

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

Nos. 1994 and 2406

September Term, 2015

No. 0307

September Term, 2016

IN RE: ADOPTION/GUARDIANSHIP
OF L.F.

Eyler, Deborah S.,
Berger,
Nazarian,

JJ.

Opinion by Berger, J.

Filed: November 2, 2016

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

In this case, Ronald F., appellant (“Father”), has appealed three separate orders from the Circuit Court for Baltimore City, sitting as a juvenile court. The Baltimore City Department of Social Services (“the Department”) has moved to dismiss this consolidated appeal as moot. The respondent minor child, L.F., joined the Department’s motion. As we shall explain, we agree that the issues raised in the present appeal are moot, and accordingly, we shall grant the Department’s motion to dismiss.

FACTS AND PROCEEDINGS

On April 23, 2015, Father conditionally consented to a termination of his parental rights to his daughter, L.F., provided that L.F. be adopted by her paternal aunt. The three appeals are from orders of the juvenile court issued subsequent to Father’s conditional consent. The first appeal, Case No. 1994, September Term 2015, is from a November 12, 2015, order of the juvenile court ruling that Father lacked standing to raise certain arguments challenging L.F.’s placement in a foster home during guardianship proceedings. The second appeal, Case No. 2406, September Term 2015, challenges the juvenile court’s ruling revoking the paternal aunt’s limited guardianship. Again, the juvenile court ruled that Father lacked standing and that, as a non-party, Father was not permitted to file exceptions to a magistrate’s order. Case No. 2406 also presents issues related to the juvenile court’s denial of Father’s motion to intervene. The third appeal, Case No. 307, September Term 2016, is from an order of the juvenile court determining that the condition of Father’s consent to the termination of parental rights had failed.

Following the juvenile court's order which gave rise to the appeal in Case No. 307, the juvenile court reopened L.F.'s CINA case. The case proceeded to a contested termination of parental rights ("TPR") hearing, which occurred over seven days in June, August, and September of 2016. Father testified at the August 19 hearing and the juvenile court conducted a two-day hearing on a motion to intervene filed by the paternal aunt. Following the TPR hearing, the juvenile court terminated Father's parental rights to L.F.

MOTION TO DISMISS

The Department and L.F. argue that Father's appeals are moot because there is no longer an existing controversy between the parties. In fact, Father conceded as much in his brief at page 17 in footnote 13, in which Father indicated as follows:

A CINA hearing is scheduled in this matter for June 13, 2016. If Mr. F. is given an opportunity to present evidence and call/cross-examine witnesses as this hearing all four issues raised in this appeal are moot.

In footnote 17 of Father's brief, on page 32, Father indicated that he would dismiss the appeals if he was granted to opportunity to call and cross-examine witnesses at the June 13, 2016 hearing. The relief sought in the three appeals was the opportunity to present and argue motions pertaining to L.F. before the juvenile court. Father received this opportunity in the multi-day TPR trial.¹ As such, there is no longer any relief this court could order.

¹ Father argues that he was not permitted to present and cross-examine witnesses because the second TPR hearing was held prior to a CINA merits hearing, over Father's objection. The second TPR case is pending on appeal before this Court. Case No. 1024, Sept. Term 2016.

A case is moot when there is no longer an existing controversy when the case comes before the Court or when there is no longer an effective remedy the Court could grant. *Suter v. Stuckey*, 402 Md. 211, 219 (2007). Only in rare instances will the reviewing court address the merits of a moot case. The Court of Appeals has articulated those instances as follows:

Under certain circumstances, however, this Court has found it appropriate to address the merits of a moot case. *Human Resources, v. Roth*, 398 Md. 137, 143, 919 A.2d 1217, 1221 (2007). If a case implicates a matter of important public policy and is likely to recur but evade review, this court may consider the merits of a moot case. *Coburn v. Coburn*, 342 Md. 244, 250, 674 A.2d 951, 954 (1996) (“This Court in rare instances, however, may address the merits of a moot case if we are convinced that the case presents unresolved issues in matters of important public concern that, if decided, will establish a rule for future conduct.”); *Lloyd v. Supervisors of Elections*, 206 Md. 36, 43, 111 A.2d 379, 382 (1954) (“[I]f the public interest clearly will be hurt if the question is not immediately decided, if the matter involved is likely to recur frequently, and its recurrence will involve a relationship between government and its citizens, or a duty of government, and upon any recurrence, the same difficulty which prevented the appeal at hand from being heard in time is likely again to prevent a decision, then the Court may find justification for deciding the issues raised by a question which has become moot, particularly if all these factors concur with sufficient weight.”).

Suter, 402 Md. at 220.

In this case, Father expressly indicated that he would dismiss his appeals if he were given the opportunity to testify. Father subsequently was presented with the opportunity to testify in the subsequent CINA and TPR proceedings. The juvenile court’s September 8, 2016, order terminated Father’s duties, obligations, and rights to L.F. As such, this Court now lacks the ability to fashion any remedy to address any alleged errors

by the juvenile court. Furthermore, in our view, this case does not present a circumstance in which we should exercise our discretion to review a moot issue. Accordingly, the Department's motion to dismiss is granted.

**MOTION TO DISMISS GRANTED. COSTS TO
BE PAID BY APPELLANT.**