Circuit Court for Montgomery County
Case No. C-15-JV-22-000028

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND**

No. 1759

September Term, 2022

IN RE: N.H.

Friedman,
Ripken
Salmon, James P.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: June 21, 2023

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. MD. R. 1-104.

**At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

Appellant Ne.H. ("Mother") appeals from an order of the Circuit Court for Montgomery County, sitting as a juvenile court, granting the petition of the Montgomery County Department of Health and Human Services to terminate Mother's parental rights in relation to her natural child, N.H., who had previously been adjudicated a child in need of assistance ("CINA").[1] In her timely appeal, Mother[2] asks us to consider whether the juvenile court erred by: (1) denying her motion to postpone; (2) permitting the Department to introduce numerous hearsay documents; and (3) terminating Mother's parental rights to N.H. For the reasons that follow, we affirm the order of the juvenile court.

FACTS AND LEGAL PROCEEDINGS

N.H was born in November 2019. At the time of his birth, Mother presented as manic, agitated, and hyperverbal, and the Department immediately undertook a risk of harm assessment due to concerns about Mother's mental health. Mother was diagnosed with postpartum psychosis. Although she denied a history of mental health issues or that she was then experiencing a manic episode, medical staff concluded that Mother required inpatient psychiatric care. Moreover, the Department learned that Mother had been psychiatrically hospitalized on 10 to 15 previous occasions, many of which were involuntary and had required physical restraint and psychotropic medication. A

[1] A CINA is a "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." MD. CODE, COURTS & JUDICIAL PROCEEDINGS ("CJ") § 3-801(f).

[2] Mother refused to provide the Department with the identity of N.H.'s father. Father remains unknown and is not a party to this appeal.

Department social worker met with Mother at the psychiatric facility and engaged Mother in a safety plan, whereby she would remain in the facility until stable, follow discharge instructions, have only supervised visitation with N.H., and participate in a family involvement meeting. Mother's mother, R.A. ("Grandmother"), also entered into a safety plan and agreed to supervise Mother's contact with N.H.

Mother was discharged from the psychiatric facility on December 4, 2019, and she participated in the family involvement meeting on December 9, 2019. Mother agreed to follow through with outpatient mental health services, address her medical issues, apply for WIC[3] and health insurance for N.H., access crisis hotlines as needed, and accept Grandmother's support.

On January 5, 2020, the Department received a report noting concern about Mother's mental health after she was observed sitting outside on the ground in the rain, with a plastic cover over herself and N.H., and exhibiting erratic behavior. Grandmother told the Department social worker that she had left home on January 3, 2020, after a disagreement with Mother, and when she returned home, Mother had concealed N.H. under her clothing and refused to let her see the child. Mother became agitated and took Grandmother's car keys in an attempt to leave the home, after which Grandmother called the police.

[3] The WIC (Women, Infants, and Children) Program is a Federally-funded program that provides healthy foods and nutrition counseling to pregnant women, new mothers, infants, and children under five.

When the police responded, Mother was uncooperative, behaving erratically, and "talking in circles." Mother would not permit the police officers to check on N.H.'s welfare, so the officers forcibly removed N.H. from Mother's arms. As N.H. was taken from her, Mother had to be told to let go of N.H.'s head. The police officers restrained Mother and transported her to the emergency room, where she assaulted hospital staff. Mother was transferred to the inpatient psychiatric facility from which she recently had been released, but she was so disoriented upon arrival that she did not recognize the staff members who were well known to her.

The Department placed N.H. in shelter care and filed a CINA petition. The juvenile court determined it was contrary to N.H.'s safety for him to remain in Mother's home, ordered N.H. into shelter care, and granted the Department limited guardianship of the child. N.H. was placed in foster care with the L. family. He was adjudicated CINA on February 4, 2020, based on Mother's neglect due to her mental health issues.

After a review hearing on June 24, 2020, the juvenile court found that N.H. was thriving in his foster care placement and that his physical, emotional, and developmental needs were being met. The court further found that Mother had made "some progress" in addressing the safety concerns that resulted in N.H.'s removal but that she would be required to continue to participate consistently in services, in addition to completing a psychological evaluation, before the Department could consider N.H. safe in her care. The court therefore determined that N.H. continued to be a CINA and found it appropriate for him to remain in foster care.

In June 2020, Mother submitted to a psychological evaluation by Dr. Katherine Martin, who diagnosed her with schizophrenia, borderline personality disorder, and schizoaffective disorder, along with anosognosia, which is a condition characterized as a lack of insight regarding her mental health. Mother had also experienced psychosis, delusions, and periods of catatonia. According to Dr. Martin, Mother suffered from "significant psychiatric difficulties," which were chronic and persistent and not easily amenable to change. And, despite having received mental health treatment, Mother refused to acknowledge her long-standing mental health issues or how they effected her ability to ensure N.H.'s safety and stability.

Dr. Martin deemed Mother at high risk for making unsafe decisions relating to N.H., especially when she was acutely mentally ill. For that reason, Dr. Martin recommended that Mother not be left unsupervised with N.H. until her mental health was actively and consistently treated. In Dr. Martin's opinion, Mother required intensive long-term treatment in a residential psychiatric rehabilitation facility, and even if she maintained 100% compliance in that type of treatment, it would take Mother approximately one year to 18 months to show improvement. Moreover, even if she successfully completed such treatment, Mother would need to remain in a living arrangement with a high-functioning adult who could supervise Mother's mental health and monitor whether Mother was beginning to exhibit behaviors that would be detrimental to N.H.

At a January 4, 2021, permanency plan review hearing, the juvenile court learned that Mother had been hospitalized three more times since the previous hearing and that she had been homeless until December 8, 2020. The court also found that, while N.H. appeared

to enjoy visits with Mother, he was strongly bonded emotionally with the L. family and identified them as his primary caregivers.

Mother submitted to a second psychiatric assessment in March 2021, with Dr. Sonia Juneja. Dr. Juneja diagnosed Mother with schizoaffective disorder, bipolar type, multiple episodes, which was then in partial remission. Dr. Juneja also concluded that Mother was unable to recognize the seriousness of her mental illness, which put her at "a very high risk" for noncompliance and eventual relapse.

In April 2021, although Mother had been working with a parenting coach, the Department remained concerned that Mother could not ensure N.H.'s safety and stability, due to her lack of insight relating to her condition.[4] The Department further reported that Mother had begun acting in an increasingly paranoid manner, phoning the director of the Department "incessantly" and leaving frantic messages that her son was "in crisis" in his foster home, making unfounded claims about the assistant who had been bringing N.H. to visits, and claiming that the Department would "forever be biased" against her.

By the time of an August 20, 2021, permanency plan review hearing, Mother's whereabouts were unknown to the juvenile court, and she did not appear at the hearing. The Department noted that Mother, although having interacted well with her son at times, had also exhibited "erratic and paranoid behavior" during visits with N.H., to the point that the police had been called to ensure a safe handoff of the child back to the social worker.

[4] Mother decided, after approximately 25 sessions with the parenting coach, that she no longer wanted to work with her and stopped attending the classes.

On one occasion, Mother refused to let the social worker transport N.H. to his foster home, accusing the worker, who was wearing a dress, of showing her "ass to my son" and calling her a "white pedophile." On another occasion, Mother called the social worker "a lying bitch," which resulted in another call to the police.

In addition, Mother had called the police several times to make false reports of abuse and neglect by the foster parents, whom she stalked and harassed after undertaking her own research to determine their identities and address. For the safety of N.H. and the L. family, the Department had considered removing N.H. from his foster home, but Mr. and Ms. L. assured the Department of their ability to keep N.H. safe.

Due to Mother's "continuing and worsening mental illness," which was "increasingly dangerous" to N.H.'s well-being, and her inability to care for the child, the juvenile court suspended Mother's visitation with N.H. until she presented herself to the court. The juvenile court further changed N.H.'s permanency plan from reunification to adoption by a non-relative. On December 16, 2021, the juvenile court granted limited guardianship of N.H. to his foster parents, Mr. and Ms. L.

On January 28, 2022, the Department petitioned the juvenile court for guardianship of N.H. with the right to consent to adoption or other permanent living arrangement. The Department asserted that the child could not be safely returned to Mother's care and that "the continuation of the relationship between the biological [mother] and the child greatly diminishes the child's prospects for early integration into a stable and permanent family." Mother, whose whereabouts had remained unknown until approximately May 2022, objected to the guardianship petition.

At a June 15, 2022, status hearing, Mother moved to postpone the termination of parental rights ("TPR") hearing because she had been charged with theft and assaulting a police officer and was "incarcerated in Virginia and ... unavailable for trial." Mother's case manager at the Arlington County Detention Center had advised the Department that Mother was then being held in a "crisis cell," but it was possible she could attend the hearing virtually. The Department argued against a postponement because Mother "does not have a right to be present at the trial if there are other ways and opportunities made for her to be heard and meaningfully participate," especially as it was not in N.H.'s best interest to delay the hearing.

The juvenile court deferred ruling on the postponement motion until it could determine if the hearing could occur remotely. After the Arlington County Detention Center agreed that Mother could appear remotely, the juvenile court denied her motion to postpone the hearing.

The parties reconvened for a pretrial hearing on the morning of June 21, 2022. At that time, it was expected that Mother would appear at the TPR hearing that afternoon by a video connection. At the start of the TPR hearing, however, an officer from the Arlington County Detention Center notified the court that Mother, still in a crisis cell, was "unable to be videoed due to her mental capacity and her not keeping on clothes." Detention center personnel doubted that she would be able to appear for the next day's scheduled continuation of the hearing either, but they said they would speak with a mental health practitioner to confirm.

The Department asked the court to go forward with the hearing, as the 180-day time limit to rule on the TPR petition was approaching.[5] Moreover, resetting the hearing might not alleviate the problem of Mother's appearance because Mother's mental health issues were ongoing, and there was no timeline for them to resolve. The court went forward with the hearing for the remainder of that day, declining to postpone the case based on a mental health crisis with no definite end date. The court agreed to provide Mother with a recording and transcript of the proceedings.

After explaining that N.H. was well-adjusted and happy with the L. family, Mr. L. testified about the approximately five times Mother had called the police making false accusations of abuse. Mr. L. said that the police visits were stressful to his family because they were based on unfounded accusations and demonstrated that Mother had determined the family's identity and address. Mr. L. had also learned of a change.org online petition, presumably posted by Mother, accusing his family of neglecting N.H.[6] Despite Mother's actions, and the Department's concerns for the family's safety, it was the L. family's intention to adopt N.H. if that became a possibility.

Risa Boswell, accepted by the juvenile court as an expert in child welfare case management, testified that in August 2020, Mother was taking medication only for anxiety and depression, and was refusing to acknowledge any other mental health concerns or

[5] *See* MD. CODE, FAMILY LAW ("FL") § 5-319(a)(1).

[6] The Department filed a motion for control of conduct seeking removal of the petition from the internet. The juvenile court granted the motion. That ruling is not challenged on appeal.

illnesses. To Boswell's understanding, Mother had stopped participating in medication management and therapy entirely in February 2021. Although Mother said she returned to therapy in March 2022, Boswell was not able to confirm that because Mother had not signed releases for her medical records, despite repeated requests. In Boswell's expert opinion, the issues that brought N.H. into care were "still very apparent, and [Mother's] mental health is in crisis." Boswell denied there were any further services the Department could offer to help Mother be able to care for N.H. in a reasonable amount of time.

At the end of the hearing on June 21, 2022, and again the next morning, the juvenile court received communications from the Arlington County Detention Center mental health therapist stating that Mother was not stable enough to attend a virtual hearing. Moreover, she was not expected to stabilize "anytime soon." The juvenile court assured Mother's attorney that a transcript of the hearing would be provided to Mother as soon as possible.

At the continuation of the TPR hearing on June 22, 2022, the court next heard from Dr. Katherine Martin, the clinical psychologist who had evaluated Mother in June 2020. Dr. Martin stated that, although Mother's affect was noticeably flat—which can be a sign of mental health issues—there was no evidence of psychosis during the evaluation, and Mother completed it without difficulty. Although getting an accurate mental health history from Mother was "a little bit challenging," Mother reported to Dr. Martin that she had had a number of psychiatric hospitalizations as an adolescent, which continued into adulthood, including three hospitalizations in quick succession after N.H.'s birth.

Mother's reports to Dr. Martin about her mental health differed markedly from her medical records. Mother understood herself to have only mild issues related to anxiety and

maybe depression. She was surprised at her diagnoses of schizophrenia and schizoaffective disorder, and could not offer a reasonable explanation as to her numerous hospitalizations. Dr. Martin opined that Mother's prognosis was poor because even with consistent treatment, patients with schizophrenia and schizoaffective disorder have "a very high likelihood of periods of increased symptomatology even on medication," especially if, as Mother did, the patient has poor insight into her own disease. Because of Mother's long history of being unable to take care of herself, Dr. Martin was concerned that she did not have the capacity to care for a child.

At a hearing on July 1, 2022, the juvenile court addressed the issue of Mother's participation in the remainder of the TPR proceedings. The court advised the parties that it had received an email from the Arlington County Detention Center reporting that Mother was "still not doing well" and was awaiting bed space in a state hospital to receive treatment and be restored to competency. The detention center's mental health practitioner did not believe Mother was in a position to participate in the hearing "at this time."

Under those "extraordinary circumstances," the juvenile court elected to keep the record open for a period of time to see if Mother might be able to participate, even though it meant going beyond the 180-day deadline to rule on the TPR petition. The juvenile court denied Mother's request for a continuance but ultimately postponed the hearing until September 9, 2022, in the hope that Mother would be able to participate then.

On September 9, 2022, the juvenile court heard closing arguments. Mother, after a seven-week stay in a Virginia mental health facility, appeared by phone, and the court permitted her to testify or "just listen," at her desire. Mother's attorney said that Mother

agreed that, with two pending criminal cases, it was not in her best interest to testify. Mother's attorney again moved for a continuance until Mother could participate by video, but the juvenile court denied the motion.

The Department argued that it was not the fact that Mother had a mental illness that made her unfit to parent N.H. Rather, it was Mother's denial of her mental health diagnoses and her inability to consistently or meaningfully adjust her circumstances that made her incapable of caring for herself, much less herself and a child. During the pendency of the matter, Mother had not maintained consistent housing, had held only one temporary, part time job, and had been denied visitation with N.H. because she created safety concerns. In addition, Mother was then detained out-of-state on criminal charges and would remain so for an undetermined amount of time, which made the continuation of the parent-child relationship detrimental to N.H.'s best interests.

In opposition, Mother focused on Department records detailing that she had enjoyed good visits with N.H. until June 2021. In her view, terminating her parental rights was inappropriate because the Department had failed to make the required reasonable efforts to facilitate her reunification with N.H. since the cessation of visitation.

On November 14, 2022, the juvenile court issued a final order finding Mother unfit and terminating Mother's (and "the unidentified father['s]") parental rights to N.H. On November 22, 2022, Mother moved for reconsideration of the TPR order and to permit visitation with N.H., asserting that she was no longer incarcerated, had obtained housing, was in therapy, on medication, and stable. The juvenile court denied the motion without a

hearing on December 16, 2022. Mother filed timely notices of appeal of the juvenile court's final guardianship order and of its denial of her motion to reconsider.

DISCUSSION

I. STANDARD OF REVIEW IN TPR PROCEEDINGS

Termination of parental rights decisions are reviewed under three different but interrelated standards: we review factual findings for clear error; we review legal conclusions without deference; and we review the juvenile court's ultimate decision for an abuse of discretion. *In re Adoption/Guardianship of C.A. and D.A.*, 234 Md. App. 30, 45 (2017). It is for this Court to decide only whether there was sufficient evidence from which the juvenile court could reasonably have determined, by clear and convincing evidence, that terminating parental rights was in the best interest of the child. *Id.* at 46. Thus, if the ultimate conclusion of the juvenile court is 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." *Davis v. Davis*, 280 Md. 119, 126 (1977). And, "[w]here the best interest of the child is of primary importance, 'the trial court's determination is accorded great deference, unless it is arbitrary or clearly wrong.'" *In re Adoption/Guardianship Nos. 2152A, 2153A, 2154A in the Circuit Court for Allegany County*, 100 Md. App. 262, 270 (1994) (quoting *Scott v. Dep't of Social Services*, 76 Md. App. 357, 382 (1988)).

II. MOTHER'S POSTPONEMENT REQUEST

Mother first contends that the juvenile court erred in declining to grant her a postponement of the TPR hearing to allow her to be present at least by video link, because

she had a due process right to participate in the hearing that terminated her parental rights to N.H. We disagree.

There can be no question that "'[a] parent's interest in raising a child is ... a fundamental right.'" *In re Adoption/Guardianship Nos. J9610436 and J9711031,* 368 Md. 666, 671 (2002) (quoting *In re Mark M.*, 365 Md. 687, 705 (2001)). As a result, when "a state seeks to change the parent-child relationship, 'the due process clause is implicated.'" *In re Maria P.*, 393 Md. 661, 676 (2006) (quoting *Wagner v. Wagner*, 109 Md. App. 1, 25 (1996)). Procedural due process requires an "'opportunity to be heard at a meaningful time and in a meaningful manner.'" *In re Adoption No. 6Z980001*, 131 Md. App. 187, 199 (2000) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)). Exactly what "process is due" is determined by the totality of the facts of each case. *Id*.

This Court has previously concluded that when a parent is incarcerated out of state, they do not have the right to be brought into the state for a TPR hearing if they are represented by counsel and provided with means of participating in the hearing. *No. 6Z980001,* 131 Md. App. at 193. Meaningful participation in a proceeding may be provided in various ways. For example, permitting the parent to testify by phone or by deposition, and giving the parent an opportunity to review evidence presented by the State and consult with their attorney, are safeguards that help to ensure a just decision. *Id.* at 194-96, 198-99 (holding that the father was given a meaningful opportunity to participate in the proceeding when he was represented by counsel, given the opportunity to appear by deposition, provided certified copies of audiotapes of the trial to review, and permitted to prepare a written statement after reviewing the audiotapes).

Here, Mother was provided "meaningful access to the courts." *Id.* at 199. Although Mother was deemed too mentally unstable to appear at the TPR hearing even by video, she was represented ably by counsel at the TPR hearing in June 2022, who cross-examined each witness who testified in Mother's absence. In addition, the juvenile court arranged for Mother to receive a CD recording of the proceeding. Moreover, when informed that Mother might be able to attend the hearing remotely after a period of hospitalization, the juvenile court delayed the proceedings for approximately two months—after the expiration of the 180 days in which TPR matters are required to be decided—in the hope that Mother would be able to attend the hearing virtually. Mother did appear remotely for the final day of the hearing and was given the opportunity to present evidence—although she elected not to do so—and to make a closing argument.

By the time the juvenile court issued its final order, N.H. had been in foster care for approximately three years and it was in his best interest to be placed in a permanent home as soon as possible. *See In re Adoption/Guardianship of Jayden G.*, 433 Md. 50, 84 (2013) (quoting *In re Adoption/Guardianship No. 10941*, 335 Md. 99, 106 (1994)) ("[A child's] continuation in foster care lacks the permanent legal status required by state law."). Under the circumstances of this matter, Mother was given meaningful access to the juvenile court, and we cannot say that the court deprived Mother of due process or abused its discretion by declining to grant her a postponement.

III. ADMISSION OF DEPARTMENT EXHIBITS

Mother next claims that the juvenile court erred in admitting into evidence ten exhibits offered by the Department because they contained inadmissible hearsay. We disagree.

On June 6, 2022, the Department filed a written motion *in limine* to permit its use of CINA court reports, court orders, sustained petitions, exhibits, transcripts, and other related documents at the upcoming TPR hearing. Mother objected. At the start of the hearing on June 21, 2022, the juvenile court heard argument on and considered Mother's objections to each document individually. Of the challenged exhibits, Department Exhibits 3 through 12, all but one was a status report prepared by the Department in advance of a permanency plan review hearing. The exception was Department Exhibit 9, which was a memorandum submitted to the court by the Department requesting a change to the visitation order. The content of the memorandum was duplicated in the corresponding status report, Department Exhibit 10. Although Mother pointed out specific parts of each of the ten exhibits, the foundation of all of her objections was the same—that the reports should be excluded because of "the hearsay … within the documents" consisting of the Department's opinions and purportedly inaccurate factual recitations.

This Court has previously held that reports prepared by Department social workers are admissible under the public records exception to the rule against hearsay. *In re H.R.*, 238 Md. App. 374, 403-04 (2018). We have explained that "[u]nder pertinent provisions of Rule 5-803(b)(8)(A), 'a memorandum, report, record, statement, or data compilation made by a public agency setting forth ... matters observed pursuant to a duty imposed by

law, as to which matters there was a duty to report' is not excluded from evidence as hearsay." 238 Md. App. at 404. Under Rule 5-803(b)(8)(B), however, "[a] record offered pursuant to paragraph (A) may be excluded [by the court] if the source of information or the method or circumstance of the preparation of the record indicate that the record or the information in the record lacks trustworthiness." *Id.*

The exhibits challenged by Mother were reports prepared by the Department pursuant to a duty imposed by law. *See* CJ § 3-826(a)(1) (requiring the Department to "provide all parties with a written report at least 10 days before any scheduled disposition, permanency planning, or review hearing"); COMAR 07.02.11.20 (requiring the Department to "[p]repare a written report setting forth the local department's recommendations; and...[p]rovide the report to the court, the child's attorney, and the child's parents or legal guardian" at least ten days before a permanency planning hearing). Thus, the status reports were presumptively admissible under the public records exception to the rule against the admission of hearsay unless Mother could show that they were unreliable. *See In re H.R.*, 238 Md. App. at 406; MD. R. 5-803(b)(8)(A)

The juvenile court ruled on each exhibit individually, granting Mother's objections in part and denying them in part. The juvenile court made clear that content within the documents that could be considered opinion testimony was admissible not for the truth of the matter asserted but to explain the reasons the Department acted as it had. And, to the extent that the Department's reports and notes may have contained out-of-court statements not admissible pursuant to any hearsay exception and considered by the juvenile court for the truth of the matter asserted, any error in admitting them was harmless. *In re H.R.*, 238

Md. App. at 407. The opinions and statements in the Department's reports and notes were cumulative of the testimony given by the psychologist, expert case worker, and foster parent during the TPR hearing, or rationally based on the observations of the declarants and helpful to the Department's role in evaluating N.H.'s best interests in light of the overwhelming evidence that Mother has suffered, and continues to suffer, from severe mental illness with a poor prognosis, which makes her incapable of providing a safe and stable home for N.H. We, therefore, reject Mother's claim that the admission of the Department's reports and notes into evidence constitutes reversible error.

IV. TERMINATION OF MOTHER'S PARENTAL RIGHTS

Finally, Mother argues that the juvenile court erred in terminating her parental rights. She claims that the court's error is two-fold: *first*, the court should not have found that the Department made reasonable efforts at reunification under; and, *second*, the court improperly considered the factors enumerated in FL § 5-323(d)(2), (4).

For a juvenile court to terminate parental rights over the objection of a natural parent, the court must find

> 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.

FL § 5-323(b). Moreover, in ruling on a petition for guardianship of a child, the juvenile court must "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[.]" FL § 5-323(d). The juvenile court must evaluate "the extent, nature, and timeliness of services offered by [the Department] to facilitate reunion of the child and parent," along with the extent to which the Department and parent have participated in agreed-upon services. FL § 5-323(d)(1).

The factors that the court "must specifically examine and consider" when making its determination are set forth in FL § 5-323(d)(1)-(4).[7] *In re Adoption/Guardianship of*

[7] As pertinent to Mother's argument, the FL § 5-323(d) factors are:

> (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;
>
> * * *

C.E., 464 Md. 26, 53 (2019). "Ultimately, these factors seek to assist the juvenile court in determining 'whether the parent is, or within a reasonable time will be, able to care for the child in a way that does not endanger the child's welfare.'" *Id.* at 51-52 (quoting *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 500 (2007)). The statute "does not require a trial court to weigh any one statutory factor above all others. Rather, the court must review all relevant factors and consider them together." *In re Adoption/Guardianship No. 94339058/CAD in Circuit Court for Baltimore City*, 120 Md. App. 88, 105 (1998).

Mother first claims that the juvenile court clearly erred in determining that the Department provided her with reasonable reunification services because it suspended visitation between her and N.H. in June 2021. In her view, the Department's stated efforts of offering psychological and psychiatric care and parenting classes, while undisputed by her, "had no meaning in the absence of visitation between [M]other and N.H." Mother argues that the lack of visitation caused N.H. to become alienated from her and more

---

(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.

bonded to his foster family at a time when reunification was still the permanency plan. We disagree.

The Department did not, as Mother asserts, "unilaterally" suspend visitation to her detriment. The Department facilitated visitation between Mother and N.H., and, by all accounts, the visitation went well until June 2021, when Mother's behavior at the visits became increasingly volatile and police intervention was needed. As a result, the Department offered Mother virtual visits with N.H., which she refused. It was then that the juvenile court suspended visitation after an August 2021 hearing.

If the cessation of visitation affected Mother's bond with N.H. and N.H.'s bond with his foster family, it is more accurate to say that it was Mother's actions, rather than those of the Department, that led to that outcome. In light of Mother's erratic and volatile behavior during visitation, the Department could not reasonably continue to facilitate Mother's visits with N.H. The Department's obligation to the parent is not limitless. "In determining the reasonable efforts to be made and in making the reasonable efforts ... *the child's safety and health shall be the primary concern*." FL § 5-525(e)(2) (emphasis added). Mother's loud altercations with the Department workers and refusal to turn over N.H. for return to his foster home can hardly be said to have been beneficial to the child's safety and health. Thus, Mother's claim that the juvenile court improperly found that the Department made reasonable efforts toward reunification must fail.

In her second argument, Mother asserts that the juvenile court's findings that she had very little contact with N.H, and that N.H. had very little emotional tie to her, were caused by the "ripple effect" of the court's suspension of visitation, because it was the lack

of visitation that caused the lack of contact and connection between Mother and child. *See* FL § 5-323(d)(2), (4). Mother avers that those factors should not have been held against her in the court's decision to terminate her parental rights, because it was the Department that failed to engage in reasonable efforts to maintain the parent-child connection through consistent visitation.

In evaluating the services provided by the Department, the juvenile court must assess "the result of the parent's efforts 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." FL § 5-323(d)(2). The juvenile court must further consider "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." FL § 5-323(d)(2)(iii). Finally, the court must determine "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." FL § 5-323(d)(2)(iv).

Mother also claims that the court's interpretation of those considerations—that her severe and chronic mental illness made her unable to care for N.H. and that there were no additional services that could be offered to facilitate reunification—erroneously ignored her long periods of clarity and positive visits with N.H. Again, we disagree.

The juvenile court did consider the many positive visits Mother had with N.H. prior to June 2021, but it could not ignore the ensuing periods of chaos likely caused by the end

of the remission period of her mental illness. The court had before it the testimony of Dr. Martin, who explained that Mother's diagnosed mental illnesses were severe and chronic but subject to periods of remission during which her symptoms might subside. Such remission periods did not negate the diagnoses, nor Dr. Martin's expert opinion that Mother could not manage her mental health unless she opted for long-term, in-patient psychiatric rehabilitation and that even then, Mother likely would not safely be able to care for herself without assistance, much less parent N.H. Increased visitation would not have changed that analysis. It was but one service offered by the Department and but one consideration by the juvenile court, which had before it overwhelming evidence that Mother's severe mental illness was an insurmountable barrier to providing care and stability to N.H.

Nothing in the record or in the juvenile court's guardianship order demonstrates that the court clearly erred in its factual findings or abused its discretion in terminating Mother's parental rights. Mother's severe mental illness, her lack of insight as to that illness, her withdrawal from therapy and medication management, and her limited bond with N.H., who had been out of her care since he was five-weeks-old, provide clear and convincing evidence that justifies the juvenile court's findings that Mother's continued parental relationship would be detrimental to N.H.'s best interest and that it was unrealistic to expect that she could care for herself and a child in the foreseeable future. Therefore, the court's conclusion that it was in N.H.'s best interest to terminate Mother's parental rights and grant guardianship to the Department was proper. The court carefully reviewed the facts,

considered all the required factors set forth in FL § 5-323(d), applied the facts to each criterion, and made an appropriate decision based on its analysis.[8]

ORDER OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY, SITTING AS A JUVENILE COURT, AFFIRMED; COSTS TO BE PAID BY APPELLANT.

[8] For similar reasons, the juvenile court also properly denied Mother's motion to reconsider its TPR order and the issue of visitation between Mother and N.H.