Circuit Court for Howard County
Case Nos. C-13-JV-23-000090-92

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2031

September Term, 2023

IN RE Su.N., Sa.N., So.N.

Berger,
Beachley,
Albright,

JJ.

Opinion by Beachley, J.

Filed: August 23, 2024

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

This case arises from a judgment entered in the Circuit Court for Howard County, sitting as the juvenile court, in which the court terminated the parental rights of S.W. ("Mother") and J.N. ("Father") as to the parties' three minor children. Mother and Father each noted an appeal from that judgment. In her appeal, Mother has presented three questions for our review. For clarity, we have rephrased and consolidated those questions as:

> Did the juvenile court err or abuse its discretion in terminating Mother's parental rights?

Father, in his appeal, has presented two questions for our review. For clarity, we have rephrased and consolidated those questions as:

> Did the juvenile court err or abuse its discretion in denying Father's request for a postponement so that he could obtain counsel and in proceeding to trial with Father unrepresented by counsel?

For reasons to follow, we hold that the juvenile court did not err or abuse its discretion in granting a termination of parental rights or in denying Father's request for a postponement and proceeding to trial with Father unrepresented by counsel. Accordingly, we affirm the court's judgment.

BACKGROUND

Mother and Father met at a homeless shelter and were later married. In June 2016, the parties had their first child, Su.N. The parties' second child, Sa.N., was born in December 2017.

In June 2018, the Howard County Department of Social Services (the "Department") received a report that Su.N. and Sa.N. were being tied to their beds. A

Department caseworker responded to the home and instructed Mother not to bind the children to their beds.

In January 2019, the Department received a report that Su.N. and Sa.N. were again being tied to their beds. A Department caseworker responded to the home and found both children bound to their beds. The caseworker also discovered that the home was very cluttered and had no smoke detectors; that Mother and Father had a history of domestic violence; and that Mother had recently obtained a protective order against Father.

Based on those discoveries, the Department filed petitions in the juvenile court requesting that Su.N. and Sa.N. each be declared a child in need of assistance ("CINA").[1] In February 2019, the court granted the Department's request, and both children were placed in foster care. Shortly thereafter, Mother was charged, in the circuit court, with child abuse and neglect. As a result of those charges, Mother was prohibited from having in-person contact with the children and from leaving the State of Maryland except for employment purposes. Mother's contact with the children was thereafter limited to video calls.

In July 2019, the children moved to California and began living with their maternal aunt, Ms. B., and her husband, Mr. B. Mother and Father consented to the relocation.

[1] Md. Code (1974, 2020 Repl. Vol.), § 3-801(f) of the Courts and Judicial Proceedings Article ("CJP") defines "child in need of assistance" as "a child who requires court intervention because: (1) [t]he child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) [t]he child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs."

In January 2020, the parties had their third child, So.N. Neither Mother nor Father informed the Department about the pregnancy and subsequent birth. In order to hide the child from the Department, Mother traveled to Louisiana to give birth. Mother then gave the child to relatives in California (not Mr. and Ms. B.). The Department quickly learned of the birth and confronted the parents, who refused to cooperate or disclose So.N.'s location. The Department filed a petition to have So.N. declared a CINA. When the parents continued to refuse to disclose the child's location, the court threatened to hold them in contempt. Ultimately, the parents cooperated, and So.N. was located. In February 2020, So.N. was declared CINA and placed with Mr. and Ms. B. Around this time, the frequency of the parents' video calls to the children diminished, and in September 2020, the parents stopped contacting the children altogether.

In March 2021, the Department asked the juvenile court to change the children's permanency plans from reunification with a parent to adoption by a relative. Following a hearing before a magistrate, the magistrate recommended granting the Department's request. Mother and Father filed exceptions.

In May 2021, Mother was acquitted of her pending criminal charges. Mother and Father began traveling to California to visit with the children in person in August 2021. They also resumed video calls.

In December 2021, the juvenile court held the first of several hearings on Mother's and Father's exceptions. The final hearing was held in January 2023.[2] In May 2023, the juvenile court adopted the magistrate's recommendations and entered an order changing the children's permanency plans to adoption by a relative. After Mother noted an appeal, this Court affirmed in an unreported opinion. *In re: Su.N., Sa.N., and So.N.*, No. 793, Sept. Term 2023 (filed Jan. 18, 2024).

Meanwhile, in June 2023, the Department filed petitions requesting that the parents' parental rights to each child be terminated and that the Department be granted guardianship with the right to consent to adoption. A termination of parental rights ("TPR") hearing was ultimately scheduled for December 4 through December 13, 2023.

TPR Hearing

At the TPR hearing, the Department presented various testimonial and documentary evidence regarding the Department's involvement with the family. According to that evidence, Michelle Harman, a caseworker with the Department, first became involved with the family in December 2017, after Su.N. was born. At the time, the Department had "concerns regarding mental health in [the] home, [and] domestic violence." Additionally, the parents only had one car seat and "were trying to take the mattress and crib" from the hospital because "they didn't have what they needed in the home to properly care" for the

[2] During a hearing in October 2022, the children's attorney reported that the parents had filed CPS reports against Mr. and Ms. B. Mr. B. testified that the parents had shown up to the children's school unannounced. As a result, the court suspended the parents' in-person visitation. The parents appealed the order, and this Court reversed in May 2023.

child. Ms. Harman reached out to Mother and told Mother that the Department could assist with supplies, but Mother declined.

Ms. Harman came into contact with the family again in March 2018 after receiving a referral regarding concerns of domestic violence. Upon receiving that report, Ms. Harman went back to the home and spoke with Mother and Father, and Ms. Harman provided referrals for counseling. One month later, Mother called Ms. Harman and stated that she "couldn't get a break from her children" and that Father "wasn't allowing her to, like, work or give her money." Ms. Harman provided Mother with information on how to get help with those issues. According to Ms. Harman, Mother did not avail herself of those services.

On May 31, 2018, Emmett Woodard, a Department caseworker, received a report that the children were being tied to their beds. Upon responding to the home that evening, Mr. Woodard discovered that the children "were still tied up." Photos of the children taken by Mr. Woodard that evening were admitted into evidence. According to Mr. Woodard, Sa.N. was in bed, a hat was "pulled over the child's eyes," and she was "being restrained in a very aggressive manner that could have resulted in death." Su.N. was in a different bed, a hat was "pulled over her face," and "[s]he was tied up with rope around her torso and that rope was then tied to . . . a bed." Mr. Woodard instructed Mother and Father that "under no circumstances could the children be tied up like that again." When asked why she had tied the children up, Mother stated that she was attempting to "swaddle" the children.

The following day, Ms. Harman went back to the home for an unannounced home visit. Upon making contact with Mother and Father, Ms. Harman informed them that they could not tie their children to their beds. Ms. Harman had both parents sign a safety plan, which instructed the parents to use appropriate sleeping devices and to participate in a parenting program and counseling. Ms. Harman continued working with Mother and Father over the following months, making a total of fourteen home visits and providing various referrals for services. Following her last home visit, Ms. Harman attempted to contact Mother and Father, but she was unable to reach them. Ms. Harman closed the case in October 2018 because she was unable "to make contact with the family and have them follow through with any of the recommendations [for] counseling."

On January 16, 2019, Howard County Police Corporal Justin Frei responded to the family home after the Department had received a report "about children that were being improperly restrained." Upon responding to the home, Corporal Frei discovered both children in their beds. Photos of the children taken by Corporal Frei were admitted into evidence. According to Corporal Frei, Su.N. was "lying face down" and had "a cloth tied around her torso area . . . in a knot fashion . . . which was tied to the bed." Corporal Frei was concerned because, if there was "an immediate emergency, whether it be a fire or a medical incident, the way she was tied up would make it extremely difficult to be removed quickly and efficiently." Sa.N. was also "positioned face-down on her stomach," and she had "a white cloth wrapped around her upper back area, which [was] wrapped around the bed restraining her down to the bed, and she was unable to . . . move from side to side."

Corporal Frei was concerned because "[t]he way she [was] positioned could make it extremely hard to breathe" and posed a risk, "if they spat up, [of] possibly chok[ing] on any spit-up." Corporal Frei observed that the home was "cluttered" and had "a lack of smoke detectors." Corporal Frei spoke with Mother, who reported "a previous domestic incident" in which Father had assaulted her and which resulted in the issuance of a protective order. Mother also reported that the children, one and two years old at the time, were only consuming breast milk. The Department thereafter removed the children from the home and filed CINA petitions for both children.

In February 2019, both children were found to be CINA. The parents subsequently asked that the children be placed with Mother's sister, Ms. B., and her husband, Mr. B., in California. In July 2019, Mr. and Ms. B. assumed custody of the children.

In August 2019, Markeita Matthews, a Department caseworker, was assigned as the family's primary caseworker. Upon being assigned the case, Ms. Matthews discovered that neither parent had signed a service agreement. Ms. Matthews met with Mother and Father shortly thereafter, and, based on that meeting and her review of the case file, Ms. Matthews developed concerns regarding the lack of stable housing, Mother's mental health, domestic violence issues between Mother and Father, and Father's suspected substance abuse. Ms. Matthews then developed a service agreement for each parent that included certain tasks that the Department wanted each parent to complete. For both parties, the tasks were: participate in a parenting capacity evaluation and sign all necessary releases; participate in and complete parenting classes; provide proof of stable housing;

and provide proof of income. Father's service agreement included additional tasks: participate in a domestic violence evaluation and a substance abuse evaluation and follow treatment recommendations; and submit to weekly drug testing. Ms. Matthews presented the service agreements to Mother and Father, but neither party agreed to sign. Mother and Father both insisted that they had already completed some of the tasks. Ms. Matthews asked for proof in the form of documentation, and the parties stated that they would provide that information.

In January 2020, Mr. Woodard contacted the family after receiving a report that Mother had given birth to a child, later identified as So.N. Mr. Woodard asked Mother about the child, but Mother refused to provide any information. When Mr. Woodard asked Father about the child, Father stated that "there is no baby" and that Mother "did not give birth." Eventually, Mother disclosed the location and circumstances of So.N.'s birth. So.N. was thereafter taken into the custody of the Department and placed with Mr. and Ms. B. in California.

In September 2020, after receiving some documents from Mother and Father, Ms. Matthews created a new service plan that included tasks that still needed to be completed. When Ms. Matthews sent the plan to Mother and Father through their counsel as Mother requested, neither of them signed. In November 2020, Ms. Matthews sent letters to Mother and Father regarding the uncompleted tasks, but neither responded. Ms. Matthews sent additional letters in January 2021. Several months later, Mother responded by providing some, but not all, of the requested documents. By May 2021, Ms. Matthews had received

"quite a bit of documentation about the services the parents completed," so she created updated service plans, with updated tasks, and presented them to Mother and Father. For Mother, the updated tasks included: completing a parental evaluation; participating in ongoing mental health counseling; participating in parent education classes, with a focus on nutrition and sleep; and participating in couples therapy. For Father, the updated tasks included: completing a parental evaluation; completing ongoing drug testing; participating in parent education classes; and participating in mental health therapy. Again, neither parent agreed to sign the service plan.

In March 2021, the Department recommended changing the children's permanency plan to adoption. Up to that point, the plan had been that the children would be reunified with the parents. The Department recommended the change because, although the parents had completed "quite a bit of the tasks" that had been assigned, the parents still exhibited "a lack of insight in regards to keeping the children safe, safe practices, regular child development."

In March 2022, Mother completed a psychological evaluation with Alexandra Maribelli, a psychologist. During that evaluation, Mother stated that the children had been removed from her care "because the Department did not agree with swaddling practices that she was implementing." Mother believed that her swaddling techniques were "appropriate," and insisted that Ms. B. was the only barrier to reunification with the children. She did not identify housing or income as a barrier to reunification. Mother reported that she was currently in therapy, but when Dr. Maribelli asked if she could contact

Mother's therapist, Mother refused. Based on the results of Mother's evaluation, Dr. Maribelli concluded that Mother's ability to provide consistency and structure for the children was "limited," that Mother lacked "insight regarding her behavior that brought her children into care," and that the children were "at a risk for similar disciplinary practices in the future." Dr. Maribelli also expressed concerns about "the marital dynamic," noting "the history of domestic violence" and Father's "anger issues." Dr. Maribelli concluded that "the children remained at risk" due to Mother's "lack of insight and lack of understanding into how her own behavior could impact the children."

In March 2022, Dr. Maribelli attempted to complete a psychological evaluation of Father, but Father refused. According to Dr. Maribelli, when Father arrived for the scheduled evaluation, he "barged" into her office and was "ranting and saying things . . . about [her and] about the judge." Dr. Maribelli described Father as "aggressive and agitated." When Dr. Maribelli asked Father if he planned to participate in the evaluation, Father declined. Father then "stormed out and shouted."

In August 2023, Ms. Matthews created a new service plan that reflected each parent's progress toward completing the assigned tasks. By that time, Mother had completed the parenting evaluation, the psychiatric evaluation, and the parenting classes. Mother claimed that she was engaged in individual therapy, but did not provide any documentation to support that claim. Father had completed anger management classes and parenting classes, but failed to complete the parenting evaluation and participate in therapy. The couple engaged in two couples counseling sessions in 2019. Neither party had

obtained stable housing, provided proof of any income, or signed any of the many services agreements prepared by the Department after the children were removed from their care. When asked about her lack of housing, Mother stated that "her intention was to get an apartment once she knew that the kids were going to return home to her care." Ms. Matthews believed that Father shared that sentiment.

Regarding the parents' interaction with the children, Ms. Matthews noted that, from 2019 to 2021, the parents' visits with the children were limited to video calls, which the parents engaged in "sporadically." At one point during that period, Mother went six months without speaking to the children. In August 2021, after Mother was acquitted of her pending criminal charges, the parents began traveling to California for in-person visits with the children. The Department arranged those visits and provided funds for the trips. The visits were supervised by Jonathan Ogle, a caseworker with the San Diego Department of Health and Human Services. According to Mr. Ogle, the initial visits were difficult because the children were hesitant to interact with Mother and Father. For some of the visits, the parents brought several shopping carts filled with toys. When Mr. Ogle spoke with the parents and told them not to bring so many toys, there was "no change," and the parents continued bringing "excessive amounts" of toys.

The parents continued the in-person visits throughout 2022, and the Department continued to arrange the visits and provide funds. In October 2022, the parents' in-person visitation privileges were suspended by the juvenile court, but that suspension was lifted in the summer of 2023. During the suspension, the parents engaged in virtual visits. At

one point, Mother's electronic device broke, which hampered her ability to visit with the children virtually, and the Department provided her with a new laptop so that she could continue to participate in virtual visits. The in-person visits resumed in September 2023 following the lifting of the court-ordered suspension, and the Department continued to arrange those visits. Mr. Ogle reported that the more recent visits had "a lot more positive interactions" between the parents and the children.

In the fall of 2023, at a time when the parents were scheduled to visit with the children in California, Father "surprised" Ms. Matthews by showing up at her office in Maryland. When Ms. Matthews asked Father why he was not in California, Father responded that he had "recently come back because of some family discord with [Mother's] family." Father stated that he had gotten into an argument with Mother's brother, who physically attacked Father. Father stated that he did not retaliate because "he did not want to ultimately kill him in the altercation" and "he would not want to have to also . . . kill [Mother] as well because she was present during the altercation." During that meeting, Ms. Matthews and Father also discussed his part in "not protecting the children . . . at the time when they came into care." Father stated that he did not agree with "the way they were tied" and that, when he confronted Mother about it, he and Mother got into "a physical altercation" that resulted in Mother having one of her teeth knocked out.

As for the children's progress in their current placement, Ms. Matthews reported that the children were thriving and had developed a strong bond with their current caregivers, Mr. and Ms. B., and their family. Mr. B. reported that, when he first gained

custody of Su.N. and Sa.N., both children had behavioral and developmental issues, including "nightmares," "trauma," "acting out," and being "underweight." Mr. B. testified that the children started receiving therapeutic services for those issues. Mr. B. noted that Su.N. had recently experienced "outbursts" and "tantrums" in school, but those problems had lessened once Su.N. started receiving supportive services in school. Those services were later suspended after Mother, upon learning about the services, refused to give her consent. Eventually, Mr. and Ms. B. obtained a court order naming them as surrogate parents, and the services were resumed. Mr. B. reported that, after caring for Su.N. and Sa.N. for approximately five years and So.N. for approximately four years, the children were "family," and he and Ms. B. wanted to provide a permanent home for them. Ms. Matthews stated that she had no concerns about the children's current well-being or safety.

In her case-in-chief, Mother testified that, early on, Su.N. had "sleep issues," so Mother "became interested in swaddling." Mother subsequently tried various swaddling devices and techniques. Mother continued those practices after Sa.N. was born. Mother insisted that the swaddling devices she used were commercially available and that she used those devices appropriately. Mother disputed the Department's description of how the children were being "swaddled." She admitted that she had used rope to swaddle one of the children because "there's other cultures that use rope too, like in Saudi Arabia, South Asia and in Japan." Mother testified that she stopped using the rope after Ms. Harman advised her against it. When asked how she could assure the court that "these issues would not arise again," Mother responded, "Well, they're too old. The way that they are being

put to sleep -- they're too old to go to sleep like that."

Mother testified that, as of trial, she had completed all required tasks and provided documentation in support. Mother testified that she and Father currently earned an income through "a lead generation company" and that they made between $500 and $10,000 per month. Mother testified that she and Father had approximately $70,000 in savings and that they owned four vehicles, including a Tesla. Mother stated that she and Father currently lived in a one-bedroom apartment in Columbia.

Mother's brother, K.W., who lived in California, testified that he was willing to provide housing and financial support to the parents. Mother's other brother, W.W., who also lived in California, told Mother that he would provide housing and support for her in California.

Father provided testimony concerning his difficulties in obtaining housing and income due to his criminal history. He also testified that many of the tasks the Department asked him to complete were the same as the tasks he was required to complete as part of his parole. He therefore believed that the Department would be aware that he had completed the tasks when he provided proof of completion to his parole officer. As to the underlying reasons why the children were removed from the parents' care, Father testified that he and Mother did nothing wrong, and he felt the children were "kidnapped" by the Department.

Juvenile Court's Findings

At the conclusion of the hearing, the juvenile court made express findings based on Md. Code (1984, 2019 Repl. Vol.), § 5-323 of the Family Law Article ("FL"), which sets forth the factors a court must consider in ruling on a petition for guardianship. As the court noted, the primary factor a court must consider is "the health and safety of the child." FL § 5-323(d). The other factors are: (1) the Department's efforts in providing services, including the extent, nature, and timeliness of those services and the extent to which the Department and parent had fulfilled their obligations under a service agreement; (2) the parent's efforts at reunification, including the extent to which the parent had maintained contact with the child and the Department, the parent's contribution to the child's care, the existence of a parental disability that would make the parent consistently unable to care for the child, and whether additional services would make it feasible for the child to be returned to the parent's care within 18 months of placement; (3) certain aggravating circumstances, such as whether the parent had abused or neglected the child, whether the mother or child had tested positive for a drug at birth, whether the parent had been convicted of a crime of violence against the child or other parent, and whether the parent had involuntarily lost parental rights to the child's sibling; and (4) the child's emotional well-being, including the child's feelings toward the parent and significant others, the child's adjustment to their current placement, the child's feelings about severing the parental relationship, and the impact that such an act would have on the child's well-being. FL § 5-323(d)(1)-(4).

(1) Services

Regarding the services offered by the Department, the court found that the services provided to Mother and Father both prior to and following the children's removal were appropriate and designed to address the concerns raised by the Department and to facilitate reunification. The court noted that, prior to the children's removal, the parents "declined to take advantage of the majority of the services offered and recommended[.]" The court found that, while the Department fulfilled its obligations under the service agreements, the parents fulfilled only some of their obligations. The court noted that Mother and Father attended only two couples counseling sessions, that Mother failed to provide documentation of her individual counseling, and that neither parent ever provided proof of income or stable housing.

(2) Efforts toward reunification

Regarding the parents' efforts toward reunification, the court found that both parents had been "highly motivated to participate in in-person visits with the children" and had "taken advantage of any opportunity to do so." The court was "at a loss as to why the parents have not relocated to California where they could have much more frequent contact with the children," particularly where multiple family members had "apparently offered [Mother] and Father free housing in that state." The court found that the "obvious solution was for the parents to move to where the children were as soon as they could, since the children had stability [in] California, and the parents have very little stability in Maryland."

The court concluded that the parents' "choice to remain in Maryland further hampers their ability to visit frequently with the children in person."

The court found that the parents had not made contributions to the children's reasonable support "to the extent that they are able to." Father was ordered to pay $300 per month in child support, but had "fallen behind twice, causing his license to be suspended." The court expressed "concerns with Mother's credibility regarding her financial circumstances." The court noted that the parents had "money to purchase and maintain four . . . vehicles and to bring cartloads of toys to the children, but not for computer repairs, child support, rent, or counsel fees."

The court found that additional services would not likely bring about a lasting parental adjustment so that the children could be returned to the parents' care within a reasonable time. The court noted that the parents had never acknowledged "that there was any problem with their parenting" or that "tying the older children to the beds was dangerous and not in the children's best interest." The court further noted that neither parent had "focused on his or her own behavior toward the children, Mother's in binding and blindfolding the children and tying them to their beds, and Father's in not taking action to stop her from doing so." The court found that, although both parents had complained that various events outside of their control had hampered the reunification efforts, it was instead "the lack of progress in other areas that makes reunification impossible." The court found that the parents had "not made significant progress in working on their relationship" and had "not changed their approach to parenting after attending parenting classes and

learning about normal child developmental stages and needs." The court noted that the parents had failed to secure stable housing, demonstrate stable income, or "accept generous offers of financial and housing assistance by Mother's family in California." The court observed that, while Mother had "insisted that she [was] seeing a therapist," she had "refused to divulge the identity of the therapist or allow [the Department] to get verification of the treatment."

The court also expressed concern "about the parents' candor with the [c]ourt and with [the Department]." The court found that the "greatest concern regarding candor was Mother and Father's active attempts to conceal the birth and whereabouts of [So.N.] in January 2020." The court noted that "Mother knowingly violated the conditions of her pretrial release to leave the state to give birth" and that, when confronted, she "refused to give information." The court also noted that, after a break during Mother's trial testimony, "Mother and Father rushed into the [c]ourtroom late holding documents that Mother had created in the law library during the break, in violation of the rule on witnesses." The court found that "[t]he parents['] lack of candor makes it difficult . . . to find them credible."

(3) Aggravating circumstances

Regarding any aggravating circumstances, the court found that Mother had abused and neglected the children. The court cited the incident in 2018, in which Mother had bound both children to their beds. The court noted that, based on the pictures taken at the time, Su.N. appeared "to be in a sleep sack that is too short for her to fully stretch out, with a knit cap pulled down over her eyes." The court noted that there was a rope "tied around

the child with an elaborate knot[,]" that the child's arms were "inside the device[,]" and that there was "no way to extricate the child quickly in the event of a fire." The court noted that Sa.N. had been "wrapped tightly" in a sleep device "intended for a much smaller baby." The court also cited the incident in 2019, in which Mother had again bound the children to their beds. The court noted that, during that incident, Sa.N. was "face down on pillows in a device tied to the bed in a manner that the child was unable to turn over[,]" which "presented a risk of suffocation."

As to Father, the court found that, while he "disagreed with the children being tied to the bed," he did not insist that they be untied, but instead "engaged in a domestic violence incident with Mother, resulting in his being removed from the home on a protection order." The court found that Father had neglected the children's needs in failing to protect them from Mother's abuse and neglect.

(4) The children's emotional well-being

Regarding the children's current emotional well-being, the court noted that all three children were "extremely young when they were removed." The court noted that Su.N. and Sa.N. had not lived with the parents in nearly five years and that So.N. had never lived with the parents. Nevertheless, the court found that the children enjoyed their visits with Mother and Father and "would likely miss the interaction if it ended." The court had "no doubt that the parents love these children very much and want them returned."

The court found that the children were very closely bonded with each other and with Mr. and Ms. B. and their family. The court found that the children had adjusted to their

current placement, that the children had become members of Mr. and Ms. B.'s neighborhood and community, and that the children had friends and were established at a school. The court found that the children had "a loving stable home with appropriate caregivers[,]" that the children had "gotten services to address their needs," and that the children had "grown in positive and healthy ways." The court concluded that the children would be harmed if they were removed from Mr. and Ms. B.'s care and that the likely impact of terminating Mother and Father's parental rights would be enabling Mr. and Ms. B. to become the children's adoptive parents, which would "allow these children to have permanency" and "enhance the children's wellbeing."

Juvenile Court's Ruling

Based on those findings, the court determined that "the parents are unfit to remain in a parent[-]child relationship." The court found "it to be in the best interest of the child[ren] to grant the Department's petition." The court ordered that Mother and Father's parental rights be terminated and that the Department be granted guardianship over the children.

DISCUSSION – MOTHER'S APPEAL

Parties' Contentions

Mother argues that the juvenile court erred and abused its discretion in granting the Department's guardianship petition and terminating her parental rights. First, Mother claims that the court failed to engage in the requisite analysis, as set forth in the relevant statute, in reaching its decision. Second, Mother claims that the court clearly erred and

abused its discretion in finding that she had abused and neglected the children and in finding that the Department had provided appropriate and timely services. Lastly, Mother claims that the court clearly erred and abused its discretion in finding that she was unfit to remain in a parental relationship with the children.

The Department contends that the juvenile court properly considered the mandatory statutory factors and did not abuse its discretion in finding Mother to be unfit. The Department further contends that the services provided to Mother were appropriate.

As discussed in greater detail below, we hold that the juvenile court did not err or abuse its discretion in reaching its decision.

Standard of Review

"'Maryland appellate courts apply three different but interrelated standards of review' when reviewing a juvenile court's decisions at the conclusion of a termination of parental rights proceeding." *In re Adoption/Guardianship of C.E.*, 464 Md. 26, 47 (2019) (quoting *In re Adoption/Guardianship of Cadence B.*, 417 Md. 146, 155 (2010)). First, any factual findings made by the court are reviewed for clear error. *Id.* (quoting *In re Adoption/Guardianship of Ta'Niya C.*, 417 Md. 90, 100 (2010)). "A factual finding is clearly erroneous if there is no competent and material evidence in the record to support it." *Mayor of Balt. v. Thornton Mellon, LLC*, 249 Md. App. 231, 238 (2021) (quoting *Hoang v. Hewitt Ave. Assocs., LLC*, 177 Md. App. 562, 576 (2007)), *aff'd* 478 Md. 396 (2022). Second, any legal conclusions made by the court are reviewed *de novo*. *C.E.*, 464 Md. at 47 (quoting *Ta'Niya C.*, 417 Md. at 100). Finally, if the court's ultimate conclusion

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." *Ta'Niya C.*, 417 Md. at 100 (alteration in original) (quoting *In re Adoption/Guardianship of Victor A.*, 386 Md. 288, 297 (2005)). "A decision will be reversed for an abuse of discretion only if it is 'well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.'" *In re J.J. & T.S.*, 231 Md. App. 304, 345 (2016) (quoting *In re Yve S.*, 373 Md. 551, 583-84 (2003)), *aff'd* 456 Md. 428 (2017).

Analysis

"Parents have a fundamental right under the Fourteenth Amendment of the United States Constitution to 'make decisions concerning the care, custody, and control of their children.'" *C.E.*, 464 Md. at 48 (quoting *Troxel v. Granville*, 530 U.S. 57, 66 (2000)). Moreover, "there is 'a presumption of law and fact[ ]that it is in the best interest of children to remain in the care and custody of their parents.'" *In re Adoption/Guardianship of H.W.*, 460 Md. 201, 216 (2018) (quoting *In re Rashawn H.*, 402 Md. 477, 495 (2007)). Nevertheless, parental rights are not absolute, and the presumption in favor of preserving those rights may be rebutted "by a showing that the parent is either unfit or that exceptional circumstances exist that would make the continued relationship detrimental to the child's best interest." *Id.* at 217 (quoting *Rashawn H.*, 402 Md. at 498). "When it is determined that a parent cannot adequately care for a child, and efforts to reunify the parent and child have failed, the State may intercede and petition for guardianship of the child pursuant to

its *parens patriae* authority." *C.E.*, 464 Md. at 48. "The grant of guardianship terminates the existing parental relationship and transfers to the State the parental rights that emanate from a parental relationship." *Id.* (citing *Rashawn H.*, 402 Md. at 496).

As noted, before terminating parental rights, the juvenile court must consider the factors set forth in FL § 5-323(d), while giving "primary consideration to the health and safety of the child[.]" If, after considering those factors, the court "finds 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," the court may terminate the parental relationship and grant guardianship of the child to the Department. FL § 5-323(b).

A.

Mother first argues that the juvenile court failed to follow the dictates of FL § 5-323 in terminating her parental rights. Mother insists that, before the court could begin any "best interest" analysis, it first needed to overcome the presumption that a child's best interests are served by maintaining the parental relationship. Mother contends that the court conflated the two analyses by discussing the children's best interests prior to making the threshold determination regarding the parental presumption.

We find no merit to Mother's claims. As discussed, the proper analysis, as set forth in FL § 5-323, is a two-step process. First, the court must consider the factors enumerated in the statute. Then, after considering those factors, the court may terminate the parental relationship if it finds either that the parent is unfit to remain in a parental relationship or

that exceptional circumstances exist that would make continuing the parental relationship detrimental to the child's best interests. That is precisely what the court did here.

To be sure, in considering the factors set forth in FL § 5-323, the court did, at times, discuss the children's best interests. Nevertheless, there is nothing to suggest that the court "conflated" its analysis, and we note that the court appropriately stated that its analysis gave "primary consideration to the health and safety" of the children. Given the nature of some of the factors, it was only natural that the court would allude to the children's best interests in discussing those factors. *E.g.* FL § 5-323(d)(2) (requiring the court to consider "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"); § 5-323(d)(4)(i) (requiring the court to consider "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"); § 5-323(d)(4)(iv) (requiring the court to consider "the likely impact of terminating parental rights on the child's well-being"). The Maryland Supreme Court has recognized that "[t]he same factors that a court uses to determine whether termination of parental rights is in the child's best interest under the TPR statute equally serve to determine whether exceptional circumstances exist." *C.E.*, 464 Md. at 51 (quoting *Ta'Niya C.*, 417 Md. at 104). Thus, in discussing the FL § 5-323(d) factors, the

court looks to both the child's best interest as well as parental unfitness and exceptional circumstances. We discern no error in the court's analysis here.[3]

B.

Mother next argues that the juvenile court erred and abused its discretion in finding that she had abused and neglected the children. Mother notes that the sole basis for the court's finding was her "swaddling methods." Mother disputes the Department's evidence and argues that her "swaddling" did not constitute abuse.

We hold that the juvenile court did not err or abuse its discretion in finding that Mother had abused and neglected Su.N. and Sa.N. "Abuse" is defined, in pertinent part, as "the physical or mental injury of a child under circumstances that indicate that the child's health or welfare is harmed or at substantial risk of being harmed by . . . a parent[.]" FL § 5-701(b). Neglect is defined, in pertinent part, as the "failure to give proper care and attention to a child by any parent . . . under circumstances that indicate: (1) that the child's health or welfare is harmed or placed at a substantial risk of harm; or (2) mental injury to the child or a substantial risk of mental injury." FL § 5-701(s).

Here, the juvenile court received testimonial and photographic evidence establishing that, on one occasion, Mother had bound both Sa.N. and Su.N. in their beds, with Sa.N. being tied to her bed "in a very aggressive manner that could have resulted in

[3] To the extent that Mother is claiming that the court failed to properly consider each factor, we find no merit to that claim, either. The record makes plain that the juvenile court carefully and expressly considered all relevant statutory factors before making its determination regarding parental fitness.

death," while Su.N. was in a different bed, a hat was "pulled over her face," and "she was tied up with rope around her torso and that rope was then tied to . . . a bed." Six months later, Mother had again bound the children in their beds. Su.N. was "lying face down" and had "a cloth tied around her torso area . . . in a knot fashion . . . which was tied to the bed" in a manner that "would make it extremely difficult to be removed quickly and efficiently" in an emergency. Sa.N. was also "positioned face-down on her stomach[,]" and she had "a white cloth wrapped around her upper back area, which [was] wrapped around the bed restraining her down to the bed" in a manner that made it "extremely hard to breathe" and "would make the child . . . possibly choke on any spit-up." After the children were removed from the home and sent to live with Mr. and Ms. B., the children exhibited signs of "trauma" and had issues with "nightmares" and "acting out."

From that, the juvenile court had ample evidence to conclude that Mother had both abused and neglected Su.N. and Sa.N. The court was under no obligation to accept Mother's version of events, nor was the court required to accept Mother's articulated reasons as to why she bound the children. Accordingly, the court did not err or abuse its discretion in finding that Mother had abused and neglected the children.

C.

Mother next claims that the juvenile court erred and abused its discretion in finding that the Department had provided appropriate and timely services. Mother contends that the services offered by the Department were "pro forma" and not "specifically targeted at the behavior that brought the children into care," which was her act of "swaddling" the

children. Mother argues that the Department should have connected her "with a specialist to address child sleep issues" and employed "an in-home aide" and "parenting coach."

We reject Mother's arguments. To be sure, when a juvenile court considers the services provided by the Department, the court should be mindful that a "reasonable level of those services [must be] designed to address both the root causes and the effect of the problem[.]" *Rashawn H.*, 402 Md. at 500. That said, the Department's efforts "need not be perfect, but are judged on a case-by-case basis." *H.W.*, 460 Md. at 234 (citation omitted). Moreover, the Department "need not expend futile efforts on plainly recalcitrant parents[.]" *In re James G.*, 178 Md. App. 543, 601 (2008). In other words, although the Department must provide reasonable assistance in helping a parent ameliorate the impediments to reunification, the Department's "duty to protect the health and safety of the children is not lessened and cannot be cast aside if the parent, despite that assistance, remains unable or unwilling to provide appropriate care." *Rashawn H.*, 402 Md. at 500-01.

Here, the record shows that the Department provided reasonable assistance and that Mother was unable or unwilling to provide appropriate care despite that assistance. When the Department first made contact with Mother in December 2017 following Su.N.'s birth, the Department offered various services after Mother was seen taking supplies from the hospital, but Mother failed to avail herself of those services. The Department again offered services in March 2018 after Mother complained that she was having trouble taking care of the children, and Mother failed to avail herself of those services as well. Then, when

the Department came into contact with Mother in June 2018 after finding Su.N. and Sa.N. tied to their beds, the Department had Mother sign a safety plan, which instructed her to use appropriate sleeping devices and to participate in a parenting program and counseling. The Department later closed the case because it was unable "to make contact with the family and have them follow through with any of the recommendations with counseling." Mother continued binding the children in their beds, which resulted in their removal from the home in January 2019. From that point forward, the Department offered myriad services aimed at appropriate parenting practices, including parenting classes, a parental evaluation, and therapy, all of which were presented to Mother in the form of various service agreements, none of which Mother agreed to sign. Importantly, despite the Department's reasonable efforts, Mother consistently maintained that her practice of binding the children in their beds was appropriate and not a cause for concern.

From that, the juvenile court could appropriately conclude that the Department had made reasonable efforts at addressing the behavior that brought the children into care, and that additional services would likely have had little discernible impact on that behavior. Accordingly, the court did not err or abuse its discretion in finding that the Department had provided appropriate and timely services prior to the termination of Mother's parental rights.

D.

Mother next argues that the juvenile court erred and abused its discretion in finding that she was unfit to remain in a parental relationship with the children. Mother contends

that the evidence adduced at trial was "contrary to such a finding" and that there was "no evidence" that the children would be harmed if they were returned to Mother's care.

We reject Mother's claims. As noted, the court carefully and comprehensively considered the requisite statutory factors before reaching its ultimate conclusion that Mother was unfit. Regarding the services offered by the Department and Mother's response to those services, the court found that the services provided by the Department were appropriate, that Mother failed to take advantage of the majority of those services, and that Mother failed to provide key documentation regarding proof of counseling, income, and stable housing.

Regarding the parents' efforts toward reunification, the court found that, although Mother appeared "highly motivated" to visit with the children, she inexplicably failed to take advantage of several offers of housing and financial support from relatives in California. The court found that Mother had never acknowledged that there was a problem with her tying the children to their beds and that Mother had not made any progress toward altering her behavior, despite "attending parenting classes and learning about normal child developmental stages and needs." The court noted that Mother had failed to secure stable housing, demonstrate stable income, or work toward improving her and Father's relationship, which was marked by a history of domestic violence. The court also noted that Mother had serious credibility issues stemming from the events surrounding So.N.'s birth, in which Mother "knowingly violated the conditions of her pretrial release to leave the state to give birth" and then, when confronted, refused to disclose So.N.'s location.

Regarding any aggravating circumstances, the court found that Mother had abused and neglected the children. The court cited the incidents in 2018 and 2019, in which Mother had bound Su.N. and Sa.N. to their beds.

As to the children's current emotional well-being, the court noted that all three children were "extremely young when they were removed," that Su.N. and Sa.N. had not lived with the parents in nearly five years, and that So.N. had never lived with the parents. Although the court believed that the children enjoyed their visits with Mother and would likely miss those interactions, the court concluded that the children would be harmed if they were removed from Mr. and Ms. B.'s care. The court noted that the children were very closely bonded with each other and with Mr. and Ms. B. and their family, that the children had adjusted to their current placement, that the children had become members of Mr. and Ms. B.'s neighborhood and community, and that the children had friends and were established at a school. The court noted that the children had "a loving stable home with appropriate caregivers," that the children had "gotten services to address their needs," and that the children had "grown in positive and healthy ways." The court reasoned that terminating Mother and Father's parental rights would allow Mr. and Ms. B. to become the children's adoptive parents, which would "allow these children to have permanency" and "enhance the children's wellbeing."[4]

[4] Mother's argument that the court improperly focused on fitness to have custody rather than fitness to maintain a parental relationship is misplaced. The findings by the court that Mother references as indicative of this improper focus were part of the court's analysis of the final two FL § 5-323(d) factors—"the child's feelings about severance of the parent-child relationship" and "the likely impact of terminating parental rights on the

Given those findings, none of which was clearly erroneous, we cannot say that the court erred or abused its discretion in concluding that Mother was unfit to remain in a parental relationship with the children.

DISCUSSION – FATHER'S APPEAL

Father's appellate argument centers on his lack of representation during the TPR hearing. By way of background, in February 2020, after the Department filed the CINA petition for So.N., Father retained counsel to represent him during those proceedings. In September 2022, Father's counsel filed a motion to strike her appearance. Counsel stated that she "had to obtain a Peace Order against . . . Father" and that she was "no longer permitted to represent him in this matter." Counsel noted that she had been advised by the Office of the Public Defender ("OPD") that it was Father's responsibility to contact OPD regarding new counsel. Counsel stated that she had informed Father of his responsibility to contact OPD. On September 20, 2022, the juvenile court struck counsel's appearance.

On October 12, 2022, Father returned to court for one of the hearings on his and Mother's exceptions to the magistrate's recommendation that the children's permanency plans be changed. At the start of that hearing, the court noted that Father was unrepresented

child's well-being." The court found that Mother and Father were "unable or unwilling to make the changes necessary to be safe and appropriate parents," that "the children would be harmed if they were to be removed" from Mr. and Ms. B.'s home, and that the children "have a loving and stable home with appropriate caregivers." In making these findings, the court was focused on the children's "right to reasonable stability in their lives." *See Rashawn H.*, 402 Md. at 501. Stability is best achieved by allowing the children to be adopted by Mr. and Ms. B., rather than lingering in foster care waiting for the unlikely time when Mother and Father are able to be "safe and appropriate parents."

by counsel, and asked Father if he planned to represent himself. Father stated that he wanted to retain an attorney. The court ultimately decided to continue the proceedings so that Father could obtain an attorney.

On January 11, 2023, Father returned to court for a continuation of the exceptions hearing. Father represented himself in those proceedings.

On June 23, 2023, the Department filed TPR petitions for each child. That same day, the juvenile court issued a show cause order, which was later served on Father. The show cause order stated that Father had a right to an attorney and that, if he could not afford one, an attorney may be appointed by the court. The show cause order also stated that, if Father believed he was entitled to a court-appointed attorney, he was required to notify the court within 30 days of service.

Father thereafter filed a "Notice of Objection" form for each TPR petition, objecting to the termination of his parental rights. Each of those forms instructed Father to indicate, by way of a checkmark, whether he did or did not want the court to appoint an attorney to represent him. Father did not check either option on any of the forms.

On July 26, 2023, the court held a pre-trial status hearing. Father did not attend that hearing.

On November 8, 2023, the court held another pre-trial status hearing. Father was present for that hearing. At the beginning of the hearing, Father stated that he "would like to have representation." The court asked Mother's counsel, an OPD attorney, what Father would need to do to obtain counsel from OPD, and Mother's counsel responded that Father

could call counsel's office. After counsel for the Department objected to any delay in the proceedings, the court made the following comments:

> No one's requesting a postponement today. So we're not going to jump over that broom just right now. I have had numerous circumstances where people get attorneys at the 11th hour just to represent their point of view at trial. It's often very helpful to . . . self-represented parties to have someone who can appropriately bring their issues before the [c]ourt.

The court then asked Mother's counsel if he would give Father OPD's contact information, and counsel agreed. The court stated that it wanted Father "to have an opportunity to apply for legal counsel," but the court reiterated that there was "no one here asking for a postponement." The court then confirmed that trial would begin on December 4, 2023. At no time did Father object or otherwise indicate that he was dissatisfied with the court's handling of the matter. In fact, the court expressly asked Father if he had any objection to starting the TPR hearing on December 4, and Father answered in the negative, stating "I just have the objection that it's five years later."

On November 27, 2023, Father filed a motion to postpone. Father stated that he had contacted OPD and that OPD had informed him that it did not have enough time to prepare for trial. Father stated that he and OPD needed more time to prepare.

On November 28, 2023, the juvenile court entered a written order denying Father's postponement request. The court noted that Father had failed to request an attorney when filing his notice of objection in July 2023. The court further noted that, when Father did finally request counsel at the hearing on November 8, 2023, he did not request a postponement. Rather, the court explained, "[i]t was not until November 27, 2023, one

week before the December 4, 2023 trial date, four months after he was advised of his right to request the [c]ourt to appoint counsel in the TPR case, that [Father] filed his request for postponement to obtain counsel." Based on those findings, the court declined to postpone the TPR hearing.

On December 4, 2023, the parties returned to court for the start of the TPR hearing. Father represented himself for the remainder of the proceedings. In so doing, Father made opening and closing remarks, presented evidence, and called and cross-examined witnesses.

Parties' Contentions

Father now claims that the juvenile court erred and abused its discretion in denying his request for a postponement and in proceeding with the TPR hearing with Father unrepresented. Father contends that he had a right to counsel during the TPR proceedings and that the court was therefore obligated to consider a reasonable postponement so that he could obtain counsel. Father also contends that the court should have inquired as to his "application, eligibility, and/or denial of counsel from [OPD]" before proceeding with the TPR hearing. Father insists that the court's actions violated his "fundamental due process rights to defend his right to parent" and "impacted the [c]ourt's ability to objectively and impartially receive and assess evidence under a clear and convincing standard."[5]

[5] Father complains that the juvenile court "abused [its] discretion by making speculative financial eligibility determinations" regarding his right to counsel from OPD. The court made no such findings. In its written opinion, the court noted, in a footnote, that "Mother testified that the parties make $500 to $10,000 per month." The court then stated: "if that is true, Father likely would not have qualified for a court appointed attorney."

The Department contends that Father waived his right to counsel by waiting until one week before trial to ask for a postponement. The Department avers that the court did not abuse its discretion in denying Father's postponement request.

Analysis

Md. Code (2001, 2018 Repl. Vol.), § 16-204(b)(1)(vi) of the Criminal Procedure Article states that the OPD must provide representation to an indigent parent in a proceeding involving the termination of parental rights.[6] But, like a defendant in a criminal case, a parent in a TPR proceeding may waive his or her right to counsel, either affirmatively or through inaction. *See In re Alijah Q.*, 195 Md. App. 491 (2010); *Peterson v. State*, 196 Md. App. 563, 573-74 (2010) (discussing waiver of counsel through inaction in a criminal case). And, because an indigent parent's right to counsel is statutory and not constitutional, a waiver of that right need not satisfy the "voluntary, knowing, and intelligent" standard. *In re Alijah Q.*, 195 Md. App. at 519-20. Nevertheless, "certain minimal protections must govern the waiver of counsel[.]" *Id.* at 519.

In addition, when a proceeding involves an intrusion upon an individual's fundamental right to parent, that proceeding must comport with basic due process requirements. *In re Blessen H.*, 163 Md. App. 1, 15-16 (2005), *aff'd* 392 Md. 684 (2006). The process due a parent in that situation is determined by three factors: (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation

[6] In his brief, Father relies on CJP § 3-813 and Maryland Rule 11-207. That reliance is misplaced, as that statute and rule pertain to CINA proceedings, not TPR proceedings.

of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 19 (quoting *Matthews v. Eldridge*, 424 U.S. 319, 335 (1976)).

Applying these principles to the instant case, we hold that Father waived his right to counsel and that the juvenile court afforded him the requisite due process in preserving that right. The record shows that Father was represented by counsel from February 2020, shortly after the CINA proceedings for So.N. were initiated, to September 2022, when Father's counsel withdrew her appearance. At that time, Father's counsel informed him of his responsibility to contact OPD to obtain substitute counsel. In October 2022, Father returned to court unrepresented, and the juvenile court continued the proceedings so that Father could obtain an attorney. In January 2023, Father again returned to court unrepresented, at which time Father stated that he would be representing himself.

Then, in June 2023, after the Department filed TPR petitions for each child, Father was served with a show cause order, which stated that Father had a right to an attorney; that, if he could not afford one, an attorney may be appointed by the court; and that, if Father believed he was entitled to a court-appointed attorney, he was required to notify the court within 30 days of service. When Father thereafter filed a "Notice of Objection" form for each TPR petition, he failed to indicate that he wanted an attorney, even though each form instructed Father to indicate, by way of a checkmark, whether he did or did not want

the court to appoint an attorney to represent him. The form is short, and the portion concerning a request for counsel is conspicuous, encompassing half the length of the form, making it unlikely that someone filling out the form could accidentally overlook that portion. Moreover, Father actually knew that he had a right to counsel in these types of cases, as evidenced by the record. Father had an additional opportunity to request counsel at the pre-trial hearing on July 26, 2023, but Father did not attend that hearing. It was not until the pre-trial status hearing on November 8, 2023, nearly five months after the TPR petitions were filed and less than a month before trial, that Father stated that he "would like to have representation." As soon as Father made that request, the court asked Mother's counsel, an OPD attorney, to provide Father with the requisite information for Father to obtain counsel from OPD. Although the court noted that it would be "very helpful" for Father to have the assistance of counsel, the court indicated that Father was a "self-represented party." The court further made clear that "no one's requesting a postponement" and that the TPR hearing would begin on December 4, to which Father affirmatively stated that he had no objection and voiced his belief that the proceedings had already taken too long. Then, on November 27, 2023, one week before the TPR hearing was set to begin, Father asked for a postponement, stating that he had contacted OPD, that OPD had informed him that it did not have enough time to prepare for trial, and that, consequently, he and OPD needed more time to prepare. The court denied the motion, and the TPR hearing was held as scheduled. Father, representing himself, fully participated in

the proceedings, making opening and closing remarks, presenting evidence, and calling and cross-examining witnesses.

Under these circumstances, we hold that Father waived his statutory right to counsel. Father was repeatedly advised, both during the CINA proceedings and the TPR proceedings, about his right to counsel and his duty to seek representation from OPD, and Father was afforded myriad opportunities to exercise that right. Despite those advisements and opportunities, Father did not ask for an attorney until a few weeks before the TPR hearing was set to begin. Moreover, after Father requested an attorney, the court asked Father if he had any objections to starting the TPR hearing on December 4, and Father affirmatively stated that he had no objection and that he would have preferred if the hearing had occurred much sooner, suggesting that he did not want a postponement. As such, we cannot say that the court erred or abused its discretion in holding the TPR hearing as scheduled with Father unrepresented.

Father argues that the juvenile court should have inquired into his application or eligibility for counsel at the TPR hearing on December 4. We disagree. In his motion to postpone, Father indicated that he had already spoken with OPD and that, while OPD had agreed to represent him, it needed more time. Therefore, there was no need for the court to inquire further about Father's application or eligibility for counsel from OPD. Regardless, Father cites no authority indicating that a court is required, or even encouraged, to make such an inquiry under the circumstances presented here.

We also hold that Father's statutory right to counsel and attendant fundamental right to parent were afforded the requisite due process. Again, Father was given ample warning and opportunity regarding his right to counsel, and yet he waited until the eleventh hour to exercise that right. Furthermore, although Father's rights are important and should be preserved, those rights do not exist in a vacuum. In a TPR case, a juvenile court must balance those rights against the child's best interests, which are "paramount." *In re Adoption of Jayden G.*, 433 Md. 50, 82 (2013). "A critical factor in determining what is in the best interest of a child is the desire for permanency in the child's life." *Id.* To that end, courts are encouraged to make every reasonable effort to effectuate a permanent placement for a child within 24 months after initial placement, and courts have a statutory duty to rule on a TPR petition within 180 days of filing. *Id.* at 79-84; FL § 5-319(a). Given that So.N. had been in foster care for nearly four years and the other two children had been in foster care for nearly five years, and given Father's consistent failure to exercise his right to counsel in a timely fashion, the court afforded Father all the process he was due.

For many of the same reasons, we hold that the juvenile court did not err or abuse its discretion in denying Father's postponement request. Maryland Rule 2-508(a) states that, "[o]n motion of any party or on its own initiative, the court may continue or postpone a trial or other proceeding as justice may require." "[T]he decision to grant a continuance lies within the sound discretion of the trial judge." *Touzeau v. Deffinbaugh*, 394 Md. 654, 669 (2006). "We review the trial court's decision for an abuse of discretion and 'unless [the] court acts arbitrarily in the exercise of that discretion, [its] action will not be reviewed

on appeal." *Serio v. Baystate Props., LLC*, 209 Md. App. 545, 554 (2013) (alterations in original) (quoting *Das v. Das*, 133 Md. App. 1, 31 (2000)). "An abuse of discretion occurs 'where no reasonable person would take the view adopted by the court' or if the court acts 'without reference to any guiding rules or principles.'" *Id.* (quoting *North v. North*, 102 Md. App. 1, 13 (1994)).

Here, the juvenile court denied Father's postponement request because: Father failed to request an attorney when filing his notice of objection in July 2023; Father failed to request a postponement at the hearing on November 8, 2023; and Father waited until November 27, 2023, one week before trial, to ask for a postponement. For all the reasons previously discussed, we hold that the juvenile court did not abuse its discretion in denying Father's request.

JUDGMENT OF THE CIRCUIT COURT FOR HOWARD COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANTS.