Circuit Court for Baltimore City
Case No. 621088006

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 812

September Term, 2021

IN RE: N.M.

Reed,
Friedman,
Albright,

JJ.

Opinion by Friedman, J.

Filed: September 13, 2022

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

The Circuit Court for Baltimore City sitting as a juvenile court found 14-year-old N.M. involved in actions that, if committed by an adult, would constitute the crimes of first- and second-degree assault, reckless endangerment, and carrying a dangerous weapon with the intent to injure. Following a disposition hearing, the juvenile court adjudicated N.M. delinquent and placed her on supervised probation for one year. As part of the proceedings, the juvenile court denied N.M.'s motion to compel the Baltimore City Department of Social Services to authorize the release of her medical and educational records. N.M. filed a notice of appeal to the juvenile court's order denying her motion.[1] In conjunction with the filing of its brief, the Department moved to dismiss N.M.'s appeal on the ground that it was taken from a non-appealable interlocutory order. For the reasons that follow, we grant the Department's motion and dismiss N.M.'s appeal.

FACTS AND LEGAL PROCEEDINGS

On March 29, 2021, N.M. stabbed her paternal grandmother, E.P., her informal physical guardian,[2] with a butcher knife. N.M. was removed from E.P.'s home and charged with first-degree assault and related offenses. At an April 28, 2021, shelter care hearing, the juvenile court found that it was necessary to remove N.M. from E.P's physical

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[1] N.M. did not file a notice of appeal to the delinquency adjudication or to the disposition.

[2] N.M.'s mother had been out of her life since N.M. was eight years old. N.M.'s father had legal custody of her until he died in 2014. E.P. took physical custody of N.M. after the death of her father, but neither E.P. nor anyone else had been granted legal custody or guardianship.

guardianship and N.M. was sheltered to the Department under a CINA petition.[3] The juvenile court later found N.M. to be a CINA and granted custody and limited guardianship to the Department.[4] N.M. was placed in a foster home, where she remained at all times relevant to this appeal.

At an adjudicatory hearing on June 1, 2021, the juvenile court sustained facts showing that N.M. had committed the charged offenses of first- and second-degree assault, reckless endangerment, and carrying a dangerous weapon openly. A disposition hearing was scheduled for June 28, 2021.

That same day, N.M. requested a court order compelling the Department to authorize the release of her medical and educational records so that they could be reviewed by the social worker she had retained "[i]n anticipation of disposition" in the delinquency matter. N.M. explained to the juvenile court that the social worker had sent a release form to be signed by the Department, but that the Department had declined to sign it on the grounds that it could not authorize the release of N.M.'s records without a court order.

The following week, a magistrate held a hearing on N.M.'s motion to compel the Department to sign the release forms. At that hearing, the Department did not dispute

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[3] "Child in need of assistance," or CINA, means "a child who requires court intervention because: (1) The child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) The child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs." MD. CODE, COURTS & JUDICIAL PROCEEDINGS ("CJ") § 3-801(f).

[4] When a child is found to be a CINA, the juvenile court may "[g]rant limited guardianship to the department … for specific purposes including medical and educational purposes or for other appropriate services if a parent is unavailable, unwilling, or unable to consent to services that are in the best interest of the child." CJ § 3-819(c)(1)(ii).

N.M.'s need to access her records, rather, it disputed only the proper method of doing so. The Department argued that it had been granted only a limited guardianship of N.M. for the purposes of decision-making but could not authorize the release of N.M.'s records to a third-party. The Department suggested that N.M. should either subpoena the records or request that court orders be sent directly to N.M.'s doctors and school. N.M. argued that the records could be released under a court order[5] and that the juvenile court could order any guardian, including the Department, to take any action that would help determine what was in N.M.'s best interest. N.M. further argued that issuing a subpoena for the records would take longer because the doctors and school were likely to raise objections.

The magistrate agreed that issuing a subpoena for the records would take additional time and recommended that the juvenile court grant N.M.'s motion. The magistrate ordered the Department to provide N.M. with copies of all of her educational and health records then in its possession and to sign the forms to authorize the release of additional records. The Department then noted an exception to the portion of the magistrate's ruling compelling it to sign the release forms and requested a hearing before the juvenile court. The juvenile court scheduled a hearing on the Department's exception for July 1, 2021, three days after the disposition hearing was scheduled to occur.

At N.M.'s disposition hearing on June 28, 2021, the Department introduced a detailed social history investigation and recommendation, along with a psychiatric

[5] *See* MD. CODE, HUMAN SERVICES ("HS") § 1-202(b)(1) (stating that "[a] report or record concerning child abuse or neglect shall be disclosed ... under a court order").

evaluation, and N.M. submitted her own psychosocial assessment. The magistrate found good cause to find N.M. delinquent and placed her under probation for one year. The recommendation was approved by the juvenile court.

Three days later, at the hearing on the Department's exception, N.M. acknowledged that there were other methods to obtain the records she needed but reiterated her position that having the Department authorize their release was the fastest way. As at the previous hearing, the Department did not dispute N.M.'s need to access her records, only the proper procedure to do so. The Department again argued that because it had been granted only limited guardianship of N.M., it did not have the authority to consent on her behalf. The Department argued that to obtain those records, given its limited guardianship, it would have to issue a subpoena in the same manner that N.M. was trying to avoid.

The juvenile court sustained the Department's exception and ruled that the Department did not have authority to consent to the release of N.M.'s medical and education records. Moreover, the juvenile court found that even if the Department had the authority to sign the releases, it was unlikely to lead to a faster response because the Department would have to "request such information by way of subpoena, the same as [N.M.] would." The juvenile court suggested that N.M. subpoena the records as soon as possible and return to the court if there were problems obtaining them.

DISCUSSION

N.M. now argues that the juvenile court erred in declining to compel the Department to authorize the release of her educational and health records. We do not reach the merits

of the issue, however, because N.M.'s notice of appeal was taken from a non-appealable interlocutory order.

As the Court of Appeals has emphasized on numerous occasions, "[t]he general rule as to appeals is that, subject to a few, limited exceptions, a party may appeal only from a final judgment." *Nnoli v. Nnoli,* 389 Md. 315, 323 (2005); *see also* CJ § 12-301. To constitute a final judgment, "a trial court's ruling 'must either decide and conclude the rights of the parties involved or deny a party the means to prosecute or defend rights and interests in the subject matter of the proceeding.'" *Harris v. State*, 420 Md. 300, 312 (2011) (quoting *Schuele v. Case Handyman*, 412 Md. 555, 565 (2010)).

The juvenile court did not intend that its order sustaining the Department's exception to N.M.'s motion to compel be considered a "final disposition of the matter in controversy." *See Metro Maint. Sys. S., Inc. v. Milburn*, 442 Md. 289, 298 (2015). The juvenile court, after granting the Department's exception, advised N.M. to subpoena the requested records as quickly as possible or return to court if problems obtaining them persisted. The continuation of the matter belies any finality of the matter in controversy.

An order that is not a final judgment is an interlocutory order. An interlocutory order is not appealable unless it: (1) falls within one of the statutory exceptions set forth in CJ § 12-303; (2) is permitted under Maryland Rule 2-602;[6] or (3) is allowed under the common law collateral order doctrine. *Salvagno v. Frew,* 388 Md. 605, 615 (2005). None of these

[6] Rule 2-602 permits a court, if it "expressly determines in a written order that there is no just reason for delay," to "direct in the order the entry of a final judgment[.]" MD. R. 2-602(b); *see also* MD. R. 8-602(a).

exceptions to the final judgment rule are applicable here.[7] Accordingly, the order is not immediately appealable, and we must dismiss the appeal. MD. R. 8-602(b)(1).

As an independent, alternative ground for dismissal, we also note that the controversy is moot. A matter is moot if "'there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the court can provide.'" *Powell v. Md. Dep't of Health,* 455 Md. 520, 539 (2017) (quoting *Mercy Hosp., Inc. v. Jackson*, 306 Md. 556, 561 (1986)). N.M. sought to compel the Department to authorize the release of her medical and education records specifically to prepare for her disposition in the delinquency matter. By the time the juvenile court ruled on the motion, however, the disposition had already occurred. Moreover, the court's disposition—one year of probation—will itself have already ended or nearly ended by the time of the filing of this opinion. There is, therefore, no remedy we could offer N.M. related to the disposition of her delinquency matter, even were we to consider the issue. If there are other purposes for which N.M. needs access to her medical and education records, those requests should be pursued separately.

APPEAL DISMISSED; COSTS TO BE PAID BY APPELLANT.

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[7] Interlocutory discovery orders do not meet the requirements of the collateral order doctrine and are ordinarily not appealable. *Maryland Board of Physicians v. Geier*, 451 Md. 526, 548-49 (2017). "It is firmly settled in Maryland that [ordinarily] interlocutory discovery orders do not meet the requirements of the collateral order doctrine and are not appealable under that doctrine." *St. Joseph Med. Ctr., Inc. v. Cardiac Surgery Assoc., P.A.*, 392 Md. 75, 87 (2006).