

Circuit Court for Cecil County  
Case No. C-07-JV-21-000117

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 106

September Term, 2024

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IN RE A.P.

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Friedman,  
Leahy,  
Sharer, J. Frederick  
(Senior Judge, Specially Assigned)

JJ.

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Opinion by Leahy, J.

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Filed: September 23, 2024

\* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

In this child in need of assistance<sup>1</sup> (“CINA”) case, appellant Am.P. (“Mother”), challenges the judgment of the Circuit Court for Cecil County, sitting as a juvenile court, granting custody and guardianship of her now 15-year-old daughter, A.P., an appellee, to her foster parents (the “M’s”) and terminating jurisdiction. The Cecil County Department of Social Services (“the Department”) also is an appellee. A.P.’s father (“Father”) participated in the proceedings below but is not a party to this appeal.

Mother presents two questions,<sup>2</sup> which we combine and rephrase as one:

- I. Did the juvenile court err or abuse its discretion by granting custody and guardianship of A.P. to her foster parents and terminating jurisdiction over the CINA case?

For the following reasons, we affirm the judgment.

## **BACKGROUND**

In the Fall of 2021, A.P., then age 12, lived in her maternal grandparents’ home in Perryville along with Mother; Mother’s fiancé, Mr. G; her older half-brother; her younger

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<sup>1</sup> A “child in need of assistance” is “a child who requires court intervention” because the child has been abused or neglected, or has a developmental disability or mental disorder, and whose parents, guardian, or custodian cannot or will not give proper care and attention to the child and the child’s needs. Maryland Code, Courts and Judicial Proceedings Article (1984, 2021 Repl. Vol., 2022 Supp.), § 3-801(f) and (g).

<sup>2</sup> The questions as posed by Mother are:

- I. Whether the Court erred in closing the case on March 5, 2024, and terminating the court [sic] jurisdiction and granting the foster parents legal and physical custody in violation of Appellant’s right to parent?

- II. Whether Cecil County Department of Health [sic] and Social Services made reasonable efforts to assist Appellant, Ms. A.P.?

half-brother, K, who is Mother’s son with Mr. G; and her maternal uncle. A.P. had not had contact with Father since she was 4 years old, when Father waived his rights to visitation and custody in a consent order entered by the Circuit Court for Cecil County.

**A. The Child Sexual Abuse Investigation**

On October 18, 2021, the Department received a report that Mr. G had sexually abused A.P. Nicole Eder, a child protective services assessor assigned to the Child Advocacy Center commenced a child sexual abuse investigation, in cooperation with the Cecil County Sheriff’s Office (“CCSO”).

That same day, Ms. Eder and a CCSO detective met with Mother and Mr. G at their home and informed them of A.P.’s allegations of abuse. Mother and Mr. G disputed the allegations, but Mother agreed to enter into a safety plan whereby Mr. G agreed to temporarily move out of the home. The safety plan specified that “[Mr. G] is to have no contact with [A.P.] until further information can be gathered.” The commencement date for the safety plan was October 18, 2021, and the “[r]e-evaluation date” was November 18, 2021.

The next day, Ms. Eder conducted a forensic interview with A.P. A.P. reported that Mr. G began abusing her in 2018, when she was 9 years old. On multiple occasions, he rubbed his penis between her buttocks near her vagina. In each instance, Mr. G gave A.P. more screen time on her phone ostensibly in exchange for the sexual contact. A.P. stopped asking for more screen time because she wanted it to stop. On other occasions, Mr. G touched her breasts, touched her vaginal area, and licked her vaginal area. In

November 2020, Mr. G attempted to penetrate A.P.’s “butt” with his penis.” She told him to stop because it hurt. That was the last incident.

On October 26, 2021, Ms. Eder and a CCSO detective met with Mr. G. He denied the allegations and made no other statements. The following day, Mother called Ms. Eder and left her a voicemail stating that she believed Mr. G and disbelieved A.P. Mother stated that A.P. was “covering up for somebody[.]”

On November 4, 2021, Ms. Eder spoke to Mother on the phone and Mother verbally agreed to extend the safety plan. Then on December 13, 2021, Ms. Eder’s supervisor, Kristen Hahn, and an assistant state’s attorney with the Special Victim’s Unit met with Mother. They advised her that Mr. G pled guilty to charges of child sexual abuse in 2008. Mother stated that she did not believe the current allegations against Mr. G and that she believed that he had been coerced into pleading guilty in the prior case. Though Mother initially claimed that Mr. G was not living at the home, when confronted with contrary information, she did not dispute that Mr. G had resumed living in the home about a month earlier. In her view, the safety plan had ended. Mother claimed that she needed Mr. G’s help parenting their son, K, who has special needs. The Department offered Mother in-home services to facilitate Mr. G leaving the home, but Mother refused, reiterating that he had done nothing wrong.

Ms. Hahn met with A.P.’s maternal grandmother, but determined that she could not be a resource for custody because Mother and Mr. G lived in her home and because she also stated that she disbelieved A.P.

Following these meetings, the Department determined to shelter A.P.

### **B. CINA Adjudication and Disposition**

On January 21, 2022, the Department filed a CINA petition. It alleged that A.P. had been abused and that Mother was unwilling to give proper care and attention to A.P. or to meet her needs.

The court held an adjudication and disposition hearing on February 15, 2022. By then, Mr. G had been criminally charged with sexual abuse of A.P. and was being held without bail pending trial. Mother had been criminally charged with contributing to a child needing supervision. Mother, through counsel, consented to the admission of the Department's court report setting out the above facts and agreed to submit based on that report. The court sustained the allegations of the CINA petition, found that A.P. was a CINA, and ordered her committed to the custody and guardianship of the Department for placement in foster care. Mother was ordered to submit to a psychological evaluation and parenting assessment; to participate in mental health counseling and follow all recommendations; and, to participate in parenting and sexual abuse education classes. She was granted supervised visits with A.P. once per week.

### **C. The Initial Review Hearing**

A review hearing was held on July 26, 2022. The court admitted the Department's court report as substantive evidence without objection. A.P. had just been placed with the M's, a licensed long-term foster placement, following two short-term placements. A.P. consistently expressed interest in visiting with Mother and being reunified with her.

Her counsel proffered that A.P. understood that she and Mother needed to engage in family therapy to work through issues.

The Department was seeking to update its service agreement with Mother, but she was not cooperative because, according to her attorney, she mistrusted the agency. Visitation between Mother and A.P. had been inconsistent largely due to a court order in Mother’s criminal case that mandated that visitation be supervised by the Department, which was difficult to facilitate given Mother’s weekday work schedule. After the criminal court lifted that requirement at the end of April 2022, the Department permitted Mother to resume visits at the private visitation center.

The Department soon reversed course and reinstated the requirement that the visits be supervised by its agency after it learned that Mother allowed her older son to speak to Mr. G on the telephone in A.P.’s presence. After numerous meetings and conversations, the Department developed a new visitation agreement that would allow visits to resume at the private visitation center on weekends. The agreement was sent to Mother for signature, but she did not return it for two weeks.

Mr. G’s criminal trial was scheduled for the following month and A.P. was working with her individual therapist to prepare for that event. Mother continued to engage with Mr. G and had expressed a “need to have him in her life as they share custody of a child[.]”

Mother’s counsel proffered that she had completed all the tasks asked of her by the Department, including: a psychological and parenting capacity assessment; random drug

testing, which was negative for all substances; a parenting education course; and individual therapy. Mother asked to begin family therapy with A.P. to facilitate reunification.

The court determined that A.P. remained a CINA and established a primary permanency plan of reunification. The court took judicial notice of the consent custody order between Mother and Father and ordered that the Department was not obligated to make reasonable efforts to reunify A.P. with Father.

#### **D. Mr. G's conviction**

The criminal charges against Mr. G were tried to a jury in August 2022 and he was convicted of sexual abuse of a minor, second-degree rape, attempted second-degree rape, and third-degree sexual offense. In November 2022, the court sentenced him to serve an aggregate term of 90 years.<sup>3</sup>

Soon after Mr. G's conviction, Mother was scheduled to visit with A.P. but cancelled. The next visit, scheduled for September 4, 2022, was cancelled at the last minute by the Department because on the day of the visit, the Department reviewed transcripts of phone calls between Mother and Mr. G that caused it to have "safety concerns." It moved visits back to the Department under its supervision and communicated with Mother's counsel to arrange weekday visits, explaining that it would not be appropriate for visits to be supervised by "another party" considering Mother's

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<sup>3</sup> While this appeal was pending, this Court affirmed Mr. G's convictions.

continued “support of Mr. G[] and lack of belief and support of her daughter[.]”

Over the next two months, the Department worked to coordinate supervised visits between Mother and A.P., including offering virtual visits. Mother’s counsel suggested that visits should occur in a “therapeutic setting.” The Department reminded Mother that family therapy could not commence until Mother engaged in non-offender trauma therapy individually, which it had been working with Mother to coordinate.

### **E. The Initial Permanency Planning Review Hearing**

The next hearing was held on January 24, 2023. The Department recommended modifying the permanency plan to make custody and guardianship to a non-relative the primary plan, with reunification with Mother the secondary plan. Mother, A.P., and Father consented to that change.

The juvenile court admitted into evidence a redacted court report by consent. That report specified that Mother was not consistently participating in visitation with A.P. and continued to express disbelief that Mr. G had abused A.P.; that she had testified in support of Mr. G at his sentencing hearing (along with other maternal family members); that A.P. no longer wished to return to Mother’s custody, preferring to remain with the M’s, with whom she was bonded; that though Mother was engaged with an individual therapist, the Department had recommended that she transfer to a therapist who could “address the sexual abuse education and assess [Mother]’s ability to engage in family therapy[.]” Mother had not visited with A.P. since Mr. G was convicted.



The court entered an order modifying the permanency plan to make custody and guardianship to a non-relative the primary plan, with reunification a secondary plan.

#### **F. The Contested Permanency Planning Review Hearing**

The next review hearing was scheduled to be held in June 2023, but was postponed five times.<sup>4</sup> Initially, the Department recommended modifying the permanency plan to a primary plan of adoption by a non-relative, with a secondary plan of custody and guardianship to a non-relative. It later recommended modifying the permanency plan to a concurrent plan of custody and guardianship to a non-relative (primary) and adoption by a non-relative (secondary). At the beginning of January 2024, the Department recommended that the court grant custody and guardianship of A.P. to the M's and close the CINA case.

The contested hearing commenced on January 16, 2024, continued on February 27, and reconvened for the court's ruling on March 5, 2024. As a threshold matter, Mother sought to call A.P., then 14 years old, as a witness. A.P.'s attorney objected to that request, arguing that the court should conduct an *in camera* interview with A.P. but not subject her to testifying in open court. The Department agreed with A.P. that an *in camera* interview was appropriate. The court denied Mother's request and determined to

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<sup>4</sup> The review hearing was postponed three times to allow Mother to obtain new counsel through the Office of the Public Defender after her private counsel withdrew from the case and to provide her attorney sufficient time to prepare for the hearing. It subsequently was postponed twice more to accommodate scheduling constraints because it was anticipated to be a lengthy contested hearing.

interview A.P. *in camera*. The court agreed to ask some questions proposed by Mother but rejected a “significant number” of the questions as irrelevant to the issue of permanency for A.P.

The judge met with A.P. privately while counsel observed the meeting remotely. A.P. reported that she had lived with the M family for about a year and that it was “going really good.” She wanted the court to grant the M’s custody and guardianship over her because she wanted to be free of the supervision and the need to request permission before they could take her places or make appointments for her. Because she remained open to the possibility of repairing her relationships with Mother and her maternal family members in the future, she was not seeking to be adopted by the M family.

A.P. had not seen Mother since August 2022 at Mr. G’s trial. She characterized Mother as “stubborn” and unwilling to compromise. In her view, Mother needed to engage in therapy and to recognize what Mr. G had done to A.P. As things stood, Mother was not providing the support A.P. needed.

The court asked A.P. if she ever had felt pressured by anyone with regard to the CINA case and she replied that only Mother had pressured her. A.P. felt like her “home” was with the M family. When she referred to where she had lived with Mother, she called it her “old house” because “that’s just a house, it’s not my home.”

A redacted court report prepared by the Department was admitted into evidence without objection. The report reflected that in December 2023, A.P. told the social worker assigned to her case, Rebecca Cartwright, that she wished to exit foster care with

custody and guardianship granted to the M family. She was not interested in pursuing family therapy with Mother or engaging with her at that time. She felt supported and safe with the M family.

The Department had made efforts to work with Mother since visitation ceased in August 2022. It entered into a new service agreement with her in May 2023 that provided that she would begin individual therapy with a provider who was trained in sexual abuse education and that she could transition to family therapy with A.P. at the discretion of the service providers for Mother and A.P. and at the Department's discretion. Ms. Cartwright and the Court Appointed Special Advocate for A.P. met with Mother in June 2023 to discuss her efforts with A.P. during which Mother “verbalized her priority of her other children over [A.P.] and refused to acknowledge the sexual abuse that occurred with her daughter.”

In December 2023, after Mother completed five sessions with her new therapist, Dr. Ulrich, Ms. Cartwright discussed Mother's progress with the therapist. Dr. Ulrich reported that Mother was “resistant to acknowledging that [Mr. G] sexually abused [A.P.]” and that she thought “‘someone’ sexually abused [A.P.] but refuse[d] to admit that it was Mr. G[.]” Dr. Ulrich did not “feel that there [was] anything more she [could] do for or with [Mother] at [that] time.” Nevertheless, Dr. Ulrich remained open to working with Mother and A.P. should A.P. “wish to do so.”

The Department called Ms. Cartwright as its only witness at the hearing. She testified that A.P. was doing extremely well in the M household, where she was thriving

academically, socially, and emotionally. She was the only child in the M's home. She attended church with them and had joined the cheer team at her school. The Department completed a home study for the M family, which it filed with the juvenile court.

The Department's primary reasons for recommending that the M family be granted custody and guardianship of A.P. were Mother's continued belief that Mr. G had not sexually abused A.P. and A.P.'s stated desire to exit foster care and live permanently with the M's. Ms. Cartwright met with A.P. monthly and she had consistently asked to remain with the M family at every meeting. Ms. Cartwright believed that it was in A.P.'s best interest for custody and guardianship to be granted to the M's.

On cross-examination, Ms. Cartwright testified that Dr. Ulrich's position was that family therapy could start when both Mother and A.P. were ready and A.P. did not wish to begin family therapy at this time. A.P. felt "hurt and unsupported" by Mother.

At the conclusion of the Department's case, the court took judicial notice of Mr. G's criminal conviction.

In her case, Mother testified that she continued to live with her parents, her brother, and her two sons. She explained that her younger son has cerebral palsy and requires significant interventions.

In Mother's view, A.P. entered foster care because Mother was unwilling to sign a new safety plan after the initial safety plan "expired." Her last visit with A.P. was right before Mr. G's trial. After he was convicted, Mother "needed time" to process the events. Since then, she had asked her attorney to arrange family therapy.

Mother loved A.P. and missed her. A.P.'s absence had caused a strain on the family because A.P.'s older brother did not understand why Mother still loved A.P. and wanted her back in her life. She wanted to see A.P. and be a part of her life. She believed that they needed therapy to accomplish that, explaining that it had “been so long since we’ve seen each other and interacted with each other” that A.P. did not “know who [Mother] [was] anymore as her mom[.]”

With respect to the sexual abuse, Mother testified, “I still feel like to me, it’s unknown[,]” because A.P. did not behave the way she expected a victim of sexual abuse to act.

On cross-examination, counsel for the Department asked Mother about the safety plan, which reflected that it would be reevaluated in November 2021 and did not include an expiration date. Mother continued to maintain that the safety plan was not in effect when she allowed Mr. G to move back into her home with A.P.

A.P.'s counsel questioned Mother about her continued contact with Mr. G. Mother testified that she spoke to Mr. G every day, visits him in prison, and puts money in his commissary account. She reiterated that A.P.'s behavior was inconsistent with her having been a victim of sexual abuse, noting that she had not seemed depressed or withdrawn, and did not exhibit behavioral issues or struggle academically. Mother explained that “[j]ust because [Mr. G] was charged doesn’t mean anything . . ., because everything is unknown.” When asked if she believed that Mr. G sexually abused A.P., she replied: “I’m unsure what the evidence provided, it doesn’t make sense.”

On redirect examination, Mother testified that she was a survivor of sexual assault and partially based her assessment of A.P.'s behavior on her own personal experience. She stated that if A.P. were returned to her custody, she would ensure that A.P. had no contact with Mr. G.

In closing, the Department argued that A.P. could not be healthy and safe in Mother's home even though Mr. G was incarcerated because Mother continued to be in daily contact with him and continued to disbelieve A.P. Mother's disbelief created a risk that she would not protect A.P. from future harm.

A.P.'s attorney argued that she was bonded with the M's, with whom she had lived with for nearly two years. A.P. had considered judgment and had made clear to counsel that she did not feel safe returning to Mother's home. A.P. made the decision that she did not want to be adopted because she did not want to sever her ties to her biological family. The M family had demonstrated their willingness to nurture A.P.'s relationships with her maternal aunt and her paternal relatives.

Father's counsel agreed with counsel for the Department and A.P.

Mother's counsel argued that she had done everything in her power to get her child back, including fully complying with the service plans. She erroneously maintained that A.P. had misstated the surname of her foster parents during her *in camera* meeting with the court, calling into question how well she knew them. She suggested that A.P. might not be aware that Mother was interested in family therapy. Mother's counsel argued that her continued contact with Mr. G was understandable considering that they

shared a young child with complex medical needs. Mother maintained it would not be in A.P.'s best interest for the court to terminate jurisdiction before additional channels to permit reunification were explored. She asked the court not to grant custody and guardianship to the M family and not to modify the permanency plan to remove reunification as an option.

### **G. The Juvenile Court's Ruling**

The court ruled from the bench on the third day of the hearing. It found that A.P. was “an intelligent, insightful child, and . . . a child who has been through a significant amount of trauma in her young life.” In the court's view, the “fundamental issue” was that A.P. was the “victim of significant sexual abuse” at the hands of Mr. G. The court noted that it had taken judicial notice of Mr. G's criminal convictions for rape in the second degree and other sexual offenses against A.P. and would also judicially notice Mr. G's prior criminal convictions for sexual abuse of another minor in his household, to which he had entered an *Alford* plea.<sup>5</sup> The court observed that Mother's testimony was clear that she still did not believe that Mr. G had sexually abused A.P. and this lack of belief was causing A.P. to feel unsupported.

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<sup>5</sup> An *Alford* plea is a specialized type of guilty plea in which the defendant, although pleading guilty, continues to deny his or her guilt. *North Carolina v. Alford*, 400 U.S. 25, 37 (1970).

The court found that A.P. was bonded to the M family and that she had referred to them by the correct surname throughout their conversation. She felt “safe [and] cared for” with the M’s and considered their house to be her home.

The court emphasized that since January 2023, the primary permanency plan in the case had been custody and guardianship to a non-relative. Thus, the issue before the court was whether that permanency plan had been achieved. A.P. had been in State custody for 27 months and with the M family for 19 months.<sup>6</sup>

A.P. had not visited with Mother since August 2022 and had “no meaningful relationship” with her. The court report and Ms. Cartwright’s testimony established that this was A.P.’s decision, which the court found was reasonable given that Mother had not supported A.P. in the aftermath of the trauma of her abuse.

The court found that Mother’s desire to reunite with A.P. was genuine and that she had substantially, if not entirely, satisfied the service plan. Nevertheless, the court determined that meeting those requirements did not “move the needle on reunification[.]” Mother’s unwillingness to accept that Mr. G sexually abused A.P. despite his criminal conviction for those acts created an “insurmountable impasse” in the relationship between her and her daughter.

Meanwhile, A.P. was doing “unfathomably well” considering her experience. The court found that she deserved permanence and clearly expressed her desire to “no longer

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<sup>6</sup> The juvenile court mistakenly stated that A.P. entered the care of the M family in January 2022 when, in fact, it was July 2022.



be existing in a state of limbo” inherent in foster care. It found that it was in her best interest to remain with the M’s and that the permanency plan had been achieved. For those reasons, the court entered an order granting custody and guardianship of A.P. to the M family and terminating jurisdiction over the case and a separate order granting the M’s legal and physical custody of A.P.

Mother noted this timely appeal.

### **STANDARD OF REVIEW**

We apply three interrelated standards of review to a juvenile court’s determinations in a CINA proceeding. *In re R.S.*, 470 Md. 380, 397 (2020). The court’s factual findings are reviewed for clear error. *Id.* Matters of law are reviewed *de novo*, without deference to the juvenile court. *Id.* We review final conclusions for abuse of discretion when they are based on “sound legal principles and factual findings that are not clearly erroneous[.]” *Id.* (quoting *In re Yve S.*, 373 Md. 551, 586 (2003)). An abuse of discretion occurs “where no reasonable person would take the view adopted by the trial court or when the court acts without reference to any guiding rules or principles.” *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997) (cleaned up).

### **DISCUSSION**

#### **A. Parties’ Contentions**

Mother advances two primary challenges to the juvenile court’s decision to grant custody and guardianship to the M family and close the CINA case. First, she contends that because she complied with the service agreement, reunification should have

remained on the table while the Department facilitated family therapy. Second, Mother contends that the Department did not make reasonable efforts toward accomplishing the secondary permanency plan of reunification because it did not try to establish therapeutic visitation between A.P. and Mother.

The Department responds that because Mother consented to the change in the primary permanency plan, she may not challenge that determination on appeal. It asserts that the juvenile did not err or abuse its discretion by finalizing the primary permanency plan because there was ample evidence that it was in A.P.'s best interest to do so and because Mother's consistent disbelief that Mr. G had sexually abused A.P. prevented reunification. The Department maintains that that Mother's "surface-level" compliance with the service agreement was insufficient here because it did not alleviate the circumstances that brought A.P. into care. It asserts that the juvenile court correctly found that Department made reasonable efforts to achieve the secondary plan of reunification.

A.P.'s counsel filed a Line in this Court, taking the position that the juvenile court did not err or abuse its discretion by finalizing the permanency plan of custody and guardianship to a non-relative and terminating jurisdiction. She adopts the Department's brief in its entirety and asks this Court to affirm the juvenile court's order.

### **B. Analysis**

Parents have a fundamental right to "raise their children free from undue and unwarranted interference on the part of the State." *In re Adoption/Guardianship of*

*Rashawn H.*, 402 Md. 477, 495 (2007). This right is not absolute, however. The fundamental right to parent must be balanced with the State’s interest in protecting children. *In re Adoption/Guardianship of H.W.*, 460 Md. 201, 216 (2018). Those competing rights are implicated in CINA proceedings.

After a child is adjudicated a CINA and is committed to a local department for out-of-home placement, the court must “hold a permanency planning hearing” within 11 months “to determine the permanency plan for a child.” Maryland Code, Courts and Judicial Proceedings Article (1984, 2021 Repl. Vol., 2022 Supp.) (“CJP”), § 3-823(b)(1). “Every reasonable effort shall be made to effectuate a permanent placement for the child within 24 months after the date of initial placement.” CJP § 3-823(h)(4). In determining a permanency plan for a child adjudicated a CINA, a juvenile court shall “to the extent consistent with the best interests of the child,” prioritize “[r]eunification with the parent or guardian” over a plan giving custody or guardianship to a relative or non-relative. *See* CJP § 3-823(e)(1)(i) (setting forth descending order of priority for permanency plans). Nevertheless, “if there are weighty circumstances indicating that reunification with the parent is not in the child’s best interest, the court should modify the permanency plan to a more appropriate arrangement.” *In re Adoption of Cadence B.*, 417 Md. 146, 157 (2010) (citation omitted).

In assessing whether to change a permanency plan, the juvenile “court shall consider the factors specified in” Maryland Code, Family Law Article (1984, 2019 Repl. Vol., 2023 Supp.) (“FL”), § 5-525(f)(1). *See* CJP § 3-823(e)(2). Those factors are: 1)

“the child’s ability to be safe and healthy in the home of the child’s parent;” 2) “the child’s attachment and emotional ties to [his or her] natural parents and siblings;” 3) “the child’s emotional attachment to [his or her] current caregiver and the caregivers’ family;” 4) “the length of time the child has resided with the current caregiver;” 5) “the potential emotional, developmental, and educational harm to the child if moved from the child’s current placement;” and 6) “the potential harm to the child by remaining in State custody for an excessive period of time.”

In this case, the juvenile court initially established a permanency plan of reunification. Six months later, by *consent*, the juvenile court modified the permanency plan from reunification to a primary plan of custody and guardianship to a non-relative, with a secondary plan of reunification. The court admitted into evidence the Department’s redacted court report, again by consent, which supplied ample evidence supporting its determination that weighty circumstances justified a shift away from reunification. Because Mother consented to the modification to the permanency plan, it is not before us in this appeal.

At the contested review hearing, having already established that the primary permanency plan would be custody and guardianship to a non-relative, the juvenile court was obligated to make the following assessments, as relevant:

- (i) Determine the continuing necessity for and appropriateness of the commitment;
- (ii) Determine and document in its order whether reasonable efforts have been made to finalize the permanency plan that is in effect;

- (iii) Determine the appropriateness of and the extent of compliance with the case plan for the child;
- (iv) Determine the extent of progress that has been made toward alleviating or mitigating the causes necessitating commitment;
- (v) Project a reasonable date by which a child in placement may be returned home, placed in a preadoptive home, or placed under a legal guardianship;
- (vi) Evaluate the safety of the child and taken necessary measures to protect the child;
- (vii) Change the permanency plan if a change in the permanency plan would be in the child’s best interest; and
- (viii) For a child with a developmental disability, direct the provision of services to obtain ongoing care, if any, needed after the court’s jurisdiction ends.

CJP § 3-823(h)(2). Further, before granting custody and guardianship to a non-relative, the juvenile court also was required to consider:

- (i) Any assurance by the local department that it will provide funds for necessary support and maintenance for the child;
- (ii) All factors necessary to determine the best interests of the child; and
- (iii) A report by a local department or a licensed child placement agency, completed in compliance with regulations adopted by the Department of Human Services, on the suitability of the individual to be the guardian of the child.

CJP § 3-819.2(f)(1).

“While the [circuit] court is required to consider the ‘relevant statutory factors’ and ‘make specific findings based on the evidence with respect to each of them,’ the court is ‘not required to recite the magic words of a legal test.’” *In re D.M.*, 250 Md. App. 541, 563 (2021) (quoting *In re Adoption/Guardianship of Darjal C.*, 191 Md. App.

505, 531-32 (2010)). The key is whether “actual consideration of the necessary legal considerations [is] apparent in the record.” *Id.* (citations omitted).

The record reflects that the juvenile court made findings bearing upon each of the statutory factors<sup>7</sup> and the relevant best interest factors.<sup>8</sup> The central issue at the hearing and the focus of the juvenile court’s ruling was “the extent of [Mother]’s progress . . . toward alleviating or mitigating the causes necessitating commitment” and A.P.’s ability to be safe with Mother, both of which turned upon the abuse suffered by A.P. at the hands of Mr. G. CJP § 3-823(h)(2)(iv) & (vi). The court found that Mother’s continuing disbelief that Mr. G sexually abused A.P. and daily contact with him despite his conviction created an insurmountable obstacle to reunification.

The record is replete with evidence supporting this finding. When A.P. first reported the abuse, Mother told Ms. Eder that she did not believe A.P. She continued to

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<sup>7</sup> The court’s findings also touched upon all of the factors under FL § 5-525(f)(1), though we agree with the Department that the court was not obligated to reassess those factors at the contested review hearing.

<sup>8</sup> Factors that a court may weigh in assessing a child’s best interest include:

- 1) fitness of the parents,
- 2) character and reputation of the parties,
- 3) desire of the natural parents and agreements between the parties,
- 4) potentiality of maintaining natural family relations,
- 5) preference of the child,
- 6) material opportunities affecting the future life of the child,
- 7) age, health and sex of the child,
- 8) residences of parents and opportunity for visitation,
- 9) length of separation from the natural parents, and
- 10) prior voluntary abandonment or surrender.

*Montgomery Cnty. Dep’t of Social Servs. v. Sanders*, 38 Md. App. 406, 420 (1977) (citations omitted).

express disbelief when she learned that Mr. G had previously pled guilty to sexual abuse of a child. After Mr. G was convicted by a jury of second-degree rape of A.P. and numerous other sexual offenses, Mother asked the Department for “some time” before she could resume visitation with her daughter. Dr. Ulrich met with Mother over five sessions to help her develop insight into the abuse perpetrated against her daughter but determined that Mother’s refusal to acknowledge that Mr. G sexually assaulted A.P. made further non-offender therapy futile at that time. The therapist only would consider providing family therapy if A.P. wished to participate, which she did not. Significantly, Mother testified candidly at the contested hearing that it remained “unknown” whether Mr. G had sexually abused A.P., expressing her view that A.P. did not behave like a victim. She also testified that she was in contact with Mr. G every day, visited him in prison, and provided financial support to him. A.P. told the juvenile court during her *in camera* interview that she had not felt believed or supported by Mother during her time in foster care.<sup>9</sup>

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<sup>9</sup> Mother does not directly challenge the juvenile court’s ruling denying her request to call A.P. as a witness at the contested review hearing and to reject many of her proposed questions for A.P. If she had, we would hold that the court did not abuse its broad discretion by determining to interview A.P. in chambers, rather than allowing her to be called as a witness. *See Karanikas v. Cartwright*, 209 Md. App. 571, 595 (2013) (holding that in a custody dispute, the court “has discretion to decide whether to conduct a child interview”). Further, Mother waived any objection to the procedure utilized and the questions asked during the *in camera* interview when she failed to raise any objection at the conclusion of the interview, which her counsel was permitted to listen to in real time.

The record supports the court’s determination that Mother’s choice to support Mr. G instead of A.P. dealt a devastating blow to the parent child relationship. A.P. told the court that she felt unsupported by Mother and did not consider Mother’s house to be her home. A.P. was hurt by Mother’s refusal to believe her. Visitation had stopped in August 2022 and A.P. no longer had a “meaningful relationship” with Mother.

The evidence also demonstrated that the Department had made reasonable efforts to achieve the primary permanency plan of custody and guardianship to the M’s. A.P. was bonded with the M’s and felt “safe, [and] cared for” in their house, which she considered to be her home. She had been in an out-of-home placement for 25 months and with the M family for the vast majority of that time. The record reflects that the court considered a home study conducted for the M’s and was satisfied that they were fit and suitable custodians for A.P.

Regarding the necessity of continuing A.P.’s commitment to the Department, the juvenile court found that A.P. consistently expressed a desire to remain with the M family, that she understood the consequences of terminating the juvenile court’s jurisdiction, that she desired permanency, and that it was in her best interest to not “exist[] in the state of limbo[.]” *See In re Adoption of Jayden G.*, 433 Md. 50, 82 (2013) (“A critical factor in determining what is in the best interest of a child is the desire for permanency in the child’s life.”).

Mother’s compliance with the Department’s service plan notwithstanding, the above evidence makes clear that she was not willing or able to meet A.P.’s emotional



needs and had made no progress towards accepting the truth of the abuse her daughter suffered at the hands of Mr. G. As with all custody determinations in Maryland, the primary goal of permanency planning in CINA cases is to serve the best interests of the child. See *Conover v. Conover*, 450 Md. 51, 54 (2016) (“The primary goal of [child] access determinations in Maryland is to serve the best interests of the child.”) (citation omitted); *Taylor v. Taylor*, 306 Md. 290, 303 (1986) (“In any child custody case, the paramount concern is the best interest of the child.”); *Ross v. Hoffman*, 280 Md. 172, 174-75 (1977) (“This best interest standard is firmly entrenched in Maryland and is deemed to be of transcendent importance.”). When courts make these determinations, “[t]he best interest of the child is not considered as one of many factors, but as the objective to which virtually all other factors speak.” *Taylor*, 306 Md. at 303.

We hold that the juvenile court did not abuse its broad discretion by determining that A.P.’s best interest was served by ending the limbo and giving her permanency by the grant of custody and guardianship to the M family. This disposition left open the possibility that, with continued therapy, Mother might someday start to repair the parent-child bond by acknowledging Mr. G’s perpetration of the abuse on A.P.

Turning to the second issue raised by Mother, we observe that, because reunification remained on the table as a secondary plan, the Department was not relieved of its obligation to make reasonable efforts towards achieving it. CJP § 3-816.1(b)(2)(i); FL § 5-525(e)(3). Mother contends that the Department made “no effort” to encourage A.P. to visit with Mother and that the “only reason” there has been no contact between

her and A.P. is because A.P. refused it. The record belies this assertion, and we hold that the juvenile court did not err by determining that the Department made reasonable efforts to achieve reunification.

First, we emphasize that when a child has been declared CINA because of abuse or neglect, the juvenile court is constrained by the requirements of FL § 9-101, which expressly prohibits the court from granting custody or visitation, except for supervised visitation, to a party who has abused or neglected a child unless the court specifically finds that there is no likelihood of further abuse or neglect. *In re Yve S.*, 373 Md. at 587. If the court determines, as an exception, that supervised visitation is appropriate, the court must assure, at a minimum, that such visitation will not jeopardize the safety and well-being of the child, including the “psychological[] and emotional well-being of the child.” FL § 9-101(b). “The burden is on the parent previously having been found to have abused or neglected his or her child to adduce evidence and persuade the court to make the requisite finding under § 9-101(b).” *In re Yve S.*, 373 Md. at 587. Mother did not satisfy that burden.

Here, the court ordered supervised visitation between Mother and A.P. The Department allowed those visits to be supervised by a private visitation supervisor to accommodate Mother’s work scheduled. Visitation ceased in August 2022, however, after Mother cancelled a visit following Mr. G’s conviction and because Mother’s continued “support of Mr. G[] and lack of belief and support of her daughter” necessitated that her visits be supervised by the Department, not by a private visitation

center. The Department offered to supervise those visits on a weekday or to supervise virtual visits. The Department facilitated and paid for Mother to attend therapy with a provider specializing in non-offenders. After five sessions, Dr. Ulrich concluded that Mother’s refusal to acknowledge the abuse perpetrated upon A.P. made continued therapy futile. Further, A.P. did not desire to engage in family therapy considering her Mother’s continued disbelief of A.P.’s allegations. *See* COMAR 07.02.11.05(7)(c) (a local department shall “[i]mplement a visitation plan which . . . [d]oes not force a child to participate in visitation but refers the child to a therapist for assistance in resolving the visitation issues[.]”). Considering the Department’s paramount obligation to protect A.P., its efforts to facilitate supervised visitation between A.P. and Mother were reasonable and satisfied its obligations.

### **Conclusion**

As this Court has emphasized, CINA proceedings are “designed to be temporary” because “[t]he valid premise is that it is in the child’s best interest to be placed in a permanent home and to spend as little time as possible in’ the custody of the Department.” *In re M.*, 251 Md. App. 86, 127-28 (2021) (quoting *In re Adoption/Guardianship of Jayden G.*, 433 Md. 50, 84 (2013)). When a parent who has received reasonable assistance from the Department “remains . . . unwilling to provide appropriate care[,] [t]he State is not required to allow children . . . to grow up in permanent . . . instability[.]” *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 501 (2007). For all of the reasons stated in our analysis above, we hold that the juvenile

court did not err by granting custody and guardianship to the M's and closing the CINA case.

**JUDGMENT OF THE CIRCUIT  
COURT FOR CECIL COUNTY,  
SITTING AS A JUVENILE COURT,  
AFFIRMED. COSTS TO BE PAID  
BY APPELLANT.**