Circuit Court for Washington County
Case Nos. 21-I-15-52327 & 21-I-15-52328

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

Nos. 696, 697

September Term, 2016

IN RE: S.B.

&

IN RE: C.T.

Nazarian,
Reed,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Reed, J.

Filed: January 12, 2017

This appeal involves the consolidated child in need of assistance ("CINA") cases of S.B. and C.T. The Circuit Court for Washington County, which sat as a juvenile court, found that the conduct of the children's mother, Ms. T., constituted neglect under Md. Code Ann., Cts. & Jud. Proc. ("CJP") § 3-801(s). At disposition, the juvenile court found that C.T. was a CINA and ordered his continued placement in foster care. With respect to S.B., however, the court found that his father, Mr. B., was willing and able to care for him. Therefore, the court terminated S.B.'s CINA proceedings and awarded custody of him to Mr. B.

Ms. T. timely appealed the disposition of each child's case. She presents two questions for our review, which, for clarity, we increase to three and rephrase:[1]

1. Did the juvenile court err where it found that Ms. T. neglected S.B. and C.T. by being unable to provide them with proper care and attention?

2. Did the juvenile court err where it terminated S.B.'s CINA proceedings and placed him in the custody of his father?

3. Did the juvenile court err where it found C.T. to be a CINA and ordered his continued placement in foster care?

[1] The appellant presents the following questions:

1. Did the court err by finding that the mother neglected her sons justifying a transfer of custody in S.B.'s case and a CINA finding in C.T.'s case?

2. Did the court err by refusing placing [sic] the children with their mother?

For the following reasons, we answer all of the above questions in the negative. Therefore, we shall affirm the judgments of the juvenile court.

FACTUAL AND PROCEDURAL BACKGROUND

The Washington County Department of Social Services (hereinafter the "Department") first received a report about Ms. T. on May 29, 2015. At that time, Ms. T. was living with a man named Mr. R. While the two had a romantic relationship, they shared a history of domestic violence. In fact, they had both been arrested in November of 2014 in connection with a physical altercation that occurred between them.

Ms. T.'s two sons, S.B. (DOB 2006) and C.T. (DOB 2009), were living with her and Mr. R. when the Department first became involved. The boys' fathers are Mr. B. and Mr. H., respectively. Mr. B. has been active in S.B.'s life since birth. Ms. T. testified that Mr. B. is "a good dad" and that she feels "safe with him having his child." Ms. T. often relied on Mr. B.'s father and stepmother (hereinafter S.B.'s "paternal grandparents") for assistance in caring for S.B. Ms. T. testified that they, too, provide good care to her son.

Mr. B. also has a younger son, Z., who has a different mother from S.B. Mr. B. was awarded custody of Z. by the Circuit Court for Frederick County following a contested hearing that was held in October of 2014.

Mr. H., on the other hand, lives in Texas and had gone several years without having any contact with C.T. Because he works two jobs, he relies on his parents to help care for his other three children of whom he has custody. As of the date of the Department's initial involvement, C.T. had not met any of his half-siblings in Texas, including the oldest, who

has autism spectrum disorder. Nevertheless, on April 12, 2016, the Department received notification from the State of Texas that Mr. H.'s home had undergone a study through the Interstate Compact on the Placement of Children ("ICPC")[2] and been approved for the placement of C.T.

On May 29, 2015, the day the Department first received a report of suspected abuse or neglect in this case, Child Protective Services investigator Carolyn Moss visited Ms. T.'s home. C.T. was present at the home when she arrived, but S.B. was not; therefore she visited S.B. at his school. After meeting both boys, Ms. Moss was able to rule out physical abuse. From that point forward, she focused her investigation on neglect.

Ms. Moss met with Ms. T. again on June 4, 2015. The night before this meeting, another domestic violence incident had occurred in the home. For this altercation, unlike the previous ones, C.T. was present. Ms. Moss advised Ms. T. to undergo domestic violence counseling, seek mental health treatment, and engage in an evaluation at the Hagerstown Treatment Center. Ms. T. refused three separate urinalysis requests.

On June 5, 2015, the day after her second meeting with Ms. Moss, Ms. T. voluntarily placed S.B. and C.T. with family members. She allowed S.B. to continue living with his paternal grandparents, in whose home he remained through the upcoming adjudicatory hearing. As for C.T., she initially placed him with her sister and mother. However, that placement failed in August of 2015, and he was subsequently moved into

[2] The Interstate Compact on the Placement of Children is codified at Md. Code Ann., Fam. Law § 5-601.

foster care. Ms. T. had initially asked S.B.'s paternal grandparents to care for both of her sons, but they declined.

On June 8, 2015, Mr. R. overdosed on sleeping pills in an attempt to commit suicide. Ms. T. discovered him lying on the ground, unresponsive. Instead of calling 911, Ms. T. telephoned Mr. R.'s uncle, who lived nearby. Mr. R.'s daughter eventually called paramedics to the scene. Because Ms. T. continued to live with Mr. R. after this incident, Ms. Moss attempted to engage him in a safety plan. He declined to participate, however, missing five scheduled meetings in July of 2015.

On June 15, 2015, upon the referral of Ms. Moss, Ms. T. began treatment at the Hagerstown Treatment Center ("HTC"). Although she participated in some of the treatment programs at HTC, such as individual counseling and random urinalysis testing, she failed to both consistently participate in her daily methadone maintenance and attend the minimum number of group counseling sessions.

Ms. T. admitted to heroin use in July of 2015 after the Department received the results of one of her urinalysis tests. Based on that admission, Ms. Moss referred Ms. T. to residential treatment at the W House. After spending one night at the W House, Ms. T. left because she "didn't want to be there" and didn't believe her heroin use "affect[ed] [her] children." She could have reentered the W House on August 5, 2015, but doing so would have required her to file for a protective order against Mr. R., which she refused to do. Ms. T. claimed that she preferred to receive residential treatment at the Cameo House, but the record indicates that she never admitted herself into that facility.

On August 5, 2015, the Department removed C.T. from his familial placement after receiving an allegation that he was being physically abused by Ms. T.'s sister. Because Ms. T. was homeless at that time and S.B.'s paternal grandparents were unable to care for both boys, C.T. was placed in foster care.

Following C.T.'s removal from the home of Ms. T.'s family members, the Department filed a shelter care petition on behalf of C.T., as well as CINA petitions on behalf of both C.T. and S.B. A shelter care hearing for C.T. was held on August 6, 2015, for which Ms. T. did not appear. The hearing resulted in the juvenile court awarding temporary custody of C.T. to the Department.

Social worker Molly Widdowson received C.T.'s case on August 5, 2015. Likewise, on August 27, 2015, Shannon Bennett, a Consolidated Services social worker, received S.B.'s case. On August 27, 2015, Ms. T. admitted to Ms. Bennett that, at least once recently, she mistakenly injected cocaine, believing it to be heroin. Ms. T. refused to submit to at least two urinalysis tests requested by Ms. Bennett.

In September of 2015, Ms. Widdowson referred Ms. T. to receive inpatient adult drug treatment at the Joseph S. Massie Unit, located in Cumberland, Maryland. Ms. T. refused to avail herself of this treatment program because doing so would have required her to turn over certain personal items, such as her shampoo and cosmetics.

In August and September of 2015, Ms. T. missed three out of ten scheduled visits with C.T. She missed one of these visits (the one scheduled for September 17, 2015) because she had a black eye and "didn't want [her] child to see [her] like that." From the

beginning of July, 2015, through October 8, 2015, Ms. T. did not have any visits with S.B. and had only spoken to him on the phone twice. Ms. T. claims that she would have visited S.B. during this period were it not for his paternal grandparents constantly citing scheduling conflicts.

An adjudicatory hearing was held on October 8, 2015. Ms. T. testified at the adjudicatory hearing that she was no longer in a relationship with Mr. R., but admitted that she "hung out with him . . . a couple hours here and there." She "ple[d] the Fifth" in regards to whether she had seen him the week prior to the hearing.[3] She had now been living with another man for about a month. She and the man were not romantically involved and were living in a four-bedroom apartment for which Ms. T. relied on the help of her friends to make rent of $300 per month. On the date of the hearing, Ms. T. had an outstanding criminal charge for possession of drug paraphernalia, for which she later received a sentence of 18 months' probation.

Though acknowledging that the bulk of the testimony pertained to the time period following Ms. T.'s voluntary placement of her children outside her home, the court sustained the Department's allegations of neglect against Ms. T. The court found that Ms. T.'s "bold statements about the fact that she did not believe . . . her ability to care for her children was impaired at all if she did have a heroin addiction or . . . was using heroin" offered a "window into the severity of her addiction" before the voluntary placements. The court further found that Ms. T. had a history of domestic violence dating back to November

[3] Mr. R. was incarcerated at the time of the hearing.

of 2014, and that following the voluntary placements of S.B. and C.T., she "foiled . . . [the Department's] on-going attempts to get her into some kind of [drug] treatment structure."

The court summarized its adjudicatory findings as follows:

> [C]onsidering all the circumstances and considering all the testimony, including the testimony about [ ] Ms. T.'s addiction that came from her, the multiple admissions she made to [the Department's social] workers concerning heroin use and [ ] heroin addiction, the multiple times that Ms. T. herself acknowledged the need for more intensive treatment than outpatient, the look at W House, the look at Massie Unit, the look at Cameo House[,] which she is still looking at, [ ] the [c]ourt finds that Ms. T. was, at the time the children were last in her care, suffering from a significant heroin addiction, . . . [and] that the children were not safe in her care as a result of the heroin addiction[,] [s]uch that, on June 5th or 6th, [ ] she was not even able to connect the dots to call 9-1-1 when Mr. R[.] was laying [sic] unresponsive on the floor. [S]o the Court finds, by virtue of her severe and significant addiction to . . . heroin . . . [that] she did neglect C[.T.] and she did neglect S[.B.] while they were in her care.

The court initially delayed disposition until October 20, 2015, before delaying it again until April of 2016. Among other reasons, disposition was delayed to secure Ms. T.'s presence and to allow all parties—including Mr. B. and Mr. H., who both sought custody of their respective sons, as well as Ms. T.—an opportunity to improve their positions.

On December 18, 2015, Ms. T. was arrested and detained for burglary. Although she was released from detention on December 31, 2015, the burglary charges remained pending through the upcoming disposition hearings.

Following her release from jail, with the help of Ms. Moss, Ms. T. began receiving treatment from Serenity Treatment Center, Inc. ("Serenity"). Her initial assessment at

Serenity was on January 6, 2016, but by February 8, 2016, she had been discharged for lack of attendance. During the period of time in which she was receiving treatment at Serenity, Ms. T. provided a urinalysis sample that tested positive for alcohol and refused a drug test.

Ms. T. was detained in jail yet again from February 16 through February 18, 2016. On March 10, 2016, Ms. T. resumed her treatment at Serenity. On April 19, 2016, Ms. T. was discharged by Serenity for a second time. The basis for this discharge was her refusal to submit to a required urine test. In a status report dated April 25, 2016, Serenity concluded that Ms. T. "has neither the desire [n]or the motivation to complete treatment at this time."

On April 26, 2016, Ms. T. refused two of Ms. Widdowson's requests for drug tests. Ms. Widdowson also recommended to Ms. T. that she enroll in mental health treatment and domestic violence counseling services. Ultimately, however, Ms. T. did not pursue either of those recommendations.

S.B. and C.T.'s disposition hearings were held on April 14, April 15, and May 9, 2016. From October 8, 2015, the date of the adjudication hearings, to April 12, 2015, two days before the disposition hearings were set to begin, Ms. T. provided the Department with five different addresses for her residence. On April 12, 2015, she moved into a two-bedroom apartment with another man with whom she was not romantically involved. Although the children had allegedly met this man on a couple of occasions, she had not discussed the children's potential sleeping arrangements with him.

Ms. T. visited S.B. four times after the adjudication hearings. As for C.T., she attended nine of the fifteen visits that were scheduled with him from October 8, 2015, through March of 2016. C.T. had two foster placements during this period, and both of his foster moms reported that C.T.'s behavior regressed after visits with his mother. Unlike S.B., who is a good student and well-behaved, C.T. has a number of behavioral and emotional concerns. These include aggression and unprovoked anger, as well as a history of punching other children, asking other children to punch him, screaming for extended periods of time, making animal noises, cursing at adults, threatening teachers, and acting like a child much younger than his age. In her December 15, 2015, report on her evaluation of C.T., Alexandra Mirabelli, Psy.D., concluded that C.T.'s symptoms are "indicative of Post-Traumatic Stress Disorder [("PTSD")]." Although C.T. started attending therapy in mid-February of 2016, Ms. T. had not spoken to C.T.'s therapist prior to the conclusion of the disposition hearing. She also did not attend his team therapy meeting on March 16, 2016, to which she was invited.

Ultimately, the juvenile court determined C.T. to be a CINA and ordered his continued placement in foster care. Although the juvenile court granted custody of C.T. to the Department instead of Mr. H., the latter did not appeal the disposition. As for S.B., the juvenile court found that he was not a CINA because his father, to whom custody was transferred, was willing and able to care for him.

Ms. T. timely appealed both dispositions.

STANDARD OF REVIEW

It is well-settled that Maryland appellate courts apply a three-tiered standard of review to cases involving the custody of children:

> When the appellate court scrutinizes factual findings, the clearly erroneous standard of [Rule 8-131(c)] applies. [Secondly,] [i]f it appears that the [juvenile court] erred as to matters of law, further proceedings in the [juvenile] 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 Yve S., 373 Md. 551, 586 (2003) (quoting *Davis v. Davis*, 280 Md. 119, 125–26 (1977)) (some alterations in original).

DISCUSSION

I. Did Ms. T.'s Conduct Constitute Neglect?

A. Parties' Contentions

Ms. T. argues that "there was insufficient evidence to support a conclusion that the mother neglected her sons or that she would do so in the future. Furthermore, the evidence did not support a conclusion that Ms. T. was unwilling or unable to give her children proper care and attention." She asserts that the Department failed to present any evidence that C.T. actually witnessed the domestic violence incident that occurred on June 5, 2015. Moreover, she contends that she no longer presents a danger of domestic violence because she terminated her relationship with Mr. R. As for her decision to call Mr. R.'s uncle instead

of 9-1-1 when she found Mr. R. lying unresponsive on the floor, Ms. T. argues that "[t]he fact that the court may have taken different steps, in a different order, does not change the fact that the mother took appropriate action and saved his life." Ms. T. further asserts that "the evidence did not demonstrate that she used heroin . . . at a time where it impacted her ability to parent." Ms. T. relies primarily on two cases—*In re William B.*, 73 Md. App. 68 (1987), and *In re Nathaniel A.*, 160 Md. App. 581 (2005)—in support of her argument that her conduct did not constitute neglect.

In response, the Department argues that "[Ms. T.] ignores well-established law that conduct causing a substantial risk of harm also constitutes neglect." The Department cites Ms. T.'s "continued substance abuse, housing instability, and failure to address issues of domestic violence" as examples of conduct that has placed S.B. and C.T. at substantial risk of harm. The Department also points out that Ms. T. "refused to demonstrate her sobriety in declining to or failing to submit to drug testing," "persisted in not engaging in mental health [or domestic violence] counseling," developed a pattern of missing visits with her children, and failed to show any interest in C.T.'s therapy. Finally, the Department asserts that "[w]hile Ms. T. claims she protected her children by voluntarily placing them with relatives, she failed to move C.T. out of her home until after the Department began investigating her following the June 5, 2015, domestic violence incident occurring in C.T.'s presence" and did not end her relationship with Mr. R. until roughly the time he was incarcerated in early October, 2015.

B. Analysis

The CINA statute defines "neglect" as

> the 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 care or 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; or
>
> (2) That the child has suffered mental injury or been placed at substantial risk of mental injury.

CJP § 3-801(s).

Ms. T.'s arguments as to why she did not neglect her children are largely premised on the idea that her conduct did not cause *actual* harm to the children. However, those arguments ignore that pursuant to the plain meaning of CJP § 3-801(s)(1), "there may be neglect of a child without actual harm to the child. A 'substantial risk of harm' constitutes 'neglect.'" *In re Andrew A.*, 149 Md. App. 412, 418 (2003). *See also William B.*, 73 Md. App. at 77-78 ("The judge need not wait until the child suffers some injury before determining that he is neglected. This would be contrary to the purpose of the CINA statute. The purpose of the act is to protect children – not to wait for their injury.").

In the case at bar, the juvenile court was presented with sufficient evidence that Ms. T. placed her children at substantial risk of harm before their voluntary placements. For example, as the Department points out, "she failed to move C.T. out of her home until after the Department began investigating her following the June 5, 2015, domestic violence

incident." While Ms. T. claims that she has only been involved in two domestic violence incidents (presumably the one that resulted in her and Mr. R.'s arrests in November of 2014 and the one that occurred in C.T.'s presence on June 5, 2015), the evidence suggests otherwise. For example, Ms. Moss testified that Ms. T. admitted to her that she had a long history of domestic violence with Mr. R. In light of that testimony, as well as the circumstances surrounding Ms. T.'s November 2014 arrest, we cannot say that the juvenile court's finding regarding Ms. T.'s established history of domestic violence was clearly erroneous. Indeed, we are further persuaded that the evidence supports the juvenile court's findings by the fact that Ms. T. pled the Fifth when questioned about whether her relationship with Mr. R. involved domestic violence. *See DiLeo v. Nugent*, 88 Md. App. 59, 69 (1991) ("When a party in a civil case refuses to take the stand to testify as to facts peculiarly within [her] knowledge, the [ ] trial court or jury may infer that the testimony not produced would have been unfavorable.").

Ms. T. also argues that there is no evidence that any of her domestic violence incidents scared her children or placed them in harm's way. We disagree. In *In re Adoption No. 12612 in Circuit Court for Montgomery Cty.*, 353 Md. 209 (1999), during a discussion of the legislative history of Md. Code Ann., Fam. Law ("FL") § 9-101.1,[4] the Court of Appeals acknowledged "the adverse effects on children from abusive households generally, not only the psychological harm derived from witnessing violence directed against other household members." *Id.* at 237. Thus, regardless of how many times the

[4] FL § 9-101.1 governs the court's consideration of evidence of abuse when deciding custody or visitation issues.

children witnessed their mother engaging in domestic violence, living in the home subjected them to a "greater likelihood . . . that violence . . . w[ould] eventually be directed against them as well." *Id.*

In addition to Ms. T.'s violent relationship with Mr. R., which she did not terminate until roughly the time Mr. R. was incarcerated in early October, 2015, the evidence also supports the juvenile court's findings regarding Ms. T.'s drug addiction. She made multiple admissions to Department social workers in the summer of 2015 regarding her continued use of heroin, including one time where she mistakenly injected cocaine believing it to be heroin. She repeatedly declined to submit to drug tests and was not enrolled in a drug treatment program as of disposition. The Court of Appeals has stated that "[u]nquestionably, parental drug use can negatively impact a child." *In re Adoption/Guardianship of Amber R.*, 417 Md. 701, 721 (2011). Ms. T. apparently disagrees with the Court, given her testimony that her decision to leave W House "didn't affect [her] children." In light of all the evidence, the juvenile court's factual finding that the severity of Ms. T.'s heroin addiction negatively impacted her children before their voluntary placements was not clearly erroneous.

For the foregoing reasons, there is "competent and material evidence" to support the juvenile court's findings that Ms. T.'s domestic violence and drug addiction predated the children's voluntary placements. *Yivo Inst. For Jewish Research v. Zaleski*, 386 Md. 654, 663 (2005) (discussing the clearly erroneous standard of review). Accordingly, the court

did not err as a matter of law where it determined that Ms. T. neglected her children under CJP § 3-801(s)(1) by placing them at substantial risk of harm.

II. Transfer of Custody of S.B.

A. Parties' Contentions

Ms. T. argues that "[t]he court had before it uncontroverted evidence that Ms. T. was loving, caring, and had always kept her children safe." She asserts that "[t]here was no evidence that she placed her children in harm's way; that she ever failed to protect and supervise them; that she ever failed to feed them, clothe them, educate them, or provide medical care; and certainly no evidence that she abused them." She contends that because her children are bonded to her and would remain together, "[p]lacing [them] with their mother, under an OPS,[5] if needed, was the appropriate choice."

The Department responds that "Mr. B. maintained regular contact with S.B., provided final support, cooperated with the Department, held steady employment, lived in an appropriate home, and, most importantly, could provide the stability that Ms. T. never did." Therefore, the Department argues that "[t]he court did not abuse its discretion in awarding custody [of S.B.] to Mr. B. and terminating jurisdiction."

B. Analysis

A "child in need of assistance" is defined as

> a child who requires court intervention because:
>
> > (1) The child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and

[5] "OPS" refers to an order of protective supervision. *See* CJP § 3-819(c).

> (2) The child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs.

CJP § 3-801(f). For the reasons outlined in Section I of our analysis, S.B. satisfies the first-prong of the definition of a CINA. The juvenile court, however, found that he does not satisfy the second prong of the definition. Thus, the court awarded custody of S.B. to his father.

Ms. T. argues that the court erred insofar as it did not continue S.B. in her custody, even if doing so would have required her to be placed under an order of protective supervision by the Department. We disagree.

Section 3-819(b)(1) of the Courts and Judicial Proceedings Article lists the possible ways in which the juvenile court may make a disposition in a CINA case. One of those possibilities is to "[f]ind that the child is not in need of assistance and, except as provided in subsection (e) of this section, dismiss the case." CJP § 3-819(b)(1)(i). Section 3-819(e), which Section 3-819(b)(1)(i) cross-references, states that

> [i]f the allegations in the petition are sustained against only one parent of a child, and there is another parent available who is able and willing to care for the child, the court may not find that the child is a child in need of assistance, but, before dismissing the case, the court may award custody to the other parent.

This is precisely what the juvenile court did in S.B.'s case where it terminated the CINA proceedings and awarded custody to Mr. B.

"[T]he [juvenile court's ultimate] decision [in a CINA case] should be disturbed only if there has been a clear abuse of discretion." *Yve S.*, 373 Md. at 586 (quoting *Davis*,

280 Md. at 125–26). In the case *sub judice*, the juvenile court was presented with evidence that Ms. T. was not able and willing to care for S.B. due to her history of domestic violence, addiction to heroin, failure to engage in domestic violence counseling and drug treatment, inability to maintain a stable living arrangement, and pattern of missing scheduled visits. On the other hand, contrary to Ms. T.'s claim, the evidence showed that Mr. B. was fit to have custody of his son. The evidence pertaining to Mr. B.'s fitness even includes the following statements by Ms. T. at the disposition hearing:

> [H]onestly [Mr. B.] is a good dad. [ ] I can't knock him because he, he has been in and out of S[.B.'s] life but every time I've asked him, you know, to see his child, he has. [ ] [I]f the [c]ourt sees me unfit and lets S[.B.] finish out the school year at his grandparents and they decide for S[.B.] to go with [his dad] I'm okay with that. I feel safe with [Mr. B.] having his child.

Viewing the evidence in S.B.'s case in its totality, we are not convinced that the juvenile court committed an abuse of discretion where it terminated his CINA proceedings and transferred him to the custody of his father.

III. C.T.'s Placement in Foster Care as a CINA

A. Parties' Contentions

For the same reasons as those outlined in Section II. A., ¶ 1, *supra*, Ms. T. argues that the juvenile court abused its discretion where it determined C.T. to be a CINA and continued his custody with the Department.

In response, the Department asserts that "[g]iven [Ms. T.'s] overwhelming negative circumstances, the court did not abuse its discretion in determining that C.T. should remain

in foster care, and not in Ms. T.'s custody." For an outline of the "overwhelming negative circumstances" the Department refers to, *see* Section I. A., ¶ 2, *supra*.

B. Analysis

We reiterate that the definition of a CINA has two prongs: (1) a child who has been, among other things, abused; and (2) a child whose "parents, guardian, or custodian are unable or unwilling to give proper care and attention to [him and his] needs." CJP § 3-801(f).

We have already explained in detail that the juvenile court did not err where it found that Ms. T. neglected C.T. Likewise, we explained earlier in this opinion that the evidence was sufficient to sustain the juvenile court's finding that Ms. T. is unable and unwilling to care for C.T.'s half-brother, S.B. For all those same reasons, plus her failure to engage in C.T.'s therapy treatment, we hold that Ms. T. is unable and unwilling to care for C.T. as well. Therefore, the juvenile court properly adjudicated C.T. to be a CINA.

Subject to Section 3-819(b)(iii) of the CINA statute, one of the permissible dispositions in a child's case is to

> find that the child is in need of assistance and:
>
> 1. Not change the child's custody status; or
>
> 2. *Commit the child on terms the court considers appropriate to the custody of*:
>
> A. A parent;
>
> B. Subject to § 3-819.2 of this subtitle, a relative, or other individual; or

> C. *A local department*, the Department of Health and Mental Hygiene, or both, including designation of the type of facility where the child is to be placed.

(Emphasis added). In the present case, in light of the totality of the evidence presented at disposition, the juvenile court properly exercised its discretion where it found that it was in C.T.'s best interest to be placed in the custody of the Department.[6] *See Reichert v. Hornbeck*, 210 Md. App. 282, 304 (2013) ("It is a bedrock principle that when the [juvenile] court makes a custody determination, it is required to evaluate each case on an individual basis in order to determine what is in the best interests of the child." (citing *Gillespie v. Gillespie*, 206 Md. App. 146, 173 (2012))).

JUDGMENTS OF THE CIRCUIT COURT FOR WASHINGTON COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

[6] Mr. H. did not appeal the disposition. Therefore, the issue of his fitness as a parent was not before us on appeal.