Circuit Court for Washington County
Case No. 21-Z-15-80917
Case No. 21-Z-15-80918

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1386

September Term, 2016

IN RE: ADOPTION/GUARDIANSHIP OF

T.N. AND A.D.

Graeff,
Berger,
Salmon, James P.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: April 14, 2017

T.M., appellant, appeals the August 10, 2016, order issued by the Circuit Court for Washington County terminating her parental rights (TPR) to her daughter, A.D., and her son, T.N.[1] Ms. M. presents the following question for our review,[2] which we have rephrased, as follows:

> Did the circuit court abuse its discretion in terminating Ms. M.'s parental rights?

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

FACTUAL AND PROCEDURAL BACKGROUND

Ms. M. is the mother of three children: A.D. (born in 2011); L.D. (born in 2013); and T.N. (born in 2014). On October 2, 2014, the court found the children to be children

[1] Neither the father of A.D. or T.N. appealed the circuit court's ruling terminating their parental rights, and therefore, they are not part of these proceedings.

[2] Ms. M.'s question presented was as follows:

> Did the mother's failure [to] accomplish all of the necessary tasks to be reunified, until the months leading up to the termination of parental rights hearing, support the court's conclusion that she was "unfit sufficient to overcome the necessary presumption that reunification with her was in her children's best interests," even though the Department's workers testified that severing the parent-child relationship was not in the children's best interests and the mother's therapist believed that reunification was possible?

in need of assistance ("CINA").[3] The court ultimately found Ms. M. to be unfit and terminated her parental rights.[4]

Prior Department of Social Services Investigations

Prior to the institution of these CINA cases, the Washington County Department of Social Services (the "Department" or "DSS"), investigated Ms. M. several times. In March 2012, Ms. M. was investigated on allegations of domestic violence between her and A.D.'s father. In a separate investigation during that time, the Department questioned Ms. M. about missing A.D.'s doctor appointments. Ms. M. recalled that she "missed getting [A.D.'s] shots done maybe twice, but they were always made up."

In June 2012, Ms. M. was investigated on allegations that drug trafficking was occurring in her home. The Department asked Ms. M. to perform a urine test. She complied, and the Department closed the case.

In December 2012, Ms. M. was investigated in connection with allegations of lack of supervision of A.D. and possible prescription drug abuse. Ms. M. stated that "it was more of a problem with the people that were staying with [her]," and the "case was closed within two weeks."

[3] A "child in need of assistance" ("CINA") is one who requires court intervention because the child has been abused or neglected, or has a developmental disability or mental disorder; and his or her "parents/guardian, or custodian are either unable or unwilling to give proper care and attention to the child and the child's needs." Md. Code (2015 Supp.) § 3-801(f) of the Courts and Judicial Proceedings Article.

[4] L.D. was not a subject of these proceedings. The parties advise that L.D. has a different father and is in the process of reunifying with him.

T.N.'s Head Injury and the Department's Involvement

On March 31, 2014, the Department received a report that T.N. had fractured his skull after he fell three feet onto a concrete surface. R.N., T.N.'s father, had "attempted to carry him up a flight of stairs" while improperly secured in his child seat.

The Department allowed T.N. to be discharged into his parents' care, under a safety plan. On April 3, 2014, Barbara Schvokas, a Child Protective Services Investigator working for the Department, met with T.N.'s father at home. During the meeting, Ms. Schvokas noticed that Mr. N.'s hand was bandaged, and she asked him what had happened. Mr. N. stated that "he had struck the wall during an argument he had with Ms. M." He also admitted that he "wasn't sure if he had hooked [T.N.] properly in his child carrier or not," and T.N.'s injury "was an accident because the car seat did not fit in the stroller properly." He explained that T.N.'s head injury was precipitated, in part, by an argument that he had with Ms. M. on March 30, which prompted him to leave and take T.N. to his sister's house the following day.

On April 4, 2014, Ms. Schvokas met with Ms. M., who told her that the injury was an accident. Ms. Schvokas recommended that Ms. M. complete an anger management evaluation, and she agreed to do so. Ms. Schvokas noted, however, that Ms. M. tended to "minimize . . . the arguing and the domestic violence between" herself and Mr. N. To prevent further injury to Ms. M.'s children, Ms. Schvokas provided Ms. M. with a new car seat and stroller combination.

On April 9, 2014, at approximately 5:00 p.m., Ms. M. went to the Child Advocacy Center and met with Ms. Schvokas. Ms. M. told her that, the previous day, she had gotten into an argument with Mr. N. about disciplining A.D., and the argument began to "escalate," so she asked him to leave. Mr. N. left, but he took T.N. with him. Mr. N. later returned because he had failed to take with him "enough supplies to care for" T.N., but Ms. M. would not permit him to take the supplies. Ms. M. further reported that the electricity had been disconnected in her home, and she had made arrangements to stay with some friends. When Ms. Schvokas asked Ms. M. if T.N. could stay there with her, "she said no because they only had one bedroom and it would be too much." Ms. M. also requested transportation assistance for an appointment for T.N. the following morning, but it was too late to arrange transportation, so Ms. M. attempted to reschedule the appointment.

Later that evening, Ms. Schvokas visited Mr. N., who stated that he left Ms. M.'s home with T.N. because A.D. was throwing toys at T.N., Ms. M. "did not intervene," and "they began to argue and it started to escalate so he . . . left." In light of these events, and the ongoing investigation, Ms. Schvokas created a safety plan, designating Mr. N.'s mother as T.N.'s primary caretaker.

On April 10, 2014, Ms. Schvokas received a phone call from Ms. M, informing her that "Mr. N. and some other people were out in front of [an] apartment drinking and passing

around a bottle of whiskey with [T.N.] sitting there with them."[5] Ms. Schvokas contacted the police and went to the apartment. When she arrived, the police were already there, and they informed her that there were "a lot of people sitting out front" when they first arrived, "but they did not see a baby." Ms. Schvokas asked Mr. N.'s mother where Mr. N. was, but "no one seemed to know where he was." Although Mr. N.'s mother denied that she had been drinking, Ms. Schvokas recalled smelling "an odor of alcohol coming from" her. Mr. N.'s mother also told her that, while they were out front, she had left T.N. with a neighbor. Because leaving T.N. with a neighbor "was a violation of the safety plan," the Department decided to shelter him.

On April 11, 2014, the Department held a family involvement meeting to discuss the Department's concerns regarding parenting, supervision, domestic violence between Ms. M. and Mr. N., and possible substance abuse. Jessica Martin was assigned to provide services, and she entered into service agreements with Ms. M. The Department referred Ms. M. for in-home parenting services, substance abuse assessment, mental health counseling, and domestic violence and anger management assessments. Ms. M. did not complete any of her tasks under the agreements.

[5] Ms. M. testified that she had been trying to "get in touch with Mr. N. all that day," so she drove past his mother's apartment "just to see if anybody was out there."

On April 17, 2014, the circuit court held a shelter hearing. By that time, Ms. M. had restored electricity to her apartment and moved back in.[6] The Department recommended transitioning T.N. back home, but the court decided that he would be "returned home that day." The court also issued a no contact order between Mr. N. and Ms. M.

A.D.'s Finger Injury and the Department's Involvement

On May 11, 2014, Ms. M. and A.D. went to visit A.D.'s father, who was incarcerated at the time. Ms. M. let A.D. hold the key to the locker storing their possessions during the visit, and while Ms. M. was being checked by the correctional facility's security, A.D. ran through the metal detector, and went behind a water fountain on the other side of security. A.D. stuck the key into an electrical socket, causing third degree burns to her right index finger. Ms. M. testified that A.D. appeared to be "stuck" behind the fountain, and security would not let her through until she removed her belt. Ms. M. did not "see what actually was going on until [she] made it over to her."

Ms. M. drove A.D. to the local emergency room, which transferred A.D. to the Johns Hopkins Children's Center ("Hopkins"). Dr. Fray Stewart, pediatric surgeon and Director of Johns Hopkins' Pediatric Trauma and Pediatric Burn programs, determined that A.D. had a "full thickness burn" on her finger, and her "skin would have to be debrided and removed and replaced with something else." Dr. Stewart performed the operation with the assistance of Dr. Jaimie Shores, a hand specialist. Dr. Stewart excised the burned skin, and

[6] Ms. Schvokas testified that Ms. M. also obtained "some community resources to help her," but she could not recall if the Department assisted her with restoring her electricity.

then Dr. Shores placed a "skin substitute over the tendon of the finger" in an "attempt to save that tendon so her finger would remain functional." Dr. Stewart deemed the initial operation "a very successful procedure," and A.D. was discharged after a "relatively short" stay. The hospital provided Ms. M. written discharge instructions "that spell[ed] out . . . follow-up care." These instructions directed Ms. M. to call the hospital if A.D. had a fever, "keep the finger in a splinted position," "keep the splint and the dressings clean and dry," "keep the splint on at all times," and not remove the dressing "until she was seen again in follow-up."

On May 19, 2014, Ms. M. "noticed some change in [A.D.'s] finger," so she took her to Meritus hospital. A.D. was transported to Hopkins via ambulance. She was discharged the following day with instructions to follow up with Dr. Shores.

A.D. was scheduled for a follow-up appointment on May 21, 2014, but Ms. M. failed to show. The next day, May 22, 2014, Ms. M. brought A.D. to see Dr. Shores at his clinic in Odenton, Maryland. Dr. Shores noted that the dressings on A.D.'s finger "were contaminated and somewhat disheveled," and A.D. had not been wearing the splint that they had provided her "to protect the finger from mechanical trauma." A.D.'s finger was red, swollen, and had "prelim material underneath the top layer of the Integral," all of which indicated that her finger was infected.

Dr. Shores performed some "wound care," replaced A.D.'s dressings, and advised Ms. M. that he wanted to admit A.D. to the hospital "so that [he] could operate on her the

next morning and start some antibiotics." Ms. M. indicated that "transportation would be a problem that night," but she agreed to bring A.D. to Bayview hospital in the morning.

On the morning of May 23, 2014, Ms. M. and A.D. failed to show for the scheduled surgery. Ms. M. testified that she did not have transportation, and although she contacted the Department for assistance, they told her that they could not provide transportation because she did not provide them with five days' notice. Ms. Martin testified, however, that Ms. M. was never denied transportation assistance to get to A.D.'s medical appointments. Indeed, the Department had arranged for a taxi to transport A.D. and Ms. M. that morning at 7:30 a.m.

After numerous phone calls from both Dr. Shores' office and Dr. Stewart's office, they managed to contact Ms. M., and she agreed to take A.D. to Hopkins to be admitted for surgery. Dr. Stewart testified that they admitted A.D. on the day prior to her surgery, in part, because they were concerned that if she did not stay in their care, Ms. M. might fail to bring her for surgery as before.

Dr. Stewart examined A.D.'s finger and observed that it was infected and not healing well. The next morning, Dr. Stewart and Dr. Shores performed a "debridement," which was a procedure to remove infected, non-viable, or dead tissue and "clean[] up what [they] had attempted to do on the first surgery in order to save the finger." Due to the complications that resulted from the first surgery, the tendon that they "had been trying to save was no longer salvageable."

After A.D.'s finger was cleaned and a pin inserted to prevent the finger from bending, she underwent a third surgery, a skin grafting procedure to cover the open wound that was left in the previous surgery. After another brief stay at the hospital, A.D. was discharged with instructions to keep her dressings and splint clean, dry, and in place, and to follow up with Dr. Shores approximately one to two weeks after being discharged.

Dr. Shores told Ms. M. during A.D.'s second hospitalization that he was "very concerned about infection and making sure that [they] adequately treated it," and the pin in A.D.'s finger could not "stay in forever" because it could "become infected and [they needed] to remove it at some point." Ms. M. previously had stopped giving the prescribed antibiotic to A.D. because the medication was "clumping," and Dr. Shores explained that a "lot can happen" over a period of two to four days of not taking antibiotics, including the spread and worsening of infection. Dr. Shores was unable to say that, with perfect care, A.D.'s finger would not have been infected and the second surgery would not have occurred, but he did state that, with good care and follow-up, "the risk of having an infectious complication after the first surgery [would have been] less."

Although A.D. was scheduled for a follow-up appointment on June 9, 2014, Ms. M. rescheduled the appointment. She then rescheduled or failed to bring A.D. to appointments on June 16, July 7, and July 21. Dr. Shores testified that he "[s]hould have seen [A.D.], taken her stitches out from her first surgery . . . , and scheduled her for removal of her pin." Both the stitches and the pin were "foreign bodies" that should be timely removed because they presented a risk of infection.

On July 21, 2014, Ms. Martin advised Ms. M., after being informed that Ms. M. had missed A.D.'s appointment scheduled for that day, that because she missed her appointment at Hopkins, she should take A.D. to her local pediatrician. The pediatrician advised Ms. M. to take A.D. immediately to Hopkins, but Ms. M. did not do so.

That evening, the Department received a report of medical neglect due to Ms. M.'s failure to take A.D. to Hopkins. The next day, the decision was made to shelter Ms. M.'s children. Ms. Martin, accompanied by the Hagerstown Police Department, went to Ms. M.'s home to shelter A.D. and L.D. When they arrived, Ms. M. locked herself and her two daughters in the bathroom. After being warned that the door would be forced open if she did not come out of the bathroom, Ms. M. opened it, and the Department took custody of A.D. and L.D.

On July 22, 2014, immediately after A.D. was sheltered, she was admitted again to Hopkins with an "acutely infected finger with the infection extending down into the bone and joint." Her finger was a "deep dark red," "very swollen," and it had "purulent drainage" from the tip of her finger where the pin had been. Dr. Shores performed another surgery to remove the pin. A.D. was discharged from the hospital on July 29, 2014, and placed with a foster family.

A.D. suffered permanent damage to the PIP joint, the middle joint in the finger, and she "lost the growth plate to the middle bone of the finger," which caused her finger to be

"shorter than the other index finger and it does not have normal motion."[7] As a result, A.D. would need "persistent" medical care until she reached the age of "skeletal maturity," which would involve periodic evaluation of the growth of her finger to determine future treatment, if any, including complex reconstruction surgeries and regular hand therapy.

Kimberly Farmer, a social worker and child protective services investigator working for the Department, was assigned the case involving the alleged medical neglect of A.D. Ms. Farmer made several attempts to meet with Ms. M. to discuss the allegations made in the July 21, 2014, report. Ms. M., however, failed to show "at least three or four times." Ms. M. testified that the situation with her children was "kind of traumatic," and she "didn't really want to be involved in anything at the time."

On August 15, 2014, Ms. Farmer finally had the opportunity to have a conversation with Ms. M. about the allegations.[8] Ms. M. stated that she "felt like she . . . wasn't neglectful of [A.D.]" With respect to the failure to take A.D. to medical appointments, Ms. M. stated that she missed the first two appointments because of transportation and

[7] Dr. Shores testified that it was possible that her initial electrocution injury caused the damage to her joint and growth plate, but those kinds of electrical injuries typically resulted from much higher voltages than the standard electrical outlet that injured A.D. He testified, to a reasonable degree of medical certainty, that it was the subsequent bone infection that caused the growth plate loss.

[8] Ms. Farmer recalled that Ms. M. arrived at her office with a friend, but Ms. Farmer had to ask the friend to leave because "he wasn't really acting appropriately" at the office. He "had gotten sick out in the hallway," and when he later entered their office suite, he became "agitated" and "belligerent."

daycare issues. Regarding the follow-up appointment at the hospital on May 22, 2014, she took A.D. to her primary care doctor instead, who noted concern about the stitches in A.D.'s finger and the repeated missed appointments. Regarding the other two no-shows, June 16 and July 7, 2014, Ms. M. said she had called to reschedule them. Finally, with respect to the no show on July 21, Ms. M. stated that she did go with her mom.

Ms. Farmer also asked about the medication that A.D. was prescribed.[9] Ms. M. stopped giving A.D. the medication because it "became clumpy," and she took it to a pharmacy "to mix it." At that point, before Ms. Farmer was able to complete the interview, Ms. M. became upset, said that "she needed to leave," and terminated the meeting.[10]

On August 18, 2014, Ms. M. called Ms. Farmer, and they scheduled a meeting on August 20, 2014, to complete the interview for Ms. Farmer's neglect investigation. Ms. M. was late for the appointment, and when Ms. Farmer called, Ms. M. cried and told her that "she was upset" after a visit with her children. Ms. Farmer "advised her to complete her own timeline of the appointments and then call [her to] get together and discuss it."

On September 9, 2014, having not heard anything from Ms. M. since their August 20th phone conversation, Ms. Farmer mailed Ms. M. a certified letter requesting that she call her by September 15, 2014, to schedule an appointment. Ms. M. did not

[9] Ms. Farmer testified that A.D. was prescribed "Ciprofloxacin," which is an oral antibiotic.

[10] Ms. Farmer noted that, although Ms. M. was "frustrated and irritated," she was "trying not to be disrespectful" and likely "just wanted to leave the meeting because she was feeling frustrated."

respond, and Ms. Farmer was never able to complete the interview with Ms. M. Ms. Farmer concluded her investigation with a finding of "[i]ndicated neglect."

Visitation

In August 2014, shortly after A.D. was released from the hospital, the Department began conducting supervised visits with Ms. M. and her children. Ms. M. had approximately three or four visits in August.

Beginning on October 8, 2014, Ms. M.'s visitation with her children was held at the Sunshine Center, an affiliate of the Department. Shania Matthews, Program Coordinator and visit coach, testified that the Sunshine Center attempted to provide in-home coaching services to Ms. M. for approximately three weeks, but due to "complications" with Ms. M.'s availability, and her rejection of the voluntary service because "she did not want anybody in her visits," they stopped providing the service. Christina McCauley, a Department Child Protective Services worker and Ms. M.'s visitation coach, testified that "there were moments where [Ms. M.] had insight into the needs of [her] children, but there wasn't any desire to change behaviors." Ms. M. characterized Ms. McCauley's assistance as "nagging more than coaching," noting that she "just didn't care for" Ms. McCauley. Ms. M. felt that Ms. McCauley was not "meeting [her] needs and wants of what [she] wanted out of that."

Ms. Matthews also testified that, for "the majority of the time, [Ms. M.] was very appropriate with the children." She recalled having to occasionally remind Ms. M. to

change the children's diapers before the end of a visit, but she could not "cite any specific incident."

From October 8, 2014, through December 15, 2014, Ms. M. attended every visit. At that point, Ms. M. had obtained suitable housing, so the Department decided to start weekly home visits, in addition to their usual weekly visits at the Sunshine Center.

J.B., A.D.'s foster mother, testified that their first home visit was scheduled for December 20, 2014, but the visit did not occur because Ms. M. was not home when they arrived. Ms. M. had a successful visit with A.D. at the Sunshine Center on December 22, 2014. Ms. B., however, had problems with A.D.'s visit on Christmas day, noting that "the time and the location kept changing," the visit "kept extending and extending," and when she went to pick up A.D., she was "told to wait in the car" for approximately 20 minutes "like a taxi."

On December 27, 2014, when they arrived for a scheduled home visit, Ms. M. "said she was sick and she was going to text [Ms. B.] to cancel the visit," but she "fell asleep instead." Ms. B. recalled that Ms. M. "looked out of it." The children stayed, and when Ms. B. picked up the children, A.D. was wearing a new outfit, but L.D. and T.N. were not, and they were dirty.[11]

On December 29, 2014, Ms. M. cancelled her visit at the Sunshine Center. On January 5 and 17, 2015, she was 25 minutes late to her visits.

[11] Ms. B. and others testified regarding concerns that Ms. M. gave preferential treatment to A.D. over L.D. and T.N. during visits.

At some point in January 2015, the duration of Ms. M.'s weekly home visits went from two hours to four hours. The children's foster mothers testified about a number of issues that occurred during Ms. M.'s visits with her children. For example, on February 15, 2015, T.N., who was approximately one year old at the time, was "seated on a huge, huge, pile of pennies," and Ms. B. was concerned that he would put them in his mouth and choke on them. Ms. M. denied that she had "access" to a pile of pennies like the one Ms. B. described.

K.S., T.N.'s foster mother, testified that T.N. had asthma and required regular breathing treatments, but on March 21, March 28, and April 4, 2015, Ms. M. failed to administer his treatments during her visit. Ms. S. knew that the treatments were not given because she had counted the medicine vials that she provided, and none had been used. Ms. M. testified that she never missed any breathing treatments. She explained that Ms. B. failed to send medication for visits "plenty" of times, and when that happened, she would use old medicine that was left over from an occasion where A.D. was prescribed the medication for a cold.

In March 2015, home visitation was extended from four hours to eight hours. On March 9, 2015, Ms. B. asked Ms. M. to stop putting fake nails on A.D. because she would "put them in her mouth and chew on them" and then throw little pieces of plastic "down on the floor or right next to her brother and sister." On March 28, 2015, notwithstanding the conversation about fake fingernails, A.D. returned from an eight-hour visit with Ms. M.

with long nails glued to her fingers. Ms. S. testified that Ms. M. also failed to administer T.N.'s breathing treatments during that visit.

On April 4, 2015, Ms. M. failed to change T.N.'s diaper during the eight hour visit. Ms. M. also purportedly failed to administer T.N.'s breathing treatments during that visit.

At some point in or about April 2015, Ms. B. went to pick up the children from a home visit, and she observed that the door-jamb looked like it had been kicked in. She noted that "the door would not shut properly," and she was "concerned about what had happened and if the kids were around with any of that."

On April 11, 2015, when Ms. B. went to Ms. M.'s apartment to drop off the children, a person who Ms. B. did not recognize answered the door, and as Ms. B. entered the apartment, she smelled alcohol. Ms. M. was still in bed, which concerned Ms. B. because taking care of the three children at the same time was a demanding task. Ms. B. asked Ms. M. if she was okay, and she responded: "yeah, yeah, yeah, I'll be fine." When A.D. returned from the visit later that evening, "she had superglue up and down her arms," which would not come off with soap and water.

Ms. B. testified that, when she picked up the children on May 2, 2015, L.D. was "soaked in urine," and when she changed L.D., she saw that L.D., who had been potty trained, " had the same diaper on from the morning and it was completely full. L.D. had to ride home in wet clothes, and "on the top of [L.D.'s] head . . . there was blue nail polish completely poured all over [her] head. And it was in her hair and matted in it." She testified:

> I was also very concerned about the baby. He was wet and dirty when he came home. He had nail polish on his legs and beside his eye. . . . And he was very thirsty and he drank over sixteen ounces of milk when he got home. It did not appear that the breathing treatments had been given at that visit either.[12]

Ms. M. denied letting her children stay in the same diaper all day.

On May 4, 2015, Ms. M. failed to show up for a visit. Ms. B. waited for 20 minutes before leaving. Ms. B. testified that it was very painful to A.D. when Ms. M. missed visits, noting that it was excruciating to watch "that little girl bang on that door and scream for mommy."

On May 11, 2015, when she dropped off A.D. for a visit, A.D. pounded on the door, and when there was no answer, she opened the unlocked door and ran up the stairs shouting and sobbing: "[M]ommy." Ms. M. was sleeping in bed. A.D. shook Ms. M. several times before Ms. M. woke up. Although Ms. M. said she was okay, Ms. B. was concerned about leaving A.D. there. A visit did occur that day, but Ms. B. stated that she left A.D. there only because the foster care worker was going there.

At some point in mid-May 2015, Ms. M. was evicted from her home, and the location of the visits moved back to the Sunshine Center. Ms. M. repeatedly failed to show up, showed up late, and/or failed to communicate, so the Sunshine Center referred the

[12] Ms. B. explained that she knew that Ms. M. did not administer T.N.'s breathing treatments because he returned with the same number of medication capsules that she sent with him.

family back to the Department for supervised visitation until Ms. M. was more consistent with visitation.

Although weekly visits were scheduled from July 20, 2015, through September 22, 2015, and Ms. B. was prepared to take the children to see Ms. M., no visits occurred.[13] Between September 22, 2015, and November 24, 2015, six out of nine scheduled visits occurred, although Ms. M. was late for one of the six, and she slept through most of the visit on November 24. Ms. M. subsequently missed visits from December 1, 2015, to February 1, 2016, although from mid-February through mid-April 2016, visits consistently occurred. Ms. B. e-mailed Ms. M. about a medical appointment on April 6, 2016, but Ms. M. did not respond.

Ms. M.'s Mental Health Treatment at Catoctin

Vivian Fahey, a licensed certified professional counselor working for Catoctin Counseling, testified that Ms. M. was referred to them by the Department in early 2014. Ms. M., however, did not complete her intake evaluation until November 19, 2014, at which time she was diagnosed with obsessive-compulsive disorder (OCD) and prescribed

[13] Ms. B. explained that, at that point, the visitation protocol was that Ms. M. was expected to arrive at the Department at approximately 8:30 a.m. for a scheduled visit, and if and when she arrived, the Department would call Ms. B., who would then promptly transport the children to the Department for a visit. Ms. B. stated that they were "all ready every morning," and all she needed to do after receiving the call was "put on [A.D.'s] shoes" and pick the other two children up from daycare.

weekly therapy sessions.[14] Ms. Fahey explained that Ms. M.'s OCD caused her to "engage[] in some very lengthy morning rituals" which included "a lot of time spent putting on her makeup . . . showering . . . and toileting" and could take up to four hours. At one point, Ms. M. told Ms. Fahey that her "rituals and behaviors were worsening when [her] kids were not with her" and caused her to miss various appointments.

Ms. Fahey testified that, when Ms. M. was present, "she was actively engaged, but she had a hard time following up with appointments." Ms. M. attended only nine of eighteen appointments, and she was thirty minutes late for two of those. Lack of consistency with her therapy appointments "was an ongoing theme" in Ms. Fahey's discussions with Ms. M. Ms. Fahey ultimately terminated Ms. M.[15]

Ms. Fahey stated that, while Ms. M. was being treated at Catoctin, she made "sporadic" progress toward her treatment goals. There were times that Ms. M. understood the consequences of her actions, but other times she blamed the Department and minimized and did not take responsibility. Although Ms. Fahey was able to help Ms. M. develop techniques to address "surface level" or "immediate issues," she did not have the opportunity to address the "root causes" of Ms. M.'s disorders, which was "more long-term work." When Ms. Fahey was asked whether, at the time of Ms. M.'s discharge, she had

[14] Vivian Fahey did not rule out that Ms. M. suffered from borderline personality disorder, noting that it remained a possibility.

[15] Ms. Jamison testified that she "talked [Ms. Fahey] out of terminating [Ms. M.] a few times," and she told her that if payment for missed appointments was the issue, the Department would pay for it.

"any concerns with respect to Ms. M. and her ability to keep [her] children safe," Ms. Fahey stated that it would be difficult for Ms. M. to manage her overwhelming anxiety while caring for three young children.

Ms. M.'s Mental Health Treatment at QCI

On March 10, 2016, the first day of the TPR hearings, Ginger Wolford, a Licensed Professional Counselor working for QCI Behavioral Health ("QCI"), testified that QCI began treating Ms. M. in December 2015. After Ms. M. underwent an intake evaluation, QCI's psychiatrist, Dr. Latif, diagnosed Ms. M. with OCD, unspecified depressive disorder, and unspecified anxiety disorder. Ms. Wolford explained that Ms. M.'s disorders manifested themselves, in part, as "disorganization" and compulsions to perform lengthy bathing and beauty "rituals that needed to occur" before she left the house. QCI recommended a treatment regimen that included medication and weekly therapy sessions. Ms. M., however, was not prescribed medication to control her compulsions until March 9, 2016, the day before the start of the TPR proceedings. Ms. Wolford explained that Ms. M. had not been prescribed medication until that date because that was her first opportunity to see their doctor. Ms. M. was scheduled to see their doctor in December 2015, but she missed her first two appointments, and then the doctor went on vacation and was unavailable for a month.

Although Ms. M. missed some scheduled appointments, Ms. Wolford testified that she was making progress. Ms. M. had insight, and over the course of approximately

eighteen months, "a lightbulb . . . [was] going off," and Ms. M. had begun to recognize her behavior and her mistakes.

Ms. Wolford explained that Ms. M. was learning and applying various parenting protocols, in addition to cognitive techniques to help her overcome her disorganization. Ms. Wolford, however, had not observed Ms. M. interact with her children, and therefore, could only evaluate her use of the parenting protocols through discussion with Ms. M. during their therapy sessions. Ms. Wolford also was unable to evaluate Ms. M.'s response to her medication because it generally took three to six weeks for the medication to "hit therapeutic level," and as of March 10, 2016, the date of Ms. Worlford's initial testimony, Ms. M. had only just begun to take it.

When asked her opinion on whether Ms. M. could safely parent her children, Ms. Wolford stated that, "given the right support" and a paced reunification with one child at a time, Ms. M. would be "okay." If Ms. M. "were able to organize or schedule herself," "she would be fine," but "if she stay[ed] in a disorganized state it would definitely be . . . an impediment" to her ability to safely care for her children. Ms. Wolford stated that Ms. M. had "compartmentalized" her OCD to the mornings, so as long as the reunification was gradual she did not believe that Ms. M's OCD would "get into the way." She agreed that, with consistent attendance and medication, and with the right support, Ms. M. potentially could be ready to begin parenting one of her children within three months. When the court questioned whether Ms. M. was able to "be watching all the time with a two year old," who might not be always "tugging on her sleeve" when he needed attention,

but rather, getting "into the mischief that a two year old gets into when a parent is attending to other stuff," Ms. Wolford stated that she could not answer that.

On March 15, 2016, shortly after the first day of the TPR proceedings, Ms. M. requested that Ms. Wolford divide her treatment into two days per week so she could work on issues relating to her children on one day and work on her OCD issues on the other. On April 26, 2016, the third day of the TPR proceedings, Ms. Wolford was recalled, and she testified that, at that point, Ms. M.'s medication had begun to take effect, and Ms. M. stated that she could "really feel it working." Ms. Wolford was utilizing a behavioral technique called "ERP" (Exposure, Response, Prevention) to treat Ms. M.'s OCD, but much like cognitive therapy, it would take between 15 and 20 therapy sessions to start seeing results, and Ms. M. had only attended seven productive sessions at that point.[16]

Ms. M.'s Housing and Employment

Ms. M. was evicted from her residence in August 2014. She then moved back and forth between her mother's house and a friend's house. In December 2014, Ms. M. found her own housing.

When the Department did an initial inspection of Ms. M.'s new home, they did not note any safety concerns except for the need for a baby gate at the top of a flight of stairs, which Ms. M. stated was to be installed the next day. At some point in March 2015, Ms. M.

[16] Ginger Wolford testified that Ms. M. had attended more than seven sessions with her by that point, but she did not count earlier sessions in her assessment because they "just weren't going anywhere." Ms. Wolford attributed the change in productivity to the medication that Ms. M. was taking, in addition to Ms. M. having "more motivation now than before."

came home from work to find that her front door had been kicked in. The Department indicated that it was concerned about the safety of the house because the door was not replaced for approximately a month, and in the meantime, it could not be properly secured.

In May 2015, Ms. M. was evicted again after she lost her job and could not pay rent. Ms. M. then moved back into her mother's home. After that, Ms. M. moved in with a friend. Ms. M. testified at the TPR hearing that, although her current residence was inappropriate for her children, it was her "only choice" at that time. She expected that it would take approximately one month to find housing that would be suitable for her children, and she had saved $650 for the security deposit.

With respect to employment, Ms. M. testified that, during the ongoing TPR proceedings, she obtained employment at Brother's Pizza for approximately thirty hours per week, making eight dollars per hour. The Department asked her to provide them with verification that she was employed there, but as of April 26, 2016, she had not done so.

Prior to her employment at Brother's Pizza, Ms. M. worked at various jobs for short periods of time, i.e., three weeks at a Macy's warehouse in West Virginia,[17] one week at Parker's Plastic, and for approximately four months, September 2014 through January 2015, for World Kitchen and FedEx. She testified that, for the "[m]ajority of the time,"

[17] Ms. M. was terminated from that job due to her "background." She testified that she received a letter from her employer "saying something about [her] background," but she did not "read the paper further," so she could not say precisely what it was about her background that caused her termination. She stated that she was not aware of anything in her "background" that would cause her to lose her job.

the Department provided taxi cab transportation to and from her job at World Kitchen. Prior to that, Ms. M. worked for Rocky's for approximately 2 years.

Services and Assistance Provided to Ms. M.

Ms. Martin testified that the Department provided Ms. M. with various kinds of services and other assistance, in addition to the counseling and behavioral services to which Ms. M. was referred, including $704.98 in transportation alone. The Department also paid for parking fees, food, glasses for Ms. M., toddler beds and bedding, and a stroller. It paid rent for Ms. M., $660.25 on June 20, 2014, and $628.50, in April 2015. Foster Care Worker Brianne Jamison, testified that she did not believe that there were any additional services that the Department could have provided to Ms. M., but did not.

Bonds

Ms. Jamison thought that a bond existed between Ms. M. and T.N. to the extent that Ms. M. "gives him attention and he likes to jump on her. I mean they have fun during their visits." T.N. did not recognize Ms. M. as his mother, however, and Ms. M. did not appear to have a bond with T.N. T.N. was "very attached" to his foster mother, Ms. S., and Ms. Jamison believed that it was in his best interest to remain with her, where he had been most of his life.

Ms. S. testified that T.N. referred to her as "Momma or Mommy," and he considered her biological son to be his brother. T.N. was "very attached" to her and "would sit on [her] lap all day if he could." When Ms. M. visited her children during the summer of 2015, T.N. did not recognize Ms. M. as his mother. She recalled a particular instance where

she left T.N. with Ms. M. to take L.D. to the bathroom, and T.N. became upset and began calling for Ms. S., saying: "Momma, Momma, Momma."

Ms. B. similarly testified that T.N. considered Ms. S. to be his mother, and the bond between them was "that of mom and son." Ms. B. noted that T.N. "likes [Ms. M.], but doesn't appear to have any kind of preferential bond to her at all." She also noted that, although she believed that Ms. M. liked T.N., she did not see a "maternal bond."

With respect to A.D., Ms. Jamison believed that a bond existed between Ms. M. and A.D. During visits, A.D. initially called Ms. M. by her first name, but then, "as the visit [was] progressing, its mommy, mommy, mommy." A.D. also was "very attached" to Ms. B., and calls her "mommy," and considers Mr. and Ms. B. to be her parents. A.D. was thriving with Mr. and Ms. B., and Ms. Jamison believed that it was in A.D.'s best interest to remain in their home.

Ms. B. testified that A.D. had a strong bond with Ms. M., and she did not believe that it had changed over time. Ms. B. noted, however, that she and A.D. were "very much bonded and attached to one another." When A.D. was first placed with her and her husband, A.D. referred to them as her "aunt" and "uncle," but in August or September 2015, A.D. spontaneously decided to start calling Ms. B. "mommy," and in November 2015, she began calling Mr. B. "daddy."

Ms. B. and Ms. S. also had a very good relationship with each other. They tried to get T.N. and A.D. together as much as possible to ensure that A.D. had ample opportunity

to spend time with her siblings and regularly arranged playdates and other engagements involving both of their families.

Ms. B. had concerns about Ms. M. favoring A.D. over her other children. She recalled one instance where Ms. M. gave A.D. a "huge lollipop," but she did not give one to the other children, and another instance where A.D. was wearing brand new clothes and her siblings were dirty. Ms. Matthews stated that there was a "noticeable," but not necessarily "substantial," difference between the level of attention that Ms. M. gave A.D. and L.D., as opposed to T.N.

Ms. McCauley testified that, during a visit on March 16, 2015, Ms. M. explained to her "at length about how [A.D.] needs more of her time. [A.D.] is the one who needs her love." Ms. M. told her that "she felt like she was babysitting someone else's child when she had [L.D.] in her home." Ms. M. was not cruel to the other children, but "she was dismissive of their needs."

Ms. Jamison, on the other hand, testified that she thought that Ms. M. was "good . . . with dividing up her time with [her children] and giving them each their own specialized attention." She did not think that Ms. M. was giving A.D. preferential treatment, and she believed that Ms. M. was appropriately handling A.D.'s attention-seeking behavior.

Subsequent Events

In March 2016, Ms. M., on her own accord, signed up for parenting classes and began working on obtaining a GED. In April 2016, Ms. M. began looking into attending anger management classes.

Circuit Court's Findings

In its 57-page written Memorandum Opinion, the circuit court followed closely the statutory factors set forth in Maryland Code (2012 Repl. Vol.) § 5-323(d) of the Family Law Article ("FL"), which a court must consider in a TPR case. The court first found that the Department had fulfilled its obligations, but Ms. M. had "repeatedly and persistently failed to fulfill her obligations." It noted that the Department had provided Ms. M. numerous services and tangible items to aid her in reunification, including transportation, mental health treatment, rent money, glasses, and a stroller, and there were no additional services that the Department could have offered that would have facilitated reunification beyond what it already had offered. Instead, the issue was that Ms. M. simply was "incapable of reasonable effort in many areas." The court found that Ms. M. "failed to fulfill many of her obligations under the service agreements," including that, "for most of the time, she did not have stable housing, she [had] been extremely inconsistent with visitation, and she [had] not attended many of [A.D.'s] medical appointments."

The court also discussed in detail its concerns regarding Ms. M.'s mental health. It noted that "[s]ubstantial safety concerns continue as to Ms. [M.'s] lack of adequate and consistent mental health follow though and her failure to do the domestic violence

counseling." Although it recognized that there "was some improvement from March 10, 2016, to April 29, 2016," it nevertheless found that "a short period of improvement cannot negate years of debilitating OCD and Ms. [M.'s] failure to take action to safely care for her children." It characterized Ms. M.'s efforts as "consistently abysmal, including a terrible missed appointment record [until very recently], a failure to follow up with recommended medication [until very recently], lack of engagement on the key issues supporting reunification with her children when she would attend [until very recently.]" Although the court was "pleased that [Ms. M.] appear[ed] to be doing well in therapy now that she [was] taking" medication, there was no guarantee that such forward progress would continue, "judging by Ms. [M.'s] patterns of behavior since the children were sheltered in July 2014." The court concluded that Ms. M.'s "mental health problems including severe OCD, depression and anxiety, her long-term lack of acknowledgement of those problems, her long-term resist[a]nce to treatment of her mental health concerns, including a distrust and unwillingness to take medication, render[ed] her unfit to safely reunite with her children in the future." It explained its findings, as follows:

> All in all, Ms. [M.'s] progress is too little, and too late. Her 2 year history of resistance and lack of follow through, including a total of 4 months [the periods July 20, 2015 through September 22, 2015 and December 2015 through February 2016] lapse in contact with the children leads this [c]ourt to conclude that permanency could not be safely achieved with Ms. [M.] in the foreseeable future. Permanency requires a parent who has the motivation and desire to consistently follow through on a long term basis on issues that are critical to the children's safety.
>
> Raising little children requires a marathon of effort. A successful sprint here or there is worthless in the grand scheme, if the rest of the time a parent cannot safely parent a child.

> Three months of effort out of two years gives this [c]ourt no confidence that Ms. [M.] could safely care for either or both of her children. Ms. [M.'s] OCD which was characterized as severe on March 9, 2016, including 4 hour grooming rituals, cannot simply be wiped out with a snap of the fingers. According to Ms. [M.], she is not engaging in these rituals any more, but like other testimony of Ms. [M.], her claims are not believable. The [c]ourt is concerned that Ms. [M.] wants to make things appear better than they actually are to DSS, to the [c]ourt, and to her therapist. Ms. [M.] is the same individual who until very recently did not think that she needed medication, and stopped seeing her children for several months.

The court then found that Ms. M.'s efforts to adjust her circumstances, conditions, and conduct to make it in the children's best interests to be reunited were "woefully inadequate," and "not surprisingly the results of those efforts have been very poor." It explained that Ms. M. "repeatedly failed to obtain regular mental health treatment, therapy, or medication, until recently," had not "been able to maintain regular employment or housing," and had not "maintained a reasonably consistent visitation schedule." The court further found that Ms. M. "repeatedly failed to cooperate with DSS in utilization of services, and remains difficult to contact."

The court noted that Ms. M. had "only begun to exhibit effort with mental health compliance March 20, 2016, 19 months after the children were sheltered and after the first day of the TPR hearing had already concluded." Although the court commended her for signing up for parenting classes and working on her GED, it noted that she started accepting the help that DSS persistently had made available to her only after the TPR hearing began.

The court discussed various other "parenting concerns," including Ms. M.'s "clear and obvious preference for [A.D.]," and that she struggled with "communication, organization, and follow up." Moreover, Ms. M. had chronic problems with being

significantly late, or a no show, for visits, both in her own home, and at the Sunshine Center, including two periods that lasted for at least two months each that she did not visit the children at all. The court noted that there were a number of safety and hygiene concerns that arose during Ms. M.'s visits, referencing the incidents with the nail polish and super glue. The court discussed in significant detail the events related to A.D.'s finger injury. It found that Ms. M. subjected A.D. "to neglect by failure to provide obviously needed and reasonable access to available medical treatment, and this neglect caused pain and suffering and also serious and permanent physical damage."

The court also considered the bonds between the children and their mother, their foster parents, and each other. With respect to A.D., the court found that, although a bond did exist between her and Ms. M., it was "diminished" due to Ms. M.'s "repeated failures to visit." The court found that A.D. had an excellent relationship with her foster family, noting that she was "very happy" and concluding that it "would damage [A.D.] to interrupt her positive and stable attachment to her foster parents."

With respect to T.N., the court found that he did "not appear to be bonded to Ms. [M.] as a parent." On the other hand, the court found that T.N. had "an extremely strong bond with his foster parents and his foster brother."

The court ultimately found that Ms. M. was an unfit parent and that it was in the best interests of the children to have her parental rights terminated. It stated as follows:

> Having considered all of the foregoing factual determinations, the [c]ourt finds by clear and convincing evidence that [Ms. M.] is unfit to remain in a parental relationship with the children, [A.D.] and [T.N.] by virtue of her previous failure to take reasonable action to obtain a stable home, a stable

> income, to obtain and maintain mental health treatment to mitigate her OCD and other mental health concerns, and to engage with and demonstrate a commitment to maintain a stable visitation schedule regarding [A.D.] and [T.N.]. The [c]ourt finds that reunification of [A.D.] and [T.N.] with [Ms. M.] would be unsafe for the children because there is not evidence that Ms. [M.] would consistently meet the basic needs of [the children] including shelter, food, clothing, developmental resources, and a safe and stable home, and an emotionally stable parent. The [c]ourt also finds that reunification of [A.D.] and [T.N.] with Ms. [M.] would be detrimental to the Children in that the [c]ourt finds that with the evidence of inadequately treated mental health conditions of [Ms. M.], the court does not believe that [she] could safely support [the children's] positive behavioral development, physical development, psychological development, emotional development, and/or social development. The foregoing findings of [Ms. M.'s] lack of fitness to parent cause it to be in the best interests of the Children to grant the Department's Petition, grant guardianship to DSS and to terminate [Ms. M.'s] parental rights as to [A.D.] and [T.N.].[18]

STANDARD OF REVIEW

As we recently explained in *In re Adoption/Guardianship of L.B.*, 229 Md. App. 566, 586-87, *cert. denied*, 450 Md. 432 (2016):

> We review orders terminating parental rights using three interrelated standards. The Court of Appeals recently set forth the standard of review as follows:
>
> > [W]hen the appellate court scrutinizes factual findings, the clearly erroneous standard of [Rule 8-131(c)] applies. [Second,] [i]f it appears that the [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 [court] founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the [court's] decision should be disturbed only if there has been a clear abuse of discretion.

[18] As indicated, the circuit court also terminated the parental rights of the fathers of A.D. and T.N.

> *In re Adoption/Guardianship of Ta'Niya C.*, 417 Md. 90, 100 (2010) (quoting *In re Adoption/Guardianship of Victor A.*, 386 Md. 288, 297 (2005)). *Accord In re Adoption/Guardianship of Jasmine D.*, 217 Md. App. 718, 733 (2014).

(parallel citations omitted).

DISCUSSION

Ms. M. contends that the circuit court abused its discretion "when it determined that [her] parental rights should be terminated based on her past unfitness, and not on her ability to parent in the present, or near future." She asserts that there is a "presumption that a child is better off with his [or her] parent," and therefore, the "court's approach must favor reunification." Here, she asserts, the circuit court instead focused, not on the presumption that she was fit, but on the presumption that she was not fit due to her diagnosis of OCD, and its findings that her efforts at compliance with services was "too little too late." Ms. M. argues that reversal is required because the court

> did not base its analysis on the presumption that the children's best interests would be served in the care of their mother, it ignored the harmonious testimony of the mother's therapists predicting a successful outcome, and it punished the mother for the time that she needed to begin treatment for a mental illness that created her barriers to parenting.

The Department argues that the "juvenile court did not abuse its discretion in terminating Ms. M.'s parental rights, given the court's proper determination that she is unfit." It contends that the court "appropriately determined that Ms. M. is unfit to parent A.D. and T.N." in light of the following facts:

> (1) her "waxing and waning" with her critical mental health "treatment, follow through, and visitation with the children"; (2) her therapist-identified need for at least six-months of intensive parenting services, which Ms. M. had rejected previously; (3) her inability to maintain stable housing, despite the Department's assistance; (4) her inability to maintain employment,

> despite the Department's assistance with transportation; (5) the negative impact of her inability to communicate, organize, and follow through with necessary and critical care of the children, especially regarding A.D.'s finger which is now permanently injured as a result of Ms. M.'s serious medical neglect; [(6)] her failure to form an adequate bond with T.N., despite available assistance to improve that bond; [(7)] her repeated lateness to visits and periods of visitation lapses; and [(8)] A.D.'s diminished bond with Ms. M. because of her repeated failure to visit.

The Department argues that the "court properly concluded that the children would not be safe with Ms. M. because she would not meet their basic needs." And "[c]ontrary to Ms. M.'s contention," the court was free to reject Ms. M.'s therapist's opinion that Ms. M. had the capacity to parent with appropriate support. Noting that "a 'parent's past conduct is relevant to a consideration of [the parent's] future conduct,'" *In re Dustin T.*, 93 Md. App. 726, 731 (1992), *cert. denied*, 329 Md. 480 (1993), the Department states that it "was reasonable for the court to assume, in light of Ms. M.'s past behavior, that her instability and failure to consistently attend or participate in services and consistently meet the needs of the children would continue." Under those circumstances, the Department contends that the circuit court, "in accordance with the children's best interests, did not abuse its discretion in terminating parental rights."

This Court recently set forth the law on TPR proceedings, as follows:

> This Court has recognized the "fundamental right of parents generally to direct and control the upbringing of their children." *Brandenburg v. LaBarre*, 193 Md. App. 178, 186 (2010) (quoting *Koshko v. Haining*, 398 Md. 404, 422 (2007)). We have noted, however, that a parent's fundamental right to raise his or her child, however, is not absolute. That right "must be balanced against the fundamental right and responsibility of the State to protect children, who cannot protect themselves, from abuse and neglect." *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 497 (2007). Parental rights may be terminated, but it "is a 'drastic' measure, and should

only be taken with great caution." *In re Adoption/Guardianship of Harold H.*, 171 Md. App. 564, 576 (2006) (quoting *In re Adoption/Guardianship Nos. J9610436 & J9711031*, 368 Md. 666, 699 (2002)).

In determining whether to terminate parental rights, "it is unassailable that the paramount consideration is the best interest of the child." *In re Adoption/Guardianship No. T00032005*, 141 Md. App. 570, 581 (2001). *Accord Ta'Niya C.*, 417 Md. at 112 ("[T]he child's best interest has always been the transcendent standard in adoption, third-party custody cases, and TPR proceedings."); *Rashawn H.*, 402 Md. at 496 ("[T]he best interest of the child remains the ultimate governing standard."). It is generally presumed "that it is in the best interest of children to remain in the care and custody of their parents." *Id.* at 495. That presumption, however, "may be rebutted upon a showing either that the parent is 'unfit' or that 'exceptional circumstances' exist which would make continued custody with the parent detrimental to the best interest of the child." *Id.*

FL § 5-323(b) gives juvenile courts the authority to terminate an individual's parental rights. It provides:

> *Authority*.—If, after consideration of factors as required in this section, a juvenile court finds by clear and convincing evidence that a parent is unfit to remain in a parental relationship with the child or that exceptional circumstances exist that would make a continuation of the parental relationship detrimental to the best interests of the child such that terminating the rights of the parent is in a child's best interests, the juvenile court may grant guardianship of the child without consent otherwise required under this subtitle and over the child's objection.

L.B., 229 Md. App. at 588-90 (parallel citations omitted).

Here, after reviewing the record, we conclude that the circuit court did not abuse its discretion in terminating Ms. M.'s parental rights to T.N. and A.D. The circuit court considered in significant detail the applicable factors. It found that Ms. M. had an "abysmal" track record, and given Ms. M.'s "history of resistance," "lack of follow through," and poor consistency, it concluded that "permanency could not be safely achieved with Ms. [M.] *in the foreseeable future*." (emphasis added). It found that

Ms. M.'s eleventh hour "sprint" to demonstrate compliance *while the TPR proceedings were ongoing* was insufficient to overcome her two years of history demonstrating a "continuous pattern of lack of any reasonable effort, unreliability and instability." As the court stated:

> Raising little children requires a marathon of effort. A successful sprint here or there is worthless in the grand scheme, if the rest of the time a parent cannot safely parent a child.
>
> Three months of effort out of two years gives this [c]ourt no confidence that Ms. [M.] could safely care for either or both of her children.

To be sure, Ms. M.'s therapist opined that Ms. M. could safely parent her children "given the right support" and planning reunification with one child at a time. The court, however, was not required to credit that opinion. Ms. M. concedes that mental illness "may form a basis for TPR," but she asserts that her "diagnosis did not." That conclusion was for the circuit court to make, and it was not clearly erroneous or an abuse of discretion, under the circumstances of this case, for the court to find that Ms. M.'s "severe" OCD, and her lack of consistent effort to be a fit parent, rendered her unfit to parent her children.

Accordingly, we hold that the circuit court did not abuse its discretion in terminating Ms. M.'s parental rights to T.N. and A.D.

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