

Circuit Court for Baltimore City
Case Nos. T23046006, T23046007

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1134

September Term, 2024

IN RE J.T. & R.T.

Shaw,
Tang,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned)

JJ.

Opinion by Shaw, J.

Filed: January 23, 2025

*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 is an appeal from a judgment of the Circuit Court for Baltimore City terminating the parent-child relationship between Appellant, K.T. (“Mother”), and her two children, J.T. and R.T. On November 26, 2019, the Baltimore City Department of Social Services (“Department”) removed J.T. and R.T, and Mother’s seven other children from her custody due to deplorable home conditions and bruises found on the children. The children were immediately placed in shelter care. The juvenile court later held a hearing where it found them to be Children in Need of Assistance (“CINA”) and committed them to the Department for care and custody with a permanency plan of reunification. Mother entered into a service agreement with the Department which required her to complete certain conditions in order to reunite with her children. In September of 2021, after the children had been committed to the Department for twenty-two months, the Department filed a motion requesting that the children’s permanency plans be changed from reunification to adoption. The Department then filed petitions for guardianship with the right to consent to adoption for J.T. and R.T. On March 21, 2023, at the conclusion of a hearing, the circuit court found that exceptional circumstances existed to terminate Mother’s parental relationship and the court granted the Department’s petitions. Mother timely appealed and presents the following questions:

1. Did the trial court make clearly erroneous factual findings?
2. Did insufficient evidence support the trial court’s decision that exceptional circumstances existed and as a result, did the court err as a matter of law when concluding that TPR was in the best interests of J.T. and R.T.?
3. Did the trial court issue a deficient opinion in that there was no explanation of how it weighed the statutory findings it how the findings constituted exceptional circumstances?

For reasons that follow, we vacate and remand this case in order to allow the circuit court to articulate its basis for finding that exceptional circumstances existed. We decline to examine the remaining questions as the parties may request further evidentiary proceedings.

BACKGROUND

Mother has ten children, including J.T. and R.T. J.T. was born in December of 2016, and R.T. was born in January of 2018. Prior to the birth of J.T. and R.T., several of Mother’s other children had been committed to the Department in both 2015 and 2016, resulting in an Order of Protective Supervision. The court, later, rescinded the order, granted Mother custody, and terminated its jurisdiction. In 2019, the Department again became involved with the family due to safety concerns reported by the children’s school. On November 26, 2019, the Department visited Mother’s home and observed indecent conditions in the home. There was human waste throughout the home; the toilets were inoperable; the children’s hygiene was poor and they were unkempt. The Department removed the children from the home, and the following day, the juvenile court ordered shelter care and granted the Department the authority to place them in foster care. The court also ordered the Department to transport the children to Johns Hopkins Hospital for a physical evaluation.

The children were examined and J.T.’s and one other sibling’s findings were “suspicious for abuse.” J.T. had multiple abrasions to the face, chest, and back. The hospital staff could not diagnose or exclude abuse for R.T. but found that there was

evidence of “old injuries.” Following the examination, the Department placed the children in foster homes and granted Mother weekly supervised visitation.

Between December 2019 and March 2020, Mother was scheduled for ten visits with the children and attended more than seven of those visits. Jonathan Williams was Mother’s assigned caseworker. On January 16, 2020, the Department held a meeting with Mother to discuss the next steps for reunification with the children. Mr. Williams informed Mother that she needed to continue visiting the children, maintain her employment and housing, take parenting classes, and enroll in mental health services. Mr. Williams referred Mother to Cherry Hill Families for mental health services. Several months later, the COVID-19 pandemic began, and in-person visitation with the children was suspended. Mr. Williams, however, arranged for Mother and the children to have virtual visits.

At an adjudication hearing held on October 20, 2020, Mother stipulated that the children had been living in an unclean home, and that the children’s medical examinations were unable to rule out physical abuse. A disposition hearing was set for December 2020; however, the hearing did not occur until March 4, 2021. At the uncontested hearing, Mother agreed to a disposition order finding her children to be CINA,¹ and granting limited guardianship to the Department. The court’s order stated that Mother continued to express interest in reunification. Mother’s service agreement required her to complete a full mental

¹ CINA stands for “child in need of assistance.” Under Maryland Code, Courts and Judicial Proceedings Article, Section 3-801(f), a CINA is a “child who requires court intervention because: (1) the child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) the child’s parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child’s needs.

health assessment and follow its recommendations, complete parenting classes, and continue visitation with the children.

Following the hearing, Mother requested to continue engaging in supervised visitations virtually due to the threat of COVID-19 to the children, particularly her infant child, C.T. On July 1, 2021, the parties appeared before the court to review the CINA status of J.T. and R.T. The court determined that the children remained CINA, and that the Department and Mother had been working together to mitigate the problems leading to the children’s commitment. As a result, the court found that it remained in the best interests of the children to maintain a permanency plan of reunification. The court scheduled another six-month CINA review hearing for October 2021.

In September 2021, prior to the review hearing, the Department sought to change the permanency plans for the children from reunification to custody and guardianship. The Department notified Mother. At the review hearing in October, the court ordered a continuation of the reunification permanency plan and set a date for a hearing on the issue. The hearing to review the permanency plan was held in December of 2021, and at the hearing, the parties contested the efforts made by Mother toward achieving the permanency plan. The Department argued that Mother had not completed parenting classes, obtained adequate housing, passed a home health inspection, or followed through with mental health treatment in the twenty-two months since J.T. and R.T. had been removed from the home. Due to Mother’s “little to no progress” with the reunification plan, the Department indicated that it planned to prepare for adoption because “both [J.T. and R.T.’s] foster parents said they were willing to adopt and we’re past the 15-22 month period.” At the

conclusion of the hearing, the court ordered that the permanency plans for the children be changed to reunification concurrent with placement with a non-relative for custody and guardianship.

Another hearing to review the children’s CINA status was held on March 30, 2022. The parties again contested the issue of visitation, Mother’s efforts, and the permanency plan. The Department sought to remove reunification from the plan, and to begin a process of seeking adoption for the children. The juvenile court determined that the concurrent plan would remain, and it scheduled a hearing for May of 2022. The hearing on the permanency plans was not held until May 24, 2024. At that hearing, the court ordered that the permanency plan would remain reunification with concurrent custody and guardianship to non-relatives.

On March 2, 2023, the Department filed petitions to terminate Mother’s parental relationship (“TPR”) with J.T. and R.T. The TPR proceedings were held on July 24, 2024, and at the close of all evidence, the court granted the Department’s petition for guardianship. The court found that exceptional circumstances existed to terminate Mother’s relationship with J.T. and R.T. Mother filed this timely appeal.

STANDARD OF REVIEW

An appellate court reviews a juvenile court’s factual findings with regard to termination of parental rights, under a clearly erroneous standard. *In re Adoption of Ta’Niya C.*, 417 Md. 90, 100 (2010) (quoting *In re Yve S.*, 373 Md. 551, 586 (2003)). A juvenile court’s application of the law is reviewed without deference. *Id.* Ultimate decisions of the juvenile court that are rooted in “sound legal principles” and based on

factual findings not found to be in clear error, will be upheld on appeal absent an abuse of discretion. *In re T.K.*, 480 Md. 122, 143 (2022) (quoting *Yve S.*, 373 Md. at 586).

DISCUSSION

I. The court failed to articulate a basis for its determination that exceptional circumstances existed to terminate Mother’s parent-child relationship with J.T. and R.T.

Biological parents have a fundamental right to raise their children. *Troxel v. Granville*, 530 U.S. 57, 66 (2000). However, the right of parents is not absolute and it must be balanced against the fundamental right and responsibility of the State to protect children, who cannot protect themselves, from abuse and neglect. *See In re Adoption/Guardianship of Rashawn*, 402 Md. 477, 497 (2007) (citing *In re Mark M.*, 365 Md. 705-06 (2001)). A natural parent’s relationship can be terminated if the court finds by clear and convincing evidence that the parent is unfit or that exceptional circumstances exist such that custody with the parent would be detrimental to the child’s best interest. *Id.* at 499.

Under Maryland law, the Department of Social Services may petition a court for guardianship of a Child In Need of Assistance. *In re Adoption/Guardianship of Jayden G.*, 433 Md. 50, 56 (2013); *see also* Md. Code Ann., Family Law Article, Section 5-313 (“FL”). Upon obtaining guardianship, the existing parental relationship with the child is terminated and those “parental rights that emanate from that relationship” are transferred to the Department. *Rashawn H.*, 402 Md. at 496. FL § 5-323(d) provides:

[I]n ruling on a petition for guardianship of a child, a juvenile court shall give primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether terminating a parent’s rights is in the child’s best interests, including:

- (1)(i) all services offered to the parent before the child’s placement, whether offered by a local department, another agency, or a professional;
 - (ii) the extent, nature, and timeliness of services offered by a local department to facilitate reunion of the child and parent; and
 - (iii) the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any
- (2) the results of the parent’s effort to adjust the parent’s circumstances, condition, or conduct to make it in the child’s best interests for the child to be returned to the parent’s home, including:
- (i) the extent to which the parent has maintained regular contact with:
 - 1. the child;
 - 2. the local department to which the child is committed; and
 - 3. if feasible, the child’s caregiver;
 - (ii) the parent’s contribution to a reasonable part of the child’s care and support, if the parent is financially able to do so;
 - (iii) the existence of a parental disability that makes the parent consistently unable to care for the child’s immediate and ongoing physical or psychological needs for long periods of time; and
 - (iv) whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the parent within an ascertainable time not to exceed 18 months from the date of placement unless the juvenile court makes a specific finding that it is in the child’s best interests to extend the time for a specified period;
- (3) whether:
- (i) the parent has abused or neglected the child or a minor and the seriousness of the abuse or neglect;
 - (ii) 1.A. on admission to a hospital for the child’s delivery, the mother tested positive for a drug as evidenced by a positive toxicology test; or
 - B. upon the birth of the child, the child tested positive for a drug as evidenced by a positive toxicology test; and
 - 2. the mother refused the level of drug treatment recommended by a qualified addictions specialist

(iii) the parent subjected the child to:

1. chronic abuse;
2. chronic and life-threatening neglect;
3. sexual abuse; or
4. torture;

(iv) the parent has been convicted, in any state or any court of the United States, of:

1. a crime of violence against:
 - A. a minor offspring of the parent;
 - B. the child; or
 - C. another parent of the child; or
2. aiding or abetting, conspiring, or soliciting to commit a crime described in item 1 of this item; and

(v) the parent has involuntarily lost parental rights to a sibling of the child; and

(4)(i) the child’s emotional ties with and feelings toward the child’s parents, the child’s siblings, and others who may affect the child’s best interests significantly;

(ii) the child’s adjustment to:

1. community;
2. home;
3. placement; and
4. school;

(iii) the child’s feelings about severance of the parent-child relationship; and

(iv) the likely impact of terminating parental rights on the child’s well-being.

The juvenile court is required to make findings of fact as to each factor. *See In re Adoption/Guardianship No. 95195062/CAD in Cir. Ct. for Balt. City*, 116 Md. App. 443, 457 (1997). However, the court’s consideration of other factors, not outlined, is not limited. *In re Adoption/Guardianship of H.W.*, 460 Md. 201, 220 (2018) (citing *Rashawn H.*, 402 Md. at 499). Courts may consider “such parental characteristics as age, stability,

and the capacity and interest of a parent to provide for the emotional, social, moral, material, and educational needs of the child.” *Ta’Niya C.*, 417 Md. at 104 n.11 (quoting *Pastore v. Sharp*, 81 Md. App. 314, 320 (1989)).

In a TPR case, a finding of exceptional circumstances is proper if the facts indicate that “a continued parental relationship [would be] detrimental to the best interest of the child.” *Rashawn H.*, 402 Md. at 499. A parent’s action or failure to act can bear on a finding of exceptional circumstances. *Id.* at 307 (citing *Jayden G.*, 433 Md. at 101–02) (holding that a mother’s lack of progress to reunify with the child coupled with the child’s positive care with the foster family constituted exceptional circumstances). A court can find that exceptional circumstances exist when a parent’s behavior may not be extreme enough to warrant a finding of unfitness but is of a nature that justifies termination. *In re Adoption of K’Amora K.*, 218 Md. App. 287, 306 (2014) (citing *In re Adoption/Guardianship No. A91-71A*, 334 Md. 538, 563 (1994)).

In *In re Adoption of K’Amora K.*, this Court examined a juvenile court’s finding of exceptional circumstances based on facts similar to the present case. There, the child was removed by the Department of Social Services from her mother’s care at the hospital following her birth due to concerns about the child’s safety. *Id.* at 289–90. Six days later, the child was placed in foster care, and her mother was granted weekly supervised visitation. *Id.* at 290–91. The Department ultimately petitioned the court for guardianship and in a TPR hearing, the juvenile court found there were exceptional circumstances to terminate the mother’s relationship. The court found that (1) the mother’s efforts to reunify with the child were inconsistent; (2) the mother failed to complete or attend services offered

by the Department of Social Services; (3) the mother demonstrated an inability to care for her other children in the past; and (4) the child “appear[ed] to be on paths of success” with her foster family. *Id.* At 298–99. On appeal, the mother argued that the court erred in terminating her parental rights. *Id.* at 301. We disagreed and stated:

We hold that the circuit court neither overreacted nor abused its discretion in terminating Mother’s parental rights. The court faced the reality that sending K’Amora to live with Mother would have uprooted her from the safe and stable . . . family environment she had known. The exceptional circumstances alternative is meant to cover situations, such as this, in which a child’s transcendent best interests are not served by continuing a relationship with a parent who might not be clearly and convincingly unfit. And the court performed precisely the sort of child-specific analysis that FL 5-323(b) requires.

Id. at 310. We explained that a court must “work through the statutory factors in detail . . . and explain with particularity how the evidence satisfied them and how the court weighed them” in its conclusion. *Id.* at 304. We held that the juvenile court did provide such detail in its explanation, and thus, the court did not err.

The Maryland Supreme Court in the case of *In re Adoption/Guardianship of Rashawn H.*, also examined the issue of exceptional circumstances in a TPR case. 402 Md. 477. There, the juvenile court had terminated the parental relationship of a mother with her child after weighing the statutory factors, but the court did not express how those findings led to a conclusion of either unfitness or exceptional circumstances. *Id.* at 502–03. The Supreme Court held that in order to terminate the parent-child relationship, a juvenile court must “relate the findings it made with respect to the statutory factors to . . . any exceptional circumstance that would suffice to rebut that presumption.” *Id.* at 504–05. The Court remanded the case, instructing the juvenile court to make specific findings. *Id.*

In the present case, the court, in its oral ruling, considered the factors outlined in Section 5-323 and explained its reasoning for those findings. However, the court failed to address those findings, or any other considerations that led to its conclusion regarding exceptional circumstances. The judge stated:

There are exceptional circumstances due to the reasons stated as it applies to 5-323. The Court is not making a determination that the parents are unfit, the Court is making a determination that are – that these – these are exceptional circumstances given all the circumstances and all the evidence that was presented in this case.

The court’s ruling also did not expressly state how any exceptional circumstances would make a continuation of the parent-child relationship detrimental to the best interests of the child.

As in *Rashawn*, we remand this case for the court to “make clear specific findings with respect to each of the relevant statutory factors and, to the extent that any amalgam of those findings leads to a conclusion that exceptional circumstances exist sufficient to rebut the presumption favoring the parental relationship, explain clearly how and why that is so.”

Id. at 505.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
VACATED; CASE REMANDED TO
THAT COURT FOR FURTHER
PROCEEDINGS IN
CONFORMANCE WITH THIS
OPINION. COSTS TO BE PAID BY
BALTIMORE CITY.**