

Circuit Court for Cecil County  
Case No. C-07-JV-21-000017

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 372

September Term, 2021

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IN RE: N.H.

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Kehoe,  
Nazarian,  
Gould,

JJ.

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PER CURIAM

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Filed: July 23, 2021

\*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. *See* Md. Rule 1-104.

This is an appeal by A.W. (“Mother”) from the April 12, 2021 order of the Circuit Court for Cecil County, sitting as a juvenile court, finding her infant son, N.H., a child in need of assistance and awarding custody to the Cecil County Department of Social Services. N, who was about six weeks old at the time of the CINA order, has been in shelter care since March 15, 2021. The Department filed its CINA petition on April 4, 2021, the court held a combined adjudicatory and disposition hearing two days later, and the order at issue in this appeal issued six days after that. Mother filed a timely notice of appeal, and the case was scheduled for argument during our September 2021 sitting.

Mother and the Department now have filed a Joint Motion to Remand Case For Further Proceeding and to Waive Remaining Briefing Schedule.<sup>1</sup> They contend that in the course of the adjudicatory and disposition hearing leading to the CINA order, the Department offered, and the court admitted into evidence over objection, two exhibits that came in in a manner contrary to the Maryland Rules. The *first* exhibit, which contained Cecil County Health Department drug test records for Mother and for N’s father, was not filed ten days before trial, *see* Md. Rule 5-902(b)(1), and not otherwise authenticated through testimony or as a business record. *See id.*, (b)(6). The *second* exhibit, the Department’s shelter care report, was authenticated but not admissible as a public record, *see* Md. Rule 5-803(b)(8)(A), and contained hearsay references to a hospital social worker’s report. The

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<sup>1</sup> N’s father, who shares his name and initials, did not note an appeal.

Joint Motion concedes that these exhibits formed the sole evidentiary basis on which the court sustained the Department's allegations that N was a CINA, that the Department had offered no other testimony or evidence, and that neither exhibit should have been admitted into evidence in that manner. The Joint Motion asserts as well that the court erred by combining the adjudicatory and disposition hearings into one. *See* Md. Code Ann., Courts and Judicial Proceedings Art. § 3-819(a)(1); *In re J.R.*, 246 Md. App. 707, 755 (2020). Mother and the Department ask us to waive the remaining briefing schedule, vacate the CINA order, and remand for an adjudicatory hearing and, if the allegations are sustained, a separate disposition hearing.

The evidentiary and procedural defects that the parties have identified compel us, as the parties request, to vacate the April 12, 2021 order. And because the parties have filed this motion jointly and agree on the nature and significance of these defects, we agree that it is appropriate to grant relief before the completion of briefing and oral argument so that the case can return to the circuit court for appropriate proceedings without delay. We grant the Joint Motion, vacate the judgment, and remand for further proceedings consistent with this opinion. *See* Md. Code Ann., Courts and Judicial Proceedings Art. §§ 3-817 and 819.

**JUDGMENT OF THE CIRCUIT COURT  
FOR CECIL COUNTY VACATED AND  
CASE REMANDED FOR FURTHER PRO-  
CEEDINGS CONSISTENT WITH THIS  
OPINION. APPELLEE TO PAY THE  
COSTS. MANDATE TO ISSUE FORTH-  
WITH.**