

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2721

September Term, 2014

IN RE: C.T.

Krauser, C.J.,
Friedman,
Sharer, J. Frederick
(Retired, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: October 6, 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.

This appeal arises from an order by the Circuit Court for Worcester County, sitting as a juvenile court, which closed the case in which C.T. (DOB: 8/27/11) had been adjudicated a child in need of assistance (“CINA”),¹ terminated the jurisdiction of the juvenile court, and granted legal and primary physical custody of C.T. to her natural father, I.D. (“Father”).² C.T.’s natural mother, V.T. (“Mother”), noted a timely appeal of the juvenile court’s order, asking, “Did the court err by awarding custody to the father?”

Finding no error or abuse of discretion, we shall affirm the juvenile court’s order.

FACTS AND LEGAL PROCEEDINGS

Mother came to the attention of the Worcester County Department of Social Services (“DSS”) in June 2013, due to concerns that she occasionally left her five young children at her brother’s house with inappropriate caregivers and then disappeared for days at a time. In addition to that alleged neglect, Mother had missed or cancelled several medical appointments for her “medically fragile” twins, Zu. T. and Za. T.³ Although the

¹ Pursuant to the Courts & Judicial Proceedings Article (“CJP”) § 3-801(f), “‘Child in need of assistance’ 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 Mother has four children in addition to C.T., her second eldest child: A.H. (DOB: 3/5/10); twins Zu. T. and Za. T. (DOB: 1/14/13), and; A.T. (DOB: 12/20/13). All the children live solely with Mother. I.D. is the father only of C.T. Although only C.T. is involved in this appeal, we discuss the background and care of all the children insofar as they relate to C.T. and the events that led to her removal from Mother’s home and the award of custody to Father.

³ Both twins were born with “strangely shaped heads.” As infants, they both failed to thrive, were developmentally delayed, and had abnormal bicarbonate (continued...)

neglect case was ruled “unsubstantiated,” Mother received in-home services through DSS from June until October 2013.

On February 24, 2014, DSS received a report that Zu. T. and Za. T. had been admitted to Johns Hopkins Hospital as a result of their medical issues. According to the doctor’s report, Mother had missed 20 of the twins’ scheduled doctor’s visits and had failed to comply with the recommended treatment for them.⁴

DSS workers immediately visited the house Mother shared with her brother, her niece, and her mother, W.B. They encountered W.B., who requires the use of oxygen, and B.S., W.B.’s sister, who helps care for Mother’s children and cleans the house; Mother was not at home.

The house was small and crowded (three adults, a teenager, and five small children living in a three bedroom, one bathroom house), with all four of Mother’s older children sleeping with her on an air mattress in the living room; the baby, A.T., slept in a crib pushed under a window. The house was cluttered and dirty with a strong odor of urine, food strewn on the kitchen floor and table, and dead bugs around the sink, windows, and floor. A.H., C.T., and A.T. were present during the visit, dressed only in diapers and tee shirts.

levels in their blood, indicating some type of metabolic disorder and severe acidosis. In addition, Zu. T. suffered from severe eczema and possible premature closure of her cranial sutures.

⁴ Mother denied that she had missed “that many appointments” and insisted she had attended “the majority of the appointments.”

The DSS workers determined that W.B. was not an appropriate caregiver for the children, due to her medical issues. They removed A.H., C.T., and A.T. from the home, placed them in emergency shelter care (Zu. T. and Za. T. remained in the hospital but were sheltered upon their release), and opened an investigation into whether a CINA petition should be filed.

On February 28, 2014, DSS held a Family Involvement Meeting with Mother and her extended family. DSS workers expressed concern to Mother about her lack of proper care for all the children, specifically the unreasonable delay in taking Zu. T. and Za. T. to an emergency medical facility while claiming she had to do laundry instead. DSS also learned of other unmet medical needs of the children, including C.T.'s severe vitamin D deficiency, and recommended individual mental health therapy for Mother.

When a DSS worker asked about C.T.'s father, Mother stated that Father had left the United States for his native Haiti earlier that month, and she did not know if or when he would return or how to get in touch with him. Later, it became clear that Mother's statement was false, because she apparently knew that Father had merely gone to visit his family in Haiti for two weeks, as he did every year.

Following the Family Involvement Meeting, Mother, W.B., and A.J.—Mother's longtime friend with whom she later began a romance—visited with the children. W.B. and A.J. interacted appropriately with the children, but Mother's affect was flat, she had to be reminded twice to feed two-month-old A.T., and she seemed unable to control the children.

On March 5, 2014, the juvenile court entered an order of shelter care for C.T. and placed her in the temporary care and custody of DSS, pending a CINA hearing.⁵ DSS filed a CINA petition the same day.

On March 14, 2014, a DSS worker returned to Mother's home. Although it was afternoon, Mother and W.B. were still in their nightclothes. Mother and W.B. were reluctant to let the DSS worker inside the home, and refused to permit the worker access to any of the bedrooms.

Although there was no longer food on the floor of the house, it remained dirty, and the DSS worker observed that the basic conditions of the home had not changed since the children had been removed. The DSS worker was also concerned about W.B.'s oxygen tubing, which was "all through the hallway, running through the living room," creating a health hazard to the children.

On March 19, 2014, DSS workers attempted an unannounced visit to W.B.'s home. No one answered the door, so the DSS workers were unable to determine the condition of the house, but they observed overflowing trashcans by the front door, along with loose trash in the front yard.

A CINA adjudicatory hearing was scheduled for April 4, 2014. By means not apparent from the record, Father learned of the CINA petition and appeared before the juvenile court on April 4, 2014 to request a continuance so that he could obtain counsel.

⁵ At the time, the court believed that Father was residing in Haiti and, therefore, was not a resource for C.T.

The court granted Father's request and continued C.T.'s shelter care order. The adjudicatory hearing was rescheduled for May 2, 2014.

At the May 2, 2014 adjudicatory hearing before a juvenile magistrate, Mother stipulated that the facts as set forth by DSS in the CINA petition were sufficient to sustain an adjudication of CINA for all five children, but she asked the magistrate to defer disposition because she disagreed with some allegations set forth in DSS's initial shelter care report, which had been attached to the CINA petition. The magistrate agreed to defer disposition until June 23, 2014 and continued custody of C.T. with DSS.

The magistrate also found good cause to grant Father's request for a DNA sample from C.T. to verify he was her father. The magistrate further determined that Father understood the requirements of the service plan created by DSS and had begun to undertake the required actions. Finally, the magistrate recommended that a Court Appointed Special Advocate ("CASA") be appointed for each child. On May 14, 2014, a CASA was appointed for C.T.

At the June 23, 2014 disposition hearing before the juvenile magistrate, Kimberly Linton, the DSS foster care worker for A.H., C.T., and A.T.,⁶ testified that Mother and Father had entered into service agreements, which required them each to complete parenting classes, receive mental health and substance abuse evaluations, visit with the children regularly, and maintain employment and clean housing. Mother had completed the parenting course and undergone mental health and substance abuse evaluations, which

⁶ Zu. T. and Za. T. had their own foster care worker.

suggested she would benefit from seeing a therapist relating to her feelings about her children being in foster care (she did not require substance abuse therapy). Mother saw the therapist once and had not returned. She did not have a job, nor adequate child care should she obtain one.⁷

Since the May 2, 2014 adjudicatory hearing, Mother had undertaken weekly visits with the children, which Linton characterized as “chaos.” To Linton, Mother appeared overwhelmed and unable to focus her attention on more than one child at a time. She was thus unaware of what the other four young children were doing when paying attention to one; sometimes the children would get into the trash can or stand on top of the Lego table at the visitation site. Mother also did not clean the room after the visits, so toys and food were usually strewn on the floor.⁸

According to Linton, Father had completed the required mental health and substance abuse evaluations, with a finding that he did not require therapy, and he had started the required parenting classes. Father and his girlfriend, K.B., had been visiting with C.T. weekly, with the visits going well.

Father had expressed an interest in having C.T. reside with him and had been cooperative in finding services for the child near his home. As a result of Father’s interest,

⁷ DSS had concerns about W.B.’s ability to care for all five children on her own.

⁸ C.T.’s CASA agreed with Linton about the chaotic nature of Mother’s visits with the children. The CASA added that when the visits ended, Mother kept her hands by her side when saying good-bye to the children and then “just walked out of the room.”

DSS initiated the Interstate Compact on the Placement of Children (“ICPC”) process, because Father lived in Virginia.⁹

During her testimony, Mother professed a lack of understanding as to the reason her children had been taken into shelter care. She denied having refused the DSS workers entrance to rooms of her house. She claimed that her house was clean and that she was not overwhelmed when caring for all five children, particularly as she had the help of W.B. and A.J. When asked if visitation with all five children was chaotic, as Linton had described, Mother answered, “I wouldn’t say that, but I mean, my kids haven’t seen me within a week time and all of them running to me at one time, I mean what does she expect? ... I’ve only got two hands and I don’t want them just coming to me at one time, it’s like a big rush[.]”

Mother further asserted that she had followed DSS’s recommendation that she have a mental health evaluation, but she claimed that the therapist had told her she did not have to attend further sessions. Conceding that she did not have a job or a driver’s license, Mother said she relied on A.J. and W.B. for transportation and on A.J. for financial support. She opined that DSS was not caring properly for the children and that the DSS workers “tell lies” and were untrustworthy.

⁹ ICPC is “statutory uniform law in all 50 states, the District of Columbia and the U.S. Virgin Islands...intended to ensure the protection of children who are placed across state lines for foster care and adoption.” *Interstate/Intercounty Placement of Children (ICPC)*, Virginia Department of Social Services, <http://www.dss.virginia.gov/family/icpc> (last visited September 25, 2015). ICPC procedures “are intended to ensure that the proposed placement is in compliance with state laws and regulations and is not contrary to the interests of the child.” *Id.*

Father testified that he had seen the condition of Mother's home before the children were removed to shelter care and had not been comfortable with the living arrangements; neither did he believe it was in C.T.'s best interest to be returned to Mother's care. Instead, he wanted C.T. reunified with him.

The juvenile magistrate adjudicated the children CINA and found that continuation in Mother's home would be contrary to their safety and welfare. The magistrate expressed concern about the adequacy of the children's medical care before their removal from Mother's home, given their medical issues and numerous missed doctor's visits. The magistrate also expressed concern about the cleanliness and suitability of Mother's housing. Although Mother had made progress in her parenting classes and mental health evaluations, the magistrate found that "further services are needed before we can feel comfortable that the children are in a safe and stable place." The magistrate recommended that C.T. remain in the care and custody of DSS, with weekly visitation with Mother and Father. The magistrate further suggested that Mother participate in mental health counseling as a result of her "situational depression." On July 9, 2014, the juvenile court entered its written order adopting the magistrate's findings and CINA determination.

On November 24, 2014, a permanency plan hearing was held. A DSS report entered as the only evidence presented by DSS at the hearing detailed that the children were thriving in their foster care homes. Since coming into care, most of the twins' medical issues had resolved, and they were "significantly attached" to their foster parents. A.H. and C.T. had moved into a new foster home on July 23, 2014 when their previous foster parents decided not to renew their license, but both girls had made the transition with no

adaptation issues. Other than requiring vitamin D supplements, C.T. did not require any services.

Since the June 2014 hearing, Mother’s visits with all five children had been changed to one-on-one visits, as the group visits were “overwhelming for both [Mother] and the children.” Nonetheless, she had missed several visits with the three younger children and had trouble appearing on time for visits with A.H. and C.T., and then either insisting “it isn’t a big deal” or falsely accusing DSS of bringing the children late to visits. Mother continued to require prompting to engage with the children.

Mother had entered into a service agreement, which included tasks such as securing safe and stable housing, allowing DSS access to all rooms in the home during visits, securing employment, engaging in mental health treatment, and attending visitation and medical appointments with the children. She had completed a neuropsychological evaluation, which determined that she had cognitive and academic limitations, including Borderline Intellectual Deficiency—Personality Disorder, as well as development learning disorders. The neuropsychologist recommended intensive individual psychotherapy.

Mother had obtained employment but quit after less than two months, deciding the job was “not for her.” She had not obtained a driver’s license but self-reported driving without one. On three occasions, no one answered the door at unannounced DSS visits to Mother’s home, although W.B.’s car was in the driveway and, on one occasion, the worker saw someone looking out the window.

Father had remained involved in C.T.’s care. He had entered into a service agreement and completed its requirements. He visited with C.T. weekly with good results.

Father had been also been compliant with the ICPC process. He had notified DSS of his intent to move to Arkansas, although he agreed to stay in Virginia until the custody issues were resolved and to ensure that C.T. remained in contact with her mother and siblings after the move. The DSS worker noted that, when visiting with her siblings or Father, C.T. appeared emotional and bonded to them, but she did not appear emotional or bonded when she visited with Mother.

DSS sought a continuation of the children as CINA, in the care and custody of DSS, believing that Mother needed to demonstrate consistency in attending visitation and medical appointments with the children and her own mental health appointments, obtain employment, engage more with the children, and provide a clean home. Mother expressed a desire that the children's permanency plan remain reunification with her.

At the close of the hearing, the magistrate found a continuing necessity for out-of-home placement for all five children, because Mother, although making progress, continued to struggle meeting her own needs. Mother's home had not been evaluated as appropriate, her visitation with the children was sporadic, she was not yet engaged in mental health treatment, and she remained unemployed. The magistrate further found that DSS had made reasonable efforts at reunification.

The magistrate recommended a permanency plan of reunification, with a concurrent plan of custody and guardianship with a relative. The children were to remain CINA, in the care and custody of DSS. On December 3, 2014, the juvenile court entered its written order adopting the magistrate's recommendations.

On February 5, 2015, a permanency plan review hearing was held. At the hearing, DSS advanced Father as a suitable and fit parent to take custody of C.T.; therefore, under the applicable statutory guidelines, DSS asserted, C.T. should no longer be considered CINA, and her case should be dismissed. Mother disputed the propriety of a grant of custody to Father, arguing that the ICPC recommendation that Father was fit for custody in Virginia was not appropriate because Father had made clear his intention to move C.T. to Arkansas, where no ICPC study had been completed. Instead, Mother argued that she had completed everything asked of her and that if the court were to close the CINA case, it should grant her custody of C.T.

During his testimony, Father provided photos of his home in Virginia, as well as the home that he had leased in Arkansas. He also offered details of his new employment and the daycare that C.T. would attend while he was working. He said he understood that the bond between C.T. and her siblings, particularly A.H., was important and had set up a video conferencing system with A.H.'s foster parents so that the girls could stay in touch.

Mother testified that she believed the children had been removed from her home solely because it was dirty. She denied the presence of bugs in her house and insisted that the children had appropriate beds. She claimed she was "making some progress" in finding appropriate housing for her and the children and that she would start a new job in home health care once she was medically cleared to begin work.

Mother denied that C.T. had ever had any medical issues or that she had missed any medical appointments for the child. Mother said she had completed the required parenting classes and that A.J. was prepared to assist her with transportation of the children. She did

not want C.T. to move to Arkansas with Father. Instead, having done everything DSS had asked her to do, but for obtaining a job, it was her opinion that C.T. should be reunified with her that day.

Linton stated that it was DSS’s position that Mother had not successfully completed the court-ordered mandates so as to support a finding that her children were no longer CINA. In Linton’s opinion, Mother’s lack of progress precluded a closure of the CINA case any time in the “near future,” and she contended that reunification of the children with Mother should “absolutely not be explored at this current time because there are so many things unfulfilled on the service plan.” On the other hand, Linton had no concerns about Father’s care of C.T., nor did she believe that C.T. was CINA relating to Father. As such, it was DSS’s opinion that the CINA case should be closed as it pertained to C.T.

With regard to the prevailing standard, the juvenile court opined:

THE COURT: Well, [DSS’s Attorney], the statute that you refer to, which is the 3-819 in Courts and Judicial Proceedings, it’s interesting because that deals with dispositions, disposition hearing to determine whether a child is CINA.

I’m not aware of any co-provision that deals with this issue in the context of a review hearing, but it stands to reason—stands to reason and logic that the rationale that’s included in 3-819, as it relates to disposition, would apply as it relates to a review hearing or any other hearing during the course of the CINA.

So I do believe that that is controlling. And as we know, it says that, if the allegations in the petition are sustained against only one parent of a child and there is another parent available who is able and willing to care for the child, the Court may not find that the child is a child in need of assistance, but, before dismissing the case, the Court may award custody to the other parent. So it would be adjusted slightly in the context of a review hearing. If the Court finds that the child is no longer CINA as it relates to one of the parents, then the case is subject to dismissal, and, prior to dismissal, a custody

award can be made. So I think that the department’s position is properly based on Courts and Judicial 3-819(e), even though it deals with disposition hearings.

The court went on to find that DSS had made reasonable efforts at reunification but that Mother remained a slow “work-in-progress,” having not progressed in court-mandated actions toward reunification. Her housing, even with the five children not living there, remained crowded and dirty. Although Mother had claimed to be looking for improved housing, any change in her housing was “speculative at best.” She remained unemployed and had not addressed her mental health issues. Given Mother’s slow and incomplete progress, the court found that “the circumstances which gave rise to the CINA have not been eliminated, and the Court really has no...hesitation whatsoever in finding that the CINA allegations or the circumstances which gave rise to the CINA still exist as it relates to the mother.”

In response to the question of whether there was another parent who was willing and able to provide the care and attention C.T. needs, the court’s “resounding answer” was in the affirmative. Father was ready, willing, and able to properly parent the child. He had been involved in C.T.’s life since shortly after her birth and had visited her with no problems, his home was proper, and he was financially secure. The court found “no evidence...to suggest that he’s anything other than a fit and proper parent.”

The court then discussed the *Montgomery Cnty. Dep’t of Soc. Servs. v. Sanders* and *Taylor v. Taylor* factors in awarding custody,¹⁰ before finding it was in C.T.’s best interest

¹⁰ In *Montgomery Cnty. Dep’t of Soc. Servs. v. Sanders*, this Court set forth the criteria to be considered during a judicial determination of custody: (continued...)

to award sole legal and primary physical custody to Father, subject to liberal visitation with Mother and communication with Mother and C.T.’s siblings. As Father was ready, willing, and able to care for C.T., the court further found that C.T. was no longer CINA and dismissed the CINA case as it pertained to her.

On February 18, 2015, the court filed a written order memorializing its oral ruling. On February 27, 2015, Mother noted her appeal.

DISCUSSION

Mother argues that the juvenile court erred in awarding custody to Father pursuant to CJP § 3-819(e) because the court had no factual basis upon which to find that C.T. remained CINA with regard to Mother, because she had resolved all the problems that led to the CINA finding. In addition, she avers that it was not in C.T.’s best interest to remove her from her mother and siblings.

“1) fitness of the parents; 2) character and reputation of the parties; 3) desire of the natural parents and agreements between the parties; 4) potentiality of maintaining natural family relations; 5) preference of the child; 6) material opportunities affecting the future life of the child; 7) age, health, and sex of the child; 8) residences of parents and opportunity for visitation; 9) length of separation from the natural parents; and 10) prior voluntary abandonment or surrender.” 38 Md. App. 406, 420 (1977) (internal citations omitted).

Later, the Court of Appeals expanded the list as it relates to a determination of whether joint custody between a child’s parents is appropriate: 1) capacity of the parents to communicate and to reach shared decisions affecting the child's welfare, 2) willingness of parents to share custody, 3) fitness of parents, 4) relationship established between the child and each parent, 5) preference of the child, 6) potential disruption of child's social and school life, 7) geographic proximity of parental homes, 8) demands of parental employment, 9) age and number of children, 10) sincerity of parents’ request, 11) financial status of the parents, 12) impact on state or federal assistance, 13) benefit to parents, and 14) “other factors” relevant on a case-by-case basis. *Taylor v. Taylor*, 306 Md. 290, 304-11 (1986).

In child custody disputes, Maryland appellate courts apply three different standards of review:

[1]When the appellate court scrutinizes factual findings, the clearly erroneous standard...applies. [2]If it appears that the [juvenile court] erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless. [3]Finally, when the appellate court views the ultimate conclusion of the [juvenile court] founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the [juvenile court's] decision should be disturbed only if there has been a clear abuse of discretion.'

Davis v. Davis, 280 Md. 119, 125-26 (1997)).

In this matter, Mother challenges the juvenile court's ultimate decision to grant custody to Father, not the court's fact-finding. Therefore, we must determine only whether the juvenile court abused its discretion in its grant of custody. In doing so, we must remain mindful that questions within the discretion of the lower court are "much better decided by the trial judges than by appellate courts, and the decisions of such judges should only be disturbed where it is apparent that some serious error or abuse of discretion or autocratic action has occurred." *In re: Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997) (internal quotation omitted).

The broad policy of the CINA statutes is "to ensure that juvenile courts (and local departments of social services) exercise authority to protect and advance a child's best interests when court intervention is required." *In re Najasha B.*, 409 Md. 20, 33 (2009). If, as here, the juvenile court determines that a child is CINA, it has the discretion to grant custody of the child to a parent, a relative or other individual, or a local department.

CJP § 3-819. The best interest of the child is the paramount concern and the governing standard. *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 495 (2007).

If the juvenile court obtains jurisdiction over a child adjudicated CINA, “that jurisdiction continues in the case until the child reaches the age of 21 years, unless the court terminates the case.” CJP § 3-804(b). The juvenile court’s direct and continuing supervision of a CINA case is appropriate when the court has determined that “intervention is required to protect the child’s health, safety, and well-being.” *Frase v. Barnhart*, 379 Md. 100, 120 (2003). If, on the other hand, the juvenile court has no concerns about the child’s health, safety, and well-being and believes, after reviewing the evidence, that the child may safely be returned to the care and custody of one or both of his or her parents, there is no justification for keeping the CINA case open, as the goals of the CINA statutes have been reached.¹¹

¹¹ CJP § 3-819(e) reads:

If the allegations in the petition are sustained against only one parent of a child, and there is another parent available who is able and willing to care for the child, the court may not find that the child is a child in need of assistance, but, before dismissing the case, the court may award custody to the other parent.

Although CJP § 3-819 relates to the disposition of a child as CINA, the juvenile court assumed that it would also control during a CINA review hearing, such as the one in the case at hand. No party to this appeal suggests that CJP § 3-819(e) does not apply to a CINA review hearing, and we agree with the juvenile court that it does. We note that the Court of Appeals has, without much comment, approved the application of CJP § 3-819(e) during a CINA review hearing. In *In re Joseph N.*, after the child was adjudicated CINA, the juvenile court determined that the father was fit and able to care for him while the mother was not, and granted the father full custody and closed the CINA case, determining that its jurisdiction was terminated. 407 Md. 278, 284 (2008). The Court (continued...)

Here, the evidence presented at the February 5, 2015 review hearing revealed that Father had received a favorable outcome in the ICPC home study, was employed, had a suitable home, was bonded and involved with C.T., and had completed all the actions required by DSS, including parenting classes and substance and mental health evaluations. Although Father planned to move to Arkansas, he had produced evidence of an appropriate home and daycare for C.T. in that state. He promised to facilitate visits to Maryland and video communication between C.T. and her sister and Mother. As such, DSS had no concerns about Father's care of C.T., and its ultimate recommendation was to close the case because it believed C.T. would be safe in Father's care.

On the other hand, Mother remained unemployed, her housing situation had not changed since her children were removed, she had not undertaken suggested mental health therapy, and she did not understand why her children had been removed. For those reasons, DSS believed that the CINA case with regard to Mother could not be closed at any time in the "near future" and that reunification with Mother should "absolutely not be explored at this current time because there are so many things unfulfilled on the service plan."

Because DSS recommended, and the juvenile court agreed, that one of C.T.'s parents was willing and able to provide for her welfare in a manner acceptable to DSS and the court, the court acted well within its discretion in granting custody to that parent and terminating the CINA case.

of Appeals explained that the "circumstances trigger the application of CJP Section 3-819(e), which calls for closing CINA proceedings when one parent meets these criteria." *Id.* at 292-93.

Mother further contends that the juvenile court erred in granting legal and primary physical custody to Father because it was not in C.T.’s best interest to be taken out of state and away from her mother and siblings.

It is a “bedrock principle” that a juvenile court must, in a CINA case, consider the best interests of the child before granting custody. *Reichert v. Hornbeck*, 210 Md. App. 282, 304 (2013). However, the court possesses “wide discretion concomitant with” its absolute authority “to determine any question concerning the welfare of children” within its jurisdiction. *Reichert*, 210 Md. App. at 305.

During the contested hearing in this matter, the juvenile court was presented with extensive testimony regarding C.T.’s care, as well as DSS’s view of Mother’s and Father’s progress. The court found that Father was fit and able to parent C.T., such that custody was proper to Father and C.T. no longer required the intervention of the juvenile court. The court extensively detailed its application of the *Montgomery Cnty. Dep’t of Soc. Servs. v. Sanders* factors in determining what was in C.T.’s best interest. After determining it would be contrary to C.T.’s interest to be returned to Mother because of her lack of progress in addressing her housing, employment, and mental health situations, the court proceeded to find that Father was able to provide care and housing for the child and that she deserved the “certainty and stability of a home,” which would be afforded by custody to Father.

The court was mindful that Father’s anticipated move to Arkansas would separate C.T. from her mother and siblings, and agreed that that was “problematic,” but determined that the detrimental effect of separating C.T. from her sister was “outweighed by the detrimental effect of this child continuing for an indefinite period in foster care.” After

considering all the pertinent considerations, the court determined that it was in C.T.'s "best interest to award sole legal custody to the biological father." In so doing, however, the court made clear that custody was subject to requirements of: visitation with Mother; updates to Mother regarding C.T.'s health and welfare, including "significant developments and any emergency situations in the child's life;" and provision of adequate communication with Mother and A.H. several times a week.

Given all the evidence adduced at the review hearing, we cannot say that the juvenile court erred or abused its discretion in finding that C.T.'s best interest lay in custody to Father, even if that meant a removal of the child from the state and the companionship of her mother and siblings. We therefore affirm.

**ORDER OF THE CIRCUIT COURT
FOR WORCESTER COUNTY
AFFIRMED; COSTS TO BE PAID BY
APPELLANT.**