Circuit Court for Dorchester County
Case No. C-09-JV-20-000072

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 448

September Term, 2022

IN RE: D.G.

Wells, C.J.,
Shaw,
Adkins, Sally D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wells, C.J.

Filed: March 21, 2023

On July 24, 2020, the Circuit Court for Dorchester County, sitting as a juvenile court, ordered the continued shelter care of a six-month old child ("D.G.") with supervised visitation to the appellant, Ms. G ("Mother"). After an adjudicatory hearing on the Child in Need of Assistance ("CINA") petition filed by Dorchester County Department of Social Services ("the Department"), the juvenile court found D.G. was a CINA. Initially, the court ordered a primary permanency plan of reunification with Mother, but after some review hearings and upon request from the Department, the magistrate recommended changing the primary permanency plan to adoption by a non-relative. Mother filed exceptions to the magistrate's findings and recommendations, but following a hearing, the court denied her exceptions and upheld the magistrate's report. Mother appeals the juvenile court's order changing D.G.'s primary permanency plan from reunification with Mother to adoption by a non-relative. Specifically, Mother raises one question for our review: Did the circuit court properly apply the statutory factors under Md. Code Ann., Fam. Law ("FL") § 5-525(f)? For the foregoing reasons, we conclude that it did, and therefore, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

CINA Petition, Adjudication, Disposition, and Review

Mother is the biological mother of the minor child in this appeal, D.G. He is now three years and two months old. On July 22, 2020, the Department was informed that Mother, apparently intoxicated and nodding off to sleep, had dropped D.G., six-months old at the time, on his head during a therapy appointment at Eastern Shore Psychological Services ("ESPS"). The next day, D.G. was placed in shelter care "due to the mother's

instability and intoxication, and the absence of any responsible family member or other adult who could provide care and supervision for the child as part of a safety plan.[1]" Shortly thereafter, the Department filed a CINA petition concerning D.G. based on the incident that occurred on July 22.

At adjudication, on September 18, 2020, the parties stipulated and agreed to the allegations contained in the CINA Petition with only one minor amendment. Additionally, the Department agreed to increase supervised visits with Mother to twice per week, while Mother agreed to participate in substance abuse treatment and mental health counseling on an outpatient basis. The court found that it was contrary to the child's welfare to remain or be returned to Mother, with whom the child last resided on July 24, 2020, because of Mother's established neglect of D.G. Further, the court found that the Department made reasonable efforts to prevent or eliminate the need for the removal of the child from his home, in particular: "In-Home Family Services to the Mother since January 2020, the development of multiple safety plans, attempts to locate[] family members and/or fictive kin to serve as a placement resource, and housing assistance for the Mother." As such, the court ordered that D.G. remain in the care and custody of the Department for appropriate placement.

However, at disposition, on October 16, 2020, the Department recommended giving Mother physical custody of D.G. under an order of protective supervision. In support of this proposal, the Department noted that Mother had been attending parenting classes on

[1] As of this appeal, D.G. has been living with the same foster family since July 24, 2020.

her own, making scheduled visitations, engaging in Intensive Outpatient ("IOP") service, and scheduling mental health services.[2] Despite this progress, the court[3] expressed concern about Mother's history of substance abuse, her use of medications causing drowsiness, and incidents that had already placed the child at risk. Consequently, the court denied the parties' proposed custody order, found D.G. was a CINA, and ordered that he be placed in the custody of the Department.

The court reviewed the CINA disposition on November 11, 2020, and January 12, 2021. The Department, in its report to the court, stated that D.G. was "thriving" in his current placement, noting that the child "remains in a loving, caring and stable environment that is accompanied by daily support from his foster mom." At the same time, the Department was encouraged by Mother's progress, specifically that she was attending her mental health appointments, parenting classes, and IOP treatment. As a result, the Department recommended that D.G. remain a CINA, but that the primary permanency plan continue to be reunification with Mother. As stated in its report, "[t]he Department continues to feel that [Mother] is on the right path towards reunification, however, as indicated previously, the Department is concerned with [Mother's] ability to make sound decisions when it comes to parenting." Ultimately, the court agreed with the Department's

[2] The Department's case worker, Ms. Clemons, added that Mother also had her teenage daughter living with her at the time, indicating that she could provide support to Mother as well.

[3] Although there does not seem to be a direct order from the circuit court on the magistrate's recommended CINA disposition, based on the court's order denying the parties' proposed order of protective supervision, it appears that the court did uphold the magistrate's report and recommended disposition finding D.G. a CINA.

assessment, recommending that D.G. remain a CINA, and left the terms of Mother's visitation at the discretion of the Department, but also encouraged as much visitation as reasonably possible.

Permanency Plan Hearings

On March 9, 2021, the court held an initial permanency planning hearing. In its report to the court, the Department noted that since January 12, Mother was having unsupervised day visits with D.G. three times a week, and the Department was considering adding overnights. However, on January 19, 2021, D.G.'s foster mother informed the Department that after picking up D.G. from Mother, she noticed he had blisters on his hand. A medical exam determined that D.G. sustained second-degree burns on his right hand. When the Department discussed the incident with Mother, she believed D.G. burnt himself while grabbing a small candle near his crib. Following this incident, the Department reduced visits between Mother and D.G. to twice a week, supervised, for two hours at a time. The Department recommended that the primary permanency plan remain reunification, but it expressed concern regarding Mother's "base level knowledge and understanding of providing safety to a young child." The court appointed special advocate ("CASA") also submitted a report, similar to the Department. In her assessment, she was "impressed with [Mother's] compliance with her service plan and her proactive approach to task completion." However, she was also concerned about "[Mother's] ability to safely parent [D.G.]" and "proper medication use[.]"

Upon consideration of these reports, among other items, the court found that the Department had made "reasonable efforts" toward reunification, in particular: visitation,

consultation with a parenting expert, individual counseling, and substance abuse testing and treatment. As a result, it ordered a primary permanency plan of reunification with Mother, and a concurrent permanency plan of adoption by a relative or non-relative. Further, the court ordered supervised visitation between D.G. and Mother at least twice a week.

The court reviewed the permanency plan on June 15, 2021. At the hearing, the Department indicated that the parties were in agreement as to the plan: that placement continue with the foster mother, while the primary permanency plan remain reunification with Mother. In its report, the Department recognized "the positive progress [Mother] has made attending mental health and medication management, IOP, producing negative urine screens, obtaining employment, and keeping all scheduled visitation with [D.G.]." As such, the Department felt Mother was "on the right track toward achieving reunification by the projected target goal of September 2021."

The court agreed with the parties, and ordered that the primary permanency plan remain reunification, and a concurrent plan of adoption. Additionally, the court ordered the Department to make a referral to the Interstate Compact on the Placement of Children ("ICPC")[4] for D.G.'s maternal grandmother, Ms. Calvert, who lived in Georgia. Finally,

[4] "The ICPC is a binding contractual agreement among all fifty states, the District of Columbia, and the U.S. Virgin Islands regarding the interstate placement of children.[]" *In re R.S.*, 470 Md. 380, 398 (2020). "The ICPC requires the sending state to notify the receiving state prior to placement of the child in the receiving state." *Id.* at 400 (internal citations omitted). Then, "the out-of-state resident must undergo a pre-placement home study to ascertain whether they are a viable placement option." *Id.*

the court ordered that Mother continue to participate in parenting classes, individual counseling, and substance abuse testing and treatment.

The plan was reviewed about three months later, on September 14, 2021. At the hearing, Mother's primary care physician, Dr. McMullen, testified that he first met with Mother on March 29, 2021. At that appointment, Mother claimed that she had previously been going to ESPS, which was prescribing her Clonazepam, but she was transitioning to Marshy Hope, a behavioral health clinic, and did not yet have a psychiatrist or mental health provider. She also told him that she was taking Clonazepam two times a day for her anxiety. Given this information, Dr. McMullen prescribed her Clonazepam twice a day as needed in March, April, June, and July. Unbeknownst to Dr. McMullen at the time, Mother had not been seen by ESPS since July of 2020, and was already enrolled with a psychiatrist who would not give her Clonazepam because she was testing positive for it without an active prescription.

The court also heard from Ms. Saathoff, a licensed clinician at For All Seasons, who met with Mother for mental health counseling seven times between December 1, 2020, and April 7, 2021. Ms. Saathoff testified that she discharged Mother on June 16, 2021, because "[s]he canceled or no showed four sessions with me."

Next, Ms. Williams, a certified alcohol and drug counselor at Dorchester Behavioral Health, testified that Mother entered their program on August 3, 2020, and was successfully discharged on September 8, 2021. She added that Mother did not test positive for any drugs or medications that she was not prescribed during the course of her treatment.

Then, Ms. Clemons, the Department's case worker, testified that Mother had started mental health services with Life Energy Wellness "within the past month" and that she was participating in parenting classes with Ms. Hill, a parenting coach. She also testified that D.G.'s maternal grandmother, Ms. Calvert, had a "favorable home study." In her report for the court, Ms. Clemons attached Dr. Samantha Scott's neuropsychological evaluation of Mother.[5] Further, while the Department's report recognized Mother's commitment to reunification and compliance up until recently, it ultimately determined that "Mother has made minimal progress in the last year." Thus, the Department recommended a review hearing for a change in the permanency plan.

Finally, the court heard from Mother. Mother testified that she stopped going to her treatment services at For All Seasons because "I don't like the facility. I didn't think they were very professional." In the meantime, she tried to schedule an appointment with Marshy Hope, but it took too long for them to process her insurance, so she lost her spot with them. She testified that she believed that she told Dr. McMullen that she had been off Clonazepam since February of 2021. When asked where she obtained it prior to March, she could not recall, but when asked again, she stated "from previous prescriptions."

The court ordered that Mother continue participating in parenting sessions with Ms. Hill, individual counseling, and substance abuse testing and treatment. The court also ordered visitation with Ms. Calvert at the Department's discretion. Finally, the court ordered all parties to return in October for a hearing to review the permanency plan.

[5] We will discuss Dr. Scott's evaluation in more detail below.

Following a postponement, the permanency plan review hearing was held on December 7, 2021**.** At the hearing, the court heard from Ms. Hill, a psychotherapist with almost thirty years of experience in parenting education. Ms. Hill testified that on July 27, 2021, she conducted a babyproofing evaluation of Mother's home and provided her with education on CPR and proper car seat use. Additionally, between September and November of 2021, the two met for eight virtual sessions, discussing parenting topics and balancing the needs of her toddler and her teenage daughter. After the court accepted Ms. Hill as an expert in parenting education, Ms. Hill offered her opinion that while "I think that with continued support [Mother] can absolutely be [D.G.'s] full time parent. I don't think that she's ready at this time right now today[.]" Ms. Hill believed that Mother "needs more skills practice[,]" particularly in regulating her own needs, while balancing the demanding needs of her children.

Ms. Clemons, the Department's case worker, testified that the Department recommended D.G. remain at his current foster placement "because he has been with the [foster family] the majority of his life since he was six months old." Also, Ms. Clemons concluded from her observation and assessments, "[h]e has formed bonds[,] [h]e's secure[,]" and "[h]e goes to them for comfort when he cries." As for adoption by Ms. Calvert, Ms. Clemons acknowledged that her ICPC home study was favorable, and referenced Dr. Scott's report on October 20, 2021 ("Dr. Scott's Placement Report") recommending a gradual, collaborative reunification process. However, she expressed the Department's concerns with this plan:

> the Department feels it would be very difficult to support that recommendation of a slow reunification process because of the distance of Miss Calvert. If the Department were to adopt that it would take more time in which would allow [D.G.] to remain at his current foster home. In which will build more ties and, you know, more memories and it would be an even tougher transition out of that home if we were to adopt a plan of adoption with Ms. Calvert.

Additionally, Ms. Clemons testified that "[i]t is the Department's belief that [Mother] does not possess the capacity to parent that is required in order to sustain [D.G.'s] ultimate safety and well-being at this time." In support of this conclusion, Ms. Clemons pointed out that despite participating in parenting classes for over a year, Mother still struggles with "proper nutrition for D.G.," "excessive smoking in the house . . . with [D.G.] present[,]" "crib safety," and "car seat safety." Thus, the Department recommended that the court change the primary permanency plan from reunification to adoption by a non-relative, with a concurrent plan of adoption by a relative.

Next, Ms. Calvert testified that her primary means of contact with D.G. was through video phone calls with her daughter, but that she had visited her grandson in person twice. Ms. Calvert also admitted that she had a strained relationship with her daughter due to Mother's drug use, but now, "[i]t's great. We talk every single day." Although Ms. Calvert wanted to be a resource for D.G., when asked if she could travel to Maryland on a regular basis to work on a gradual transition plan, she stated "[h]onestly not weekly. But if it was something that I could do monthly I could do. But to be honest with you, no, I couldn't come up there weekly. I can't afford that."

Finally, Mother testified, acknowledging that her mother moving away did cause a strain on their relationship, but now, with video calls, they talk every day. She stated that

if the court were to change the permanency plan from reunification, she would prefer that D.G. be placed with his grandmother. In regard to the parenting classes with Ms. Hill, Mother found them very helpful as they talked about how to handle tantrums and comfort D.G. As to her mental health treatment, Mother testified that for the past four months, she had been receiving individual therapy at Life Energy Wellness. She explained that she was comfortable discussing traumatic incidents in her past and was willing to address specific traumas with her therapist.

Following the hearing, the magistrate found that because the child had been in an out of home placement for 15 out of 22 months, under FL § 5-525.1(b)(1)(i), a petition for termination of parental rights must be filed. Additionally, the magistrate recommended a primary permanency plan of adoption by a non-relative, with a concurrent plan of adoption by a relative.**]** Finally, the magistrate determined that D.G. would remain a CINA, and continue to be placed in the custody of the Department. Mother's counsel retained the right to file exceptions with the magistrate's recommendations.

Exceptions Hearing and Order Upholding Magistrate's Recommendations

On December 12, 2021, Mother, pursuant to Maryland Rule 11-111, filed several exceptions to the magistrate's findings and recommendations. Mother's first two exceptions argued that the magistrate's recommendation to change the permanency plan to adoption by a non-relative was not supported by the weight of the evidence, particularly in light of Mother's progress towards being able to provide a safe and healthy home, as well as D.G.'s significant attachment to her. Relatedly, Mother asserted that the magistrate failed to make the appropriate findings as to why a deviation from the statutorily mandated

priority of permanency plans set forth in § 3-823(e)(1)(i) of the Courts and Judicial Proceedings Article ("CJP") was warranted. Finally, Mother alleged that the magistrate did not conduct an age appropriate consultation with D.G. as mandated by CJP 3-823(j). Following several postponements, an exceptions hearing was held on April 8 and April 12, 2022.[6]

At the hearing, Mother's counsel focused on some of the factors, specified in FL § 5-525(f)(1), that the court must consider when determining a child's permanency plan. Starting with the first factor—the child's ability to be safe and healthy in the home of the parent—counsel proffered that at the time of the December 7, 2021 hearing, Mother had consistently participated in substance abuse treatment for almost two years, had recently restarted mental health treatment, and completed parenting classes. In addition to Mother's overall compliance with the Department's orders and recommendations, counsel pointed out that from May 2021 to the December hearing, the Department permitted Mother to have unsupervised visits with D.G., and there was "no indication . . . at the time that there were any concerns about the visits." As to the second factor—the child's attachment and emotional ties with his parents and siblings—counsel noted that D.G. is bonded with his mother. While counsel acknowledged the "fair amount of time that [D.G.] has been in care" and "the attachment that the child has with his foster parent[,]" ultimately, "the effect of

[6] The exceptions hearing started on Friday, April 8, 2022, at 4 p.m. However, at the conclusion of Mother's counsel's arguments, the court, recognizing that it would not be able to finish the proceeding that day, decided to continue the hearing to April 12.

changing the plan will impact [D.G.] because of that bond with his family, just in the same way that it might affect him because of his bond with his caretaker."

Finally, Mother's counsel argued that the recommended plan—adoption by a non-relative—deviates from the priority order of permanency plans set forth in CJP 3-823(e)(1)(i). In particular, counsel claimed that it "is disingenuous to say at this point in time it's too late for Ms. Calvert to be considered as an option because she lives too far away and the child is too bonded with the foster parents." Counsel indicated that because Ms. Calvert was part of the plan, the Department should have made more efforts to achieve that goal.

In response to Mother's claim that the magistrate's recommendation to change the permanency plan was not supported by the weight of the evidence, the Department noted that the magistrate incorporated its report—which applied the factors to the circumstances of this case—in her findings and recommendations. As to the magistrate's finding that the Department should file a termination of parental rights because the child had been in an out of home placement for 15 of the most recent 22 months, the Department pointed out that this is statutorily required under FL § 5-525.1(b)(1)(i). Finally, as to the magistrate not following the priority order of plans, the Department noted that the magistrate considered the record in its entirety—including, Dr. Scott's neuropsychological evaluation of Mother, her Placement Report, the amount of time D.G. had already been in foster care, and the incident in which D.G. was burned—and the complete evidence supported the magistrate's recommendation. The child's attorney added that D.G. has been "in a stable home with the

foster family" since July 2020, and although Mother had made progress, there were also setbacks.

At the conclusion of the hearing, the juvenile court issued an order, memorialized on May 2, 2022, denying Mother's exceptions and upholding the magistrate's findings and recommendations. In its order, the court found as follows:

> The Court has reviewed the transcript of the Permanency Plan Hearing held on December 7, 2021, as well as the entire record including orders, reports and exhibits in these proceedings. The Court finds as very illustrative, Dr. Samantha Scott's report and examples of the mother's inappropriate response to questions. The Court finds that there is a bond and attachment to the mother, but the child has been extensively with the current foster parents since July 2020, at which time [D.G.] was six months of age. This is in contrast to the lack of relationship which the child has with the maternal grandmother who resides in Georgia. The foster home is the only meaningful home that the child has known.
>
> The Court finds that it would create profound harm to the child if he were to be removed from the foster home. Looking at the criteria that is set forth in Section 5-525 of the Family Law Article, the Court finds that it is in the child's best interest and ensures his safety to adopt the following permanency plans as recommended by the Magistrate on December 7, 2021: The primary plan shall be Adoption by a non-relative; and the secondary plan shall be placement with relative Adoption. That the adoption of these plans is truly in the best interest of the minor child.

Eight days later, May 10, Mother filed this timely appeal.

STANDARD OF REVIEW

Our review is guided by three interrelated standards:

> 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 some 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 C.E., 464 Md. 26, 47 (2019) (quoting *In re Adoption/Guardianship of Ta'Niya C.*, 417 Md. 90, 100 (2010)) (alterations in original). When reviewing a juvenile court's ultimate decision to order a permanency plan goal of adoption, we review the court's decision for an abuse of discretion. *In re Ashley*, 431 Md. 678, 704 (2013). An abuse of discretion occurs where "no reasonable person would take the view adopted by the trial court," or the ruling is "clearly against the logic and effect of facts and inferences before the court." *In re Yve S.*, 373 Md. 551, 583 (2003) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312-13 (1997)). Put yet another way, an abuse of discretion occurs when the juvenile court's decision is "well removed from any center mark imagined by the reviewing court and beyond the fringe of what the court deems minimally acceptable." *In re Ashley*, 431 Md. at 704 (quoting *In re Yve S.*, 373 Md. at 583–84).

DISCUSSION

I. The Circuit Court Did Not Abuse its Discretion in Finding that the Statutory Factors under Family Law § 5-525(f)(1) Weighed Towards a Permanency Plan of Adoption

A. Parties' Contentions

Mother claims that the trial court erred when it upheld the change in the permanency plan from reunification with Mother to adoption by a non-relative because it did not

appropriately consider all six factors enumerated in FL § 5-525(f)(1).[7] Had it done so, Mother argues, the trial court would have reached a different decision. Mother's argument is rooted in the fact that she made "tremendous progress in meeting all of her goals and remain[ed] compliant throughout the process[.]" We will address her arguments as to each factor below.

Neither the State nor the child's attorney filed a brief in response.[8]

B. Analysis

CJP § 3-823(e)(2) requires courts to consider six factors specified in FL § 5-525(f)(1) when determining a child's permanency plan. The six factors are as follows:

(i) the child's ability to be safe and healthy in the home of the child's parent;

[7] Appellant's brief incorrectly asserts that at the April 8, 2022 exceptions hearing, "the *judge* stated that she would be focusing on the 525(f)(i) factor in making her determinations and later admitted that 'I'm not going to cover all the factors.'" (emphasis added). In fact, *Mother's counsel* stated that he would focus his argument on the first factor, and later admitted that he would not cover all the factors.

[8] At oral argument, Appellant noted that the Department had since changed its position and agreed with Mother that the plan be changed back to reunification. For procedural context, we note that shortly after Mother filed her brief in this appeal, the Department filed a Motion to Stay Mother's appeal in this Court pending another review hearing of this CINA proceeding by the juvenile court on October 25, 2022. The Department filed this unopposed Motion because "[a]t the hearing, [the Department] expects to move for a change in D.G.'s permanency plan to return to a primary plan of reunification." Thus, the Department was moving for a Stay "because the outcome of the review hearing on October 25, 2022 may render moot [this appeal]." [Id.] However, on December 9, 2022, following the October 25 hearing, the circuit court ordered that the permanency plan remain adoption by a non-relative, with a concurrent plan of adoption by a relative. As a result, the Department then filed an Unopposed Motion to Lift the Stay on this appeal, which we granted on December 16. Further, we ordered that appellees'—the Department and D.G.'s counsel—briefs be filed within 30 days of the date of that Order. As stated, neither the Department nor D.G.'s attorney—who expressed at the October 25 hearing that she did not believe a change in the permanency plan is in the child's best interest—filed a brief in this appeal.

> (ii) the child's attachment and emotional ties to the child's natural parents and siblings;
>
> (iii) the child's emotional attachment to the child's current caregiver and the caregiver's family;
>
> (iv) the length of time the child has resided with the current caregiver;
>
> (v) the potential emotional, developmental, and educational harm to the child if moved from the child's current placement; and
>
> (vi) the potential harm to the child by remaining in State custody for an excessive period of time.

We will address each factor in turn to determine whether the court abused its discretion in ordering that the primary permanency plan for D.G. be adoption by a non-relative.

i. The child's ability to be safe and healthy in the home of the child's parents

Mother points out that since May 2021, the Department has recommended Mother have unsupervised visits with D.G., and during those visits, there have been no incidents. Further, Mother notes that she has been compliant, engaging in parenting classes, mental health therapy, and substance abuse treatment programs.

At the hearing, the Department acknowledged that recently there had not been any incidents to warrant going back to supervised visits. However, the Department explained to the court why it allowed for supervised visits, while also determining that Mother was not fit to be D.G.'s "permanent parental figure." "And that is because the Department feels that on a short-term basis the mother can supervise and care for the child appropriately, but not as a parent resource for the best interest to ensure the safety of the young child."

In weighing this factor, the court found Dr. Scott's neuropsychological evaluation "very illustrative." At the hearing on April 12, the court noted that Dr. Scott's evaluation indicated that while "[Mother] has demonstrated she certainly loves her child, . . . great concern is raised regarding her cognitive function, insight, judgment, emotional and behavioral stability, and understanding the age appropriate strategy." The court added that in the evaluation, Dr. Scott indicated that these concerns "would cause particular difficulty in that this child requires additional support due to delays." The court also pointed out that in Dr. Scott's evaluation, Mother's "lack of awareness was quite notable during a discipline questionnaire, as she indicated that she would smack [D.G.'s] fingers and keep him in timeout, which were not appropriate responses."

The court also mentioned the "concern about Mother testing positive for Clonazepam without an active prescription," after apparently providing her primary care physician with false information. Dr. Scott testified that Mother indicated to him that she did not use the drug at all.

ii. The child's attachment and emotional ties to the child's natural parents and siblings

Mother argues that D.G. has a strong bond with her because he was in her care until he was six months old, and since then, she has continued to have contact with her son. Additionally, she argues that D.G. is also attached to his teenage sister, and the court overlooked this bond.

Despite the Department's Report, the court found that D.G. has a bond with Mother. Whether their bond was different from his interactions with other adult caregivers in his

life, the court was "unable to ascertain, but certainly I would find there is an attachment." **[Id.]** In support of this finding, the court added, "[h]e seems to know that she is a caregiver and a person in his life, and he has been comfortable playing alone and with her."

iii. The child's emotional attachment to the child's current caregiver and the caregiver's family

Mother asserts that "[i]t is clear that D.G.'s attachment is to his mother, not [foster mother], and definitely not, [foster father]." Alternatively, Mother argues that "D.G.'s attachment to his foster mother is not stronger than the attachment to his mother."

The court seemed to disagree, finding a "strong affection" between D.G. and his foster family. It noted that D.G. has been "extensively" with this family since he was six months old: "[t]hose are his normal caregivers, people who get up with him in the night and take him to appointments and are responsible for meeting all of his needs." To the court, "he appears to recognize and he bonded to them as such."

iv. The length of time the child has resided with the current caregiver

D.G. has resided with his foster family since his entry into out of home placement on July 24, 2020. Thus, at the time of the December 7, 2021 review hearing, D.G. had resided with his foster family for approximately 17 and 1/2 months, or just over 500 days.[9]

[9] Mother does not dispute how long D.G. has been in foster care but argues that D.G. has been in foster mother's care for so long "because of the Department's and caregivers' delays, not to any fault of [Mother's] own." We recognize, as Mother points out, that there have been postponements for hearings, and delays in providing services in this case. However, Mother's brief does not indicate that she objected to any such postponements (nor do we find any indications in the record). Moreover, on appeal, Mother does not argue that the Department did not make "reasonable efforts" to reunify her and D.G., as required under FL § 5-525(e)(1). As such, we decline to address these arguments specifically, but

v. The potential emotional, developmental, and educational harm to the child if moved from the child's current placement

Mother asserts that there will be "no" potential emotional, developmental, or educational harm to D.G. if he is returned to his mother. Mother claims that because D.G. is so young, he likely "won't even remember [his foster family]."

The court reviewed Dr. Scott's Placement Report regarding the impact of removing D.G. from his foster home. In this report, Dr. Scott noted that "[d]isruptions in attachment can result in a wide variety of emotional and behavioral challenges and regressive behavior."

The court also reviewed the Department's report, which raised the concern that if D.G. were returned to the care of his mother, he "could be at risk of missing necessary medical appointments due to her busy work schedule and personal appointments she must maintain herself." The Department's report—and CASA's report—indicated that D.G. has been thriving in his current placement. Additionally, at the hearing, D.G.'s attorney stated that for the duration of this case, "[D.G.] has had the ability to be in a safe and stable place." In considering all that went into the recommendation to change the permanency plan to adoption by the foster family, the child's attorney noted the need to "provide [D.G.] permanency as solidly and quickly as possible without disrupting all of those bonds and development that he had made[.]"

After reviewing the reports and hearing arguments, the judge determined:

instead, as a general matter, acknowledge that there may be circumstances where delays in obtaining appropriate services are reasonable.

> At this point we have a child who has adapted to his living situation, this has been all he essentially knows for the vast majority of his young life. And it seems to me there would be profound harm to the child if he was moved from that placement, emotionally and developmentally.

vi. The potential harm to the child by remaining in State custody for an excessive period of time

Finally, Mother contends that D.G. does not have to remain in state custody; he can be reunited with his mother, or his grandmother, Ms. Calvert.

However, the court reviewed Dr. Scott's and Ms. Hill's evaluations, and both indicated that Mother was not yet ready to properly care for D.G. and ensure a safe home for him. Additionally, Dr. Scott's Placement Report advised "that the least distressing process for the child is one that is VERY gradual in nature . . . ." Contrary to Mother's arguments, these reports seem to indicate that immediate placement with Mother or Ms. Calvert would not be in D.G.'s best interest.

In reviewing this factor, the court pointed out that the "goal" is "stability and permanency[,] and remaining in state custody with no sort of end or resolution to this, even for such a young child[,] it's just absolutely what we are trying to avoid. We can't stay in limbo."

On this record, we conclude that the court thoroughly considered all of the factors under FL § 5-525(f)(1) before finding that it was in D.G.'s best interest to change the permanency plan from reunification with Mother to adoption by non-relatives. The court acknowledged that its decision was "difficult" because of the progress Mother had made, but its analysis was rooted in reason and supported by ample evidence in the record. As

such, we hold that the court did not abuse its discretion in changing the permanency plan and affirm its judgment.

II. The Circuit Court Did Not Err in Deciding that the Primary Permanency Plan for D.G. Shall be Adoption by a Non-Relative, and the Concurrent Plan Shall be Placement with a Relative for Adoption.

Finally, Mother argues that the circuit court erred by not placing D.G. with his maternal grandmother, Ms. Calvert. In support, Mother points out that an ICPC was initiated for Ms. Calvert, and that home study was favorable. Mother also indicates that the Department should have done more to foster D.G.'s relationship with Ms. Calvert. Despite acknowledging Dr. Scott's Placement Report and the fact that Ms. Calvert lives in Georgia, Mother asserts "[t]here is no real justification for this decision." We disagree.

While the court considered the ICPC home study of Ms. Calvert, the court also considered Dr. Scott's Placement Report regarding the possibility of removing D.G. from his foster home to live with Ms. Calvert in Georgia. In that report, Dr. Scott noted her concerns "regarding [Mother's] description of her previous relationship with her mother and the mental health challenges she endured." Importantly, she added, "[i]f a collaborative, slow (re)unification process is not possible with [D.G.'s] grandmother, it is very likely that he will experience a significant disruption in attachment. Disruptions in attachment can result in a wide variety of emotional and behavioral challenges and regressive behavior."

The court also considered Ms. Calvert's testimony on December 7, 2021. At that hearing, Ms. Calvert stated that while she has built a relationship with D.G. through video calls, she has only been able to visit him, in person, on two or three occasions. Further,

although Ms. Calvert testified that she wanted to be a resource for D.G., in regard to a gradual transition plan, she admitted that she would not be able to travel to Maryland on a weekly basis.

After reviewing D.G.'s attachment to his foster family, the court "contrast[ed] that with the relationship that he lacked with his grandmother." While the court did not doubt Ms. Calvert's willingness to develop a strong relationship with D.G., it nonetheless determined that thus far, she "has not created this relationship." Finally, while the court acknowledged that "we certainly look for a relative placement if a parent can't be a resource now, . . . in this case that relative is sort of so far removed geographically, which had led to the other kind of removal from this child."

Considering the record before the court, including Dr. Scott's report as well as Ms. Calvert's testimony and her distance from Maryland, we conclude that the court's judgment was not "clearly against the logic and effect of facts and inferences before the court." *In re Yve S.*, 373 Md. at 583 (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312-13 (1997)). Thus, we hold that the circuit court did not abuse its discretion in deciding that the primary permanency plan for D.G. be adoption by a non-relative.

JUDGMENT OF THE CIRCUIT COURT FOR DORCHESTER COUNTY AFFIRMED. APPELLANT TO PAY THE COSTS.