

Circuit Court for Talbot County
Case Nos. 20-Z-15-020135; 20-Z-15-020136
20-Z-15-020137, 20-Z-15-020138, 20-Z-15-020139

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 959

September Term, 2016

IN RE: ADOPTION/GUARDIANSHIP OF
D.M., D.M., S.M., O.M., & L.M.

Eyler, Deborah S.,
Reed,
Beachley,
JJ.

Opinion by Eyler, Deborah S., J.

Filed: January 13, 2017

*This is an unreported opinion and therefore may not be cited either as precedent or as persuasive authority in any paper, brief, motion, or other document filed in this Court or any other Maryland court. Md. Rule 1-104.

On May 19, 2016, the Circuit Court for Talbot County, sitting as a juvenile court, entered orders granting petitions filed by the Talbot County Department of Social Services (“the Department”), the appellee, to terminate the parental rights of Ms. M-O (“Mother”), the appellant, in Dn., Di., O., S., and L. At the time of the proceedings, Dn. was thirteen years old, Di. was ten, O. was nine, S. was seven, and L. was three. Mother has three other children who are not involved in this appeal.¹

Mother presents one question,² which we have rephrased as: Did the juvenile court err in terminating Mother’s parental rights? For the following reasons, we shall affirm the orders of the juvenile court.

FACTS AND PROCEEDINGS

Mother is thirty-three years old. She was born in Guatemala and speaks Spanish. She does not speak or understand any English. She has a third grade education and has significant cognitive limitations.

¹ Her oldest son lives in Guatemala. Her youngest child, A., age two, remains in her custody. Another child was placed by private adoption.

² Mother asks:

Did the court err by finding that “exceptional circumstances” sufficient to justify terminating parental rights existed, where, due to cognitive limitations, the mother may be incapable of providing more than proper and ordinary care to her children, and where the children were attached to their mother and would be “distraught” if her parental rights were terminated?

In 2004, Mother moved to the United States with her son Dn.³ Her daughters, Di., L., and A., and her sons, O. and S., were born in the United States. The children have three different biological fathers, none of whom has been involved in this case and none of whom has been involved in the children's lives. Dn. receives special education services through his school. He and his brothers, O. and S., have been diagnosed with an adjustment disorder with mixed disturbances of emotions and conduct. S. has severe asthma and is prescribed an inhaler. O. has attention deficit hyperactivity disorder (“ADHD”) and is prescribed medication.

The Caroline County Department of Social Services opened child protective services (“CPS”) investigations into Mother in 2007, 2009, and 2011. The 2009 CPS investigation was initiated after O., then two years old, suffered a black eye and other injuries after falling down a steep staircase. The 2011 investigation was initiated after O. sustained facial burns from a light bulb.

In August 2012, after L. was born, a caseworker visited Mother at her home in Caroline County. Mother was living in a one-bedroom apartment and was sharing a pull-out sofa bed with Dn., Di., O., and S. By mid-September, the older three children had not been enrolled in school. Mother agreed to complete an assessment of her social service needs, with the assistance of a translator. She moved before the assessment could be completed, however.

³ Mother and Dn. are undocumented. Dn. has applied for special juvenile immigration status.

In December 2012, the Department received a referral from the Caroline County Department of Social Services. A caseworker from the Department's Family Preservation Program located Mother living in a single-family home in Easton. The house was heated with portable heaters. In an upstairs bedroom, there were two twin-sized mattresses on the floor and a crib without bedding. The Department initiated in-home services, purchasing air mattresses, comforters, linens, and pillows, as well as winter coats and clothing. The Department also entered into a service plan with Mother, agreeing to help her to access mental health services, parenting classes, daycare for the younger children, after-school tutoring for the older children, and employment assistance.

Over the course of the next six months, the Department continued providing in-home services and entered into four more service agreements with Mother. L., who was then just four months old, was not fully vaccinated and none of the children had had recent physicals. The Department scheduled and transported the children to doctors' appointments.

The Department learned that Dn. in particular had significant medical and educational needs that were not being properly addressed. He had hearing loss in one ear, a cavity, an abscess, and needed one tooth extracted. He was nine years old but did not know his age. Mother told the Department he was doing "fine" in school. The Department arranged for him to be evaluated for special education services. He was diagnosed with a language disorder, including problems with speech, reading, and

writing. His school developed an individual educational plan (“IEP”) to accommodate his needs.

In early 2013, Mother stopped regularly attending her mental health therapy, and by June 2013 her mental health was deteriorating. She told a Department caseworker that other parents at the children’s school were calling her names and that her neighbors were putting her clean laundry in dirty water.

On June 18, 2013, Mother entered her brother’s home without his permission to retrieve a purse. She had all five children with her. Her sister-in-law called the police. Mother pushed her sister-in-law, tried to grab the phone out of her hand, and struck her in the face. The police responded to the scene. Mother appeared “disoriented and resistant” and refused to speak to the police. She fled her brother’s house with L., leaving the four older children behind. The police pursued her and placed her under arrest. She was charged with burglary, assault, and child neglect. The five children were left in the temporary care of Mother’s sister-in-law. All the children were dirty and L.’s clothing and diaper were soaked with urine.

Also on June 18, 2013, someone from Easton Elementary School, where the older children were enrolled, contacted the Department to raise concerns about Mother’s behavior. The Department tried unsuccessfully to contact Mother, only learning two days later that she was incarcerated. A caseworker met with Mother at the Talbot County Detention Center. During that meeting, Mother threatened to harm herself and expressed the belief that her children had died. She told the caseworker that a correctional officer

had threatened to rape her, that an unnamed man had been raping one of her daughters, and that a voice inside her head was telling her to get out of the detention center “so that she could die.”

On June 21, 2013, the juvenile court entered orders placing the children in shelter care. A home study was completed at Mother’s brother’s house, but Mother opposed placing the children there. The Department placed all five children in a therapeutic foster home with the S. family, where they continue to live.

On August 2, 2013, the children were adjudicated children in need of assistance (“CINA”)⁴ due to neglect and were committed to the care and custody of the Department.

At the detention center, Mother met with Dr. Charisse Shapelle, a licensed psychologist, for a competency evaluation in connection with the criminal charges against her. She reported to Dr. Shapelle that she had seen blood on the prison walls, that she had been attacked by two men and one woman inside the detention center, and that she and her children had been sold by her brother and sister-in-law. Mother walked out of the evaluation midway through, telling Dr. Shapelle that she (*i.e.*, Mother) was “wasting [her] time” and “need[ed] to do something else.” Dr. Shapelle diagnosed Mother with a psychotic disorder. A psychiatrist at the detention center added a diagnosis for major depression with psychotic features. Mother had prior diagnoses for

⁴ A child in need of assistance is “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.” Md. Code (1973, 2013 Repl. Vol.), § 3-801(f) of the Courts & Judicial Proceedings Article (“CJP”).

depression and anxiety. She was prescribed medication for paranoia, hallucinations, depression, and anxiety, but she refused to take them.

Mother ultimately was found to be incompetent to stand trial and was transferred to the psychiatric ward at the Eastern Shore Hospital Center (“ESHC”). The criminal charges against her were placed on the stet docket.

The Department offered reunification services to Mother beginning on June 18, 2013. The services offered ended on April 17, 2015, when the permanency plan for each child was changed from reunification to adoption. On September 2, 2015, the Department filed petitions for guardianship for each of the children. The termination of parental rights (“TPR”) hearing went forward over seven days in January, February, and March 2016. Mother attended the first day of the TPR hearing but did not attend the remaining hearing dates. She ceased communicating with her assigned counsel, did not testify, and did not produce any witnesses to testify on her behalf. The evidence adduced at the TPR hearing showed the following.

Rebecca Skinner, a Department caseworker, was assigned to the children’s case after the shelter care hearing. She was qualified as an expert in child attachment. Ms. Skinner met with Mother at ESHC in July 2013. The next month, the Department provided Mother with a service plan that established as goals for her to participate in mental health treatment at ESHC, to follow the hospital’s discharge instructions, and to find housing upon discharge. Ms. Skinner also facilitated weekly visits with Mother and the children at ESHC.

Mother was discharged from ESHC on September 25, 2013. The Department provided her with a new service agreement at that time. She agreed to obtain housing and employment, to comply with treatment recommendations made by her mental healthcare provider, and to participate in scheduled visits with the children. In April 2014, the Department provided Mother with an updated service agreement that added a requirement for her to attend parenting classes. Mother was provided with substantially similar service agreements in October 2014 and April 2015, but only signed the October 2014 agreement. All of the service agreements were written in English but were orally translated for Mother by a Spanish interpreter.

During the reunification services period, Mother worked transiently doing seasonal agricultural work and cleaning houses. She was unable to provide the Department with any verification of employment, however. She declined the Department's recommendation that she apply for food stamps, temporary cash assistance, and daycare vouchers for A. because, in order to do so, she would first need to seek child support from A.'s father. She worried that A.'s father would seek custody and/or visitation with A. Mother reported that she earned between \$1,080 and \$1,300 per month, but she sent approximately \$650 per month to Guatemala to support her oldest child.

Mother was unable to secure stable housing after her discharge from ESHC because of her limited financial resources and because her immigration status made her ineligible for subsidized housing. She had lived with her cousin in Denton for almost a

year, but since July 2014, she had lived in eight different residences, many for only weeks at a time. The Department sought housing assistance for Mother from seven community organizations that work with undocumented immigrants. Ms. Skinner also contacted multiple private landlords on Mother's behalf, but Mother did not qualify for any of the rental units because of her family size, her immigration status, and/or her inability to provide employment verification.

In April 2015, the Department suggested that Mother apply to live at St. Martin's house, a transitional housing facility located in Ridgley, Caroline County. Mother participated in a telephone interview with St. Martin's but declined to pursue it further because the facility could not accommodate all six of her children. She told the Department she would locate her own housing.

The juvenile court ordered Mother to undergo a comprehensive psychological evaluation. Over three sessions beginning in December 2013 and ending in March 2014,⁵ lasting a total of nine hours, Ana Maria Garcia-Fernandez, Psy.D., evaluated Mother. Dr. Garcia-Fernandez re-evaluated Mother on December 30, 2015. Her reports from both evaluations were introduced into evidence. Dr. Garcia-Fernandez determined that Mother's IQ was just 59, which is in the "extremely low range." Due to her low IQ, Mother had difficulty with "problem solving," processed information in a "very simplistic way," displayed "[p]assive/dependent personality traits," and would need

⁵ The completion of the evaluation was delayed when Mother missed a session and did not return Ms. Skinner's calls for some time thereafter.

“ongoing assistance from a competent adult.” Mother exhibited rigidity in her thought patterns, believing that “children should never disobey and that they should be quiet.” Her expectations for her children were “inappropriate for the little maturity of her children.” In Dr. Garcia-Fernandez’s view, Mother expected her children to “support her to console her to meet her emotional needs.” Dr. Garcia-Fernandez concluded that Mother would only be able to provide basic care for her children, *i.e.*, clothing, feeding, and bathing them, but would need extensive assistance of another adult to meet their other needs until her youngest child turned 18.

The Department worked with Mother to help her identify a parental support person to assist her. Mother’s cousin was ruled out because of information revealed by background checks on the cousin’s family members and because the cousin lacked adequate financial resources. A friend of Mother’s initially offered to be a support person, but after Mother became pregnant with A., the friend changed her mind.

Mother sporadically attended mental health therapy after her discharge from ESHC. She was discharged from a program at Caroline County Mental Health for non-compliance. After her evaluation with Dr. Fernandez-Garcia, Mother began seeing a new therapist, Yvonne Dodd. She attended sessions with Ms. Dodd when Ms. Skinner scheduled them for her and arranged for transportation. She otherwise did not attend the appointments on her own.

Mother had scheduled weekly supervised visits with the children from September 2013, when she was discharged from ESHC, through September 2015. Mother attended

96 out of 121 visits. Three visits were cancelled because Mother's whereabouts were unknown. The visits often took place at Mother's cousin's house or at friends' houses and Mother usually brought a home-cooked meal with her. In February 2015, the visits were moved to the Caroline County Department of Social Services. Mother did not always greet or hug the children at the beginning of the visits or say goodbye to them at the end. The children also did not initiate that contact. Mother was not engaged with the children, particularly the older children, during most visits. She did not ask the children questions and the children often talked to each other and not to Mother. She occasionally did not respond to her children when they approached her. She did not intervene to help the children resolve conflicts or to redirect them when they misbehaved. Often, after Mother and the children ate their meal, Mother sat silently at the table while the children got up and played with each other. Sometimes the children asked to leave the visits early.

Beginning in 2014, Mother began missing visits routinely. She missed 30 of 99 scheduled visits in all of 2014 and 2015. Initially, the children were sad when Mother missed a visit, but by 2015 the children no longer seemed upset.

In September 2015, the frequency of the visits was reduced to every other week after the foster parents and the children's therapist noticed that the children displayed more defiant and aggressive behaviors after visits with Mother.

In November 2015, Dn. had surgery on his ear. Mother was informed of the surgery and was offered transportation to the hospital by the Department but did not attend. Mother attended a visit with the children on December 30, 2015, but has not

attended any visits since that date. The children have not asked about visits with Mother since then.

Carolyn Whit, LCSW, became the treating therapist for Dn., Di., and O. in the fall of 2013 and for S. in the fall of 2014. She was accepted by the juvenile court as an expert in child and adolescent therapy and attachment. She testified that Dn. entered treatment as an insecure child with anxiety and mood swings. He reported to Ms. Whit that he acted out in his foster home because Mother had told him that if he misbehaved he would be able to return to live with her. Dn. was very concerned about Mother's wellbeing. Ms. Whit observed that he took on a parental role with Mother. During the course of treatment, Dn. became more confident and happy. He told Ms. Whit he "loves it" at the S.s' home. Ms. Whit opined that Dn. would be "distracted for a while" if Mother's parental rights were terminated, but he would adjust and become a "more stable person." At his most recent therapy session, Dn. told Ms. Whit he would be happy if the S.s' were his family.

Ms. Whit testified that Di. and O. consider the S. family to be their "forever family" and that S. refers to his foster parents as his parents. While all three children love Mother intensely, they all suffer anxiety due to the lack of stability in their lives. Ms. Whit concluded that termination of Mother's parental rights will give the children needed stability.

Ms. Skinner testified that L., who entered foster care when she was just ten months old, was not very attached to Mother and was very attached to the S.s'. She sought them out for reassurance and comfort.

Di., O., S., and L., through counsel, all consented to the termination of Mother's parental rights. Dn., who was deemed to have considered judgment, objected through counsel.⁶

At the conclusion of the evidentiary portion of the hearing, the Department argued that Mother, while fit, was unable to consistently and actively parent her children due to exceptional circumstances. On May 19, 2016, the juvenile court issued its written ruling, which we shall discuss in more detail *infra*. The court found by clear and convincing evidence that exceptional circumstances existed that would make continuation of the parental relationship detrimental to the children's best interests and granted the Department's petitions to terminate Mother's parental rights in the children.

This timely appeal followed. We shall include additional facts in our discussion of the issues.

STANDARD OF REVIEW

"In reviewing a juvenile court's decision with regard to termination of parental rights, we utilize three different but interrelated standards." *In re Adoption of Ta'Niya C.*, 417 Md. 90, 100 (2010).

⁶ The children did not file appellate briefs in this Court.

“When the appellate court scrutinizes factual findings, the clearly erroneous standard of [Rule 8–131(c)] applies. [Second,] [i]f it appears that the [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. Finally, when the appellate court views the ultimate conclusion of the [court] 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.”

In re Adoption/Guardianship of Victor A., 386 Md. 288, 297 (2005) (quoting *In re Yve S.*, 373 Md. 551, 586 (2003) (alteration in *In re Victor A.*)).

A court abuses its discretion when ““the decision under consideration [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 Adoption/Guardianship of Jasmine D.*, 217 Md. App. 718, 734 (2014) (quoting *In re Shirley B.*, 419 Md. 1, 19 (2011), in turn quoting *In re Yve S.*, 373 Md. at 583-84).

DISCUSSION

“In order to terminate a parent’s parental rights, the State must prove by clear and convincing evidence that such a termination was in the child’s best interests.” *In re Adoption/Guardianship of Quintline B. & Shellariece B.*, 219 Md. App. 187, 206 (2014), *cert. denied*, 441 Md. 218 (2015) (citing *In re Priscilla B.*, 214 Md. App. 600, 622 (2013)). Parents have a fundamental right to raise their children. *In re A.N., B.N. & V.N.*, 226 Md. App. 283, 306 (2015); *accord Troxel v. Granville*, 530 U.S. 57, 66 (2000). The law presumes that a child’s best interests are served by remaining with his or her natural parents, but “the parents’ right is not absolute and ‘must be balanced against the fundamental right and responsibility of the State to protect children, who cannot protect

themselves, from abuse and neglect.” *Ta’Niya C.*, 417 Md. at 103 (quoting *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 497 (2007)). “This presumption, however, may be ‘rebutted only 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.’” *Quintline B.*, 219 Md. App. at 206 (quoting *Rashawn H.*, 402 Md. at 498).

In deciding whether to terminate parental rights, the juvenile court must analyze the factors set forth in Md. Code (1984, 2012 Repl. Vol.), section 5-323(d) of the Family Law Article (“FL”).⁷ In doing so, the court

⁷ FL § 5-323(d) provides:

Except as provided in subsection (c) of this section, in ruling on a petition for guardianship of a child, a juvenile court shall give primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether terminating a parent’s rights is in the child’s best interests, including:

- (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, 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:

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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;
 - (ii) 1. A. on admission to a hospital for the child's delivery, the mother tested positive for a drug as evidenced by a positive toxicology test; or
B. upon the birth of the child, the child tested positive for a drug as evidenced by a positive toxicology test; and
2. the mother refused the level of drug treatment recommended by a qualified addictions specialist, as defined in § 5-1201 of this title, or by a physician or psychologist, as defined in the Health Occupations Article;
 - (iii) the parent subjected the child to:
 1. chronic abuse;
 2. chronic and life-threatening neglect;
 3. sexual abuse; or
 4. torture;
 - (iv) the parent has been convicted, in any state or any court of the United States, of:
 1. a crime of violence against:
 - A. a minor offspring of the parent;
 - B. the child; or
 - C. another parent of the child; or

(Continued...)

must keep in mind three critical elements. First, the court must focus on the continued parental relationship and require that facts . . . demonstrate an unfitness to have a continued parental relationship with the child, or exceptional circumstances that would make a continued parental relationship detrimental to the best interest of the child. Second, the State must show parental unfitness or exceptional circumstances by clear and convincing evidence. Third, the trial court must consider the statutory factors listed in [FL § 5-323](d) to determine whether exceptional circumstances warranting termination of parental rights exist.

Ta’Niya C., 417 Md. at 103–04 (internal citations and footnotes omitted). Above all, in this consideration, “the best interest of the child remains the ultimate governing standard.” *Quintline*, 219 Md. App. at 206 (quoting *In re Adoption/Guardianship of Jayden G.*, 433 Md. 50, 68 (2013)).

The first FL section 5-323(d) factor concerns the “services offered to the parent before the child’s placement,” “the extent, nature, and timeliness of services offered by a

(...continued)

2. aiding or abetting, conspiring, or soliciting to commit a crime described in item 1 of this item; and
- (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.

local department to facilitate reunion of the child and parent” after the child is in an out-of-home placement, and “the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any.” FL § 5-323(d)(1). The court detailed the extensive services offered to Mother, before the children were sheltered in June 2013 and after they were adjudicated CINA. The court found that Mother fulfilled some of her obligations under the numerous service agreements, including by maintaining employment, but that she had been unable to find stable housing despite extensive Departmental assistance. Her participation in mental health therapy had been sporadic and was predicated on the Department’s providing transportation to and from the appointments. While Mother had initially regularly attended supervised visits with the children, she had stopped attending in January 2016. When she attended, her engagement level with the children was low.

Under the second FL section 5-323(d) factor, the juvenile court considered whether Mother had “adjust[ed] [her] circumstances, condition, or conduct to make it in the [children’s] best interests for the child[ren] to be returned to the parent’s home.” FL § 5-323(d)(2). Under the first subfactor—“(i) the extent to which the parent has maintained regular contact with [the child, the Department, and the child’s caregiver, if possible]”—the juvenile court found that while Mother had attended the majority of her weekly meetings with the children for a period of two years, she then began missing visits and had since completely stopped attending. Her contact with the Department also had been sporadic. She did not return phone calls and missed meetings without giving

Ms. Skinner advance notice. Mother’s financial and housing instability contributed to this lack of contact because Mother often ran out of minutes on her cell phone or was forced to move to a new location on short notice. Mother’s inconsistent communication with the Department was indicative of her lack of commitment to reunification, in the court’s view.

Under the second sub-factor—“(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”—the court found that Mother had not contributed financially to the care of the children since they were sheltered because she was not able to do so.

Under the third sub-factor—“(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”—the court found that Mother’s mental health issues and her cognitive impairment amounted to a parental disability. The court credited Dr. Garcia-Fernandez’s testimony that Mother’s low cognitive function, coupled with her depression, anxiety, isolation, need for approval, passivity, and dependence made her incapable of parenting her children without long-term intensive support from another adult.

On the final subfactor—whether additional services are likely to bring about the necessary adjustment within a period of 18 months (or more under special circumstances not present here)—the juvenile court found that in light of the varied and intensive

support offered by the Department thus far, there were “no additional services the Department [could] offer to bring about a lasting parental adjustment.”

The third FL section 5-323(d) factor concerns whether the parent has been found to have engaged in abuse or neglect of the children. The court found that Mother had never abused any of her children but that she had been indicated for neglect in June 2013 when the children first were sheltered. The juvenile court noted that Mother’s neglect was not willful but was a product of her cognitive impairment and her financial instability.

Finally, under the fourth FL section 5-323(d) factor, the court considered the impacts on the children if Mother’s parental rights were terminated. The juvenile court found that the four older children, particularly Dn. and Di., had strong emotional ties to Mother. The court credited Ms. Whit’s testimony that Dn. and Di. would be “distraught” for a period of time if Mother’s parental rights were terminated but that both would recover and would have a more emotionally stable home as a result. The court found, moreover, that Dn.’s attachment to his mother was due in part to his belief that he needed to take care of her. In the court’s view, termination of Mother’s parental rights would permit him to be cared for “appropriately as a developing child, as opposed to being the caretaker for [Mother].” The court found that all of the children had adjusted well to their foster home and were thriving in that setting. S. and O. considered the S.s’ home their “forever home,” even though they expressed love and concern for Mother. L. was just ten months old when she entered foster care and she was very bonded to the S.s. All

of the children needed the stability that the S.s could offer them and that Mother had not and could not provide. They also needed the intellectual stimulation and support that the S.s gave them and that Mother was incapable of offering. The court found that the best interests of the children would be served by termination of Mother's parental rights.

Mother challenges the juvenile court's conclusion that her cognitive limitations and mental health issues amounted to exceptional circumstances justifying the termination of her parental rights in her children. She maintains that the evidence was undisputed that she could provide proper and ordinary care for the children and could meet their basic needs. She asserts that by finding that Mother's inability to provide intellectual stimulation, assistance with homework, and other extraordinary care for the children amounted to exceptional circumstances, the juvenile court "raised" the "standard of acceptable parenting . . . to an unconstitutional level."

The Department responds that the juvenile court made non-clearly erroneous factual findings that Mother had neglected the children when, in 2012, they were sleeping on two mattresses on the floor without bed linens; by failing to get them routine medical treatment; and by failing to recognize Dn.'s learning disabilities and seek assistance for him. Moreover, the Department asserts that Mother's cognitive impairment, coupled with her history of mental illness, her inconsistency with treatment for her mental illness, and her inability to find and maintain stable housing plainly rose to the level of exceptional circumstances making the continuation of the parental relationship detrimental to the best interests of the children. We agree.

“‘[T]he child’s best interest has always been the transcendent standard in . . . TPR proceedings,’ . . . and ‘trumps all other considerations,’ even the rights and interests of parents.” *In re Adoption of K’Amora K.*, 218 Md. App. 287, 302 (2014) (quoting *In re Ta’Niya C.*, 417 Md. at 111-12). In *K’Amora K.*, this Court affirmed a juvenile court’s decision to terminate parental rights based upon a finding of exceptional circumstances but not unfitness. We emphasized that a finding of parental unfitness *or* exceptional circumstances must be supported by clear and convincing evidence arising from findings under the four FL section 5-323(d) factors. “[A] parent’s ‘behavior or character’” may factor into the exceptional circumstances analysis even if it does not rise to the level of unfitness but “nonetheless contributes to a broader picture that could justify termination.” *Id.* at 306 (citing *In re Adoption/Guardianship No. A91–71A*, 334 Md. 538, 563 (1994)). “Moreover, a parent’s *actions* and *failures to act* both can bear on the presence of exceptional circumstances and the question of whether continuing the parent-child relationship serves the child’s best interests.” *Id.* at 307 (emphasis in original).

In the case at bar, the juvenile court found that Mother had neglected the children when they were in her care by failing to provide for their medical care, failing to provide adequate bedding, and by abandoning four of them at her sister-in-law’s house to flee from the police. The court found, based upon the testimony of Dr. Garcia-Fernandez, that Mother’s cognitive impairment was such that she could not meet the children’s emotional and intellectual needs on a day to day basis; was unable to appropriately discipline them; had inappropriate expectations for their behavior; and engaged in “role

reversal” with her older children. Based upon Ms. Skinner’s testimony and the testimony of other Department witnesses, the juvenile court found that Mother was passive and not engaged with the children during weekly visits; that she did not step in to support or redirect the children during those visits; that the children had begun to act out following visits with Mother; and that she had ceased attending visits completely in January 2016. The court found that Mother had moved nine times since she was discharged from ESHC and that none of her housing would have been suitable for reunification with the children. Based upon Ms. Whit’s testimony, the court found that all of the children were bonded with their foster family and were thriving; that all needed permanency and stability; and that the short term distress some of the children would experience if Mother’s parental rights were terminated would be more than outweighed by the developmentally appropriate care and stability they would receive in their foster home and the permanency of that placement.

In light of these non-clearly erroneous factual findings, the juvenile court determined by clear and convincing evidence that exceptional circumstances made the continuation of the parental relationship detrimental to the best interests of the children. The court plainly did not abuse its discretion in so ruling. The evidence overwhelmingly showed that Mother had been and continued to be unable to meet the basic emotional and intellectual needs of her children; that she had been and continued to be unable to provide them with a stable home; and that this was so despite years of comprehensive services offered by the Department. The evidence also was overwhelming that the children were

thriving in their out of home placement and that all of them considered that home to be their permanent home, despite their bonds with Mother. The court did not err in ruling that exceptional circumstances existed and it would be in the children's best interests to terminate Mother's parental rights.

**ORDERS OF THE CIRCUIT COURT
FOR TALBOT COUNTY
AFFIRMED. COSTS TO BE PAID
BY THE APPELLANT.**