

Circuit Court for Baltimore County  
Case Nos. C-03-JV-23-001052 and C-03-JV-23-001053

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 136

September Term, 2024

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IN RE: T.W., R.W.

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Nazarian,  
Ripken,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Eyler, J.

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Filed: August 8, 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).

This matter stems from a child-in-need-of-assistance (“CINA”) case in the Circuit Court for Baltimore County, sitting as a juvenile court. The appellant (“Father”) appeals from a March 2024 order, which determined that Father’s two biological children, five-year-old T.W. and two-year-old R.W., were CINAs and placed them in the custody of the appellee, the Baltimore County Department of Social Services (“Department”). The children’s mother (“Mother”) did not appeal that ruling. On appeal, Father presents one question for our review:

Whether the Court erred in its finding that [T.W. and R.W.] were in fact children in need of assistance and ordering a longer period in shelter?

For the reasons to follow, we shall affirm the judgment of the circuit court.

### **BACKGROUND**

Over the past seven years, the Department intervened numerous times in response to allegations that Mother physically abused her children. In 2017 and 2018, Mother was named as the maltreater<sup>1</sup> in several unsubstantiated<sup>2</sup> abuse cases involving her sons, M.B.<sup>3</sup> (born in October 2015) and J.P.<sup>4</sup> (born in March 2011). “An Order of Controlling Conduct (OCC) was ordered, and the case was referred to Family Preservation Services.”

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<sup>1</sup> “‘Maltreater’ means an individual whom a local department has found responsible for indicated or unsubstantiated child abuse or neglect.” COMAR 07.02.07.02(B)(34).

<sup>2</sup> “‘Unsubstantiated’ means a finding that there is an insufficient amount of evidence to support a finding of indicated or ruled out.” Md. Code, FAM. LAW § 5-701(aa).

<sup>3</sup> M.B.’s father did not file an appeal.

<sup>4</sup> After the shelter care hearing in November 2023, J.P. was placed in the custody of his father, E.P.

In August 2018, Mother was indicated<sup>5</sup> for abuse of J.P. In that case, “[i]t was reported that [J.P.] was being tied up, with a belt, at night.” When Father was interviewed about that incident, he made the following statement to a police officer: “we do feed them, but the only reason he be tied up at night is because he steals.” Father later admitted to making that statement but said that he “didn’t really mean it like that.” The Department also learned that the children were being left unsupervised with Mother in violation of the OCC. The Department removed the children and placed them in shelter care.

In July 2019, the juvenile court found J.P. and M.B. to be CINAs, but the court returned the children to Mother under an order of protective supervision.<sup>6</sup> That order was rescinded in December 2019.

In March 2021, the Department received a report that Father applied for a protective order against Mother after he alleged that he “sustained black eyes as well as other injuries.” “Within that referral there were concerns noted about cognitive limitations for [Father] based on past traumatic brain injury (TBI) as well as ongoing mental health issues and non-compliance with medication management.” Moreover, the Department noted that “[t]here is also a documented history of [Father] being present for or participating in the maltreatment of the children in [Mother’s] home.”

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<sup>5</sup> “‘Indicated’ means a finding that there is credible evidence, which has not been satisfactorily refuted, that abuse . . . did occur.” FAM. LAW § 5-701(m).

<sup>6</sup> When determining the disposition of a CINA case, the court may “[p]lace a child under the protective supervision of the local department on terms the court considers appropriate[.]” Md. Code, CTS. & JUD. PROC. § 3-819(c)(1)(i).

In May 2021, Mother was seen, on camera, slapping M.B. during virtual learning. In August 2021, Mother called the Department and requested for J.P. to be removed “before she puts . . . hands on him.” “However, after a few months, [Mother] advised that she did not want to be contacted by the Department again.”

In January 2022, Mother was indicated for physical abuse of M.B. M.B. “reported that ‘maybe someone took a phone charger and wrapped it around their hand and kept whipping me with it.’” M.B. “had multiple loop marks on his back[.]”

In April 2022, the Department was notified that M.B. arrived at school “with a black eye and he was afraid to say what happened.” The Department noted: “It was further reported that [Mother had been] diagnosed with bipolar disorder and is ‘extremely violent’ toward the children.” The next day, the Department interviewed Mother, she confirmed her bipolar disorder diagnosis, denied committing abuse, but admitted that she “pops” J.P., M.B., and T.W. “with an open hand, on their arms and butt, as a form of discipline.” The Department filed a CINA petition but did not remove the children from Mother’s care. Mother received family preservation services for over a year before the case was dismissed in September 2023.

On October 30, 2023, the Department received a report that J.P. arrived at school wearing a face mask that covered “2 long scratches across his right cheek,” “a bruise above his eye and a bruise above his lip.” T.W. reported to a Department social worker that “mom punched [J.P.] in the face.” Ultimately, J.P. reported to the social worker: “I got in trouble with my mom and she started hitting me.” Based on that incident, Mother was

criminally charged with two counts of second-degree child abuse and two counts of second-degree assault.

On November 3, 2023, the Department removed J.P. and Mother’s three younger children, M.B. (born in October 2015), T.W. (born in June 2018), and daughter R.W. (born in November 2021). The court issued a shelter care order<sup>7</sup> on November 8, 2023.

The CINA adjudication hearings were held on March 18, 2024. Mother and Father agreed that the Department could prove the allegations in the Department’s second amended CINA complaint by a preponderance of the evidence, and the court sustained the allegations. After the disposition hearing, the court found that M.B., T.W., and R.W. were CINAs for the following reasons:

Mother physically abused sibling [J.P.] and there is a long history of suspected abuse and neglect. Interventions for the family have been unsuccessful in preventing continued abuse. There are concerns that [Father] . . . is not a protective factor against the abuse and has a long-standing volatile relationship with [Mother]. He also has mental health issues that need to be monitored and considered.

The court thus committed M.B., T.W., and R.W. to the Department’s custody. Father appeals the CINA finding as to his two children, T.W. and R.W.

We shall supply additional facts in our analysis as needed.

### **STANDARD OF REVIEW**

In reviewing a juvenile court’s decision, an appellate court utilizes three different standards:

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<sup>7</sup> “‘Shelter care’ means a temporary placement of a child outside of the home at any time before disposition.” CTS. & JUD. PROC. § 3-801(bb).

When the appellate court scrutinizes factual findings, the clearly erroneous standard of Rule 8-131(c) applies. Second, if 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 some 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.

*In re Adoption/Guardianship of C.E.*, 464 Md. 26, 47 (2019) (cleaned up).

### DISCUSSION

Father first argues that the court erred in issuing the November 8, 2023, order, which continued shelter care for T.W. and R.W. Father’s challenge to the shelter care order is moot. “Generally, a case is moot if no controversy exists between the parties or ‘when the court can no longer fashion an effective remedy.’” *D.L. v. Sheppard Pratt Health Sys., Inc.*, 465 Md. 339, 351-52 (2019) (quoting *In re Kaela C.*, 394 Md. 432, 452 (2006)). Shelter care is defined as “a temporary placement of a child outside of the home *at any time before disposition.*” CTS. & JUD. PROC. § 3-801(bb) (emphasis added). After disposition — when the children were determined to be CINAs — the children were no longer in shelter care. Because Father’s challenge to the shelter care order is moot, we shall not decide the merits of that claim.

Next, Father claims that the court erred in determining that T.W. and R.W. were CINAs. A CINA is defined as a “child who requires court intervention because: (1) The child has been abused [or] neglected . . . and (2) The child’s parents . . . are unable or unwilling to give proper care and attention to the child and the child’s needs.” CTS. & JUD. PROC. § 3-801(f). “Abuse” includes “[p]hysical or mental injury of a child under

circumstances that indicate that the child’s health or welfare is harmed or is at substantial risk of being harmed by: (i) [a] parent[.]” CTS. & JUD. PROC. § 3-801(b). “Neglect” is defined as “failure to give proper care and attention to a child by any parent . . . under circumstances that indicate: (i) [t]hat the child’s health or welfare is harmed or placed at substantial risk of harm[.]” CTS. & JUD. PROC. § 3-801(s)(1).

Father concedes that T.W.’s “safety and well-being w[ere] at issue, and it was the correct decision for the department to remove him from his mother’s care of November 3, 2024.” According to Father, however, the court erred because custody of T.W. should have been granted to Father instead of the Department. As for R.W., Father claims that she should not have been found CINA because the evidence before the court only established that Mother had “tapped” R.W. on the leg.

We first review whether the first prong of the CINA definition was met, i.e., whether T.W. and R.W. required court intervention because they were abused or neglected within the meaning of CTS. & JUD. PROC. § 3-801(f). Courts need not wait until a child has suffered actual abuse or neglect but may intervene and find that a child is a CINA where there is sufficient evidence of “substantial risk of harm.” *Tamara A. v. Montgomery Cnty. Dep’t of Health & Hum. Servs.*, 407 Md. 180, 184 n.1 (2009) (cleaned up). Indeed, “[i]n evaluating whether such a risk exists, the court has ‘a right—and indeed a duty—to look at the track record, the past, of [a parent] in order to predict what her future treatment of the child may be.’” *In re J.J.*, 231 Md. App. 304, 346 (2016) (quoting *In re Dustin T.*, 93 Md. App. 726, 735 (1992)), *aff’d*, 456 Md. 428 (2017). “That track record includes evidence that the parent has neglected the child’s sibling.” *Id.* Here, the evidence established that

Mother had been named as a maltreater in numerous abuse reports and that she caused a sibling’s (J.P.’s) injuries in October 2023. Under these circumstances, there was sufficient evidence that T.W. and R.W. were subjected to a substantial risk of harm under CTS. & JUD. PROC. § 3-801(f). *See also Tamara A.*, 407 Md. at 184 n.1. Thus, we find no error in the court’s determination that the first prong of the CINA definition was satisfied.

Next, we determine whether the court erred in determining that Mother and Father were “unable or unwilling to give proper care and attention to the child and the child’s needs.” CTS. & JUD. PROC. § 3-801(f)(2). At the time of the CINA hearing in March 2024, Mother had pending criminal charges against her for allegedly abusing J.P. In that criminal case, the pre-trial conditions required Mother to have no unsupervised contact with the children. As for Father, the juvenile court properly found that “[t]here are concerns that [Father] is not a protective factor against the abuse[,]” he “has a long-standing volatile relationship with [Mother,]” and “[h]e also has mental health issues that need to be monitored and considered.” Under those circumstances, the court properly found that Father was “unable or unwilling to give proper care and attention to the child[ren] and the child[ren]’s needs.” CTS. & JUD. PROC. § 3-801(f)(2).

Father argues that the court erred in considering the circumstances of his revoked request for a protective order against Mother. Father sought a protective order against Mother based on the following circumstances: Father “alleged[ly] sustained black eyes as well as other injuries.” Despite that alleged violence committed by Mother, Father admitted that he “revoked [the protective order request] when he and [Mother] resolved their argument and began continuing their romantic relationship.” We find no error in the court’s



consideration of those circumstances. Indeed, the court properly noted that Father has a “volatile relationship with [Mother].” The court also ruled that Father “is not a protective factor against the abuse[.]” That determination was supported by the record, regardless of the protective order request. For example, Father conceded that he was aware that J.P. “was being tied up, with a belt, at night.” The record does not show that Father took any action to protect J.P. from that abuse.

Father claims that the court improperly relied on hearsay in the form of a statement made by the paternal grandfather. According to Father, “[t]he department has noted and testified to the paternal grandfather stating, ‘[Father] was timid[.]’” That statement was contained in the Department’s report, which was admitted without objection. Thus, any challenge to that statement is unpreserved for our review. Md. Rule 8-131(a).

Lastly, Father suggests that the court improperly considered his mental health conditions. It was undisputed that Father received mental health services for a traumatic brain injury and schizophrenia. The court noted that Father “has mental health issues that need to be monitored and considered.” In a nondiscriminatory manner, the court properly noted that it was aware of Father’s mental health conditions and treatment.

For all these reasons, the court did not err in determining that T.W. and R.W. were CINAs. Nor did the court err in committing the children to the Department’s custody.

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