Circuit Court for Cecil County
Case No. C-07-JV-20-000069

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1957

September Term, 2022

IN RE: H.P.

Graeff,
Kehoe,
Harrell, Glenn T., Jr.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Harrell, J.

Filed: August 2, 2023

*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).

*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.

This appeal arises from a decision by the Circuit Court for Cecil County, sitting as the juvenile court, changing the permanency plan for H.P., a minor, from a concurrent plan of reunification and custody and guardianship with a relative, to a sole plan of custody and guardianship with her maternal great-uncle, N.O. ("Uncle"). Mr. P. ("Father") noted an appeal, presenting two questions for our review, which we have rephrased slightly, as follows:

I. Did the juvenile court err in changing H.P.'s permanency plan of reunification and custody and guardianship with a relative to a plan of custody and guardianship by her Uncle, where her Father was willing to care for her?

II. Did the juvenile court err in finding that the Cecil County Department of Social Services ("Department") had made reasonable efforts toward a plan of reunification with Father?

For the reasons that follow, we shall affirm the judgment of the juvenile court.

BACKGROUND

H.P. was born in 2006. She lived with her parents, Ms. P. ("Mother") and Father until she was two years old. She resided thereafter with Mother until 2012, when Mother placed her in the care of Uncle. In 2014, Uncle filed for custody of H.P. in Pennsylvania, where he lived. Father opposed Uncle's petition in the Pennsylvania proceedings, seeking custody of H.P. In 2018, a Pennsylvania court awarded Father sole legal and physical custody of H.P. He brought her back to Maryland to live with him, his fiancée, and infant son.

After moving to Maryland to join with Father, H.P. began exhibiting behavioral issues, including bullying and violence at school, stealing a cell phone, leaving school

grounds during school hours, inappropriate sexual behavior, and running away from home. Father contacted the Department on several occasions regarding entering a voluntary placement agreement for H.P.[1]

In March of 2020, H.P. ran away from Father's home. Father tracked her down and brought her to Sheppard Pratt hospital for admission. At Sheppard Pratt, H.P. was recommended for a diagnostic placement and a higher level of care, based on her behaviors and mental health. When H.P. was ready for discharge from Sheppard Pratt, Father refused to take her home, due his concerns for her safety and the safety of his two-year-old son at home.

As a result, H.P. was sheltered with the Department on 2 June 2020 and placed at Arrow Diagnostic Center. Following the completion of the program at Arrow Diagnostic Center, she was placed at Mary's Mount Manor Therapeutic Group Home, where she received individual and group therapy, psychiatric services, and medication management.

On 6 October 2020, H.P. was adjudicated a Child in Need of Assistance ("CINA")[2] and committed to the temporary custody of the Department. The court

[1] A voluntary placement agreement permits a parent to place a child in the custody of a local department of social services for 180 days to obtain treatment or care for a developmental disability or mental illness. *See* Md. Code, Family Law ("FL") § 5-525(b).

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

ordered visitation between H.P. and her parents and relatives to be scheduled in accordance with customary Department policies and procedures. The court ordered further that Father and Mother participate in professional parenting, psychological, and substance abuse evaluations.

On 6 December 2020, H.P. ran away from Mary's Mount Manor. She was recovered on 21 December 2020 at Mother's home in Pittsburgh. She was returned to Maryland and admitted to the Diagnostic Program at the Woodbourne Center. At the permanency plan review hearing on 16 February 2021, H.P.'s counsel reported that H.P. was doing well at Woodbourne and attending school, and that she wished to be reunited with Mother in Pennsylvania. Mother was scheduled for a psychological evaluation and the Department was in the process of performing a home assessment of Mother's residence in Pennsylvania.

On 19 April 2021, H.P. left Woodbourne with a group of friends and did not return. The Department filed a report with the National Center for Missing and Exploited Children, but Father was not notified of H.P.'s disappearance for two weeks. On 9 July 2021, the Department was notified that law enforcement had located H.P. at her Grandmother's home in Pittsburgh. H.P. was transported to Maryland in August and placed at the Children's Home, a secure facility.

At a status hearing on 17 August 2021, the Department reported that H.P. was speaking often with Grandmother, but that she was not speaking to her parents. The Department had begun the process of evaluating Grandmother's home as a placement for

H.P. The court ordered that H.P. remain in the custody of the Department and ordered supervised weekly visitation between H.P. and her parents.

At the status hearing on 2 November 2021, the Department reported that H.P. continued to do well at the Children's Home, where she was receiving one-on-one services to dissuade her from running away. H.P. did not want contact with Father. Mother had minimal engagement with her. H.P. desired to be reunited with Grandmother. Mother's counsel reported that Mother had not been in contact with her or the Department for a period of time.

H.P. continued to do well meeting goals and engaging in program services at the Children's Home. As a result of H.P.'s progress, she transitioned to Group Home placement on 3 December 2021, where she continued to attend educational services and receive one-on-one services. On 18 December 2021, H.P. ran away from the Group Home. H.P. contacted the Department on 7 January 2022 and requested to return to Maryland. The Department coordinated transportation for H.P. to Maryland and she was placed in a foster home in Cecil County.

The court conducted a permanency plan review hearing on 25 January 2022. H.P. expressed her desire to live with Grandmother and Uncle. Grandmother had not been approved as a resource, and she was required to move from the home in order for Uncle to obtain approval. H.P. was also pregnant and had reported being sexually assaulted during her time away from her placement.

Father expressed concerns about Uncle as a resource for H.P., arguing that she had developed behavioral issues, including running away and inappropriate sexual behavior, while she had been in his care. Father requested that the court remove the orders that he complete a substance abuse assessment and psychological evaluation, arguing that there were no allegations that Father had substance abuse or psychological issues to warrant an assessment for such services. Father also indicated that he had completed a parenting class in connection with the custody matter in Pennsylvania, and he intended to see whether that class fulfilled the parenting assessment requested by the Department.

The Department agreed that Father did not need to complete a substance abuse assessment, but argued that the parenting and psychological assessments were warranted to determine what type of services and family counseling could be undertaken to achieve reunification, in light of the conflict that remained in H.P.'s relationship with Father. The court approved the Department's request, ordering Father to participate in family therapy. The court continued H.P.'s concurrent permanency plan of reunification and custody and guardianship by a relative, and found that the Department had made reasonable efforts to achieve those plans.

On 14 January 2022, H.P. reported experiencing severe abdominal cramping. Her foster care provider took her to the emergency department of a local hospital. After multiple medical appointments and testing, H.P. was diagnosed with a possible ectopic pregnancy, and advised that it was a potentially life-threatening condition that cannot result in a healthy pregnancy or viable birth. H.P. declined the recommended treatment

of methotrexate injection for pregnancy termination. She was instructed to return for further evaluation on 30 January 2022. H.P. began a new long-term foster placement on 28 January 2022.

Father and H.P.'s foster parent accompanied her to her medical appointment on 30 January 2022. H.P. was recommended again to receive methotrexate injection, which she and Father refused. She left the hospital against medical advice, electing to obtain a second opinion. The medical provider Father contacted for a second opinion refused the appointment and instructed H.P. to return to the emergency department for emergency treatment.

H.P. returned to the emergency department with Father and her foster parent on 1 February 2022 and received the first of two methotrexate injections. Father brought H.P. to the appointment to receive the second injection on 4 February 2022, although he failed to advise the foster parent or the Department of H.P.'s location that day, and he was unresponsive to the foster parent's attempts to contact him. Father returned H.P. to her foster home that evening. She was scheduled for a follow-up appointment and bloodwork during the week of 14 February 2022. She ran away from her placement on 12 February 2022 and did not attend her follow-up appointment.

On 2 March 2022, Uncle notified the Department that H.P. was at his home in Pittsburgh. The caseworker for the Department advised Uncle to have H.P. medically evaluated as soon as possible. He agreed to do so. That evening, H.P. began experiencing abdominal pain. Uncle took her to the hospital. H.P. was diagnosed with a

ruptured ectopic pregnancy that required emergency surgery to remove her right fallopian tube. She recovered and was discharged a few days later. The Department allowed her to recover from surgery at Uncle's home as a family visit.

On 8 March 2022, Father requested an immediate hearing. At the hearing on 29 March 2022, the Department reported that the home study of Uncle required under the Interstate Compact on the Placement of Children ("ICPC") was nearly complete and Uncle was expected to be approved as a placement for H.P. H.P. was doing well and had completed her follow-up medical appointment, without remarkable result.

H.P. testified that she felt "completely safe" and comfortable in Uncle's home. She had no contact with Mother and explained that she did not feel comfortable having contact with Father because she felt that he tried to manipulate her into returning to live with him. H.P. stated that she was willing to go to therapy, cyber-school, and summer school in Pittsburgh. H.P. understood that if she ran away in the future from her Uncle's home, she would be sent to a juvenile facility and then returned to Maryland, and she likely would not be able to return to Uncle's home in Pittsburgh. H.P. stated that she ran away from the group home because she did not feel that it was a safe and comfortable environment. She disliked the foster home because they were not her family and she wanted to live in a family setting with people she had known her entire life.

Father visited with H.P. "a couple times" at the group home in 2020 and had a home visit over the Thanksgiving holiday in 2020. Father testified that he did not respond to the Department's email in January of 2022 about scheduling visitation because

it was during the time that he was at the hospital and doctor's offices with H.P. so it was "a moot point."

Father testified that he wanted H.P. to live with him, but he was aware that she was resistant to that idea. Father believed that the best placement for H.P. was a "more restrictive setting" to stabilize her and get her the care that she needed. Father recognized, however, that the Department was unable to place H.P. in a restrictive setting without a doctor's recommendation. Father requested that H.P. be returned to Maryland and evaluated to see if she was eligible for a certificate of need for a restrictive treatment center placement.

The court found that H.P. had undergone some trauma and appeared "to be happy where she is." The court noted that Father had very little contact with H.P. until recently, and had made no efforts to communicate with Uncle and coordinate visits with H.P. Based upon the testimony presented, the court concluded that the appropriate placement was for H.P. to continue to reside temporarily with Uncle.

At the review hearing on 24 May 2022, the court admitted the ICPC report approving Uncle's home study and the Department's report. H.P. reported that she was thriving with Uncle. Father had no contact with the Department and had not visited H.P. since she began living with Uncle. Mother supported H.P.'s continued placement with Uncle.

Father requested that H.P. be returned to his custody. He asserted that he "can do anything that [Uncle] is doing." Father acknowledged that he had not visited with H.P.,

though he stated that it was through no fault of his own, because he "has no way to initiate visitation with [her] based on the fact that she's six hours away in Pittsburgh." Father indicated that he was "ready, willing, and able to care for [H.P.]," but she "just simply refuse[d] to live with [him]."

The court found that it was in H.P.'s best interest to continue her placement with Uncle. The court also found that the Department made reasonable efforts to finalize the permanency plan of reunification, with a secondary plan of custody and guardianship.

In May 2022, the parties learned that H.P. was pregnant. The Department held a family team decision-making meeting for H.P. on 2 September 2022. Mother and Father were advised of H.P.'s pregnancy. Neither attended the family meeting.

At the permanency plan review hearing on 4 October 2022, H.P. advised the court that she wanted to remain in Pittsburgh with Uncle. She was attending school virtually and had arranged for necessary services for herself and her infant. Uncle obtained health insurance for H.P. in Pennsylvania. She completed all scheduled OB/GYN appointments. H.P.'s case worker in Pennsylvania completed monthly visits to monitor H.P.'s placement and assist with referrals and establishing services locally.

H.P. requested that her permanency plan be changed from reunification to guardianship by a relative. Father asserted that H.P. was no longer a CINA because he was "a fit and proper parent who can care for [her] right now." He requested that her permanency plan be solely a plan of reunification. Mother did not attend the hearing. Her counsel advised the court that she had not been in contact with Mother for some

time. The court found that the Department made reasonable efforts towards reunification and reaffirmed H.P.'s permanency plan of reunification and custody and guardianship and continued her placement with Uncle.

In advance of the 6 December 2022 permanency planning review hearing, the Department recommended that H.P.'s permanency plan be changed from reunification to guardianship with a relative. Lauren Brewer, H.P.'s foster care worker, testified that H.P. continued to do well in Uncle's care. H.P. was healthy and had been receiving prenatal care. December 6 was H.P.'s due date. She communicated with a community social worker, who helped her obtain supplies for the baby. She reported feeling prepared to give birth and take care of her baby. H.P. had done well in virtual school, earning all A's and B's on her report card. H.P.'s Pennsylvania case worker had visited Uncle's home at least monthly and had reported no concerns.

According to Ms. Brewer, H.P. had identified Uncle as her primary care giver during her childhood and she wanted to stay with Uncle because she felt very comfortable in his home. H.P. had made no attempts to run away since March of 2022. H.P. was "very adamant" that she did not want to visit with Father and did not wish to live with him because she was uncomfortable with him. H.P. was almost 17 years old, and the Department was unwilling to force her into visitation with Father against her wishes. H.P. did not have any contact with Mother, and neither parent had maintained communication with the Department. The Department was concerned that if H.P. was

removed from Uncle's home, she would again run away to Pittsburgh and engage in high-risk behavior.

Father testified that he wanted H.P. to live with him, his fiancée, and his now five-year-old son. He would ensure that H.P. stayed in school and received adequate therapy and counseling. He wanted also to make sure that H.P.'s child is well cared for. Father described his relationship with H.P. as "happy go lucky, " although he explained that, "90 percent of the time," he and H.P. have disagreements "like every parent and child[,]" due usually to "behavioral issues and discipline[.]" At this point in time, Father had not spoken to H.P. in nine months and had not visited her in ten months.

Father believed that "with the proper treatment, and therapy, and counseling," H.P. could be safe and healthy in his home. Father testified that if H.P. was placed with him, he planned to keep her from running away by involving her in community activities, church, and visiting with his extended family. Father believed that he was more prepared than he had been previously to care for H.P. because he knew "what the situation is" and what kind of resources are available.

Father stated that he had concerns that Uncle failed in his supervision of H.P., which, he believed, was evident by the fact that she became pregnant after she arrived at Uncle's home. Father believed that Uncle's home was not adequate for H.P. and her baby because it is small. Father no longer wanted the Department to be involved in H.P.'s care. With respect to Father's efforts to engage in services through the

Department, he stated that he had tried to have visitation with H.P., but her runaway behavior had prevented him from visiting with her.

At the conclusion of the hearing, the juvenile court found that it was in H.P.'s best interest to remain in Uncle's care. The court changed H.P.'s permanency plan to a sole plan of custody and guardianship with a relative. Father noted this timely appeal.

STANDARD OF REVIEW

We review a juvenile court's order in a CINA case under three related standards of review. First, we review factual findings for clear error. *In re Ashley S.*, 431 Md. 678, 704 (2013). An erroneous legal conclusion by the juvenile court requires further proceedings, unless the error is harmless. *Id.* Finally, "when reviewing a juvenile court's decision to modify the permanency plan for the [child], this Court 'must determine whether the court abused its discretion.'" *In re A.N.*, 226 Md. App. 283, 306 (2015) (quoting *In re Shirley B.*, 419 Md. 1, 18 (2011)). An abuse of discretion occurs when the decision under review is "'well removed from any center mark imagined by the reviewing court and beyond the fringe of what the court deems minimally acceptable.'" *Ashley S.*, 431 Md. at 704 (quoting *In re Yve S.*, 373 Md. 551, 583-84 (2003)).

DISCUSSION

I.

Change in H.P.'s Permanency Plan

Following a CINA finding, the local department of social services is required to develop a permanency plan that is in the child's best interests. FL § 5-525(f)(1); *see In re*

M., 251 Md. App. 86, 115 (2021). "[T]he permanency plan is 'an integral part of the statutory scheme designed to expedite the movement of Maryland's children from foster care to a permanent living … arrangement.'" *In re Adoption of Jayden G.*, 433 Md. 50, 55 (2013) (quoting *In re Damon M.*, 362 Md. 429, 436 (2001)). Once the permanency plan is implemented, the juvenile court is required to review the permanency plan "at least every 6 months until commitment is rescinded or a voluntary placement is terminated." CJP § 3-823(h)(1). At every permanency plan review hearing, the court must determine: (1) whether the commitment remains necessary and appropriate; (2) whether reasonable efforts have been made to finalize the current plan; (3) the amount of progress that has been made "toward alleviating or mitigating the causes necessitating commitment;" (4) project a reasonable date for the child to be returned home, placed in a pre-adoptive home, or placed under a legal guardianship; (5) evaluate the child's safety and take steps to ensure the protection of the child; and (6) change the plan if a change in plan "would be in the child's best interest[.]" CJP § 3-823(h)(2).

In reviewing the permanency plan, the circuit court is required to use the following factors set forth in FL § 5-525(f)(1) as a guide in determining a child's best interests:

> (i) the child's ability to be safe and healthy in the home of the child's parent;
>
> (ii) the child's attachment and emotional ties to the child's natural parents and siblings;
>
> (iii) the child's emotional attachment to the child's current caregiver and the caregiver's family;
>
> (iv) the length of time the child has resided with the current caregiver;

(v) the potential emotional, developmental, and educational harm to the child if moved from the child's current placement; and

(vi) the potential harm to the child by remaining in State custody for an excessive period of time.

In determining whether a change in H.P.'s permanency plan was appropriate, the juvenile court applied the factors set forth in FL § 5-323(d). As to the first factor, the court found that H.P. would not be safe if returned to Father's care:

> By all accounts, there was a history of disruptive placements, of a young woman going AWOL. The Court does find credible the testimony offered by the foster care worker indicating that [H.P.] has made every representation that if she were returned to father's house out of whole cloth, that we would be commencing that chase anew all over again.
>
> * * *
>
> Based upon everything that's been put before the Court here today, the Court cannot find that the child has an ability to be safe and healthy in the home of the child's parent[.]

Father argues that the court's finding that H.P. could not be safe in his care was based upon speculation that she would run away, unsupported by any evidence that he or his home presented an unsafe situation. Here, the uncontroverted evidence showed that H.P. refused to visit Father or live with him. According to the testimony of Ms. Brewer, which the court credited, H.P. would run away likely and engage in high-risk behaviors if returned to Father's care. Although Father described his relationship with H.P. as a good one, he indicated that they fight 90 percent of the time. We "treat the juvenile court's evaluation of witness testimony and evidence with the greatest respect." *In re Adoption/Guardianship of Amber R.*, 417 Md. 701, 719 (2011). Certainly, a child's

emotional well-being and physical safety in the caregiver's home are important. On this record, we cannot conclude that the court erred in finding that H.P. could not be safe in Father's care due to the substantial risk that she would run away from his home, and engage in unsafe behavior, if placed there.

The court determined that it could not make a finding that an emotional attachment existed between H.P. and Father, in light of H.P.'s refusal to participate in visitation. The court noted that it had "misgivings about the Department's response to that, however, it doesn't change the child's position." With respect to visitation, "the desire of an intelligent child who has reached the age of discretion should be given some consideration in determining custody, although the wish is not controlling." *Sullivan v. Auslaender*, 12 Md. App. 1, 5 (1971) (citing *Radford v. Matczuk*, 223 Md. 483, 491 (1960)); *see also In re Andre J.*, 223 Md. App. 305, 324-25 (2015). Based on the evidence that H.P. was "very adamant" that she did not wish to visit or live with Father, the court did not err in concluding that no emotional attachment existed between H.P. and Father.

Regarding the third factor, the child's emotional attachment to her current caregiver, the court found that H.P. had been in Uncle's care for the majority of her life. The evidence showed that H.P. was doing extremely well in Uncle's care, and that he had ensured that she received proper medical treatment, including prenatal services. Since her placement with Uncle in March of 2022, she had enjoyed stability in her placement and had not attempted to run away from his home.

Regarding the fourth factor, the length of time that H.P. had resided with Uncle, H.P. had lived at Uncle's home for the preceding nine months and she was almost 17 years old. She resided previously with Uncle for the better part of eleven years, from ages 2 to 13. The court concluded that "[s]he has been out of the parent's home the overwhelming majority of her young life and she has been in the current placement for the overwhelming majority of that time and has not run, has not disrupted."

The court addressed the fifth factor, the potential emotional, developmental, and educational harm to H.P. if moved from her current placement. The court determined that "[b]ased on everything that this Court has heard, that sort of disruption would work an unequivocal detriment to the child." An important consideration for the juvenile court is "the child's actual lived experience in the world[,]" including "the child's point of view, … and recognizing that removing a child from a placement where the child has formed emotional attachments can cause potential emotional, developmental, and educational harm to the child[.]" *In re M.*, 251 Md. App. at 127-28 (quotation marks and citations omitted). The record supported the juvenile court's determination that removing H.P. from Uncle's care would destroy the stability and substantial progress she attained while in his care.

In addressing the final factor, the potential harm to a child from remaining in State custody for an excessive period of time, the court determined that "it's not in this child's best interest that this case remain in limbo until she's 18 and can make her own

decisions." As the Supreme Court of Maryland[3] recognized, "[a] critical factor in determining what is in the best interest of a child is the desire for permanency in the child's life." *Jayden G.*, 433 Md. at 82. H.P. was thriving in her Uncle's care and the record supported the court's conclusion that it was in H.P.'s best interest that at this critical point in her development, she no longer remain in State custody.

In determining the appropriate permanency plan for H.P., the court considered that H.P. had been healthy and stable in Uncle's care. She was doing well in school, preparing for the birth of her child, and she wanted to remain in her family home in Pennsylvania. H.P. refused to visit or live with Father and it was clear that she was uncomfortable with him. H.P. was on the brink of adulthood and motherhood, and the court considered appropriately her wishes and the unlikelihood that she and Father would reunify before she was emancipated.

The juvenile court exercised properly its discretion in determining that it was in H.P.'s best interest that her permanency plan be changed to a sole plan of custody and guardianship with Uncle and that the CINA case be closed.

II.

The Department's Reunification Efforts

Father contends that the juvenile court erred in finding that the Department had made reasonable efforts towards reunification, where the court erroneously blamed him

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

for not engaging in services, and the Department had failed to follow its regulations requiring that it facilitate visitation.

We review for clear error the juvenile court's factual finding that the Department made reasonable efforts towards reunification. *Shirley B.*, 419 Md. at 18. When a child is placed in the care of the Department following a CINA finding, the Department has a statutory obligation to make reasonable efforts to reunify the child with the parent. *See* FL § 5-525(e)(1) (requiring that the Department make "reasonable efforts … to preserve and reunify families"); *In re Joseph N.*, 407 Md. 278, 291-92 (2009). At each permanency plan review hearing, the court is required to "make a finding whether a local department made reasonable efforts to … [f]inalize the permanency plan in effect for the child[,]" and "[m]eet the needs of the child, including the child's health, education, safety, and preparation for independence[.]" CJP § 3-816.1(b)(2)(i)-(ii). The Department's reunification efforts are not required to be perfect. *See In re James G.*, 178 Md. App. 543, 601 (2008) ("[T]he Department's efforts need not be perfect to be reasonable[.]"). The reasonableness of the Department's efforts are to be considered on a "case-by-case basis[.]" *Shirley B.*, 419 Md. at 25.

Review of a juvenile or circuit court's finding of whether a department has made reasonable efforts is limited to an assessment of "the efforts made since the last adjudication of reasonable efforts" and the current hearing under review. CJP § 3-816.1(b)(5). In this case, the juvenile court determined at the permanency plan review hearing on 4 October 2022, that the Department made reasonable efforts. Accordingly,

the period under review for purposes of this appeal is the two-month period from 4 October 2022 to 6 December 2022.

Father contends that the Department failed to follow its regulation requiring that it "[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[.]" COMAR 07.02.11.05(C)(7)(c). The Department was unable and unwilling to force H.P. to visit Father. In issues of visitation, "'[w]hen a child is of sufficient age and has the intelligence and discretion to exercise judgment as to his or her future welfare, based upon facts and not mere whims, those wishes are one factor that, within context, should be considered by the trial judge[.]'" *Andre J.*, 223 Md. App. at 324 (quoting *In re Barry E.*, 107 Md. App. 206, 220 (1995)) (further quotation marks and citation omitted).

Efforts at reunification had largely been unsuccessful because H.P. was unwilling to visit with Father and Father made no efforts to contact H.P. or the Department. H.P. was almost 17 years old and in the final term of her pregnancy. She was receiving prenatal medical care and assistance from community resources in preparing for the birth of her child. Moreover, the case history from prior review periods showed that the Department had offered Father services and he had refused them. The Department had also made efforts to contact Father to schedule visitation and he had not responded.

The court properly found that "[t]he onus is on the Department to offer [the services], not to see them through to their completion." The court stated that "[p]arents certainly don't have to accept the services that are offered, but there are consequences to

engaging in that manner." Ultimately, the court determined that "[g]iven the specific context of this case and the historical offerings that were refused, that allows this Court to make the finding that the Department has satisfied its burden in that regard."

In determining the reasonable efforts to be made, and in making reasonable efforts to preserve and reunify families, "the child's safety and health shall be the primary concern." FL § 5-525(e)(1)-(2). Ultimately, "[i]f continuation of reasonable efforts to reunify the child with the child's parents … is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner … and to complete the steps to finalize the permanent placement of the child." FL § 5-525(e)(4). *See also In re Adoption of Cadence B.*, 417 Md. 146, 157 (2010) ("[I]f 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 assessing the reasonableness of the Department's efforts towards reunification, the absence of the Department's efforts in facilitating reunification therapy for H.P. was only one factor considered by the juvenile court. The court's primary focus was determining what was in the best interests of H.P. *See In re D.M.*, 250 Md. App. 541, 567 (2021) (noting that, while acknowledging the parent's progress toward reunification, the juvenile court had appropriately "focused its inquiry on the children, not the parent"). The court's task was "not to remedy unfairness to the [parent], but to weigh any unfairness in light of the best interests of [the] children." *Ashley S.*, 431 Md. at 712

(citing *Yve S.*, 373 Md. at 569). Ultimately, "the best interests of the child are to prevail." *Id.*

In this case, the juvenile court did not err in finding that the Department's reunification efforts, though not perfect, were nonetheless reasonable under the circumstances.

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