

Circuit Court for Montgomery County
Case No. C-15-JV-25-000217

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 996

September Term, 2025

IN RE: L.F.-M.

Graeff,
Friedman,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wright, J.

Filed: January 5, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

The Circuit Court for Montgomery County, sitting as a juvenile court, determined that the appellant, K.F. (“Mother”), had neglected her fifteen-year-old daughter, L.F.-M. (“L.”),¹ and was unable or unwilling to provide proper care to L. Under Md. Code, CTS. & JUD. PROC. (“CJP”) § 3-819(e), the court granted primary physical and sole legal custody of L. to her father, R.P. (“Father”). Mother presents one question for our review:

Did the juvenile court have the authority to transfer physical custody of [L.] from [M]other to [F]ather, under CJP § 3-819(e) and close the CINA case?

For the reasons to follow, we shall affirm the judgment of the circuit court.

BACKGROUND

A. Mother’s Previous CINA Adjudications

In 2018, the court found that L. and her five half-siblings were each a child in need of assistance (“CINA”) because of ongoing exposure to domestic violence, Mother’s mental health issues, and Mother’s substance abuse. Mother completed a court-ordered psychological evaluation and was diagnosed with substance abuse disorder, a history of bipolar disorder, and child neglect.

Mother then gave birth to another child, Z.A., who was found to be a CINA in April 2018. Z.A. was subsequently placed with his maternal grandmother.

In October 2019, after Mother had provided proof of attendance in individual therapy and Alcoholics Anonymous meetings, the court returned L. and her six siblings to Mother’s care under an order of protective supervision. In December 2019, the juvenile

¹ To protect the children’s identities, we refer to the parties by their initials.

court closed L.’s CINA case, granting custody to Mother and liberal unsupervised visitation to Father, who lives in Ohio.

In May 2024, after failed efforts to engage with Mother, the Montgomery County Department of Health and Human Services (the “Department”) filed a CINA petition and requested a writ for Mother to produce her newborn son, A.P., who is her first child in common with A.P.’s father, D.P. The court found A.P. to be a CINA and ordered protective supervision, while A.P. remained in Mother and D.P.’s care.

The Department lacked consistent contact with Mother and D.P. during A.P.’s CINA case. A social worker unsuccessfully attempted to complete home visits in March and April 2025.

B. The Investigation Leading to This Appeal

In April 2025, the Department received a report of suspected physical abuse of L.’s eleven-year-old twin siblings. The twins reported that D.P. had hit them with a belt. Both children had visible injuries, including broken skin and bruising. One twin reported that D.P. choked her adult sister. D.P. denied the abuse but admitted to fighting the adult sister’s boyfriend. One twin reported that D.P. threw a plate at L. one month prior and assaulted L. a few weeks prior, but L. said those events did not happen.

Later that month, the Department received another report of D.P.’s suspected physical abuse of the twins, including slapping, pushing, and punching. One twin reported that Mother “does coke” and that D.P. “snort[s] white and black powder substances through a straw.” Later that day, the Department interviewed Mother’s relatives, who confirmed that the twins disclosed ongoing physical abuse, neglect, and substance abuse. As a result,

the Department removed L. and her siblings from the family home where they had lived with Mother and D.P.

C. The May 2025 Petition and the Court Proceedings

In May 2025, the Department filed a petition in circuit court, alleging that L. and her three younger siblings were each a CINA. The Department’s petition requested shelter care.² After a shelter care hearing, the court authorized continued shelter care placement of L., finding that it was contrary to her welfare to remain in Mother’s care. The court temporarily placed L. in foster care pending the Department’s background check of Father.

The next month, the court held a CINA adjudication hearing. Without objection, the Department submitted a second amended CINA petition. The parties agreed that if the case had proceeded to trial, the Department would have proven the facts in the petition by a preponderance of the evidence. The court sustained all allegations in the second amended petition.

The dispositional hearing occurred the same day. The Department and Father asked the court to grant Father custody and close the CINA case, noting that the petition contained no facts showing that Father was unable or unwilling to provide proper care and attention for L.

L.’s counsel argued that it was not in L.’s best interest to be placed in the care of Father in Ohio. L. addressed the court and stated that she wanted to stay in Maryland with Mother, expressing concern about living in Ohio and leaving her friends in Maryland.

² “‘Shelter care’ means a temporary placement of a child outside of the home at any time before disposition.” CJP § 3-801(cc).

Mother’s counsel agreed with L.’s counsel, arguing that it was not in L.’s best interest to live in Ohio with Father.

Three days later, the court issued a custody order granting Father custody and Mother supervised visitation. The court emphasized Mother’s failure to testify during the proceedings. The court noted that Mother maintained a relationship and resided with D.P., who had physically abused L.’s siblings, threatened to kill them, and abused drugs. Moreover, Mother reportedly was using cocaine. By contrast, the court observed: “There is no indication of any similar concerns existing in the home of [Father].” The court thus found it was in L.’s best interest to be in Father’s custody.

We supplement these facts in our discussion of the issues.

STANDARD OF REVIEW

When reviewing CINA determinations, we utilize three interrelated standards of review. *In re T.K.*, 480 Md. 122, 143 (2022). The juvenile court’s factual findings are reviewed for clear error. *Id.* Matters of law are reviewed without deference. *Id.* “Ultimate conclusions of law and fact, when based upon ‘sound legal principles’ and ‘factual findings that are not clearly erroneous,’ are reviewed under an abuse of discretion standard.” *Id.* (quoting *In re Yve S.*, 373 Md. 551, 586 (2003)).

DISCUSSION

Mother challenges the juvenile court’s award of custody to Father and argues there was insufficient evidence that L.’s placement with Father was in L.’s best interest. Mother asserts that the court erred in declining to infer that Father was neglectful based on his

failure to address L.’s needs while in Mother’s care. In addition, Mother maintains that the court misapplied CJP § 3-819(e).

The statute at issue is CJP § 3-819(e), which “provides an avenue for court action to protect a child who is at risk in the care of one parent, even though the child does not fully meet the definition of being in need of assistance.” *In re T.K.*, 480 Md. at 147-48. The statute provides as follows:

If the allegations in the [CINA] petition are sustained against only one parent of a child, and there is another parent available who is able and willing to care for the child, the court may not find that the child is a child in need of assistance, but, before dismissing the case, the court may award custody to the other parent.

CJP § 3-819(e). Applying this statute, we also rely on the Maryland Supreme Court’s decision in *In re T.K.*

To exercise discretion under CJP § 3-819(e), “the first prerequisite” is that the juvenile court, following an adjudicatory hearing, “sustained allegations in the [CINA] petition that are sufficient to support determinations that: (1) the child has been abused or neglected; and (2) one of the child’s parents is unable or unwilling to provide proper care for the child.” *In re T.K.*, 480 Md. at 147. Satisfying this prerequisite, the court sustained allegations in the CINA petition that Mother abused and neglected L. and that Mother was unable to provide proper care for L. Mother does not challenge those findings on appeal.

The “second prerequisite to a juvenile court’s authority to award custody under [CJP] § 3-819(e)[,]” the Supreme Court stated, is “another parent available who is able and willing to care for the child.” *Id.* at 149 (cleaned up). This “requires a finding that the parent

to whom the court is considering awarding custody — the ‘other parent,’ . . . — is available, willing, and able to provide proper care.” *Id.*

The proponent of transferring custody has the burden of proving that the prerequisites are satisfied. *Id.* Thus, Father had the burden of proving, by a preponderance of the evidence, that he is available, willing, and able to provide L. with proper care. *Id.* at 153.

Contrary to Mother’s argument, facts were not sustained *against* Father. Indeed, there is a difference between facts sustained, generally, and facts sustained against a party. Indeed, these were the facts sustained as to Father in the CINA petition³:

- L. last saw Father in the summer of 2024,
- L. and Father have a good relationship,
- Father was interested in being a resource for L., and
- per the 2019 CINA Closure Order, the juvenile court had granted Father liberal and unsupervised visitation, including overnights and visitation during summer break.

None of these facts support a finding that Father abused, neglected, or was unwilling to provide proper care for L.

Mother argues that the juvenile court should have inferred that Father was neglectful because he did not address L.’s needs while in Mother’s care, as revealed in the previous CINA case. To be sure, “a parent’s past conduct is relevant to a consideration of the

³ The first version of L.’s CINA petition included an allegation that Father acquiesced to L.’s circumstances. Based on the agreement of the parties, however, the juvenile court sustained the facts in the second amended petition, which omitted that allegation.

parent’s future conduct.” *In re Adriana T.*, 208 Md. App. 545, 570 (2012). But the facts here do not support Mother’s contention.

In the previous CINA case, the following allegations were sustained against Father: he lived in Ohio, he failed to attend a meeting with the Department, and he had a criminal history. As the Department aptly notes, Mother could have presented evidence showing that Father had actual or constructive knowledge of the neglect occurring at her home. Instead, Mother agreed to the allegations in the second CINA petition, which contained positive facts about Father. The juvenile court properly rejected any inference that Father was neglectful because he had failed to intervene in Mother’s abuse and neglect of L.

Moreover, the juvenile court did not err in determining that Father was able and willing to provide proper care and attention to L. Although the Department had mistakenly included in its petition that both parents were unwilling or unable to care for L., the Department made clear that only Mother was unwilling or unable. Without objection, the Department proffered that Father had completed a child welfare clearance in Ohio and had no child welfare history in Ohio, but the Department was unable to verify if Father had any criminal history in Ohio. Father testified he was employed, working forty hours a week. Father admitted that he was convicted of burglary in Ohio in 2011. Father testified that he had been ordered to pay child support since L. was four years old at \$440 per month, but he owed approximately \$10,000 in arrearages. He testified he would send money directly to L., but not to Mother, as Father was concerned that Mother did not spend the money on L.

Father, his wife, and L.’s fifteen-year-old sister, T.N., reside together in a two-bedroom apartment. When L. came to live with them in the summer, she shared a bedroom with T.N. Father and his wife had begun looking for a three-bedroom apartment. Father was concerned that L. had not been attending school consistently while residing with Mother.

At the close of the CINA hearing, before disposition, Mother agreed to allow L. to travel with Father to Ohio for her three-month summer visit with him. As a result, Mother effectively conceded that Father was willing and able to care for L. We find no error in the court’s determination that Father was willing and able to care for L.

Lastly, we address Mother’s claim that the court erred in ruling that it was in L.’s best interest to be in Father’s custody. “The standard that must be employed by the juvenile court in CINA adjudication proceedings is preponderance of the evidence.” *In re J.R.*, 246 Md. App. 707, 752 (2020). *Accord* CJP § 3-817(c) (requiring same burden of proof). “The principal focus of the CINA statute is to ‘ensure that juvenile courts (and local departments of social services) exercise authority to protect and advance a child’s best interests when court intervention is required.’” *In re J.R.*, 246 Md. App. at 751 (quoting *In re Najasha B.*, 409 Md. 20, 33 (2009)).

Juvenile courts, particularly, are “vested” with this far-reaching authority because they:

see[] the witnesses and the parties, hear[] the testimony, and ha[ve] the opportunity to speak with the child; [the juvenile court] is in a far better position than is an appellate court, which has only a cold record before it, to weigh the evidence and determine what disposition will best promote the welfare of the minor.

Id. at 751 (quoting *Baldwin v. Baynard*, 215 Md. App. 82, 105 (2013)).

In essence, Mother asks us to reweigh the evidence before the juvenile court, including Father’s child support arrearages and L.’s wishes. We decline Mother’s invitation to reweigh the evidence before the juvenile court. Indeed, the record shows that the court carefully considered all the evidence and properly determined, “on balance, that [L.’s] best interests would be served by an award of physical and legal custody to [Father.]”

For all these reasons, the juvenile court did not err in awarding primary physical and sole legal custody of L. to Father under CJP § 3-819(e).

**JUDGMENT OF THE CIRCUIT COURT
FOR MONTGOMERY COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**