Circuit Court for Prince George's County
Case No. C-16-JV-23-000048

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 2197

September Term, 2023

IN RE: R.G.

Graeff,
Berger,
Kehoe, S.,

JJ.

Opinion by Kehoe, J.

Filed: February 21, 2025

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

Appellant M.D., the maternal aunt of R.G., Jr., a minor declared a CINA,[1] appeals orders by the Circuit Court for Prince George's County, sitting as a juvenile court, which dismissed her exceptions to the court's denial of her motion to intervene in the CINA matter so as to petition for custody of R.G. For the reasons that follow, we will dismiss M.D.'s appeal.

BACKGROUND

In January 2023, the Prince George's County Department of Social Services ("the Department") received a report that R.G., then approximately 18 months of age, had been subjected to general neglect and risk of harm when he was present during a domestic violence incident between his mother Mi.D. ("Mother") and father R.G., Sr., ("Father") that resulted in Mother's death.[2] As Mother was deceased and Father was incarcerated and charged with her murder, the Department sought relatives who could serve as a resource for R.G., but none was developed.

The Department therefore placed R.G. in emergency shelter care with a foster family and filed a CINA petition. Following a hearing, the juvenile court continued R.G.'s placement in foster care, pending a CINA adjudicatory hearing.

[1] Pursuant to Md. Code, § 3-801(f) of the Courts & Judicial Proceedings Article ("CJP"), a "child in need of assistance" ("CINA") means "a child who requires court intervention because: (1) The child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) The child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs."

[2] Father was later convicted of Mother's murder and sentenced to 40 years in prison. (9/4/24 permanency plan review order).

The juvenile court declared R.G. a CINA in February 2023. The Department recommended a permanency plan of custody/guardianship with a relative or non-relative.

While R.G. was in foster care, he visited with his maternal aunt M.D. and with his paternal aunt and uncle D.D. and F.D., with no safety concerns. Both sides of the family "equally show[ed] their love for him."

Following a June 2023 permanency plan hearing, the juvenile court found that M.D. and D.D. and F.D. had been identified as custodial options for R.G. The court therefore ruled that the appropriate permanency plan for R.G. was custody/guardianship with a relative.

In October 2023, the Department changed R.G.'s placement to the home of his aunt and uncle, D.D. and F.D. The Department noted that the D.s provided "phenomenal care" to R.G. and maintained his contact with maternal and other paternal relatives through virtual and in-person visitation.

On November 3, 2023, M.D. moved to intervene in R.G.'s CINA case. She claimed that, as she had visitation access to R.G. every other weekend, she was an interested party in the matter and that, but for Father's objection, she would be the logical person to have custody of the child, as he had resided with her for several months while Mother was alive. M.D. simultaneously filed a motion for custody/guardianship of R.G.

In response to M.D.'s motion to intervene, the Department argued that M.D. had not provided informal long-term care for R.G., nor was her input necessary or vital to the success of the CINA case. As M.D. was neither a party to the case, nor a caregiver of the

child, the Department asked the juvenile court to deny her motions to intervene and for custody/guardianship.

A family magistrate held a permanency plan review hearing on November 22, 2023. At the start of the hearing, the magistrate heard argument on M.D.'s motion to intervene.

M.D., through counsel, stated that she had a special relationship with R.G., as he and Mother had lived with her for a period of time prior to Mother's death. M.D. therefore claimed a right to intervene as a *de facto* parent, as her participation in the CINA matter would be in the child's best interest.

The Department countered that, at best, intervention by M.D., a non-parent, was permissive and not by right. M.D. should not be permitted to intervene, the Department argued, because it was not in R.G.'s best interest for her to do so, as he had been placed with other relatives whom the Department (and, secondarily, Father) believed were a better fit. Moreover, M.D. had been "overly litigious" and had exhibited questionable judgment in relation to the placement of R.G.'s two older maternal half-siblings with their paternal aunt. Allowing M.D. to intervene, the Department concluded, could affect negatively R.G.'s permanency planning, when the child had already been traumatized by the loss of his mother, and could drag out his time in foster care unnecessarily.

R.G., through counsel, joined in the Department's argument and noted that despite M.D.'s claim of *de facto* parenthood, she had presented no evidence of a parent-like relationship with the child. R.G. and the Department agreed that M.D.'s motion to intervene served only to set up a custody battle between her and D.D. and F.D.

The family magistrate, noting that M.D. did not have a right to intervene and that it was within the court's discretion to determine if she would be permitted to do so, recommended denial of M.D.'s motion to intervene and motion for custody/guardianship. Following the remainder of the review hearing, the magistrate further recommended a continuation of R.G.'s permanency plan of custody and guardianship with a relative. The juvenile court approved the magistrate's recommendations on November 25, 2023.

On November 27, 2023, M.D. filed an "exception motion to the November 22, 2023 permanency planning order," in which she set forth reasons the family magistrate should have recommended the grant of, and the juvenile court should have granted, her motion to intervene. M.D. reiterated that she had been a *de facto* parent to R.G. "in many ways" and therefore had standing to challenge his custody and visitation. On November 29, 2023, the juvenile court ruled that M.D.'s "exceptions" were not properly before it, as M.D. was not a party to the case.

On November 30, 2023, apparently before learning that her exception motion had been denied, M.D. filed an "amended exceptions motion to the November 22, 2023 permanency planning order," asserting that her initial motion failed to address the reversible error committed by the magistrate in her recommendations to the juvenile court. M.D. argued that no evidence had been taken at the hearing about her *de facto* parenting of R.G. or about the ongoing litigation relating to Mother's other children. Therefore, M.D. claimed, the magistrate erred when she "failed to take the necessary testimony or ask any questions and instead simply accepted the statements of [the Department] and it's [sic] attorney" without asking for any information from her.

R.G., through counsel, moved to dismiss M.D.'s amended exceptions motion, again stating that M.D. was not a party to the case and therefore lacked standing to file exceptions. The Department also moved to dismiss, agreeing that after the juvenile court denied M.D.'s motion to intervene and exception, on the ground that she was not a party to the case, M.D.'s amended exception motion did not address her party status, and she therefore still lacked standing to file the amended motion. By orders entered January 2, 2024, the juvenile court granted R.G.'s and the Department's motions to dismiss M.D.'s amended exceptions motion.

M.D. noted her appeal from the juvenile court's orders on January 8, 2024.

Following April 17, 2024, and September 4, 2024, review hearings, the juvenile court continued R.G.'s permanency plan of custody/guardianship with a relative, finding that: (1) he was doing well in his relative placement; (2) his aunt and uncle were working on obtaining custody and guardianship; and (3) the family was most comfortable with that plan. Following another review hearing on September 19, 2024, the juvenile court, by order entered October 4, 2024, placed R.G. in the custody/guardianship of D.D. and F.D. and closed his CINA case. A separate custody order granting joint legal and physical custody of R.G. to D.D. and F.D. was entered the same day.

DISCUSSION

M.D. contends that the juvenile court erred in denying her motion to intervene, and in dismissing her "exceptions motions" to the denial of her motion to intervene, because the court ruled without taking "the necessary testimony or ask[ing] any questions but instead simply accepted the statements of DSS and it's [sic] attorney." She asks us to

remand the matter to the juvenile court for further proceedings to allow her "to intervene with the purpose of petitioning for custody of the minor child[.]"

The Department and R.G. move to dismiss M.D.'s appeal as moot, untimely, and not permitted by law. If we were to conclude that dismissal is not appropriate, the Department and R.G. assert that the juvenile court did not err, as it acted within its broad discretion in denying M.D.'s motion to intervene and her exceptions motions. We agree with the Department and R.G. that M.D.'s appeal must be dismissed.

First, M.D.'s notice of appeal was not timely filed, and her appeal is not permitted by Maryland law. As we explained in *HIYAB, Inc. v. Ocean Petroleum, LLC*, 183 Md. App. 1, 11 (2008), "when a request to intervene is denied, that ruling concludes any interest of that person in the case, and the appeal must be noted within 30 days of the denial of the motion to intervene." *See also* Maryland Rule 8-202(a) (requiring that a notice of appeal be filed within 30 days after entry of the order from which the appeal is taken).

After the juvenile court denied her motion to intervene by order entered November 25, 2023, M.D. did not note an appeal of the court's ruling. Instead, M.D. filed an "exception motion" on November 27, 2023.

As a result of the juvenile court's denial of her motion to intervene, however, M.D. was not a party to the CINA case when she filed her exception motion. Because only a party may file exceptions in a juvenile case,[3] this Court determined that M.D.'s exception

[3] *See* Md. Rule 11-218(b)(1) (providing that, in a CINA matter, only "a party" or "any other person, institution, or agency having supervision or custody of a respondent child" may file a motion under the Rule).

motion and her later amended exception motion would be treated as motions to revise the juvenile court's November 25, 2023, order denying her motion to intervene.

M.D.'s November 27, 2023, exception motion—or first motion to revise—was filed within ten days after the juvenile court's denial of her motion to intervene, an appealable final judgment as to her, *see HIYOB*, 183 Md. App. at 9, so the period for noting an appeal was stayed until 30 days after the juvenile court ruled on the exception motion on November 29, 2023. *See Pickett v. Noba, Inc*., 114 Md. App. 552, 557 (1997) (explaining that the filing of a revisory motion pursuant to Md. Rule 2-535 stays the time for filing a notice of appeal if filed within ten days of judgment); Md. Rule 11-218(d) (pertaining to modification of court orders in a CINA matter, "[a] motion filed pursuant to this Rule, if filed within 10 days of the entry of an order, shall act as a stay on the time for filing an appeal.").

M.D.'s amended exception motion, treated as a second revisory motion, however, did not extend further the stay of time for filing an appeal. *See Johnson v. Francis*, 239 Md. App. 530, 541 (2018) ("[O]nce a court has denied one motion for reconsideration, the filing of additional such motions does not toll the running of the time to note an appeal."). As such, to be timely, M.D. was required to note her appeal within 30 days of the court's November 29, 2023, entry of its order denying her exception motion/motion to revise, that is, by December 29, 2023. M.D., however, filed her notice of appeal on January 8, 2024, more than a week too late.

In addition, although M.D.'s notice of appeal was timely filed as to the juvenile court's denial of her amended exceptions motion, which we treat as a second motion to

revise, that motion was not independently appealable. *See Pickett*, 114 Md. App. at 560 ("The denial of [a] second motion to revise is not appealable because it is not a final judgment.").

Second, M.D.'s appeal is moot. As the Supreme Court of Maryland has explained, "in order for a case to be heard and an appellate court to provide a remedy, there must be an existing controversy." *Off. of Pub. Def. v. State*, 413 Md. 411, 422 (2010). When "'there is no longer an existing controversy when the case comes before the Court or when there is no longer an effective remedy the Court could grant,'" the matter is moot. *In re R.S.*, 242 Md. App. 338, 353 (2019) (quoting *Suter v. Stuckey*, 402 Md. 211, 219 (2007)), *aff'd*, 470 Md. 380 (2020). Subject to limited exceptions, if a controversy no longer exists when the case comes before us, we "usually dismiss the appeal without addressing the merits of the issue." *Powell v. Maryland Dep't of Health*, 455 Md. 520, 540 (2017); *see also* Md. Rule 8-602(c)(8) (this Court "may dismiss an appeal if. . . the case has become moot.").[4]

The juvenile court granted D.D. and F.D. custody/guardianship of R.G. and closed his CINA case by orders entered on October 4, 2024. Therefore, although there was arguably a justiciable controversy when M.D. noted her appeal of the dismissal of her

[4] "[O]n rare occasions, we reach issues that are otherwise moot." *Beeman v. Dep't of Health & Mental Hygiene*, 105 Md. App. 147, 158 (1995). One exception to the mootness doctrine occurs when "a case, while technically moot, presents a recurring matter of public concern which, unless decided, will continue to evade review[.]" *Off. of Pub. Def.*, 413 Md. at 423. Another exception is to prevent harm to the public interest. *Hamot v. Telos Corp*., 185 Md. App. 352, 366 (2009). We discern no such matter of public concern or harm here.

exceptions to the juvenile court's denial of her motion to intervene, there is not now a justiciable controversy because there is no longer an open case in which M.D. may intervene, and, thus, no remedy the juvenile court, or this Court, could provide to M.D.

CONCLUSION

M.D.'s appeal was not timely filed. R.G. is no longer a CINA, and, accordingly, there is no pending case in which M.D. could intervene. For the foregoing reasons, we dismiss the appeal.

APPEAL DISMISSED; COSTS TO BE PAID BY APPELLANT.