Circuit Court for Baltimore County
Case No. 03-Z-18-000002

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0458

September Term, 2018

IN RE ADOPTION/GUARDIANSHIP OF A.P.

Fader, C.J.,
Nazarian,
Reed,
JJ.

Opinion by Fader, C.J.

Filed: December 14, 2018

The Circuit Court for Baltimore County, sitting as a juvenile court, terminated the parental rights of the appellant, I.P. ("Mother"), to her daughter, A.P. Mother challenges the termination on the grounds that (1) the Baltimore County Department of Social Services ("the Department") and other local departments violated their statutory duties to provide services tailored to her needs and (2) in terminating her parental rights the juvenile court misapplied the law, abused its discretion, and relied improperly on hearsay.

By all accounts, Mother loves A.P. and has tried to maintain a relationship with her since A.P. was found to be a child in need of assistance ("CINA")[1] and placed in foster care in early 2016. Mother has consistently kept in touch with both A.P. and the Department, regularly attended scheduled visitations, paid some child support, obtained some mental health treatment, and tried to do some of what the juvenile court and the Department asked of her. She did so despite having been only 15, and a former CINA herself, at the time she gave birth to A.P.; struggling with depression and other mental health issues; lacking stable housing and employment; having never completed high school or obtained a GED; and lacking consistent family support. Indeed, the juvenile court found that, under the circumstances, Mother did all she was able to do.

But therein lies the rub, for the juvenile court also found that in spite of those efforts, at the time of the termination of rights hearing Mother was unfit to maintain a parental

[1] A "child in need of assistance" is one who requires court intervention because the child has been abused or neglected, or has a developmental disability or mental disorder; and his or her "parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs." Md. Code Ann., Cts. & Jud. Proc. § 3-801(f) (2013 Repl.; 2018 Supp.).

relationship with A.P., had not made progress toward putting herself in a position to do so in the foreseeable future, and that it was in A.P.'s best interest to terminate the parental relationship.[2] In essence, the juvenile court found that Mother's unfitness resulted not from a failure of will or of love, but of ability. If our focus here were on whether Mother herself is at fault for the circumstance in which she finds herself, we would likely reach a different outcome. But the touchstone of our analysis is and must be the best interest of A.P. With that as our guide, and affording proper deference to the factual determinations and ultimate decision of the juvenile court, we must affirm the termination of Mother's parental rights.

BACKGROUND

Mother gave birth to A.P. in November 2012, when she was 15 years old and living with her maternal grandmother (A.P.'s great-grandmother), K.P. ("Great-Grandmother").[3] Mother does not know who A.P.'s father is and the Department was unable to identify him. Although A.P. and Mother initially lived with Great-Grandmother in Cecil County, Mother's relationship with Great-Grandmother was turbulent, resulting in Mother being kicked out or leaving more than once.

[2] The juvenile court also concluded that there were exceptional circumstances such that continuation of the parental relationship would be detrimental to A.P. Notably, Mother herself agreed at the hearing that she lacked the stability to parent A.P. and she offered nothing to suggest any prospect that would change going forward.

[3] To avoid confusion, we identify both Mother (I.P.) and Great-Grandmother (K.P.) by their relationship to A.P.

A.P.'s Involvement with Other Local Departments

A.P.'s first interaction with a local department of social services was in February of 2013, when she was three months old and the Cecil County Department of Social Services received a report that Mother (not A.P.) had been physically abused. The Cecil County department attempted to provide family preservation services but closed the case after finding Mother and Great-Grandmother uncooperative. Three months later, Mother and A.P. were placed in shelter care when the Harford County Department of Social Services received a report that they were sleeping in a van. In November 2013, a juvenile court adjudicated A.P. a CINA after Great-Grandmother abandoned Mother and A.P. at the Cecil County Department of Social Services following a meeting. Both Mother and A.P. were placed in foster care and, soon after, Mother entered a 90-day mental health treatment program, which she successfully completed.

After Mother's discharge, the Cecil County department provided her with additional referrals and services, including parenting classes, a GED referral, and a referral to the Infants and Toddlers Program.[2] The department returned A.P. to Mother and Great-Grandmother, initially on a "trial home visit status" during which services and referrals were still being used by the family. In October 2014, the department closed A.P.'s CINA case and returned her to the joint custody of Mother and Great-Grandmother.

[2] The Maryland Infants and Toddlers Program is "a statewide, community-based interagency system of comprehensive early intervention services to eligible infants and toddlers, from birth until the beginning of the school year following a child's 4th birthday, and their families." Md. Code Ann., Educ. § 8-416 (2018 Repl.).

Less than a year after the CINA case closed, the Cecil County department received a Child Protective Services report regarding a bruise under A.P.'s eye, which Mother was unable to explain. The local department determined that A.P. suffered the bruise when she was unsupervised in the kitchen while in Great-Grandmother's care. The social workers further observed that Great-Grandmother's home was disheveled and that boxes that were blocking doorways had most likely obscured Great-Grandmother's view when A.P. fell. Great-Grandmother admitted feeling overwhelmed caring for A.P., whom the social workers concluded was not properly supervised and "was going in and out of the home without anyone seeing her." The Cecil County department made a referral for family preservation services, but Mother either voluntarily left or was kicked out of Great-Grandmother's home less than a week later.

A.P.'s Initial Involvement with the Department

After a very brief stay with Mother's boyfriend's family, Mother and A.P. moved in with a couple named John and Julia in Baltimore County. That caused the Cecil County department to transfer A.P.'s case to the Department. Shortly thereafter, the Department investigated a Child Protective Services report that described John and Julia's home as cluttered, dirty, unsafe, and smelling of animal feces and urine. The report also alleged that A.P. was being neglected and was "filthy and unkempt." A social worker who visited John and Julia's home as part of the investigation found A.P. naked in the bathroom with John, who said he was giving her a bath. The Department's concerns about potential abuse were further heightened because (1) A.P. disclosed to the Department that "she was

physically disciplined by a man who was babysitting her, reporting that he was hitting her on her bottom," and (2) John and Julia were already being investigated for sexual abuse of a child in an unrelated case. The Department also determined that in addition to the housing problems and abuse concerns, John and Julia were pressuring Mother to give them custody of A.P., would not let Mother speak with Social Services alone, took her cell phone away, "restricted her movements," and used her Women, Infants, and Children ("WIC") vouchers. Mother also reported that she had been diagnosed with depression, which was then untreated, and she admitted that she had given Benadryl to A.P. as a sedative.

The Department, having concluded that staying in the home was contrary to A.P.'s welfare and concerned that Mother was being pressured or coerced by John and Julia, asked Great-Grandmother if she could be a resource for Mother and A.P. Great-Grandmother refused. Mother's mother, P.P., agreed to let Mother and A.P. stay with her, but only for one week. Mother was unable to find other living arrangements on her own and refused to go to a shelter. As a result, the Department removed A.P. from Mother's custody on January 7, 2016. On February 5, the juvenile court adjudicated A.P. a CINA for the second time.

The Department's original permanency plan for A.P. was reunification with Mother.[4] To facilitate that, the Department and Mother entered a service agreement in

[4] Within eleven months after a child comes into care in a CINA case, the court must hold a hearing to implement a permanency plan. Md. Code Ann., Cts. & Jud. Proc. § 3-823(b). A permanency plan may be one of the following, in descending order of priority:

(i) Reunification with the parent or guardian;

which Mother agreed, among other things, to (1) maintain contact with the Department, (2) allow scheduled and unscheduled home visits, (3) "make efforts to obtain and maintain clean, stable, hazard-free housing," (4) submit to a mental health evaluation and follow any treatment recommendations, (5) participate in meetings, appointments, and visits with A.P., and (6) "contact the Agency if there are services or referrals she needs." In turn, the Department agreed to keep Mother apprised of A.P.'s medical or educational meetings, facilitate visits between Mother and A.P., provide Mother with referrals and services as requested, and keep in contact with Mother on a regular basis. The juvenile court separately imposed obligations on Mother similar to those in the service agreement, including requirements that Mother "obtain and maintain clean, stable, hazard-free housing" and "submit to a mental health evaluation, participate in recommended treatment until successfully discharged, and sign releases regarding such evaluation and treatment." In June 2016, after the first review hearing, the court added additional requirements, including that Mother obtain and maintain "gainful employment and/or provide evidence of income sufficient to support [A.P.]"

In accordance with the service agreement and court orders, Mother consistently maintained contact with the Department, allowed home visits, obtained employment during

(ii) Placement with a relative for:
1. Adoption; or
2. Custody and guardianship;

(iii) Adoption by a nonrelative;

(iv) Guardianship by a nonrelative;

(v) Continuation in a specified placement on a permanent basis because of the child's needs or circumstances; . . . .

most of the relevant period, paid some child support, and attended scheduled visits with A.P. The Department facilitated those visits, including by providing or paying for transportation for Mother to attend many of them, kept Mother apprised of A.P.'s progress, and consistently offered to provide services upon request. The topics that were the focus of most of the evidence presented at the termination of rights hearing included Mother's progress with respect to mental health treatment, housing, employment, and education, as well as her regular visits with A.P. We discuss each in turn.

Mother's Mental Health

Mother's mental health has been an issue since at least A.P.'s first CINA case in 2013. While A.P. was in foster care the first time, Mother successfully underwent a 90-day mental health hospitalization at Arrow Diagnostics. During the course of A.P.'s current CINA case, however, Mother failed to successfully complete a mental health treatment program. Although Mother contends that she has fully complied with all mental health evaluation and treatment requirements, the Department presented evidence to the contrary.

Concerned from the beginning that Mother's "mental health [was] not being treated," the service agreement required Mother to seek and comply with mental health treatment. Margaret Grant, Mother's assigned social worker, also made a standing offer to provide Mother with mental health referrals. Evidence presented at the hearing, however, demonstrated that Mother had only intermittently pursued mental health treatment. For example, in March 2017, after her permanency plan was changed from reunification alone to reunification concurrent with adoption, Mother underwent an evaluation by Upper Bay

Counseling and was diagnosed with persistent depressive disorder. Her depression symptoms were identified as "interfering in her life and [we]re in need of change." The evaluator recommended a treatment plan that included psychotherapy appointments every other week and medication. However, according to Ms. Grant's testimony, Mother said that she only took her medication once before stopping due to side effects and Upper Bay reported to Ms. Grant that Mother was not receiving regular "medication management because she wasn't attending psychiatry appointments." Ms. Grant urged Mother to report her problem with side effects to her psychiatrist; to Ms. Grant's knowledge, Mother never did.

Mother's testimony contradicted Ms. Grant's in some respects. For example, according to Mother's testimony, at the time of the hearing she was pursuing mental health treatment from both Upper Bay and a facility in Delaware, although she claimed she was only going to Upper Bay "like one or two months out of the year." Mother also claimed to be taking medication to treat her depression, although she did not know the name of the medication. And although Mother claimed to have provided some documentation of her treatment to Ms. Grant, Ms. Grant denied having received it. Notably, however, even Mother did not claim to have successfully completed any mental health treatment program in the more-than-two years between A.P.'s placement and the termination hearing.

Mother's Housing Situation

After the Department removed A.P. from John and Julia's home in January 2016, Mother was "unable to identify a concrete plan for living arrangements and care for [A.P.],

and . . . refused to go to a shelter." Ms. Grant offered to provide Mother with housing referrals in writing and in person on numerous occasions. On August 10, 2016, Ms. Grant provided Mother in hard copy and by e-mail a letter that (1) identified a housing department website identifying programs that might be useful to Mother, (2) provided a phone number of a "program for people whose children were removed from them and are trying to reunify," (3) identified three specific low-income housing developments near Mother and provided contact information for each, and (4) suggested that Mother put herself on the waiting list for Section 8 housing. The letter also included attachments with information about the Section 8 program and contact information for 22 potential low-income housing resources.[5] Ms. Grant and a colleague also sent letters to Mother on a monthly basis, all informing Mother that "[i]f there are any services that you feel you need and are not receiving, please contact me to discuss further referral options." Ms. Grant testified that she also discussed her offer to provide referrals in person with Mother during her regular visits with A.P. In spite of these offers of assistance, Mother testified that she never requested any housing assistance from the Department.

Mother's housing situation remained unstable throughout the relevant time period. Although she claims to have applied for Section 8 housing on her own, she never provided

[5] Although Mother has contended that this letter was generic and not targeted to her, the letter reflects differently in that: (1) it begins with a request for Mother to check her e-mail to find the same information there; (2) it highlights housing developments near Mother; (3) the second-to-last paragraph of the letter informs Mother that "Megan" will be her contact for the next week, while Ms. Grant was to be out on vacation; and (4) the final paragraph reminds Mother "that the court has ordered mental health treatment" and Mother should follow up with that as well.

any documentation of that to the Department nor did she provide any other indication that she followed up on any of the resources identified in Ms. Grant's August 2016 letter. Instead, Mother testified, she has spent most the last three years living with her boyfriend's family, including his parents and grandparents, in locations in Maryland and Delaware. Indeed, she testified, "[w]herever he goes, I go."

At least twice, Mother told the Department that she wanted A.P. to join her in a housing setting. First, toward the beginning of 2017, Mother was living with a friend named Diamond in Baltimore. Shortly after moving in, Mother told the Department that A.P. could stay with her at Diamond's home. However, within a month Mother was no longer living there. Second, at some point thereafter Mother told Ms. Grant that she wanted to have A.P. move in with her and her boyfriend's family. On three different occasions, Ms. Grant provided Mother with the necessary paperwork for background checks that the Department required of the people residing in the home, but only one of the five other people living there ever returned the paperwork. As a result, neither of these potential placements moved forward.

At the time of the hearing, Mother was living with her boyfriend's family in Delaware. By that time, Mother no longer wanted her boyfriend's family to serve as a resource for A.P., nor did she claim that A.P. could live with her. Instead, Mother wanted A.P. to live with Great-Grandmother.

Mother's Employment Situation

Since A.P. was last found to be a CINA, Mother has generally been employed, although in a string of different positions with different employers. Mother's longest period of employment was approximately eight months, with Royal Farms, and her longest period of unemployment was approximately two months. Mother has also worked at McDonald's, a pizza shop, Wendy's, Taco Bell, a temp agency, a cleaning service, KFC, a variety of seasonal warehouse jobs, and for an electric company. With each job, she had been fired or left for unexplained reasons. Mother's employer at the time of the hearing was IHOP, which she testified had hired her the day before as a cook. Although the Department referred Mother to employment open houses, Mother found those to be unhelpful and instead found employment on her own.

Mother's Educational Status

Mother dropped out of school in tenth grade because she "felt uncomfortable being at school" and because her classmates bullied her for being pregnant. During A.P.'s first CINA case, Mother's service agreement with the Cecil County department required her to complete high school or obtain her GED. The Cecil County department provided GED referrals for Mother but she never completed the testing. By the time of the second CINA case, Mother had yet to either return to school or complete her GED. At the hearing, Mother and Ms. Grant both testified that Mother had indicated an interest in obtaining her GED. Although Ms. Grant testified that Mother had never followed through on that

interest, Mother claimed that she had asked Ms. Grant for assistance and that it was Ms. Grant who had failed to follow through.

Mother's Visits with A.P.

After A.P.'s adjudication, Mother attended weekly or bi-weekly supervised visits with A.P. Mother's attendance at the visits was consistent, even when living in Delaware. At first, the Department permitted Great-Grandmother to supervise the visits. However, social workers took over supervision after A.P. reported that Mother and Great-Grandmother would "get loud during visits" and the Department concluded that their fighting was having a negative impact on A.P. The supervising social workers found that Mother and A.P. were happy to see each other during visits and shared a bond. They also concluded that although Mother was generally attentive to A.P. during the beginning of their hour-long visits, she would often become inattentive, would sometimes be on her phone while A.P. played elsewhere, and would occasionally lose track of A.P. and need to be prompted to find or engage with her. The social workers were also concerned that Mother would bring A.P. sugary snacks and drinks even though when A.P. had entered foster care she had "severe dental decay" that required extensive extractions, fillings, and crowns.

A.P.'s Pre-Adoptive Foster Family

In March 2017, more than a year after A.P.'s initial placement, the juvenile court held a second permanency planning review hearing. Although the Department had offered to provide transportation so that Mother could attend the hearing, Mother did not. Finding

that Mother had yet to complete the tasks required by court order with respect to her housing, mental health, and other issues, the juvenile court changed the permanency plan from reunification with Mother to a concurrent plan of reunification with Mother and adoption by a non-relative. Mother did not appeal from that plan change.

That July, the Department identified a pre-adoptive foster home for A.P. Over the next several weeks, the Department arranged gradual visits with the family and A.P. to ensure that it was an appropriate match. When the Department determined that the family was the best fit for A.P, she moved in with them and has remained with them ever since. The Department's assigned adoption social worker, Jennifer Sandruck, testified that A.P.'s foster home is "a very stable and nurturing home environment" and that A.P. thrives in it. The family includes two fathers who A.P. refers to as "Daddy" and "Papa," and an eight-year-old boy the couple adopted who she considers to be her brother. A.P. has developed a routine with the family, takes swimming lessons, has playdates, and engages in various enrichment activities. The family, which moved to Washington State this fall, is "willing and able to adopt [A.P.] if [termination of parental rights] is granted."

Petition to Terminate Mother's Parental Rights

In January 2018, the Department filed a petition to terminate Mother's parental rights and to grant the Department guardianship of A.P. with the right to consent to her adoption. The juvenile court held a hearing on the petition in April 2018 at which it heard testimony as to the facts discussed above from Ms. Grant, Ms. Sandruck, one of A.P.'s foster parents, Mother, and Great-Grandmother. Ms. Grant and Ms. Sandruck testified as

both fact and expert witnesses. The court accepted Ms. Grant as an expert in social work, risk and safety assessments, and clinical assessments, while it accepted Ms. Sandruck as an expert "in the area of general social work which would include . . . children in foster care but in particular in permanency planning." The court also received into evidence, among other documents, records from both prior CINA proceedings.

Ms. Grant and Ms. Sandruck both testified that, in their opinions, in light of Mother's lack of progress thus far, there were no other services the Department could offer that would be likely to bring about a change so that she would be in position to have A.P. returned to her in the near future. Ms. Sandruck specifically testified that Mother continued to "lack[] appropriate housing, employment, the mental health treatment, the GED . . . [and] seems to lack the insight and understanding of what she needs to do for her daughter . . . ." Although Ms. Sandruck, like Ms. Grant, believed that Mother "loves and cares for her child, I just don't think she has that ability . . . to engage with and love her or parent that child . . . ." Ms. Sandruck also testified that it would be in A.P.'s best interest for parental rights to be terminated so that her adoption could proceed. According to Ms. Sandruck, after years of uncertainty, A.P. now had a "very secure attachment" to her foster family, her current placement had "provided her with the stability and structure that any child needs but especially that she has needed," and ending that placement "would just be another disruption and would be detrimental to her in the long run."

Mother admitted at the hearing that she "[does not] have the stability to take care of [A.P.]," and she did not contend that she would be ready to care for A.P. at any point in the

future. Instead, Mother wanted Great-Grandmother to become A.P.'s "permanent placement." In her own testimony, Great-Grandmother acknowledged that she had previously told Ms. Grant that she did not want to raise A.P. and that she had been unwilling to serve as a placement resource until she "found out that [A.P.] was getting ready to be put up for adoption." She also acknowledged that the rest of her family did not support her request for custody of A.P.

Ruling from the bench, the juvenile court reviewed the factors it was required to consider under § 5-323 of the Family Law Article (2012 Repl.) and made the following findings:

- A.P. endured "neglectful conditions" during the times she lived with Mother, although there was no evidence of abuse.
- The Department maintained a good relationship with Mother and communicated with her often about the services it could provide;
- Mother maintained regular contact with the Department and A.P.;
- Mother, who was working hard just to keep herself stable, cannot "stably provide for a child" despite her and the Department's efforts;
- Mother's mental health issues, lack of a high school degree, and young age all contributed to her inability to provide a safe environment for A.P.;
- A.P. has a relationship with Mother and Great-Grandmother;
- A.P is very well-adjusted and bonded to her foster family. She is well-adjusted in her school and views her foster parents and foster brother as her family;
- A.P. had spent the "vast majority of her" life outside her Mother's care;
- Mother had paid some support for A.P.'s care;

- No evidence suggests that A.P. could make a safe and stable return to Mother in the foreseeable future; and

- Termination of parental rights would allow A.P. to achieve "permanence" and prevent her from having to be in the "limbo of foster care forever."

The court concluded by clear and convincing evidence that Mother "is unfit or unable to care for . . . [A.P.] and that exceptional circumstances exist so that continuation of the parental right relationship would be detrimental to the child." The court further concluded that "it's in the best interest of the health and safety of [A.P.] to grant the petition here today." Mother appeals from that decision.

DISCUSSION

We review the decision to terminate parental rights under "three different but interrelated standards": we defer to the juvenile court's factual findings, unless clearly erroneous; review the juvenile court's legal conclusions de novo; and review the juvenile court's ultimate decision for an abuse of discretion. *In re Adoption of Jayden G.*, 433 Md. 50, 96 (2013) (quoting *In re Adoption of Ta'Niya C.*, 417 Md. 90, 100 (2010)). There is an abuse of discretion when the juvenile court's decision 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 C.A. & D.A.*, 234 Md. App. 30, 45 (2017) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 313 (1977)). When evaluating the juvenile court's findings of fact, we must give "the greatest respect" to the juvenile court's opportunity to view and assess the witnesses' testimony and evidence, *In re Adoption/Guardianship of Amber R.*, 417 Md. 701, 719 (2011), and we

view the record in the light most favorable to the prevailing party, *In re Jayden G.*, 433 Md. at 88. The juvenile court's determination of the best interest of the child must be "accorded great deference, unless it is arbitrary or clearly wrong." *In re C.A. & D.A.*, 234 Md. App. at 46 (quoting *In re Adoption/Guardianship Nos. 2152A, 2153A, 2154A*, 100 Md. App. 262, 266 (1994)).

I. SECTION 5-525(B)(3) OF THE FAMILY LAW ARTICLE DOES NOT PROVIDE A BASIS FOR OVERTURNING THE JUVENILE COURT'S DECISION.

Mother argues, for the first time on appeal, that her parental rights could not be terminated because the Department failed to offer her sufficient out-of-home placement services in violation of Family Law § 5-525(b)(3). By failing to raise the argument below, she failed to preserve it. *See* Rule 8-131(a) ("Ordinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court . . . .").

Moreover, even if preserved, the statute does not apply by its terms. Section 5-525(b)(3) requires the Social Services Administration of the State Department of Human Services to "establish a program of out-of-home placement for former CINAs" if (1) their commitment to a local department is rescinded after they turn 18 but before they turn 20 years and six months old and (2) they "did not exit foster care due to reunification, adoption, guardianship, marriage, or military duty." This provision thus contemplates a safety valve to provide housing for former CINAs who leave the system once they are emancipated, not those who leave the system because they are placed with family.

Regardless, Mother's own commitment to the local department was rescinded before she turned 18, making this provision inapplicable.

II. THE JUVENILE COURT DID NOT ERR OR ABUSE ITS DISCRETION IN TERMINATING MOTHER'S PARENTAL RIGHTS.

Proceedings to terminate parental rights arise when "it is determined that reunification is not possible and that adoption is in the child's best interests . . . ." *In re Jayden G.*, 433 Md. at 279 (quoting *In re Adoption/Guardianship No. 10941*, 335 Md. 99, 106 (1994)). In such circumstances, the State may intercede and petition for guardianship of the child in which it seeks to "transfer to itself, hopefully for re-transfer to an adoptive family, the parental rights that emanate from that relationship." *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 496 (2007)). Such proceedings "necessitate maintaining a delicate balance between a parent's constitutional right to raise their children, the State's interest in protecting children, and the child's best interests." *In re Adoption/Guardianship of H.W.*, 460 Md. 201, 220 (2018). Under both the federal and Maryland constitutions, parents have a fundamental liberty interest in caring for and raising their own children as they see fit. *In re Yve S.*, 373 Md. 551, 565-68 (2003). But that right is not absolute; it "must be balanced against the fundamental right and responsibility of the State to protect children, who cannot protect themselves, from abuse and neglect." *In re Rashawn H.*, 402 Md. at 497. The touchstone of the court's analysis must always be the best interest of the child, which "is of 'transcendent importance,'" *id.* (quoting *In re No. A91-71A*, 334 Md. 538, 562-64 (1994)), and "trumps all other considerations," *In re*

Ta'Niya C., 417 Md. at 111; *see also* Md. Code Ann., Fam. Law § 5-323(d) (requiring court to "give primary consideration to the health and safety of the child").

Although "the ultimate focus of the juvenile court's inquiry must be on the child's best interest," *In re Ta'Niya C.*, 417 Md. at 116, the parent's liberty interest is protected by "three critical elements," *In re Rashawn H.*, 402 Md. at 498. First, there is a rebuttable presumption that the best interest of the child is to remain in the care and custody of a biological parent. *Id.* at 498-99. That presumption "may be taken away where (1) the parent is deemed unfit, or extraordinary circumstances exist that would make a continued relationship between parent and child detrimental to the child, and (2) the child's best interests would be served by ending the parental relationship." *In re Adoption/ Guardianship of Jasmine D.*, 217 Md. App. 718, 734 (2014).

Second, a finding of unfitness or exceptional circumstances must be made based on clear and convincing evidence. *In re Rashawn H.*, 402 Md. at 499; *see* Fam. Law § 5-323(b).

Third, the juvenile court's discretion in determining what is in the child's best interest is guided by the specific statutory factors it is required to consider, which are enumerated in Family Law § 5-323(d). *In re Rashawn H.*, 402 Md. at 499.[6] No individual

[6] Other relevant factors a court may consider, in addition to the statutory factors, include: "age, stability, and the capacity and interest of a parent to provide for the emotional, social, moral, material, and educational needs of the child," *In re Ta'Niya C.*, 417 Md. at 104 n.11; as well as "the length of time that the child has been with his adoptive parents; the strength of the bond between the child and the adoptive parent; the relative stability of the child's future with the parent; the age of the child at placement; the emotional effect of the adoption on the child; the effect on the child's stability of

factor necessarily receives more weight than any other, nor is it "necessary that every factor apply, or even be found, in every case." *In re Jasmine D.*, 217 Md. App. at 737.

If the juvenile court lays out all of the statutory factors and relevant considerations, determines that the parent is unfit or that there are exceptional circumstances, and expressly finds that the child's best interest lies in terminating the parent's rights, then "the parental rights we have recognized and the statutory basis for terminating those rights are in proper and harmonious balance." *In re Rashawn H.*, 402 Md. at 501.

"[T]ermination is an alternative of last resort, and is not to be taken lightly." *In re Amber R.*, 417 Md. at 715. To terminate parental rights, a court must consider and make specific findings with respect to the relevant statutory factors under § 5-323(d) of the Family Law Article and, considering the presumption that it is in the child's best interest to continue the parental rights relationship, "determine expressly whether those findings suffice either to show an unfitness . . . or to constitute an exceptional circumstance" such that continuation of the parental relationship is detrimental to the child's best interest. *In re Ta'Niya C.*, 417 Md. at 102 (quoting *In re Rashawn*, 402 Md. at 501). To terminate parental rights, a juvenile court must find "*either* the parent is unfit . . . *or* exceptional circumstances exist" that render the parent-child relationship detrimental to the child's best interest, and then "fuse such finding with a determination as to the best interest of the child

maintaining the parental relationship; whether the parent abandoned or failed to support or visit with the child; and, the behavior and character of the parent, including the parent's stability with regard to employment, housing, and compliance with the law," *In re C.A. & D.A.*, 234 Md. App. at 50 (citing *In re No. A91-71A*, 334 Md. at 562-64).

using the applicable factors . . . ." *In re Adoption/Guardianship of Jasmine D.*, 217 Md. App. 718, 737 (2014). In determining whether a parent is unfit or there are exceptional circumstances, Family Law § 5-323(d) requires the juvenile court to consider:

> (1) the nature and timeliness of the services offered by the Department to the parent; (2) the extent to which the parent has fulfilled his obligations under a social service agreement; (3) the parent's efforts in adjusting his circumstances, condition, or conduct to make it in the child's best interest to be returned to the parent's care; (4) the extent to which the parent has maintained regular contact with the child, the child's caregiver, and the Department; (5) the parent's financial contributions to the child's well-being; (6) whether additional services would likely bring about a lasting parental adjustment so that the child could be returned to the parent within a reasonable time not to exceed 18 months from the date of placement unless the court finds that it would be in the child's best interests to extend the time period; (7) whether the parent has abused or neglected the child or another minor and the seriousness of the abuse or neglect; (8) the child's emotional ties with and feelings toward the parent and others who may affect the child's best interests; (9) the child's adjustment to community, home, placement, and school; and (10) the child's feelings about severing the parent-child relationship and the likely impact this severance would have on the child's well-being.

In re C.A. and D.A., 234 Md. App. at 49-50.

These factors, "[i]n addition to being mandatory considerations prior to a termination of parental rights . . . also serve 'as criteria for determining the kinds of exceptional circumstances that would'" rebut the presumption that continuation of the parent-child relationship is in the child's best interest. *Id.* at 50 (quoting *In re Rashawn H.*, 403 Md. at 499). Although determinations of unfitness and exceptional circumstances involve overlapping considerations, they are separate legal conclusions. Exceptional circumstances may exist such that "a child's transcendent best interests are not served by continuing a relationship with a parent" even where the parent "might not be clearly and

convincingly unfit." *In re Adoption of K'Amora K.*, 218 Md. App. 287, 310 (2014) (finding exceptional circumstances existed such that termination of parental rights was in child's best interest where parent denied documented mental health problems, refused medical treatment for child, rarely visited child, did not work, and failed to provide a safe environment for child).

Here, after making findings with respect to the required § 5-323(d) factors, the juvenile court concluded both that Mother was "unfit or unable to care for" A.P. and "that exceptional circumstances exist so that continuation of the parental right relationship would be detrimental" to A.P. We review these legal conclusions independently and without deference. *In re Amber R.*, 417 Md. at 708. We agree with both conclusions.

A. The Court Applied the Correct Law in Terminating Mother's Parental Rights.

As an initial matter, Mother asserts that the juvenile court misapplied the law and made its determination through the lens of a custody dispute rather than the more searching standard required to terminate parental rights. Mother bases that contention on what she believes was the juvenile court's improper focus on the "immediate circumstances" rather than a longer-term focus. We disagree.

As an initial matter, it is of course true that unfitness and exceptional circumstances mean different things in the custody context than the termination of parental rights context. "In custody cases, unfitness 'means an unfitness to have *custody* of the child, not an unfitness to remain the child's parent; exceptional circumstances are those that would make parental *custody* detrimental to the best interest of the child.'" *In re H.W.*, 460 Md. at 217

(quoting *Rashawn H.*, 402 Md. at 499). Thus, "[c]ustodial decisions necessitate different considerations than the decision to terminate parental rights," *id.* at 232, which must remain focused entirely "on the continued parental relationship, not custody," *id.* at 217 (quoting *Rashawn H.*, 402 Md. at 499) (emphasis removed). Moreover, although § 5-323(d) "requires the court to consider factors associated with the child's placement," the Court of Appeals has "directed courts to proceed with caution in assessing the factors relating to a child's foster care placement, and not to rely on bonding with a foster family as the primary justification for terminating parental rights." *In re H.W.*, 460 Md. at 232-33.

Unlike the juvenile court in *In re H.W.*, the juvenile court here adhered strictly to the applicable § 5-323(d) factors. The court neither considered custody-specific factors nor diverted its focus from "the continued parental relationship." 460 Md. at 217. Mother suggests that the court nonetheless improperly weighed custody with Mother against custody with her foster family in deciding whether Mother was unfit or whether exceptional circumstances exist. The transcript of the court's ruling is to the contrary. Even in its discussion of A.P.'s emotional connection with Mother, Great-Grandmother, and her foster family, the juvenile court made clear that its focus was exclusively on "the ability of [Mother] to adjust the circumstances so that return home would be safe and appropriate." The juvenile court's focus was properly on Mother's parental relationship with A.P.[7]

[7] Mother emphasizes that the Department believed that it "struck gold" when it placed A.P. with her foster family and suggests that motivated the decision to terminate Mother's parental rights. However, the Department's motivations are irrelevant to whether the court misapplied the statute.

Mother contends that the juvenile court erred in focusing on Mother's near-term ability to care for A.P., suggesting that the court's consideration should have been more open-ended. However, "[t]he TPR statute 'appropriately looks to . . . whether the parent is, or within a reasonable time will be, able to care for the child in a way that does not endanger the child's welfare.'" *Id.* at 218 (quoting *Rashawn H.*, 402 Md. at 499-500). Indeed, the statute expressly requires the juvenile court to consider "whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the parent within an ascertainable time not to exceed 18 months from the date of placement 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." Fam. Law § 5-323(d)(2)(iv). The statute thus *directs* the juvenile court's focus to a specific period of time—18 months from placement. Moreover, neither the statute nor case law requires a juvenile court to continue a "legal relationship in the hope that [a parent] might make changes in his [or her] life to permit reunification" if the court properly finds that it is unlikely, and not in the child's best interest, to do so. *In re H.W.*, 460 Md. at 233.

To the extent Mother claims that the juvenile court actually considered only whether Mother was able to care for A.P. at that very moment, she is incorrect. The hearing took place in April 2018, already more than two years from A.P.'s January 2016 placement. At the conclusion of the hearing, the court acknowledged Mother's concession that she was unable to care for A.P. at that time and that she "[couldn't] identify a time anytime soon that she would be in a position to actually be able to parent or care for A[.P.]." The court,

considering all of the evidence before it and all of the statutory factors, then found not only that Mother was incapable of caring for A.P. then, but that there was nothing "that would suggest that a safe and stable return home would be appropriate in the foreseeable future." The juvenile court did not mention the 18-month timeframe identified in the statutory scheme—understandable, perhaps, in that it had already passed—but the court's focus on "the foreseeable future" is entirely consistent with that scheme and with the Court of Appeals's discussion of it in *In re H.W.*, 460 Md. at 232-34. The TPR statute, the juvenile court observed, was designed "to ensure that children get permanence and that they aren't in this sort of limbo of foster care forever." *See In re Jayden G.*, 433 Md. at 82 ("A critical factor in determining what is in the best interest of a child is the desire for permanency in the child's life."). We see no support in the juvenile court's comments for Mother's claim that the court applied custody standards instead of termination of parental rights standards in assessing whether Mother was unfit to maintain a parental relationship or whether there were exceptional circumstances making the continued parental relationship detrimental to A.P.'s best interests.

B. The Court Did Not Err by Finding Mother Unfit or by Finding That Exceptional Circumstances Exist That Would Make a Continuation of the Parental Relationship Detrimental to A.P.'s Best Interest.

The statutory factors enumerated in § 5-323(d) can be paraphrased as: (1) the services offered to achieve reunification; (2) the parent's effort to change circumstances to achieve reunification in the parent's home; (3) the presence of factors such as abuse, neglect, drug use, criminal convictions against the child, a sibling, or other parent, or if the

parent has involuntarily lost parental rights over the child's sibling; and (4) the child's emotional connection with the parent, siblings, or others who significantly affect the child's best interest.[8] In determining whether the juvenile court erred in finding Mother unfit to remain in a parental relationship and that exceptional circumstances exist that would make a continuation of the parental relationship detrimental to A.P., we review each category in turn.

1. The Services Offered to Achieve Reunification

Family Law § 5-323(d)(1) requires the juvenile court to consider "all services offered to the parent before the child's placement," "the extent, nature, and timeliness of services offered by a local department to facilitate reunion of the child and parent," and "the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any." The statutory scheme also explicitly requires that a local department "make 'reasonable efforts' to 'preserve and reunify families' and 'to make it possible for a child to safely return to the child's home.'" *In re Rashawn H.*, 402 Md. at 500. "Implicit in that requirement is that a reasonable level of those services, designed to address both the root causes and the effect of the problem, must be offered . . . ." *Id.* (referencing former § 5-525(d), now § 5-525(e)(1)).

[8] This paraphrasing of the § 5-323(d) factors originally appeared in the Court of Appeals's decision in *In re Adoption/Guardianship of C.E.*, No. 77, Sept. Term 2017 (Aug. 13, 2018). That opinion was withdrawn by the Court of Appeals on December 3, 2018 to consider an additional issue. Nothing about the Court's order withdrawing that opinion calls into question the Court's paraphrasing of these factors, which we find useful for our analysis.

The failure to provide services sufficiently adapted to the parent's specific needs is a failure to make reasonable efforts and grounds for denying a request for termination of parental rights. *See In re Adoption/Guardianship Nos. J9610436 and J9711031*, 368 Md. 666, 693 (2002) (reversing termination of father's parental rights where the department "did not offer reunification services tailored to address" father's needs). "Reasonable efforts," though, does not mean all possible efforts, and there are limits to what the Department must do. Thus, "[t]he State is not obliged to find employment for the parent, to find and pay for permanent and suitable housing for the family, to bring the parent out of poverty, or to cure or ameliorate any disability that prevents the parent from being able to care for the child." *In re Rashawn H.*, 402 Md. at 500. The State "must provide reasonable assistance in helping the parent to achieve those goals," but the State is not responsible, and its duties to protect the children are not reduced, "if the parent, despite that assistance, remains unable or unwilling to provide appropriate care." *Id.* at 500-01.

In making its findings, the juvenile court summarized the history of the interactions between Mother and both the Cecil County and Baltimore County departments. The court expressly considered "the extent and the nature of services that were provided by the agency." The court found that the Department had offered services in writing and through the verbal interactions between Ms. Grant and Mother. The court also found that "[M]other has done what she can" in response to those services, but that nothing had "changed the picture significantly." While Mother "needed to actually get to a point of stabilization, . . . she hasn't gotten there." The court attributed that failure not to a lack of services or effort

by the Department, but to Mother's lack of a high school degree, youth, and "underlying depression and mental health issues that she's struggling hard to deal with . . . ." In essence, the court found, Mother was "working hard to just keep herself stable and in doing that, she can't stably provide for a child."

The record contains support for the juvenile court's finding that the Department offered appropriate services. The Department offered to provide referrals for mental health services, but Mother chose her own providers and the evidence reflected that her compliance with the treatment prescribed was, at best, sporadic. The Department provided a fairly extensive list of housing referrals in August 2016, sent monthly letters before and after that notifying Mother that she could request any other services, and Ms. Grant had additional verbal discussions with Mother about referrals. Mother, however, never requested any assistance with housing and instead moved with her boyfriend's family. Mother found little value in the Department's referrals to job fairs and open houses and instead pursued employment on her own. The Department also offered to provide assistance for Mother to pursue her GED. Although Mother testified that the Department failed to follow through with that offer when she requested help, the juvenile court was not required to accept that testimony, which was at odds with that of Ms. Grant.

The record also contains support for the juvenile court's findings that in spite of the services offered, (1) Mother's fundamental situation had not changed in the more-than-two years between A.P.'s placement and the termination-of-parental-rights hearing and (2) there was no evidence suggesting that the situation was likely to change moving

forward with or without additional services. Mother had not been successfully discharged from a mental health treatment program and there was no indication that such a discharge was in her future; she had not obtained suitable housing and she offered no plan to do so; although she was employed relatively consistently in various low-wage jobs, her employment was not stable; and she had not obtained her GED or gone back to school.

To be sure, the Department could have done more. In light of the significance of A.P.'s housing difficulties, as well as her youth and prior interaction with the social services system, the juvenile court could reasonably have found that the services the Department offered, especially with respect to housing, were insufficient. But the juvenile court, which had the opportunity to hear and observe the testimony of the witnesses—including Mother's testimony regarding her own approach to her housing problems, the Department's witnesses' testimony regarding the services they offered and the Department's willingness to provide additional assistance, and the expert opinions of the Department's witnesses that additional services would not make a difference—reached a different determination. We cannot say on this record that the court clearly erred in making its findings.

2. Mother's Effort to Change Circumstances to Achieve Reunification in Her Home

As already discussed, the juvenile court found that Mother was making an effort, and indeed had "done what she [could]," but still was not capable of "stably provid[ing] for a child." The court found that Mother maintained regular contact with the Department and A.P., attended weekly visits, contributed financially to A.P.'s care through

court-ordered deductions from her paychecks, was employed for most of the relevant time period, and sought mental health treatment at various times. Yet, the court found, Mother was not able to solve the primary problems that precluded her from being able to care safely for A.P., including her unresolved mental health issues, her lack of suitable housing, her lack of stable employment, and her lack of a high school degree or a GED. Stated another way, the court found that although Mother had made some efforts to change her circumstances, she was simply not going to be capable of obtaining the necessary stability to permit reunification in the foreseeable future.

3. The Presence of Factors Such As Abuse, Neglect, Drug Use, and Criminal Convictions

The juvenile court did not find any evidence of abuse, drug use, or criminal convictions, nor is there any evidence in the record that hints of any of those things. However, the juvenile court did find that there was "this clear picture . . . of neglectful conditions when the child was living, albeit briefly at times, in her mother's care," and the record supports that finding. Upon leaving Great-Grandmother's house, Mother moved herself and A.P. into a home that was dirty, unsafe, and where her roommates were restricting Mother's movements, pressuring Mother for custody, and separately being investigated for child abuse. Mother also admitted to administering Benadryl to A.P. as a sedative on multiple occasions and A.P.'s teeth were so badly decayed when she was placed in foster care that she had to be sedated for the dentist to perform several extractions, along with fillings and crowns.

4. A.P.'s Emotional Connection with Mother, Great-Grandmother, and Her Foster Family

The juvenile court found that A.P. is bonded to both Mother and Great-Grandmother. The court also found that A.P. is "significantly bonded to her foster family" and that, "[b]y all reports, she's adjusted extremely well in the home, she views her [foster] parents as her parents, she views [her foster brother] as her brother, she is stable, well-adjusted in school and doing the things that happy, well-adjusted five year olds should do." The record supports all of these findings.

Considering the totality of the circumstances based on its factual findings and the relevant statutory criteria, the juvenile court found by clear and convincing evidence that Mother was unfit to maintain a parental relationship with A.P. We agree, based primarily on the following: (1) in spite of her own efforts and those of the Department, in the more than two years that had elapsed since A.P.'s placement, Mother had not made substantial progress in addressing the major issues that were preventing her from being in a position to care for A.P., (2) two Department witnesses provided expert opinions that no additional services would allow Mother to make substantial progress in those areas in the foreseeable future and Mother did not introduce any evidence to the contrary, (3) Mother herself admitted that she was not then capable of parenting A.P., and (4) Mother's own "permanent" solution for A.P. was for her to be placed with Great-Grandmother.

For largely the same reasons, we also conclude that the juvenile court did not err in finding that exceptional circumstances exist such that continuation of the parental relationship would be detrimental to A.P.'s best interests. *See In re C.A. and D.A.*, 234

Md. App. at 50 (stating that the same statutory considerations apply to determining unfitness and exceptional circumstances). The juvenile court observed that A.P. "needs permanence" to ensure that she is not "in this sort of limbo of foster care forever." In the absence of any prospect that Mother would be in position to parent A.P. in the foreseeable future, and especially in light of Mother's own admissions, we do not find error in the juvenile court's determination.

Mother argues that the juvenile court's finding of exceptional circumstances improperly "plac[ed] permanence above all else." She also asserts that the juvenile court erroneously "proceed[ed] under the assumption that 'freeing a child for adoption' is inherently better than keeping the child in foster care and maintaining parental rights." *In re Amber R.*, 417 Md. at 714. Mother's characterization of the juvenile court's conclusion is inaccurate. As discussed above: (1) the juvenile court gave consideration to all of the statutory factors; (2) although the court considered A.P.'s emotional ties to her foster family and her adjustment to her community, home, placement, and school, as it was required to do, Fam. Law § 5-323(d)(4)(i) & (ii), it did not place undue importance on those factors; and (3) the court stated multiple times that its focus in determining unfitness and exceptional circumstances was on the parental relationship with Mother. Giving due deference to the factual findings of the juvenile court, we agree with its legal conclusions as to both unfitness and exceptional circumstances.

C. The Court Did Not Abuse Its Discretion by Finding That Continuation of the Parental Relationship Was Detrimental to A.P.'s Best Interest.

Following the court's conclusion as to Mother's unfitness and the existence of exceptional circumstances, the court determined that the termination of Mother's parental rights was in A.P.'s best interest. "A critical factor in determining what is in the best interest of a child is the desire for permanency in the child's life." *In re Adoption of Jayden G.*, 433 Md. 50, 82 (2013). Mother contends that the court abused its discretion by "prioritiz[ing] permanence" and terminating Mother's parental rights "so that A.P. could be adopted by her foster parents."[9] For many of the reasons we have already discussed, we disagree. Our inquiry is whether the juvenile court abused its discretion. In light of Mother's admitted present inability to care for A.P., the juvenile court's finding that there was no prospect of that changing in the foreseeable future, A.P.'s need for permanency, and her strong attachment and adjustment to her foster family, we find no abuse of

[9] For this assertion, Mother relies primarily on the Court of Appeals's opinion in *In re Adoption/Guardianship of C.E.*, No. 77, Sept. Term 2017 (Aug. 13, 2018), which was withdrawn on December 3, 2018 (after argument in this case). In *In re C.E.*, the juvenile court had decided *not* to terminate a father's parental rights to a child who had been placed with a foster family that wanted to adopt him. In the withdrawn opinion, the Court of Appeals upheld that decision in deference to the juvenile court's determination that terminating the father's parental rights would not be in the child's best interests. In arguing that *In re C.E.* supported her claim that the juvenile court here was required to leave A.P. in a long-term foster care situation notwithstanding the court's conclusion that doing so would be contrary to her best interest, we believe that Mother misread that decision. Far from eliminating a juvenile court's discretion in such cases, the Court of Appeals's decision emphasized the deference we owe to a juvenile court's exercise of discretion as to a child's best interest. Thus, even had the Court's opinion in *In re C.E.* not been withdrawn, it would not have changed the result here.

discretion in the juvenile court's determination that it was in A.P.'s best interest to terminate the parental relationship. *See In re H.W.*, 460 Md. at 233 ("[T]he juvenile court reasonably concluded that continuing the legal relationship in the hope that [a parent] might make changes in his [or her] life to permit reunification was unlikely based on [the parent's] past behavior, and it was not in [the child's] best interests to do so."). We therefore affirm that decision.

III. MOTHER'S CHALLENGE TO THE JUVENILE COURT'S ADMISSION OF TESTIMONY ABOUT A.P.'S FIRST CINA CASE WAS NOT PRESERVED.

Mother also argues that the juvenile court improperly admitted hearsay testimony about A.P.'s first CINA case with the Cecil County Department of Social Services as well as testimony about Mother's past interactions with the Harford County department. This issue is not preserved for our review because Mother did not present it to the juvenile court.

Under Rule 5-103(a), "[e]rror may not be predicated upon a ruling that admits or excludes evidence unless the party is prejudiced by the ruling" and the party made a timely objection. The testimony at issue came in through Ms. Grant. Mother's counsel made only two relevant objections to such testimony. First, when Ms. Grant testified that "[s]omeone had called in a report of neglect and abuse . . ." to the Harford County department, Mother's counsel objected "[a]s to what somebody called in." The court allowed Ms. Grant to answer only to the extent the information called for was contained within records already introduced into evidence. Contrary to Mother's claim on appeal, that objection was a narrow one addressed only to that one specific statement, not to any other evidence.

Second, Mother's counsel objected, based on a lack of personal knowledge, to a question as to what efforts the Cecil County department made to help Mother "gain employment." The court overruled the objection and allowed Ms. Grant to testify based on the records she had reviewed.[10] As with the first objection, the second was addressed only to one specific question, not more broadly to all testimony about Mother's interaction with other departments. Ms. Grant answered many other questions regarding interactions with the Cecil County and Harford County departments without objection. On appeal, Mother's contention is not specific to the two questions to which she raised objections but relates broadly to "all testimony pertaining to all events prior" to the involvement of the Department in December 2015. Because she never made that objection at the hearing, it has not been preserved and we will not consider it now. *See* Rule 8-131(a).

Any termination of parental rights case is tragic. A case in which a loving and well-meaning parent loses her parental rights as a result of challenges and circumstances that are largely beyond her control is especially so. However, where the juvenile court did not clearly err in its factual findings, err in its legal conclusions, or abuse its discretion as to its ultimate disposition regarding the best interest of the child, we must affirm.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. COSTS ASSESSED TO APPELLEE.

[10] The Maryland Department of Human Services maintains a statewide electronic filing system, which is accessible to authorized employees at the local departments. Ms. Grant testified that she reviewed the entire statewide record, including the files added by the Harford County and Cecil County departments. The State asserts that the same evidence could have been admitted through these agency records if Mother had raised a timely objection to the testimony at issue during the hearing.