "knew it was bad." Mr. B. stated that he called Ms. B., and after she arrived, he called for an ambulance. Mr. B. did not mention putting D.B.'s foot in water or ice as he had in his previous statements.

On May 4, 2013, Ms. B. told the police that she received a phone call from Mr. B. at approximately 2:30 p.m., advising that D.B. had been burned in the bathtub. Ms. B. returned home and saw D.B. sitting with his feet in a large container filled with water. He had burns on his lower extremities, and she immediately called 911. Ms. B. reported that D.B. did not have a bruise on his chest before she left for work. In June 2014, Ms. B. stated that she was home nursing L.B. at the time of D.B.'s burn injuries.

The case was forwarded to the Crimes Against Children Unit of the BCPD because of the unexplained bruise on D.B.'s chest. On May 8, 2012, a BCPD detective spoke with Ms. B., who stated that she believed that the bruise resulted from D.B.'s reaction to the hot water because when he sits in the bathtub, the edge of the tub is chest high.

The doctors at Johns Hopkins disagreed about whether D.B.'s injuries were accidental. The emergency room doctor interviewed D.B. and twice asked him how he got burned. Both times, D.B. stated that he filled the tub with water and got in on his own. He denied that anyone placed him in the hot water. The emergency room doctor believed that the injuries were consistent with D.B.'s explanation.

Dr. Goldstein, a member of the Johns Hopkins Child Protection Team, reviewed the case and opined that the pattern of the burn was "highly specific for a forced immersion and not consistent with an accidental mechanism." He based his opinion on the presence

of "complete symmetry and very delineated watermark lines, coupled with flexural crease sparing."

Dr. Cohen, Director of Pediatric Dermatology for Johns Hopkins, reviewed the photographs taken of D.B. He believed that both legs were not exposed to the scalding water for the same amount of time. He stated that, "in a dip injury," he would expect both legs to be exposed for the same amount of time.

While D.B. was hospitalized at Mt. Washington, he stated that Mr. B. burned him and Ms. B. beat him.[6] He also nodded yes when asked if he was afraid of Mr. B. and if Mr. B. ever hurt him.[7] He told the BCDSS worker that when he gets in trouble, he gets a beating. D.B. also asked the psychologist at Mt. Washington if his home was now safe, and if Ms. B. was not going to beat him anymore. D.B. then asked the psychologist whether he would be reporting to Mr. B. what D.B. said, stating that Mr. B., because Mr. B. would be "very mad" if he knew that D.B. had disclosed that information about violence in the home.

BCPD concluded that there was insufficient evidence to support allegations of child abuse, and it closed the case. BCDSS also closed its investigation into the September 2012

[6] The juvenile court did not make any adjudicatory findings that D.B. made the statements, or find that the facts were sustained with respect to D.B.'s statements, but it permitted testimony about the statements from Lauren Shea, the social worker, and allowed nursing notes to be read into the record as a basis for the Ms. Shea's opinion. Ms. B. and Mr. B. objected to Ms. Shea's testimony regarding D.B.'s statements. We shall discuss Ms. Shea's testimony in more detail *infra*.

[7] Although this evidence also came in through Ms. Shea's testimony, Ms. B. and Mr. B. did not object to it.

incident. Although there was "much suspicion" that the burns were not accidental, based on the conflicting medical opinions, BCDSS ruled out abuse.

October 2012 Black Eye and Friction Burn

In October 2012, one month later, after receiving a report that D.B. had a black eye and a friction burn or abrasion to his wrist, BCDSS conducted a second investigation. When interviewed, D.B. said that a bat flew into the house and bit him, causing the burn or abrasion on his wrist. He later claimed that it was a toy bat. D.B. also stated that L.B. had head-butted him, which gave him his black eye. Neither Mr. B. nor Ms. B. explained the injuries, but they did confirm that D.B. had a toy bat. Ms. Shea reviewed the record and concluded that neither a bat flying into the house and biting D.B., nor a toy bat, could cause a burn on his wrist. Nonetheless, BCDSS again closed its investigation because D.B. had not made any disclosures of abuse, and Mr. B. and Ms. B. denied abuse.

Multiple Injuries in May 2014

On May 8, 2014, BCDSS received a referral for possible child abuse. Ms. Shea and a detective from the Child Advocacy Center, Detective Broccolina, conducted a joint investigation into D.B.'s injuries. Detective Broccolina interviewed D.B. and showed him photographs of D.B.'s "multiple injuries," that had been taken by BCDSS, including several linear marks on his arm that were red and purple, bruising on the left side of his face, a bruise on the left side of his back, a popped blood vessel in his eye, a scratch on his left shin, bruising on his upper left arm, scabbing inside his right ear, a bruise to his upper left arm, and abrasions on his forehead. D.B. had been absent from school from Thursday, May 1 through Wednesday, May 7, 2014, and when he returned, school personnel observed

his injuries. There was no evidence that D.B. received medical treatment during the time he was absent from school. BCDSS received three different, inconsistent accounts explaining D.B.'s injuries, and none of the versions accounted for the appearance of the injuries.

D.B. stated that the linear marks on his arm occurred when he fell in his parents' room onto the wooden footboard of their bed. The bed, however, did not have a footboard. He reported that he popped a blood vessel in his eye while he was playing toy soldiers with L.B. Mr. B. and Ms. B. claimed no knowledge of an injury to D.B.'s eye, and they advised Ms. Shea that L.B. had not been in the home since May 2, 2014, when Ms. B. drove her to Richmond to stay with relatives while Mr. B. recovered from a surgery. D.B. did not have explanations for any of his other injuries, stating either "I don't know or I don't remember." Ms. Shea stated that, when a child has an injury, he usually is able to describe what happened. D.B. was not able to do so, even when he was shown pictures of his injuries.

On May 14, 2014, during a home visit, Ms. Shea and Detective Broccolina interviewed Mr. B. about D.B.'s injuries; Ms. B. was not home at the time. Mr. B. and his father, also named Lawrence B., were present during the interview. Mr. B., Ms. B., D.B., and L.B. had lived in the basement of Mr. B.'s parents' home since February 2014.

When Mr. B. was shown photographs of D.B.'s injuries, his first response was that D.B. "is a boy" and "he's active." He stated that he did not know how D.B. got the injuries on his upper arm or back, but he reported that the linear marks on D.B.'s forearm were caused when D.B. tripped over a toy castle and hit his arm and head. He stated that D.B.'s arm immediately became swollen, and that was why he was kept out of school the

following Monday, Tuesday, and half of Wednesday, but he admitted that D.B. was never taken for medical treatment. Mr. B. reported that D.B. was in trouble for hitting his cousin and was running upstairs to L.B.'s paternal grandmother when he fell. However, Mr. B.'s father stated that he and L.B.'s paternal grandmother had been away in New York at the time of D.B.'s injuries.

Ms. Shea and Detective Broccolina observed the toy castle and concluded that the equidistant, linear injuries on D.B.'s arm could not have been caused by tripping over the plastic, toy castle. In Ms. Shea's opinion, the marks were indicative of a belt. When Ms. Shea advised Mr. B. that the injuries appeared to be marks from being hit with a belt, Mr. B. claimed that he and Ms. B. did not physically discipline D.B., but instead, they made D.B. write sentences for discipline. D.B. also denied that he was physically disciplined, but Ms. Shea observed that, whenever she asked him about injuries, discipline, or anything related to his parents, his behavior would change, and he would start looking around the room "wide-eyed" and state that he did not know, which was "in stark contrast" to his behavior when asked about any other neutral topic.

On May 20, 2014, Ms. Shea interviewed Ms. B. and showed her photographs of D.B.'s injuries. With regard to D.B.'s arm, Ms. B. thought that the injury may have occurred after school on May 6, 2014. When Ms. Shea told Ms. B. that D.B. had not been in school that day, Ms. B. said that his stomach hurt, which was why he had not been in school. Ms. B. was never able to clarify what day the fall actually occurred, even with a calendar in front of her.

Ms. B. "first said that he had fallen coming down the stairs, and then that he might have fallen coming up the stairs, and then that he had fallen in the hallway." Ms. B. claimed that D.B. had been in trouble for hitting his cousin, and although she and Mr. B. were having him write sentences when he misbehaved, or restricting him from watching television, she decided that, because those forms of discipline were not working, she was going to "pop him on the butt that day." When she went to "pop" him, D.B. took off running and fell on a scooter in the hallway. She believed that the injury to his arm was from the scooter, but she did not notice if his arm was bruised or swollen initially because "it was his fault that he had fallen," and she told him that "he had to deal with it." Ms. Shea and Detective Broccolina determined that the linear marks on D.B.'s arm could not have been caused from falling over the scooter. In Ms. B.'s discussions with D.B.'s school counselor, she attributed the arm injuries to the toy castle. Ms. B. could not account for D.B.'s other injuries. She denied knowing about the popped blood vessel in his eye, but she stated that perhaps it was from him crying after he fell.

After his May 2014 injuries, D.B. began acting out at school. D.B. began displaying self-injury by "hitting his head on his desk, hitting his head with his fists, [and] kicking furniture." He also punched himself in the stomach "over and over again," threw things, played with scissors and pencils, and kicked and hit other students. D.B. stated that he heard voices in his head telling him to injure himself and others.

Ms. B. attributed D.B.'s behavior to being bullied at school. The school counselor, Steven Capecci, investigated the bullying claim, but he determined that there was no bullying. The counselor advised Ms. B. to seek mental health treatment for D.B. Ms. B.

took D.B. for diagnosis and evaluation on June 17, 2014. Dr. Malika Closson and social worker Leangelin Darby did intake assessments, with Ms. B. providing most of the information. Ms. B. reported moving to a new school in February as a stressor for D.B. Dr. Closson recommended that D.B. receive both individual and family therapy.

D.B. met with Ryan Saxman, a licensed clinical social worker, for four forty-five minute therapy sessions. In addition to Ms. B., D.B's grandmother was present for the first session. Mr. Saxman testified that Ms. B. was in the room "[m]ost of the time" during D.B.'s sessions, and when he asked her to step out of the room to speak with D.B. alone, she "seemed fine with it." Mr. Saxman did not notice any change in D.B.'s behavior when Ms. B. stepped out of the room. Mr. Saxman stated that both D.B. and Ms. B. discussed bullying at school, and in his opinion, the bullying had an effect on D.B.'s behavior. He admitted that he had not talked to anyone from D.B.'s school regarding his behavior. Mr. Saxman stated that D.B. was "usually happy," but during D.B.'s last session, after he was placed in foster care, "he seemed sad." D.B. told Mr. Saxman that he "missed his mother." D.B. "made no indication that he was being abused," nor did he disclose anything to Mr. Saxman that was necessary to report to social services.

Mr. Saxman did not recall Ms. B. telling him about BCDSS involvement with D.B. other than with regard to his 2012 burns. He agreed that if he had known about the May 2014 bruising, which resulted in an investigation, and if he had been made aware of the conflicting accounts of D.B.'s injuries, he would have been concerned. Additionally, Mr. Saxman would have been concerned if he was aware that D.B. had been absent from

school for five days at the same time as his May 2014 injuries, and that D.B. reported hearing voices shortly after that time.

In September 2014, Ms. Shea closed her investigation of D.B.'s May 2014 injuries. Ms. Shea was concerned because the burn injuries and the May 2014 injuries "showed a pattern that there's a child getting significant injuries without a plausible or consistent explanation." She stated that, in her opinion, the injuries "were highly indicative of abuse," and it was "impossible to safety plan with [D.B.] or with the family because [her] assessment was that [she] was not getting the full story or truthful information from them." Ms. Shea was "very hesitant" to close the case, and was "very concerned about [D.B.'s] well-being, safety and risk within the family." In closing the case, Ms. Shea rated D.B. as "very high for likely possibility that there could be future maltreatment."

October 2014 Black Eye

On October 7, 2014, several months after closing the May 2014 case, Ms. Shea received a report that D.B. had missed several days of school, and when he returned, he had a black eye. On October 8, 2014, when Ms. Shea questioned D.B. about his absences, he stated that he had been home because his stomach hurt. He told her that he had seen a doctor but had not mentioned the stomach ache. When Ms. Shea asked about his injury, D.B. looked her in the eyes and said: "My sister splashed water on the floor, I slipped on it, and then I hit my head on the tub." When Ms. Shea asked other questions about his injury, D.B. would look around the room, act distracted, and give either conflicting information or non-responsive answers. He did not provide any consistent details about what happened before or after he allegedly slipped. D.B. initially told Ms. Shea that Mr. B.

was home when the incident occurred, but Mr. B. denied this. D.B. later contradicted himself and said that Mr. B. was not home.

When Ms. B. later questioned D.B., in Ms. B.'s presence, about his absence from school, he said that he had a stomach virus. Ms. B. corrected D.B. and stated instead that he had a "real bad cough and was coughing badly," and that she took him to the doctor. D.B. did have a doctor's appointment on October 6, 2014, but the visit was not a sick-visit, it was a scheduled well-child check, and the appointment had been made on September 10, 2014. Although D.B. did have a cough, his lungs, ear, nose, and throat were all clear.

Ms. Shea was concerned about D.B.'s inability to provide details about the injury to his eye because he was "very easily" able to answer questions, or to engage with her, with respect to other topics, but when asked to describe his injuries, he resisted. Ms. Shea stated that D.B. is "very friendly and engaging" when discussing "any topic other than his family or about discipline in his home. Then his entire demeanor changes, withdrawn, distractible." She stated that D.B.'s behavior was indicative of a child who is trying to protect his parents, who has been coached, had fear of disclosing information, and had been abused.

At D.B.'s October 6, 2014, check-up, the doctor questioned D.B. about his black eye. D.B. again stated that he hit his eye on the bathtub. L.B., however, laughed at the statement and said: "Mommy hit him."

Leslie Foster, the clinic social worker, testified that, during D.B.'s October 6 appointment, the doctor brought it to her attention that D.B. had a bruise and needed an assessment due to his history. Ms. Foster observed a "very small healing bruise on the side

of his face." She asked Ms. B. to speak with D.B. in private, and Ms. B. did not express any concern. When Ms. Foster asked Ms. B. what happened, Ms. B. seemed "very relaxed, she didn't appear to be defensive, she was very comfortable in talking . . . about it and it really did appear like it was no big deal." Ms. Foster concluded that there was not any concern warranting a referral to child protective services.

Ms. Foster later spoke to Ms. Shea, who explained the past history of abuse allegations and the previous investigations. Ms. Foster responded that, if the allegations were true, she "had been made a fool of," and Ms. B. "had put on a good show." Ms. Foster, who has a bachelor's degree in social work, had no training in how to conduct a forensic interview of a child.

When Mr. Capecci questioned D.B. about why he had missed so many days of school, D.B. initially responded: "I don't know." He later stated that he had a cough, and later, that his stomach was feeling bad. When the counselor asked him about his eye, D.B. exhibited a "noticeable shift in voice tone . . . [and] body language." D.B. then looked Mr. Capecci "right in the eye whereas before he had been looking all over the place," and he stated that his sister left water on the floor and he hit his head on the bathtub. Mr. Capecci then took D.B. to the school nurse, where D.B. "told the same story about the sickness. Then there was a noticeable shift when he said what happened to his eye. The shift was looking straight in the eye and his voice tone, his voice fluency, speed, everything was almost like he had it memorized," which surprised the counselor.

BCDSS placed both children in shelter care on October 10, 2014. In Ms. Shea's expert opinion, it was impossible to keep the children safe in Mr. and Ms. B.'s home. When

Ms. Shea removed L.B. from the home, L.B. said spontaneously: "Mommy hit me in the head." L.B. also told Ms. Shea: "When kids be bad they go in cages." When Ms. Shea removed D.B. from school, his first question was: "Are they going to feed me?" When Ms. Shea assured him that they would be fed, D.B. asked whether it would be only "bread and water," and he asked: "Are they going to beat me here?" Ms. Shea assured him that he would have food and no one would beat him. On October 14, 2014, the juvenile court approved the children's continued placement in shelter care.

December 2014 Adjudicatory Ruling

Neither Mr. B. nor Ms. B. testified at the adjudicatory hearing. On December 11, 2014, the court sustained the majority of allegations in BCDSS's petition. It did not, however, accept the following statements: (1) "While hospitalized, D.B. made the statement 'daddy burned me' (he identified Mr. B.[,] his step-father, as daddy) and indicated to the social worker that he was afraid of Mr. B."; (2) "while D.B. was in the hospital recovering from the burns, he made the statement 'snitches get stitches' and relatives were heard coaching him about his story." The court stated that it had allowed these statements only to the extent they served as a factual basis for Ms. Shea's opinion that D.B. appeared to be coached in his responses. The court further deleted most references to Ms. Foster's statements.[8] The court concluded that Ms. B. and Mr. B. were unable to provide proper care and attention to D.B. because they were physically abusing

[8] Mr. B. asserts that the court's finding that Ms. Foster's statement that D.B. was unable to stray from his initial story and that his comments appeared "scripted" was erroneous. The court did not make that finding, however, instead deleting the reference to Ms. Foster as to the statements.

him, and D.B. and L.B. were at substantial risk of harm under their care. The court found that it was contrary to the children's welfare to be in the family home.

D.B.'s Subsequent Therapy

In January 2015, D.B. began twice-weekly individual therapy sessions with Larin Kunschman. Ms. Kunschman holds a master's degree in social work and is a Licensed Clinical Social Worker certified to provide trauma-focused cognitive behavioral therapy.

Ms. Kunschman diagnosed D.B. with post-traumatic stress disorder, believing that he suffered physical abuse. D.B. revealed to Ms. Kunschman that he had been physically abused by Mr. B. His score on a trauma assessment was extremely elevated, which means that he internalizes his trauma, impeding his ability to trust. During every session, D.B. asked Ms. Kunschman to remind him what confidentiality is, and who will know what he says in therapy. Ms. Kunschman explained that this is unusual behavior for a child his age. D.B. also had dreams that he is being physically hurt. Ms. Kunschman explained that children who internalize are "more guarded" and more "protective." She stated that D.B. is protective of his mother, he would like to please her, and he is concerned about maintaining his mother's love. This is significant because it means that D.B. feels that he has to behave a certain way for his mother to love him.

Although D.B. is bright and articulate, he regresses several steps in between therapy sessions, and Ms. Kunschman has to reestablish trust. Ms. Kunschman explained that, because D.B. cannot easily express his inner feelings and internalizes his trauma, it is easy for his trauma to go unnoticed.

Ms. Kunschman recommended suspending D.B.'s visits and telephone calls with Mr. and Ms. B., which Ms. Kunschman believed impeded his therapeutic progress. She stated that, although a typical trauma-focused therapy protocol lasts 22 weeks, she believed that D.B. would need additional therapy. D.B. "voiced his feelings of being uncomfortable interacting" with Mr. B. and Ms. B., and that the telephone calls were distressing. Ms. Kunschman supported letter-writing. She also recommended that Mr. B. and Ms. B. undergo individual therapy, and she suggested that they might be introduced into D.B.'s therapeutic process in the future, after a support system is in place. Ms. Kunschman concluded that it would be traumatic to remove D.B. from an environment where he feels safe. It would further increase his trauma if he were separated from L.B.

L.B.

Ms. Shea stated that she had the same concerns about L.B.'s safety as she did about D.B. Although there were no documented injuries or investigations involving L.B., she was not in school or another public facility where injuries would have to be reported. Based on the seriousness of D.B.'s injuries, she had heightened concerns for L.B. because of her young age and inability to self-protect. Moreover, L.B. had disclosed to her foster mother that she had been abused. Although L.B.'s visits with Mr. B. and Ms. B. had gone well, she exhibited an "inappropriate affect, often giggling and being excited to tell her parents that D.B. has misbehaved," so that he will be beaten.

Consideration of Potential Relative Placements

Mr. and Ms. B. suggested a number of relative resources, but none of them were deemed appropriate resources. L.B.'s paternal grandparents were not appropriate as a

resource because L.B.'s paternal grandmother is out of the home for work from 5:30 a.m. to 7:00 p.m. during the week, and neither she nor her husband believed that D.B. was abused. In addition, they did not provide Ms. Shea with a consistent response about who lives in the home.

Moreover, Ms. B.'s mother, Gertrude V., and Ms. B.'s two aunts, Grace D. and Thelma K., were not appropriate as placement resources. Ms. V. and Ms. K. lived in a one bedroom home, and none of the relatives believed that the children had been abused. None of the relatives had any training in therapeutic care.

April 2015 Dispositional Ruling

Neither Mr. B. nor Ms. B. testified at the dispositional hearing. On April 21, 2015, after considering the testimony and evidence from both the adjudication and disposition hearings, the court found both children to be CINA. It found "that return to the parents at this time would be contrary to their welfare" and continued commitment of the children to BCDSS. The court concluded that the proposed relatives were inappropriate resources. Although the court permitted Mr. B. and Ms. B. to have supervised visitation with L.B., it restricted visitation with D.B. to written correspondence pending further order of the court.

STANDARD OF REVIEW

In reviewing the decision of a juvenile court, we apply three different levels of review:

> "When the appellate court scrutinizes factual findings, the clearly erroneous standard . . . applies. [Secondly,] if it appears that the [juvenile court] erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless. Finally, when the appellate court views the ultimate conclusion of the [juvenile court] founded upon sound legal principles and based upon factual findings that are not

> clearly erroneous, the [juvenile court's] decision should be disturbed only if there has been a clear abuse of discretion."

In re Shirley B., 419 Md. 1, 18 (2011) (quoting *In re Yve S.*, 373 Md. 551, 586 (2003)). In reviewing the juvenile court's ultimate decision, we are mindful that

> [q]uestions within the discretion of the trial court are much better decided by the trial judges than by appellate courts, and the decisions of such judges should only be disturbed where it is apparent that some serious error or abuse of discretion or autocratic action has occurred. In sum, to be reversed the decision under consideration has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.

In re Yve S., 373 Md. at 583-84 (citations and quotations omitted).

DISCUSSION

I.

The Children's Statements

Mr. B. and Ms. B. contend that the court abused its discretion in allowing Ms. Shea to testify regarding statements D.B. and L.B. made to various individuals. They assert that the statements were inadmissible hearsay, and the State was required to, but did not, follow the requirements of Md. Code (2014 Supp.) § 11-304 of the Criminal Procedure Article ("CP").

BCDSS and the children contend that the court properly admitted the statements. They argue that they were not admitted for the truth of the matter asserted, but for the limited purpose of forming part of the basis of Ms. Shea's expert opinion. Accordingly, they assert, the statements were not hearsay and CP § 11-304 was not implicated.

A.

Proceedings Below

Ms. Shea, an expert in social work, particularly child protective services and forensic investigation, testified regarding her review of D.B.'s Mt. Washington hospital records. During that review, she saw documentation from Mt. Washington nurses regarding "concerning statements" made by D.B. while he was a patient. Ms. Shea explained that reviewing nursing notes was important to her evaluation to fully assess the family and the situation. The nursing notes were marked for identification as "DSS Exhibit 2," but they were not admitted into evidence.

The first note Ms. Shea testified to, dated July 27, 2012, indicated that, while a nurse was with D.B., he was scratching his legs and appeared anxious. When the nurse attempted to apply lotion to his legs, D.B. asked if he was in trouble and then he started to cry. The nurse explained that no one was going to hurt him, but she did not want him to scratch himself so he could heal. The nurse asked D.B. why he was afraid, and D.B. responded that, if he is in trouble at home, he gets a beating. Counsel for Mr. B. objected, stating that the nurse should testify to the contents of the note, and to be available for cross-examination. Counsel for BCDSS responded that experts can rely on hearsay in formulating their opinions. The court ruled as follows:

> I believe that the testimony [as to the nursing notes] is admissible for a number of reasons. Although it wouldn't be admissible as substantive evidence as it relates to the basis for an ultimate opinion Ms. Shea is expected to give, it is part of the medical records, and I believe it would come in as part of a business record.

> I asked a series of questions about or relating to the trustworthiness issue. I'm satisfied that there's not a genuine issue as to trustworthiness of the records. In addition to allowing the testimony because I believe it's on the basis for an ultimate opinion to be expressed by the witness, I'm also allowing it because as part of a business or hospital record, the statements could also be viewed as pathologically germane to treatment.
>
> There's a case . . . which talks about ascertaining the identity of the abuser also being important in that particular case because effective treatment might have required . . . removal from the home. That case involves a CINA proceeding as well. So . . . I'm gonna allow the testimony. I think on several basis [sic] the testimony is admissible.

Following the court's ruling, Ms. Shea testified to the remaining nursing notes. A July 3, 2012, note indicated that D.B. called for a nurse so that he could use the urinal. When the nurse arrived, D.B. began to cry. When the nurse asked what was wrong, D.B. stated: "My daddy burned me." A July 6, 2012 note indicated that, after a dressing change, D.B. stated: "My mommy beats me." When asked to repeat his statement to another nurse, D.B. did so. The statement was reported to Sara Riker, a social worker. An August 6, 2012, nursing note indicated that D.B. said to a nurse, "snitches get stitches." When asked who told him that, D.B. responded that Mr. B. had. An August 7, 2012, nursing note indicated that a nurse approached D.B.'s room, where he was behind a drawn curtain with Ms. B., L.B., Ms. B.'s mother, and an aunt. As the nurse approached, she heard Ms. B. ask D.B. what he said when asked how he was burned. D.B.'s aunt stated: "Hold up, someone's coming in the room." D.B. responded that the "water was too warm." An August 7, 2012, email from Ms. Riker to another social worker indicated that, after a security offer removed a toy gun from D.B., D.B. became very upset and expressed that he was going to get a beating from either the security guard or from his mother. He then stated

that his mother was going to be angry at the security guard. D.B. showed visible signs of frustration and punched himself in the head.

Ms. Shea later testified to a statement made by L.B. during the October 2014 well-child doctor's appointment for D.B. A pediatric social worker at the University of Maryland Pediatric Center reported to Ms. Shea that, during the appointment, a doctor met with D.B. and noticed a black eye. When the doctor asked what happened, D.B. responded with a "[v]ery recited scripted story," that he and L.B. were taking a bath, and after L.B. got water on the floor, he slipped and hit his head on the tub. Ms. B. responded that D.B. was "so accident prone," and L.B. stated: "[N]o, Mommy hit him" and laughed. The doctor went to get the pediatric social worker, who met with D.B. D.B. repeated the same scripted story about his eye, but he was unable to report events or information from before or after the incident. No objection was lodged to this line of questioning.

On December 3, 2014, counsel for Mr. B. moved for Ms. Shea's testimony to be stricken. Counsel argued that the statements by D.B. and L.B. that were testified to previously by Ms. Shea were hearsay, and they should not have been admitted in the absence of compliance with CP § 11-304. After hearing arguments, the court noted that CP § 11-304 "does carve out the procedures to be followed in the context of certain cases . . . in particular CINA cases," and there "are some differences in terms of the procedure to be followed." It then ruled:

> All of that would be relevant but for the fact that I understood the testimony of Ms. Shea to be an expert, and I understood her testimony to be that she had reviewed all of these records, which contained certain statements attributable to the children and attributable to others. She reviewed those

> records where they were hospital records, medical records, business records of [BCDSS], and those records form the basis of her expert opinion.
>
> I also understood that at the time these particular incidences had been reported, the earlier ones, that there was no finding of abuse, and that's what this witness, Ms. Shea, was doing was going back and reviewing all the records and formulating an opinion based not only on one record here or one record months later, but looking at the entirety, and based on her training, knowledge and experiences form an opinion.
>
> Now, whether there are issues with respect to the way she formulated her opinion or the basis of it, that's a different matter, and that's not a matter for the [c]ourt to address in striking the testimony, those are legitimate areas of cross-examination and ultimately argument. I don't find that [CP § 11-304] is relevant in light of the testimony that I received and the basis for which those statements were offered. They were offered in the context, again, of showing a factual basis of the expert's opinion.

Subsequently, in its ruling following the December 11, 2014 adjudicatory hearing, the court stated the following regarding D.B.'s alleged statements:

> [T]he next sentence of paragraph three . . . says, "While hospitalized the Respondent made the statement, Daddy burned me." He identifies Mr. [B.], his stepfather, as daddy and indicated to the social worker that he was afraid of Mr. [B.].
>
> I'm not gonna find that the facts are sustained or proven with respect to him having made the statement, "Daddy burned me." I know there was testimony which form[ed] the factual basis for Ms. Shea's opinion which would have included information she gleaned from the records regarding the burn, but I'm not going to find that as a fact sustained.
>
> ***
>
> So I do find, with the exception of the remark I made earlier about statements attributed to D.B. saying, "Daddy burned me," that the facts have been proven by a preponderance of evidence with respect to paragraph three.
>
> Paragraph four alleges that, "[t]he Respondent presents as coached. For example, while the Respondent was in the hospital recovering from the burns, he made the statement snitches get stitches." Again, I know that Ms. Shea testified that she had reviewed the records and this is part of what

> supported her opinion, but I am not going to make a finding on that particular statement that was attributed. I do understand that that was part of the factual basis for her expressing an opinion that he was coached.

B.

Admissibility of the Children's Statements

With this background in mind, we address whether the circuit court properly admitted the children's statements. As the Court of Appeals has explained:

> "[I]t has been the practice in this jurisdiction for some years to permit an expert to express his [or her] opinion upon facts in the evidence which he [or she] has heard or read, upon the assumption that these facts are true." *Quimby v. Greenhawk*, 166 Md. 335, 338, (1934). Maryland Rule 5-703(a) codifies this, permitting an expert to base his or her opinion on "first-hand knowledge, hearsay, or a combination of the two." 6 Lynn McLain, *Maryland Practice: Maryland Evidence State and Federal* § 703:1(a) (2d.2001). And, if evidence constitutes inadmissible hearsay, it cannot be admitted as substantive evidence, Maryland Rule 5-703(b) permits a trial judge, in his or her discretion, to admit evidence as the factual basis for the expert's opinion if the evidence is unprivileged, trustworthy, reasonably relied upon by the expert, and necessary to "illuminate" the expert's testimony.

Cooper v. State, 434 Md. 209, 230 (2013), *cert. denied*, 134 S. Ct. 2723 (2014). *Accord In re Joseph G.*, 94 Md. App. 343, 348 (1993) ("If the facts on which the expert bases his or her opinion are inadmissible as substantive proof, they may still be used to provide the required factual basis for the opinion.").

Here, D.B.'s statements in the Mt. Washington nursing notes were not included in any allegations that the court sustained. Rather, the court made clear that it admitted the statements only to the extent that they formed the basis for Ms. Shea's expert opinion, not as substantive evidence. Because the statements were not admitted to prove the truth of

the matter asserted, they were not inadmissible hearsay or subject to the requirements of CP § 11-304(d)(2).[9]

With respect to L.B.'s statement that "Mommy hit" D.B., the record reflects that no objection was raised to Ms. Shea's testimony regarding the nursing note evidencing this statement. Under these circumstances, any objection is not preserved for this Court's review. *See Wimbish v. State*, 201 Md. App. 239, 260 (2011) ("It is well established that a party opposing the admission of evidence shall object at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent. Otherwise, the objection is waived.") (internal quotation marks omitted) (quoting *Ware v. State*, 170 Md. App. 1, 19-20 (2006)), *cert. denied*, 424 Md. 293 (2012).

II.

Abuse of D.B.

Mr. B. and Ms. B. next argue that the evidence did not support a finding of CINA, asserting that the evidence was insufficient to show by a preponderance of evidence that D.B.'s injuries were more likely than not caused by physical abuse. BCDSS disagrees. It contends that the court was not clearly erroneous in concluding that Mr. and Ms. B. physically abused D.B. It asserts that the court properly evaluated the unchallenged testimony of the expert witnesses, reviewed the photographs depicting unexplained

[9] Md. Code (2014 Supp.) § 11-304 of the Criminal Procedure Article ("CP") permits the court to admit statements made by a child under 12 in certain circumstances. By its terms, the conditions for admissibility under this statute apply only to "an out of court statement" offered to "prove the truth of the matter asserted." CP § 11-304(d).

injuries, considered the lack of adequate explanations of the parents, and determined that D.B. had been abused.

A.

Court's Findings

In its ruling, the circuit court found that the children were CINA, and it was not in their best interest to return to their parents at the time. The court explained:

> [T]he parents have had a pattern of hiding [D.B.'s] injuries. He would be injured and then he'd be kept out of school for a period of time. They have also given inconsistent explanations about the cause of [D.B.'s] injuries.
>
> I also note there was a comment made by counsel about the alternative explanation offered about [D.B.'s] behavior when he was acting out in school. He said he was hearing voices. . . . The alternative explanation given was that he was being bullied, but . . . [the school found] that . . . [D.B.] was not being bullied. So, those are concerns that the [c]ourt has in considerations the [c]ourt has made in reaching the findings and conclusions.
>
> Now, with respect to [L.B.], Ms. Kunschman opined that separation from [L.B.] will compound [D.B.'s] trauma as he believes it is his role to protect his sister.
>
> Is that the only consideration for the [c]ourt in deciding whether both children should remain in foster care? No, it's not, but it's a factor. The [c]ourt does have to consider the fact that it is normally in siblings' best interest to remain together. I do take that into account.
>
> I also take into account that L.B. is only three years old, and she does not have the ability to self-protect or self-advocate. I also take into account and find that she is at substantial risk of harm because of what has happened to [D.B.] on repeated occasions and because, again, she doesn't have the ability to advocate and protect herself.

B.

CINA Finding

As indicated, the determination that a child is a CINA requires that the court find that the child either has a mental disorder or developmental disability or that the child has been abused or neglected, and the parents are unable or unwilling to give the child the ordinary and proper care and attention. CJP § 3-801(f). In the adjudicatory phase of the proceedings, the court must determine whether the Department has proven by a preponderance of the evidence the facts set forth in the CINA petition. CJP § 3-817. In the disposition phase, the court determines whether the child is a CINA. CJP § 3-819. Mr. and Ms. B. challenge the court's determination that they abused D.B.

A juvenile court's factual findings are reviewed under the clearly erroneous standard. *In re Ryan W.*, 434 Md. 577, 593 (2013). Accordingly, these factual findings will not be disturbed "'[i]f any competent material evidence exists in support of the trial court's factual findings.'" *Id.* at 593-94 (quoting *Figgins v. Cochrane*, 403 Md. 392, 409 (2008)).

Here, all of D.B.'s injuries occurred while he was in the care of Mr. B. and Ms. B., and their explanations for his injuries were inconsistent and illogical. With respect to D.B.'s burns, Ms. B. claimed first that she was not home, then later that she was home. As BCDSS notes, a "mother would not likely forget what she was doing the day her child received an injury resulting in four months of hospitalization." Mr. B. claimed that, despite knowing that D.B. was not to get his stomach wet, he thought nothing of D.B. splashing in the water in the bathroom. And it is a stretch to believe that D.B. would put both legs, his

buttocks, and the tip of his penis into six to eight inches of scalding water, while wearing pajamas. And despite the severe, blistering burns, he was not immediately taken to the hospital.

With respect to the October 2012 black eye and wrist abrasion, which occurred shortly after D.B. was released from care for his burns, D.B. stated first that he received the injuries when a bat flew into the house, and then that he was injured by a toy bat. Neither Mr. nor Ms. B. provided an explanation for the injuries.

With respect to the May 2014 injuries, D.B. was kept out of school for several days, was not taken to a doctor, and had multiple visible injuries. No consistent or reasonable explanation was given for the injuries, and in Ms. Shea's expert opinion, the injuries on his arm were consistent with being hit by a belt. Mr. B. and Ms. B. provided no explanation for not seeking medical attention.

With respect to the October 2014 injuries, D.B. again missed four days of school and returned on the fifth day with a black eye. Ms. B. did not seek medical attention for the injury, and was not even certain when the injury had occurred. D.B.'s explanation appeared to be scripted.

Based on this evidence, as well as the unchallenged expert testimony of Ms. Shea and Ms. Kunschman, the photographs depicting D.B.'s multiple injuries, and the lack of reasonable explanations by the B.'s for D.B.'s injuries, the circuit court was not clearly erroneous in concluding that D.B. was abused, and that Mr. and Ms. B. could not properly care for him or L.B.

III.

Ms. B.'s Visitation with D.B.

Ms. B. contends that the circuit court abused its discretion by denying all visitation with D.B. based "solely on the recommendation of Ms. Kunschman." She asserts that there were no allegations of physical abuse sustained against her, and if "the CINA system is to work as it was meant to, some level of contact should be maintained at this early stage of the case."

BCDSS contends that the circuit court properly exercised its discretion in suspending face-to-face visitation and telephone contact with D.B. It asserts that the court properly found that visitation, including telephone contact, would not be in D.B.'s best interest, and in fact, would be detrimental to him.

In cases, such as this one, "where abuse or neglect is evidenced, particularly in a CINA case, the court's role [in considering visitation] is necessarily . . . proactive." *In re Yve S.*, 373 Md. at 570. Indeed, pursuant to Maryland Code (2014 Supp.) § 9-101 of the Family Law Article ("FL"), "'in cases where evidence of abuse exists, courts are required by statute to *deny* custody or unsupervised visitation *unless* the court makes a specific finding that there is no likelihood of further child abuse or neglect.'" *Id.* at 571 (quoting *In re Mark M.,* 365 Md. 687, 706 (2001)). "'[C]ourts have a higher degree of responsibility where abuse has been proven.'" *Id.* (quoting *In re Mark M.*, 365 Md. at 706).

Here, the testimony and evidence indicated that D.B.'s continued visitation and telephone contact with Ms. B. were detrimental to his emotional and psychological well-being. His treating therapist, Ms. Kunschman, recommended that in-person and telephone

visitation with Ms. B. cease because of D.B.'s need to process his extensive trauma. Based on the evidence, the court properly exercised its discretion in adopting the recommendation denying visitation at that time, as it would be detrimental to D.B.'s mental health, and contrary to his best interests. The court concluded that only written communication would be permitted until the parents were evaluated and any treatment that was indicated took place, at which time there would be "reintroduction through therapy between the parents and [D.B.]" We perceive no abuse of discretion in this ruling.

IV.

Children's Placement in Foster Care

Mr. B. asserts that the court erred in refusing to place D.B. and L.B. with relatives, instead of in foster care, "in contravention" to the CINA statutory scheme's preference for relative placement. BCDSS contends that "the juvenile court appropriately exercised its discretion in determining that the children's best interests dictated remaining in a treatment foster home instead of being placed with relatives." It asserts that Mr. B. ignores the paramount consideration of the children's best interest, and the circuit court here properly determined, after assessing the proposed resources, that the children's best interests were served by placement in foster care.

As Mr. B. points out, familial relationships are important considerations when removing a child from his parent. *See* CJP § 3-819(b)(3) ("[T]he court shall give priority to the child's relatives over nonrelatives when committing the child to the custody of an individual other than a parent."); CJP § 3-823(e) (after reunification with the parent, placement with a relative is the preferred option); and FL § 5-525(e)(2) (listing permanence

plans in descending order of priority, with relative placement after reunification with parent). The "transcendent standard," however, is the child's best interest. *See In re Adoption/Guardianship of Ta'Niya C.*, 417 Md. 90, 112 (2010).

A determination of the child's best interest rests "within the sound discretion of the chancellor to award custody . . . according to the exigencies of each case, and as our decisions indicate, a reviewing court may interfere with such a determination only on a clear showing of abuse of that discretion." *Yve S.*, 373 Md. at 585-86. "'[O]ne of the more helpful pronouncements on the contours of the abuse of discretion standard comes from Judge [W]ilner's opinion in *North v. North*, 102 Md. App. 1 (1994).'" *Nash v. State*, 439 Md. 53, 67 (quoting *King v. State*, 407 Md. 682, 697 (2009)), *cert. denied*, 135 S. Ct. 284 (2014). Judge Wilner explained:

> "'Abuse of discretion' . . . has been said to occur 'where no reasonable person would take the view adopted by the [trial] court,' or when the court acts 'without reference to any guiding rules or principles.' It has also been said to exist when the ruling under consideration 'appears to have been made on untenable grounds,' when the ruling is 'clearly against the logic and effect of facts and inferences before the court,' when the ruling is 'clearly untenable, unfairly depriving a litigant of a substantial right and denying a just result,' when the ruling is 'violative of fact and logic,' or when it constitutes an 'untenable judicial act that defies reason and works an injustice.'"

Nash, 439 Md. at 67 (quoting *North*, 102 Md. App. at 13-14).

Here, the circuit court explicitly considered the "issue of relative placement." It noted that Mr. B. and Ms. B. had offered several potential relative placements for the children and made the following findings with respect to each:

> First with respect to paternal grandparents . . . I note that Ms. [B.] and [Mr. B.], parents in this case, continue to reside with the paternal

grandparents, although the [c]ourt was told they'll move if placement is made with the paternal grandparents. However, two of the four incidents in this case where [D.B.] was injured occurred in the home of paternal grandparents. They don't believe physical abuse occurred.

Although [the paternal grandfather] is a retired social worker, there's nothing to indicate that he has any special training to serve as a therapeutic foster parent, and that's what these children need. That's what they have in place now. Therefore, he is not a in a position to deal with the behaviors and disclosures that the children have made and potentially will make in light of the evidence in this case. I will also note that [the paternal grandmother] . . . leaves home at 5:15 a.m. and doesn't arrive back home until some time around 7:00 p.m.

[The paternal grandfather[] is a long-term substitute teacher. They never noticed any problems that would suggest abuse. Although [the paternal grandmother] did acknowledge that [D.B.] had a flat affect, and he mentioned hearing voices. So she did notice those things, she acknowledged that, but yet and still the grandparents, neither one of them seem to believe that any abuse occurred. . . .

Grace [D.] testified . . . . She's only interacted with the children . . . on occasion, and she works as a professional driver from 7:00 a.m. to 9:00 a.m. then from 2:25 p.m. to 5:15 p.m. I don't find that she is s person who would be a candidate for placement.

Thelma [K.] is the maternal aunt and a home study was done by DSS. She lives in a one bedroom apartment. I don't know where the children would reside. She works . . . from 11:00 a.m. to 7:00 p.m. How would the children be monitored? How would they be supervised while she was at work[?]

Gertrude V. is maternal grandmother. She also lives in a one bedroom apartment. She has provided kinship care for a child when another relative was struggling with drug abuse. She works as a custodian from 7:30 a.m. until 4:00 p.m.

None of these individuals who have been put forth by the parents has any therapeutic foster care training, none believe that [D.B.] was abused, and [D.B.] has made spontaneous disclosures of abuse to his foster mother. This is a concern for anyone who would have custody.

> So, in making those findings and taking everything in consideration, I am going to continue commitment of the children to [BCDSS] with limited guardianship, and the children will remain with their foster therapeutic care worker. They will continue with their respective therapies.

The court carefully considered each of the proposed relatives. It determined, however, in its discretion, that the children's best interests would be best served by continuing their placement in foster care, as opposed to placing them with relatives who had inadequate housing or incompatible work schedules, who did not believe that D.B. had suffered abuse, and had no training to deal with his trauma. The court did not abuse its discretion in making this determination.

JUDGMENT AFFIRMED. COSTS TO BE PAID BY APPELLANTS.