

UNREPORTED

IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2532

September Term, 2014

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**IN RE: ADOPTION/GUARDIANSHIP OF  
ADALIA R., HAILEY R., & MILES R.**

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Wright,  
Graeff,  
Kenney, James A., III  
(Retired, Specially Assigned),

JJ.

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Opinion by Kenney J.

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Filed: September 4, 2015

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

Timothy R. (“Father”), appellant, and Shea L. (“Mother”), are the natural parents of appellees Adalia R., Hailey R., and Miles R. (collectively “the children”),<sup>1</sup> who have each been adjudicated a Child In Need of Assistance (“CINA”),<sup>2</sup> by the Circuit Court for Cecil County, sitting as a juvenile court. On June 14, 2014, the Cecil County Department of Social Services, (“DSS” or “the Department”), filed petitions for guardianship with the right to consent to the adoption of the children, seeking to terminate the parental rights of Mother and Father (“TPR”).<sup>3</sup> The juvenile court conducted TPR hearings on December 19, and December 22, 2014. In a supplemental decree and memorandum filed on February 24, 2014, the juvenile court found by clear and convincing evidence that Father was an unfit parent and that it would be in the children’s best interests to terminate his parental rights.

In his timely filed appeal, Father poses a single question for our consideration: *Did the juvenile court err in terminating the father’s parental rights on the ground that he was*

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<sup>1</sup> Twins, Adalia R. and Hailey R., were born February 19, 2009. Miles was born November 2, 2010.

<sup>2</sup> A Child in Need of Assistance (“CINA”) is a child who requires court intervention because the child has been abused or neglected, or has a developmental disability or mental disorder and whose parents “are unable or unwilling to give proper care and attention to the child and the child’s needs.” Md. Code (1974, 2012 Repl.Vol.), §3–801(g) of the Courts & Judicial Proceedings Article (“CJP”).

<sup>3</sup> Mother did not object to the filing of the TPR petition. “A parent who fails to file a timely notice of objection is deemed to have consented by operation of law.” *In re Adoption of Chaden M.*, 422 Md. 498, 512 (2011). “That failure forecloses the parent’s ability to contest the petition.” *Chaden M.*, 422 Md. at 512 (citing *In re Adoption/Guardianship No. 93321055*, 344 Md. 458, 494 (1997)). The juvenile court found that Mother consented to the termination of her parental rights and she is not a party in the instant appeal.

*unfit?* Discerning no error or abuse of discretion, we shall affirm the judgments of the juvenile court.

## **FACTUAL AND PROCEDURAL HISTORY**

The Department first became involved with the family in August of 2011, following a report of neglect indicating that Mother and Father were using drugs in the presence of the children, barricading the children in their room, and failing to adequately address the children's medical needs. In October 2011, the Department began providing in-home services to the family to identify and remedy the unsafe conditions that threatened the health and well-being of the children.

During the Department's involvement, DSS case workers observed that the family moved frequently, often because they were evicted for non-payment of rent. The living conditions in all of their residences were unsafe and unsanitary, with trash—including dirty diapers and rotted food—strewn about and dirty clothes everywhere, doors off their hinges, holes in the walls, and dangerous items—including cigarette butts and lighter fluid—left within the reach of the children. The children did not have adequate food or clean, appropriate clothing, and were locked or barricaded in their rooms unattended while the parents slept and used drugs. The case workers observed the children wearing soggy, filthy diapers, soiled or inadequate clothing, or no clothing at all, and the children repeatedly complained of being hungry. Neither Mother nor Father maintained regular employment.

Mother and Father also neglected the medical needs of the children. All three children were behind on their immunizations and well-child visits, and the parents failed to appear at medical check-up appointments scheduled by the Department. The twins exhibited developmental delays, for which they were referred to the county's infants and toddler's program, but the parents failed to follow-through with the referrals, and turned away the program therapist who came to their home. Adalia experienced a variety of medical problems including a suspected heart murmur and ectropion<sup>4</sup> of the eye, which their pediatrician recommended they have evaluated. The parents refused to address these concerns while they were receiving in-home services, failing to make or keep appointments with specialists on multiple occasions.

The parents repeatedly refused to go voluntarily, or to accept DSS transportation, to participate in routine drug testing or in the assessment and treatment of their drug addiction and suspected mental health problems. When a DSS worker came to their home and collected a specimen for testing, both parents were positive for opiates and THC. Subsequent tests were also positive. After the parents' substance abuse was finally assessed, they failed to follow through with the recommended treatment.

The Department initiated several family involvement meetings and entered into numerous safety plans with the parents. The parents, however, failed to make the agreed

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<sup>4</sup>Ectropion is a medical condition in which the lower eyelid turns outwards due to a weakening of the tissue of the lower eyelid.

upon changes. The parents routinely failed to attend scheduled meetings and appointments or to otherwise cooperate with DSS social workers.

Despite the Department's intensive efforts, the parents put forth inadequate efforts to ameliorate the significant risks to the children's health and safety identified by the DSS social workers. Consequently, on October 24, 2012, it became necessary for the Department to remove the children from the home and request that the court temporarily assign custody of the children to the Department pursuant to a petition for emergency shelter care, which was granted following a hearing on November 7, 2012.<sup>5</sup> The Department then petitioned the court to declare the children CINA. Following an adjudication and disposition hearing on December 5, 2012, the juvenile court found the children to be CINA and committed them to the Department for placement in foster care.

Initially, the goal of the children's permanency plans was reunification with their parents. The Department entered into several service plans with Mother and Father outlining the steps they needed to complete to regain custody of the children, including: attending substance abuse treatment, mental health treatment, and parenting classes, and finding and maintaining regular employment and safe, stable housing. The court conducted a progress review hearing on June 5, 2013, and continued the children in their current placements with no change to their permanency plans. After granting several postponements requested by

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<sup>5</sup>“‘Shelter care’ means a temporary placement of a child outside of the home at any time before [CINA] disposition.” CJP §3-801(y).

Mother and Father, the juvenile court conducted another permanency plan review hearing on February 5, 2014, and April 30, 2014. As of April of 2014, the children had been in foster care for approximately eighteen months, and the evidence before the court indicated that Mother and Father had failed to make substantial progress toward fulfilling the goals of their service plans. The Department and the children, through counsel, requested that the primary goal of the permanency plan be changed to guardianship and adoption. The juvenile court agreed and changed the goal of the children's permanency plans to adoption by a non-relative with a secondary plan of reunification with the natural parents. Both parents appealed the change in the children's permanency plans. In an unreported opinion, filed November 14, 2014, this Court affirmed the juvenile court's determination that changing the goal of the children's permanency plans to adoption by a non-relative served the best interests of the children. *In re Adalia R., Hailey R. & Miles R.*, No. 552, slip op. at 14-15 (Md. Ct. Spec. App. Nov. 14, 2014).

On June 14, 2014, the Department filed petitions for guardianship or adoption of the children, seeking to terminate the parental rights of Mother and Father. The juvenile court conducted TPR hearings on December 19 and December 22, 2014. At the conclusion of the hearing on December 22, 2014, the court took the matter under advisement, and on January 12, 2015, the court issued a decree and accompanying memorandum ordering the termination of Mother and Father's parental rights. At the request of counsel for the

children, the court filed an amended decree and supporting memorandum on February 24, 2014, by which time the children had been in foster care for twenty-eight months.

In its written memoranda, the juvenile court recounted that Father demonstrated a persistent inability to provide minimally adequate care for the children despite years of DSS involvement and oversight. The court further observed that, neither at that time nor in the foreseeable future, would Father be able to provide the children with a healthy, stable life and a safe, permanent home. The court ultimately concluded that Father was an unfit parent, and consequently, terminated his parental rights. On February 4, 2015, Father filed a timely appeal of the juvenile court's decree.

## ANALYSIS

The Court of Appeals has provided the following standard of review in TPR cases:

On review of an order to terminate parental rights, this Court uses a clearly erroneous standard when scrutinizing a trial court's factual findings. *See, e.g., In re Adoption/Guardianship of Victor A.*, 386 Md. 288, 297 (2005) (quoting *In re Yve S.*, 373 Md. 551, 586 (2003)). Review of the trial court's conclusions of law, however, will be conducted *de novo*. *See, e.g., In re Karl H.*, 394 Md. 402, 411 (2006).

*In re Adoption/Guardianship of Amber R.*, 417 Md. 701, 708 (2011) (parallel citations omitted).

“[I]n Maryland, there is a ‘strong presumption that the child’s best interests are served by maintaining parental rights.’” *Id.* at 714 (quoting *In re Adoption/Guardianship No. J9610436*, 368 Md. 666, 692 (2002)). It is also, however, “[a]n important premise of the CINA statute” that “it is in a child’s best interest to spend as little time as possible in foster

care.” *In re Ashley S.*, 431 Md. 678, 711-12 (2013). In TPR cases, the juvenile court must balance “a parent’s right to custody of his or her children . . . ‘against the fundamental right and responsibility of the State to protect children, who cannot protect themselves, from abuse and neglect.’” *Amber R.*, 417 Md. at 709 (quoting *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 497 (2007)). A court may terminate an individual’s parental rights only “upon a showing either that the parent is ‘unfit’ or that ‘exceptional circumstances’ exist which would make continued custody with the parent detrimental to the best interest of the child.” *Id.* (quoting *Rashawn H.*, 402 Md. at 495).

In the Family Law Article (“FL”) of the Maryland Code, the General Assembly has enumerated a list of factors to guide and limit juvenile courts endeavoring to determine a child’s best interests in a TPR proceeding.<sup>6</sup> FL §5-323(d); *see also Rashawn H.*, 402 Md.

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<sup>6</sup>Md. Code (1984, 2012 Repl. Vol.) §5-323(d) of the Family Law Article (“FL”) provides the following non-exclusive list of factors the juvenile court must consider “in ruling on a petition for guardianship of a child” to inform its determination regarding “whether terminating a parent’s rights is in the child’s best interests[:]”

- (1) (i) all services offered to the parent before the child’s placement, whether offered by a local department, another agency, or a professional;
- (ii) the extent, nature, and timeliness of services offered by a local department to facilitate reunion of the child and parent; and
- (iii) the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any;
- (2) the results of the parent’s effort to adjust the parent’s circumstances,

(continued...)

<sup>6</sup>(...continued)

condition, or conduct to make it in the child's best interests for the child to be returned to the parent's home, including:

- (i) the extent to which the parent has maintained regular contact with:
  - 1. the child;
  - 2. the local department to which the child is committed; and
  - 3. if feasible, the child's caregiver;
- (ii) the parent's contribution to a reasonable part of the child's care and support, if the parent is financially able to do so;
- (iii) the existence of a parental disability that makes the parent consistently unable to care for the child's immediate and ongoing physical or psychological needs for long periods of time; and
- (iv) whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the parent within an ascertainable time not to exceed 18 months from the date of placement unless the juvenile court makes a specific finding that it is in the child's best interests to extend the time for a specified period;

(3) whether:

- (i) the parent has abused or neglected the child or a minor and the seriousness of the abuse or neglect;

\* \* \*

(iii) the parent subjected the child to:

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

\* \* \*

(continued...)

at 499 (“[The statutory factors] circumscribe[ ] the near-boundless discretion that courts have in ordinary custody cases to determine what is in the child’s best interest.”). A juvenile court, having considered the enumerated factors, is granted the statutory authority to terminate an individual’s parental rights:

If, after consideration of factors as required in this section, a juvenile 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 such that terminating the rights of the parent is in a *child’s best interests*, the juvenile court may grant guardianship of the child without consent otherwise required under this subtitle and over the child’s objection.

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<sup>6</sup>(...continued)

- (v) the parent has involuntarily lost parental rights to a sibling of the child; and
- (4) (i) the child’s emotional ties with and feelings toward the child’s parents, the child’s siblings, and others who may affect the child’s best interests significantly;
- (ii) the child’s adjustment to:
  1. community;
  2. home;
  3. placement; and
  4. school;
- (iii) the child’s feelings about severance of the parent-child relationship; and
- (iv) the likely impact of terminating parental rights on the child’s well-being.

FL §5–323(b) (emphasis added). Thus, the plain language of the statute provides that, even in TPR proceedings, the juvenile court’s main concern remains the “child’s best interests,” which “trumps all other considerations.” *In re Adoption/Guardianship of Ta’Niya C.*, 417 Md. 90, 111 (2010).

Father asserts that the juvenile court’s finding that he was an unfit parent was clearly erroneous because the evidence failed to prove that his continued relationship with the children would be detrimental to their best interests. He contends that the grounds for removing the children from the home in the first place were resolved by the time of the TPR hearing, and that he had made significant strides in satisfying the requirements of his service agreements. Father further contends that he is still close to his children and is able and willing to continue parenting them until such time as, with the continuing assistance of DSS, he will eventually be ready to assume full custody of them again. He concludes, therefore, that the juvenile court abused its discretion by terminating his parental rights and entrusting guardianship of the children to the Department with the right to consent to the children’s adoption. We are not persuaded.

In the memoranda supporting the juvenile court’s decree of January 12, 2015, and its amended decree of February 24, 2015, the court addressed each of the relevant statutory factors set forth in FL §5-323(d), summarizing the evidence presented during the two-day TPR hearing that informed the court’s findings regarding each of the statutory factors. The court also examined Father’s compliance with the requirements of his service agreements and

the extent to which he had successfully addressed the issues that led to the children being removed from his custody.

In the memoranda, the juvenile court made factual findings and drew conclusions that Father challenges in his appeal. We shall address each of the challenged findings, in turn.

#### **A. Compliance with Service Agreements**

The juvenile court found:

The uncontested testimony of Schenice Bailey, the DSS worker assigned to the parents, was that the parents' compliance with the Service Agreements from January 11, 2013 to October 6, 2014 was minimal.

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Although [ ] [Father] has addressed his addiction issues and obtained employment, his plan for [ ] providing shelter for the children is completely inadequate. He was not able to show evidence of a rational plan for shelter of the children, and he has no plan to attend to the medical and educational needs of the children.

Father points out that he has been drug-free since he successfully completed inpatient treatment at the Whitsitt Center and continues to attend NA meetings “on an intensive and frequent basis.” He also attests that he has been receiving mental health counseling at the West Cecil Health Center, that he completed the Love and Logic parenting program, and that he has obtained full-time work at a rate of \$11.50 per hour. Thus, Father contends, his “[c]ompliance with the service agreements . . . was not perfect, but overall it was substantial.”

In challenging the juvenile court’s finding that his compliance with the service agreements was “minimal,” Father does not acknowledge his multiple failures to meet the requirements of his service agreements. For example, the service agreements required that he complete a substance abuse evaluation and any recommended treatment and submit to random drug and alcohol testing. Father initially delayed participating in drug treatment for more than a year after the children were removed from the home. In November of 2013, when he completed the inpatient substance abuse program at the Whitsitt Center, he failed to provide any documentation to his social worker verifying that he had satisfactorily completed his treatment. Moreover, Father did not complete the twelve-week aftercare program provided by the County Health Department that was considered part of his treatment, despite being expressly instructed by his social worker to do so. He refused to attend the aftercare program, telling his social worker that, even though he was unemployed throughout the period, he was “too busy” and “really didn’t feel like he needed it” because he “was in an okay place.” Instead, Father attended Narcotics Anonymous (“NA”) and Alcoholics Anonymous (“AA”) meetings that do not provide any documentation from which the Department or the court could discern the frequency or quality of his participation or whether he received professional counseling and therapy support as recommended by the Whitsitt Center. Moreover, although Father attested that he has been attending NA and AA meetings since his discharge from the Whitsitt Center in November of 2013, the seriousness of his commitment to the programs is at least questionable given that he failed to inform the

CINA court at hearings in February, April, or October of 2014, that he was attending meetings or otherwise participating in any continued counseling in an effort to fulfill the terms of his service agreements. Father's protestations of his continued sobriety is also suspect inasmuch as, although his drug tests have been clean since his discharge from Whitsitt, he tested positive for alcohol use in March of 2014.

Father's service agreements required that he complete a mental health evaluation and follow all recommendations for treatment. Although Father had been referred by the Department for mental health evaluation and treatment in October of 2012, he delayed undergoing a mental health evaluation until sometime around October of 2014, when he informed his social worker that he was attending counseling with a self-selected therapist. Even after he purportedly began counseling, he failed to comply with the Department's repeated requests for written documentation verifying his treatment. Indeed, Father failed to produce any evidence verifying his participation in therapy until the second day of the TPR hearing, at which time he produced a letter dated December 19, 2014, indicating that he "had been seen at West Cecil Health Center for behavioral issues that include mood instability." According to the letter, Father "has engaged in therapy sessions in a meaningful and insightful manner[,"] and "will continue in care on as needed basis." The letter did not indicate when Father began being seen, by whom he was being seen, how often he attended sessions, or what kind of therapy he was receiving. The court declined to accept the letter into evidence. Father understood that his delay in seeking evaluation and treatment of his

mental health was a significant issue that led to the change in the children's permanency plans in April of 2014, as he stated at the TPR hearing, “[his] sobriety was not enough, [the court and DSS] needed to know about [his] mental capacity.”

Father's service agreements required that he complete the Love and Logic parenting program. He delayed participating in the required parenting program, until October of 2014. And again, even after he completed the class, Father failed to provide any documentary evidence of his compliance with this requirement to the Department. Instead, he waited until the TPR hearing to produce a previously undisclosed certificate that the Department had no opportunity to verify.

Father was required to secure and maintain stable employment. During much of the relevant period, Father's employment was unstable, consisting largely of seasonal and part-time positions. In July of 2014, Father obtained a full-time job with a hardware provider, making \$11.50 per hour. Again, Father failed to provide any documentation of his full-time employment to the Department. At his TPR hearing, Father produced a pay record indicating that he earned income of \$10,000 in 2014. Father did not, however, make any contribution to offset the cost of the children's care during the year.

Finally, Father was required to secure and maintain safe and stable housing. Since the children have been in foster care, Father has moved approximately every six months, never assuming his own lease, but relying on his mother, grandmother, and friends to provide him with housing. At the time of the TPR hearing, Father was living with his mother and spent

weekends at his girlfriend's home. The children's grandmother is terminally ill, with less than two years to live, and has repeatedly indicated that she is not a placement resource for the children.

Father suggests that if the children were returned to his custody, they could all live with his mother in her two-bedroom trailer home. On inspection, DSS has concluded that one of the two bedrooms in the trailer home is too cluttered and full of personal property to be used as a bedroom. Further, even if the second bedroom was usable, based on the ages and genders of the individuals who would be residing in the two-bedroom home, the Department would not find that dwelling to be an appropriate placement for the children. Alternately, Father indicated that he could obtain a subsidized, three-bedroom apartment for \$600 per month. When questioned, however, he admitted that he could not name the income-based housing program he intended to utilize, nor had he made any efforts to apply for any housing subsidies.

While Father made significant strides toward addressing some of the goals in the service agreements between October and December of 2014, he has done little to demonstrate that he has gained the necessary skills or insights, or that he has the ability, now or in the foreseeable future, to consistently implement the skills he has acquired in a manner that would allow him to successfully parent the children. *See In re Adoption of Quintline B.*, 219 Md. App. 187, 209 (2014) (affirming TPR of father who "has received services from the Department" for years, but who has "failed to inspire confidence as a caretaker"). Thus, we

recognize and applaud his apparent success in regard to substance abuse treatment and employment, but we are not persuaded that Father’s compliance with the terms of the various service agreements between October and December of 2014, weighs heavily in his favor regarding his overall compliance with the service agreements. Based on the foregoing, the juvenile court’s characterization of Father’s compliance with the terms of his service agreements, prior to October of 2014, as “minimal” is not clearly erroneous.

## **B. Children’s Medical Issues**

The juvenile court found:

One of the issues which occurred during the time that the children were still in the custody of the parents concerned medical care of the children. There was uncontested evidence that Adalia had a suspected heart condition and a wandering eye and that those conditions needed to be treated. The parents consistently failed to keep medical appointments, and the Father asserted that the child ac[t]ually did not need medical treatment.

Father contends that all of the medical issues that underlaid the juvenile court’s original CINA adjudication have been resolved. After the children entered foster care, but well before the TPR hearing, Adelia underwent an EKG that indicated there was no ongoing problem with her heart. Since she has been in foster care, Adelia has also had surgery to correct the issue with her eye. All of the children are up-to-date on their vaccinations and well-child visits and were evaluated for developmental delays by the county’s infants and toddler’s program.

Father does not dispute that, prior to the children’s removal from the home, Mother and Father neglected the children’s medical needs. Father is correct that the children’s

medical needs have been addressed since they were placed in foster care. The fact that the children's medical concerns are no longer an issue, however, does not excuse Father's prior neglect of his children's medical needs while they were in his care or necessarily prove that he is prepared to meet the children's needs in the future. Father cannot weigh the children's present good health in his favor, when all of the children's medical concerns were addressed through the efforts of the Department and the children's foster parents. Moreover, at the TPR hearing, Father exhibited little understanding of the potential seriousness of the medical issues with which Adalia was diagnosed. Thus, he failed to inspire any confidence in his ability to address any future health problems the children might experience if they were returned to his care. We discern no error in the juvenile court's findings regarding the children's medical care.

### **C. Children's Adjustment to Pre-Adoptive Placement**

The juvenile court found:

[T]he children have adjusted very well to their placement with the pre-adoptive parents and the other members of the pre-adoptive family. The children are happy in their school.

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The children have an ongoing relationship with their Father at the behest of the pre-adoptive parents and that is likely to continue. It is therefore unlikely that the termination of parental rights will have a negative effect upon them.

Father asserts that the children's favorable adjustment to their pre-adoptive home and family, cannot, as a matter of law, trump his liberty interest in maintaining his parental

relationship with his children. He asserts that, “[t]he salient point is not that the children are doing well in their pre-adoptive family[,]” but instead, “what takes precedence is the fact that [he] has also maintained a strong bond with his children.” Father suggests that the juvenile court’s apparent belief that the foster parents provided a “better” atmosphere for the children, “utterly fails to constitute a sufficient basis for terminating the sacred parental rights of a biological parent.”

The evidence presented at the TPR hearings indicates that, since February of 2014, all three children have been in the care of Robert and Katherine U.<sup>7</sup> The U.’s, who have three sons of their own, want to adopt Adalia, Hailey, and Miles. The children refer to the U.’s sons as their “brothers” and call Robert and Katherine “Papa” and “Mama.” The U.’s have encouraged the children to engage in visits with their father, who the children call “Daddy,” and are willing to agree to an open adoption so that the children’s relationship with their father can continue. All three children have indicated that they want to remain with the U.’s and that they “like the idea of adopti[on].” The children regularly express the anxiety they feel about being adrift without a permanent home.

As we have previously stated, FL §5–323(d) “does not require a trial court to weigh any one statutory factor above all others. Rather, the court must review all relevant factors and consider them together.” *In re Adoption/Guardianship No. 94339058/CAD*, 120 Md.

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<sup>7</sup>Initially, Adalia and Hailey were placed with another family, but visited regularly with the U.’s who have had custody of Miles since October of 2012.

App. 88, 105 (1998). The statute expressly required the court to consider the children's adjustment to their pre-adoptive home and family, their feelings about adoption, and their bonds with Father. FL §5-323(d)(4). There is no indication in this case that the juvenile court unduly emphasized this factor over any of the others it was also required to consider in deciding whether terminating Father's parental rights was in the children's best interests.

The evidence presented at the TPR hearings clearly supported the court's findings regarding the children's adjustment and the bonds they have to their Father and their pre-adoptive family, therefore, they were not clearly erroneous. We afford considerable deference to the juvenile court's assessment that it is unlikely that termination of Father's parental rights would have a negative effect on the children. *See Cecil Cty. Dep't of Soc. Servs. v. Goodyear*, 263 Md. 611, 622 (1971)(holding that where the record evidence supported the juvenile court's findings of fact, the appeals court must accord the greatest respect to the opportunity the court had to observe the witnesses).

#### **D. Length of Time the Children Have Been in Foster Care**

The juvenile court found:

Father has not shown that he has a present ability to properly care for the children with the plan still being adoption for an indefinite period. Although Father has shown a sincere desire not to have his bond with the children broken, the children's right to stability and permanency in this case are paramount.

Father correctly emphasizes that the focus of a TPR hearing "must be on whether the parental relationship may continue—not on whether an immediate change in custody is

feasible[.]” *See Rashawn H.*, 402 Md. at 498-99 (comparing the effects of TPR determinations and custody determinations and opining that the basis of a TPR judgment must focus on the continued parental relationship, not custody). To the extent Father has not yet planned for or obtained suitable housing and was unable to corroborate the feasibility of securing subsidized housing, he asserts that such considerations were relevant only to the “question of whether [he] could take custody of the children immediately,” but had no direct bearing on “whether the parental relationship should remain intact.” Father does not assert that he should be granted custody of the children immediately; he suggests that so long as he is fit to parent the children, the Department is obligated to continue assisting him until he is fully prepared to resume his parental duties.

As to the length of time the children have been in foster care, Father contends that this factor, “must not be treated as dispositive.” *See In re James G.*, 178 Md. App. 543, 603-05 (2008) (finding error in the court’s TPR determination where its “paramount consideration” was the length of time the children had been in foster care); *Washington County Dept. of Soc. Serv. v. Clark*, 296 Md. 190, 197 (1983) (holding that the relative length of time a child remains out of his or her parents’ care cannot be the sole factor in determining whether termination of the parents’ rights is in the child’s best interests). He further contends that there is no concrete evidence of any harm the children would suffer if they remained in the custody of their foster parents until they could be successfully transitioned back to his care.

The juvenile court recognized that this was not a custody action, but a TPR proceeding. In stating that Father failed to demonstrate that he was presently ready to have custody of the children, the juvenile court was not improperly weighing Father's present inability to resume custody against him, or treating it as the "paramount" or "sole" factor in its TPR determination. The court merely acknowledged the fact that if Father were found fit to continue in a parental relationship with the children, it would still be necessary for the children to remain in foster care for an indefinite period until Father, with the assistance of the Department, acquired the skills and resources necessary to be a successful parent.

FL §5-323(d)(2)(iv) requires the court to consider "whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the parent within an ascertainable time not to exceed 18 months from the date of placement." At the time of the December 2014 TPR hearings, the children had already been in foster care for twenty-six months, and after those twenty-six months, Father's "plan for providing shelter for the children [was] 'completely inadequate'" and he still had "no plan to attend to the medical and educational needs of the children." Given that Father had made only minimal progress toward addressing his deficiencies until two months before the TPR hearings, and that he has continued to exhibit an inability or an unwillingness to communicate openly and cooperate effectively with the Department, the court's characterization of the additional period that Father would require to become fully capable of successfully parenting the

children on his own as “indefinite” was not clearly erroneous. Moreover, it is a factor that is to be considered in a best interest calculus.

#### **E. The Juvenile Court’s Conclusions**

Ultimately, the juvenile court concluded:

This court is therefore convinced by clear and convincing evidence, that the children have little or no ability to be safe and healthy in the care of the Father and that the Father remains unfit.

The court finds for the re[as]ons stated in the original Memorandum, by clear and convincing evidence, that continuation of the parental relationship is not in the best interest of the children.

Father asserts that “he is still close with his children, accepts responsibility for his past mistakes, has remained sober after taking the initiative of entering & completing inpatient treatment, has steady income, and is able and willing to continue being a father to his children.” Therefore, he contends, he is fit to continue in a parental relationship and that would be in the children’s best interests.

In his brief, Father does not meaningfully address the anxiety the children indicate they feel because of the uncertainty about their future. But, as he testified at the TPR hearing, even he can tell that “[t]hey want stability. They want to be at home.” By terminating Father’s parental rights, the court moved the children toward adoption, assuring them that they would not have to leave the safe, stable, loving home they had found with their pre-adoptive family. Had the court determined otherwise, the children would remain indefinitely in the distressing limbo of foster care. The juvenile court, weighing all of the FL

§5-323(d) factors, concluded that the children’s articulated desire to be adopted by the U.’s and their need for a safe, stable home was, under the circumstances, more compelling than Father’s asserted desire to maintain his parental rights.

In sum, the juvenile court found that Father’s compliance with the requirements of his service agreements was minimal and that, at the time of the TPR hearing, despite more than three years of the Department’s intervention and support, Father, for several reasons, was not yet ready and would not be ready in the foreseeable future to parent his children. These findings of fact were adequately supported by testimonial and documentary evidence presented at the TPR hearing. On the basis of the juvenile court’s factual findings, we discern neither error nor abuse of discretion in the court’s conclusion that, as a matter of law, there was clear and convincing evidence that Father remained unfit to continue in a parental relationship with his children and that DSS should be awarded guardianship with the right to consent to adoption.<sup>8</sup>

**JUDGMENT OF THE CIRCUIT COURT  
FOR CECIL COUNTY AFFIRMED;  
APPELLANT TO PAY COSTS.**

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<sup>8</sup>Once the juvenile court determined that Father was unfit, it did not need to formally find that continuing the parental relationship would be detrimental to the children. As this Court has previously opined, “[i]f the court determines that the parent is unfit to remain in a parental relationship with the child . . . then the continued parental relationship is . . . by definition detrimental to the child, and there need not be an express finding to that effect before terminating parental rights.” *In re Adoption/Guardianship of Jasmine D.*, 217 Md. App. 718, 736 (2014).