Circuit Court for Baltimore City
Case Nos. 817324012, 817324013,
817324014, 817324015 & 817324016

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1162

September Term, 2020

IN RE: M.B., A.B., B.B., T.B., and C.B.

Berger,
Friedman,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: July 28, 2021

This appeal arises from an order by the Circuit Court for Baltimore City, sitting as a juvenile court, which changed the permanency plan for M.B. (born 12/09), A.B. (born 1/11), B.B (born 7/12), T.B. (born 2/15), and C.B. (born 5/17), children adjudicated in need of assistance ("CINA"),[1] from a concurrent plan of reunification and custody and guardianship with a non-relative to a sole plan of custody and guardianship with a non-relative and/or adoption. Appellants, S.D. ("Mother") and M.B. ("Father"), represented separately by counsel, timely noted appeals of the juvenile court's order and ask us to consider whether the juvenile court abused its discretion when it changed the children's permanency plans away from reunification to arrangements with non-relatives, and whether the court erred in finding that the Baltimore City Department of Social Services ("the Department") made reasonable efforts to facilitate their reunification with the children.[2] Mother additionally asserts that the juvenile court erred, as a matter of law, in permitting "improper testimony and evidence and in taking judicial notice of orders after the Department had closed its case."

For the reasons that follow, we affirm the order of the juvenile court.

[1] Pursuant to Md. Code, § 3-801(f) of the Courts & Judicial Proceedings Article ("CJ"), a "child in need of assistance" 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."

[2] An order changing a permanency plan for a child adjudicated CINA is an appealable interlocutory order. CJ § 12-303(3)(x); *see also In re Damon M.*, 362 Md. 429, 434, 438 (2001).

FACTS AND LEGAL PROCEEDINGS

Following a report to the Department of safety concerns about the B. children, a social worker visited their home to find it filthy and unsafe. As a result, the children were removed from the home on November 20, 2017. The Department filed a CINA petition and request for shelter care, alleging that Mother and Father's home was in "deplorable condition"—"filthy, extremely cluttered, and infested with fleas and flies," with no beds for the children and an illegal gas and electric hookup. In addition, the Department continued, the parents had failed to ensure that the children's medical needs were met. The children, some of whom had not been seen by a pediatrician since birth, were behind on their childhood immunizations, making them ineligible for enrollment in school. The children also had poor hygiene, tooth decay, dirty clothes, and head lice.

Mother and Father, who admittedly did not clean up after themselves and were facing eviction for non-payment of rent, acknowledged that their home was unsanitary and unsafe for the children. By agreement of the parties, the juvenile court ordered the children into shelter care because continued residence in the home was contrary to the children's welfare.

The juvenile court held an adjudicatory hearing on April 3 and 30, 2018. The Department safety worker, Rebecca Oglebege, testified that she was alerted to safety concerns for the B. children on November 1, 2017. When she responded to the home on November 8, 2017, the house was filthy and cluttered, and "the condition of the house was hazardous." She gave the parents one week to clean up the house and procure suitable beds for the children. When Oglebege returned on November 16, 2017, the house was somewhat

cleaner, but six-month-old C.B. was not present because he had been hospitalized. Oglebege went to the hospital to check on C.B., where she learned he was suffering from severe viral and bacterial infections and a significant flat spot on the back of his head. He was also extremely underweight for his age. Mother later admitted to watering down his formula.

The condition of the B. home and C.B.'s hospitalization raised Oglebege's concern about the well-being of the other four children. It was then that she discovered that none of the children were up to date on their immunizations and that the older children, who should have been in school, were not permitted to attend as a result.

Once the children were removed from the home, Department case manager Linda Galloway took over their case. Upon transporting them to their foster homes, Galloway observed that the children's clothes were filthy and that they had body odor and head lice. The children were treated for lice and brought up to date on their required immunizations. When Galloway did a health assessment of the B. home in late November or early December 2017, she found that the house was "not filthy," but there was no electrical power.

At the close of the hearing, the juvenile court sustained most of the allegations in the CINA petition and set disposition for May 21, 2018.

By the time of the disposition hearing, C.B. was in one regular foster home, B.B. and T.B. were together in another regular foster home, and M.B. and A.B. were together in a therapeutic foster home because of their unspecified mental illnesses and A.B.'s

behavioral problems. The three children in regular foster care were doing well in their placements and in school, and were caught up on medical treatment and immunizations.

According to Galloway, Mother and Father had remained cooperative throughout the process and were good at communicating with her about the children. They had signed a service agreement in January 2018, participated in a family involvement meeting, taken a parenting class, and submitted to a substance abuse evaluation (although both parents denied drug use and there was no evidence of substance abuse). Father, a former Marine, had begun working with the Veteran's Administration to try to obtain suitable housing for the family.

Galloway believed that the family was living with Father's mother, but she had not completed a home evaluation because she "[did] not have a home to evaluate." Galloway testified that appropriate housing for seven was "one of the largest barriers" to reunification but that both parents' lack of full-time employment was also a contributing factor. According to Father, however, he had a lead on a job with a private detective agency.

The juvenile court found that the children were CINA, on the grounds that Mother and Father had failed to ensure that the children's medical needs were met. Mother and Father had maintained poor hygiene, failed to take the children for regular check-ups, and failed to immunize the children so they could attend school. In addition, the court continued, C.B. had been admitted to the hospital for numerous severe medical problems. Moreover, the unsanitary condition of the children's home supported a finding of neglect.

The juvenile court accepted the presumptive permanency plan of reunification with the parents. The court asked the Department to "exhaust all resources with regard to

housing, and not simply rely on the VA" because safe, clean housing would make reunification possible. The court further found that the Department had made reasonable efforts toward reunification.

By August 2018, Mother and Father had found employment and had received assistance from the VA in procuring a home, although it remained largely unfurnished. The children were all doing well, but A.B. still exhibited behavioral issues for which he was receiving therapy. The court granted the parents unsupervised visits with the children, leaving it to the Department's discretion as to whether visits should include overnights. The juvenile court found that "progress toward alleviating or mitigating the problems leading to commitment is adequate." The court further found that continuation of commitment of the children to the Department was necessary and appropriate and that the Department had undertaken reasonable efforts toward reunification.

At a permanency plan review hearing on November 8, 2018, the juvenile court held an *in camera* consultation with the children, during which the children indicated that they enjoyed visiting with their parents and that they liked the new house. At the ensuing hearing, the parties stipulated that the children remained CINA, that a continued plan of reunification was appropriate, and that the children's placements should remain the same.

The court accepted the stipulation and scheduled a December 2018 status conference to ensure that Mother and Father had obtained appropriate beds so the children could have overnight visits. After that status conference, the court continued unsupervised day visits between the children and their parents.

By a January 28, 2019 status hearing, the parents had purchased bedding for the children, with assistance from the Department. The court continued unsupervised visitation.

At the six-month review hearing on May 7, 2019, the parties agreed to the continued commitment of the children to the Department, with a continued permanency plan of reunification. The only change sought by the Department was the institution of an order controlling conduct, which would permit only the children to sleep in the beds provided by the Department, ensure the children were supervised on overnight weekend visits, and require that Mother, Father, and the children attend family therapy. The court so ordered and continued the permanency plan of reunification, which for M.B. and A.B. would likely be possible late that summer, so long as the parents' reunification efforts continued to progress.

At the November 22, 2019 review hearing, the children's attorney explained that the children were doing well, with the exception of A.B., whose continued behavioral issues had caused him to be suspended from school and hospitalized with suicidal ideations. The parties requested a change in permanency plan from a sole plan of reunification to a concurrent plan of reunification and/or placement with a non-relative for custody and guardianship. The parties also requested a change in visitation, with the previously suspended overnight visits to resume if the family home passed a home health assessment. The court agreed to the changes in permanency plan and visitation. The juvenile court's written order revealed that Mother and Father had not complied with the

order controlling conduct because they had not participated in family therapy. In addition, their home had not passed a health assessment.[3]

At a May 2020 six-month hearing, the parties were unable to reach an agreement. The court set the matter for a contested hearing on September 3, 2020. On that date, however, counsel prematurely excused Mother and Father from attending the hearing, believing the matter would be postponed. The juvenile court expressed concern that the children had been out of the parents' home for almost three years without achieving permanency. The court therefore scheduled the "far too long delayed contested hearing" for November 4, 2020. Because of technical difficulties in conducting the remote proceeding due to the COVID-19 pandemic, however, the matter was rescheduled to the "fish or cut bait date" of November 13, 2020.

At the November 13 and 19, 2020 contested review hearing, Galloway explained that Mother and Father's home had failed a January 9, 2020 home health inspection because: (1) it had no hot and cold running water; (2) the refrigerator was not functioning and was taped shut; (3) there were loose wires, areas of peeling and flaking paint, and broken doors; (4) one toilet was broken; (5) the children's beds were lacking linens; and (6) the house was generally unclean. In addition, the paternal grandmother had just been released from the hospital and was sleeping in the living room, which was cluttered with

[3] Mother and Father make much of the court's erroneous statement, in its order, that the Department was not required to provide reunification services because the children had been in out of home placement for 15 of the previous 22 months, but we point out that in the very next paragraph, the court specified the reasonable efforts the Department had made in attempting to effectuate the plan of reunification, and it continued to do so in later orders.

her belongings. Upon requesting a re-inspection, Galloway was "not allowed to come into the home."

More recently, Mother and Father had moved and failed to provide their new address to Galloway. They had, however, participated in unsupervised visits with the children.

Galloway said she'd had trouble reaching Mother between March and August 2020, although Galloway acknowledged that she had not tried to reach Father because he was often unable to talk on the phone due to his work schedule. Mother's communication with Galloway had improved since August.

Amber Smiley, the property manager for the house previously leased by Mother and Father, testified that the family had been evicted on February 27, 2020 for failure to pay rent for at least four months. In addition, Smiley's inspection revealed an unauthorized tenant living in the basement, excessive trash and debris, dog feces on the floor, a bathroom sink filled with cigarettes, damaged window blinds, broken doors, a cracked toilet seat, and disabled smoke detectors. Photos of the condition of the home were admitted into evidence.[4]

Kelly Wojciechowski, M.B. and A.B.'s therapist, said she had attempted to initiate family therapy with Mother and Father three times in May 2019 but that it did not occur,

[4] Father claimed that he had informed management of the broken sink and refrigerator but the landlord had refused to fix them, despite being required to do so under the terms of the lease. Father also said that, despite being evicted for failure to pay rent for four months, he was only one month behind on rent and that he had paid the landlord $1200 (the outstanding rent plus a $100 late fee) by cashier's check two days before the eviction.

because on one occasion Wojciechowski had a family emergency, on one occasion the parents did not appear because of work commitments, and on one occasion Wojciechowski determined that the family should retain another therapist because of a potential conflict of interest. Thereafter, eight attempts were made to coordinate family therapy with Mother, but Mother did not respond. Mother contacted Wojciechowski on September 25, 2019 to assert that she had been incorrectly referred to individual therapy rather than family therapy. She was then placed on a wait list, but on January 21, 2020, after no contact had been made, Mother was removed from the wait list.

Mother testified that, since their eviction from the house managed by Smiley, she and Father had been living with Father's mother and brother. Mother said that she was trying "about every day" to find a new home for the family because she did not want to bring the children to the house in the unsafe neighborhood where they were living. She claimed to have received no housing assistance from the Department, other than a list of rental properties.

Mother explained that through a temp agency she was working full-time at a chocolate factory, but she acknowledged not having provided Galloway with documentation proving employment. Mother explained that visits with the children had resumed recently but that when they were unable to occur due to the pandemic, the Department had not offered virtual visits. She was, however, able to speak with the children over the phone. Mother wanted to continue working toward reunification with the children.

Father, professing to "trying our hardest" and "doing everything we can" to comply with the Department's requirements, also wanted the permanency plan to remain

reunification. Father added that, despite trying every day to find a home suitable for the children, most landlords during the pandemic wanted larger security deposits, which were "definitely out of the picture" based on the family's income.

In closing, the Department emphasized that this "is a housing case and a medical neglect case." The facts that brought the children into care indicated that they had been medically neglected, and after three years of care and efforts by the Department, Mother and Father had not been able to rehabilitate their living situation and had not done enough to achieve permanency. In fact, they had reverted to living in the same home from which the children had been removed in 2017 and acknowledged that the neighborhood was worse than it had been then. To give the children needed permanency, the Department advocated a change in permanency plan that would be in their best interest—custody and guardianship with a non-relative for M.B. and A.B. and custody and guardianship with a non-relative and/or adoption for B.B., T.B., and C.B.

Counsel for the children acknowledged that the children "absolutely love their parents," but that their ability to be safe and healthy in Mother and Father's home was "really kind of questionable." In a break with the Department, the children's attorney suggested that the permanency plan for C.B., who had lived in his foster home almost his entire life, should change to custody and guardianship or adoption by a non-relative but that the plan for the other children should remain the concurrent plan of reunification and custody and guardianship by a non-relative.

Mother and Father sought to maintain the existing concurrent permanency plan of reunification and custody and guardianship by a non-relative. Despite their diligent work

toward reunification, they said, their case had been derailed by the pandemic. Because State agencies had begun to re-open, however, they had re-engaged with the Department, attended family involvement meetings, and renewed unsupervised visits and attempts to find adequate housing.

Emphasizing that the children were healthy and safe in their placements, the juvenile court focused on the parents and their lack of appropriate and safe housing after such a long period of time. Noting that the children had been out of Mother and Father's care for three years, the court pointed out that the Department was not required to continue to provide reunification services.

The juvenile court observed that the children deserve permanency, and despite the parents' avid participation in the matter, the court did not believe it was in the children's best interest to remain in "this foster care limbo for any further period of time." The court therefore found that the "children have been in care far too long without moving any further in the [direction of] permanency." After finding that the Department had made reasonable efforts, the court changed M.B. and A.B.'s permanency plan to custody and guardianship with a non-relative and B.B., T.B. and C.B.'s permanency plan to custody and guardianship with a non-relative and/or adoption.[5]

[5] The juvenile court's written order does not comport with its oral ruling, in that the written order states that the permanency plan for M.B. and A.B. would change to custody and guardianship with a non-relative or adoption and the permanency plan for B.B., T.B. and C.B. would change to custody and guardianship with a non-relative and/or adoption. As noted by Mother and Father, unless shown to be in error, the transcript of the court's oral ruling prevails over the written order in the event of a conflict. *See Savoy v. State*, 336 Md. 355, 360 n.6 (1994).

DISCUSSION

Mother and Father contend that the juvenile court abused its discretion in changing the children's permanency plans away from a concurrent plan including reunification in favor of a sole plan of placement with non-relatives. Both parents also contend that the court erred in finding that the Department had made reasonable efforts toward reunification. Mother also argues that the court erred in admitting into evidence a home assessment done before the applicable review period and in accepting the Department's suggestion, after it had rested its case, that the court take judicial notice of prior orders.

I. STANDARD OF REVIEW

We recently set forth the standard of review for CINA matters:

> There are three distinct but interrelated standards of review applied to a juvenile court's findings in CINA proceedings. The juvenile court's factual findings are reviewed for clear error. Whether the juvenile court erred as a matter of law is determined without deference; if an error is found, we then assess whether the error was harmless or if further proceedings are required to correct the mistake in applying the relevant statute or regulation. Finally, we give deference to the juvenile court's ultimate decision in finding a child in need of assistance, and a decision will be reversed for abuse of discretion only if well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.

In re J.R., 246 Md. App. 707, 730-31 (2020) (cleaned up).

Specifically, when reviewing a juvenile court's decision to modify a permanency plan, an appellate court determines if there has been an abuse of the court's discretion. *In re Shirley B.*, 419 Md. 1, 18-19 (2011). We review the court's finding that the Department fulfilled its obligation to make reasonable efforts toward the effectuation of a particular

permanency plan under the clearly erroneous standard. *In re Adoption/Guardianship of C.A. & D.A.*, 234 Md. App. 30, 55 (2017).

The Court of Appeals has emphasized that appellate review of a juvenile court's determination concerning a permanency plan is "limited." *In re Ashley S.*, 431 Md. 678, 715 (2013). "Because the overarching consideration in approving a permanency plan is the best interests of the child, we examine the juvenile court's decision to see whether its determination of the child's best interests was beyond the fringe of what is minimally acceptable." *Id*. (cleaned up). In doing so, we must remain mindful that "only the juvenile court sees the witnesses and the parties, hears the testimony, and has the opportunity to speak with the child; it 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." *Baldwin v. Bayard*, 215 Md. App. 82, 105 (2013) (cleaned up).

II. CHANGE IN PERMANENCY PLANS

Mother and Father assert that the juvenile court abused its discretion by changing the children's permanency plans from a concurrent plan of reunification and custody and guardianship with a non-relative to a sole plan of custody and guardianship with a non-relative and/or adoption. The parents contend that the court's change in plan, based only on the amount of time the children have been out of the parents' care and lack of suitable housing, is not in the children's best interest because the parents had demonstrated an ability to keep the children safe and their ability to find suitable housing had been hampered to some degree by the pandemic.

When a CINA is committed to a local department of social services, the juvenile court must determine which permanency plan is in the child's best interest, the "paramount concern," as well as the ultimate governing standard.[6] CJ § 3-823(e)(1); *In re Caya B.*, 153 Md. App. 63, 76 (2003). Following its implementation of a permanency plan, a juvenile court must conduct periodic hearings to review the child's permanency plan, during which the court must, among other things, determine whether reasonable efforts have been made to finalize the permanency plan and change the permanency plan if it would be in the best interest of the child to do so. CJ § 3-823(h)(2)(ii) and (vi). Pursuant to CJ § 3-823(e)(2), in determining and reviewing the child's permanency plan, the court must consider the factors enumerated in Md. Code, § 5-525(f)(1), of the Family Law Article ("FL"), which include:

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

[6] The permanency plans, "in descending order of priority," are: (1) reunification with a parent or guardian; (2) placement with relatives for adoption or custody and guardianship; (3) adoption by a non-relative; (4) custody and guardianship by a non-relative; or (5) another planned permanent living arrangement. CJ § 3-823(e)(1)(i). "Reunification with a parent is presumptively the better option,…as it is presumed that 'it is in the best interest of the children to remain in the care and custody of their biological parent.'" *In re Adoption/Guardianship of Cadence B.*, 417 Md. 146, 157 (2010). Nonetheless, "if there are weighty circumstances indicating that reunification with the parent is not in the child's best interest, the court should modify the permanency plan to a more appropriate arrangement." *Id.*

> (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.

The court is not required, however, to refer specifically to those factors on the record, so long as its reasoning of the child's best interest is articulated. *See In re Adoption/Guardianship of Darjal C.*, 191 Md. App. 505, 531-32 (2010).

Here, the record supports a reasonable conclusion that the juvenile court properly considered the required factors before changing the children's permanency plans. Regarding the children's ability to be safe and healthy in the parents' home, the court found that the children would not be safe in the parents' home because the parents, who had been evicted from the house the VA had helped them procure (and did not contact the Department for approximately five months after the eviction), had not found stable, permanent housing for the children and were again living in the unsuitable home from which the children had been removed three years earlier. The court pointed out that Mother had testified that "she wouldn't even bring her children to the house that she now resides in," which "carrie[d] a lot of weight with the court." *See* FL § 5-525(f)(1)(i).

Regarding the children's attachment and emotional ties to their natural parents and siblings, the juvenile court found that the older four children were close with each other and "know their parents, love their parents, and frankly . . . would rather reunify with their parents." But, C.B., the youngest child, had no real attachment or emotional ties to Mother and Father "because he was removed at a very young and tender age." FL § 5-525(f)(1)(ii).

The court touched on the children's emotional attachment to their current caregivers, finding that "the children appear to be in appropriate placements" and that their "therapeutic needs" have been addressed by their foster mothers. The court had heard from the foster mothers that: A.B. suffers from night terrors and comes to his foster mother for comfort and assistance; B.B. is "a lovable" child and that her and T.B.'s foster mother "provided holiday fun" for the children; and M.B.'s foster mother was concerned because the child has periods when he cries but can't articulate why he is crying. The court also heard from Galloway that C.B.'s foster mother "is very, very attentive" to his special needs. In addition, M.B., B.B., and T.B.'s foster parents had offered to be long-term caregivers for the children. FL § 5-525(f)(1)(iii).

The juvenile court found that it was "completely undisputed" that the children had been residing with their foster caregivers for three years.[7] Moreover, the court implied that, because of the parents' continued inability to obtain suitable housing, the children would suffer emotional, developmental, and educational harm if removed from their current appropriate placements, where they were "healthy and safe" and had resided for much of their lives. The court further found that the three years that the children had been in care was "a long time, and children deserve permanency. They deserve to know where they're going to rest their head[s]." Notwithstanding the obvious love the parents and children

[7] All the children except A.B. had remained in the same foster home since removal from the parents' home. After his hospitalization for suicidal ideation in 2019, A.B. had been moved to a different foster home and was doing well.

shared, the court did "not believe that it is the best interest of the children to keep them in this foster care limbo for any further period of time." FL § 5-525(f)(1)(iv), (v), and (vi).

Despite Mother and Father's claim that the juvenile court improperly focused only on the amount of time the children had been out of their home and their continued lack of stable housing, the record reveals that the court considered the totality of the circumstances before changing the plans. In 2017, the family was found living in squalor—with flies, fleas, roaches, no electricity, no beds for the children, and little food. Periodic inspections by the Department showed that they were capable of cleaning up their home upon demand, but they consistently reverted to filth. In addition, Father *chose* not to work for three years because he said he was missing too much of his kids' childhoods, despite the fact that his gainful employment during that time period would have gone a long way toward ameliorating the family's housing situation.

The children also suffered from parental neglect. Mother and Father never took the children to the doctor or the dentist, and thus they were not immunized and had significant tooth decay. As a result, they could not attend school. Infant C.B. was mostly left to lie on his back in a crib, resulting in a flat head. He was diagnosed with severe infections and failure to thrive from insufficient formula intake, which required hospitalization. In addition, the children were infested with head lice and their clothes were dirty.[8] There was

[8] The Department had also investigated the parents in 2013, for similar concerns of deplorable home conditions and medical neglect of the three oldest children (T.B. and C.B. had not yet been born). We have long held that "a parent's past conduct is relevant to a consideration of his or her future conduct." *In re Dustin T.*, 93 Md. App. 726, 731 (1992).

no evidence presented at the permanency plan review hearing that such neglect would not continue if the children were returned to Mother and Father's care and custody.

After the children were removed from their home, Mother and Father appeared to be on the right track toward reunification. They obtained a new house with the help of the VA. But not long after they moved in, it too was filthy and unsafe, and they were evicted. By the time of the November 2020 permanency plan hearing, Mother and Father were back in the same house from which the children had been removed in 2017, and they agreed it was unsuitable. Permanency requires a stable home, and the parents were unable to maintain one.

Although the parents undisputedly love their children and did attempt to work toward reunification—and the pandemic was undeniably a huge blow to their efforts—they did not, from February 2020 through August 2020, make any effort to communicate with the Department, and they could not stay on the right track to effectuate that permanency plan. By the time of the November 2020 hearing, the children had been in care for over three years[9] and were entitled to more permanency than the parents, despite their best efforts, were able to provide. The juvenile court properly refused to turn "a blind eye to the fact that these children have been in care far too long without moving any further in the [direction of] permanency." Removing reunification as a permanency plan addressed the potential harm to the children of continuing to languish in foster care. *See In re Ashley S.*,

[9] Even were we to disregard eight months of pandemic shutdowns between March 2020 and November 2020, the children were still out of Mother and Father's custody for an uninterrupted 28 months.

431 Md. at 711 (one of the primary purposes of a permanency plan is "to avoid the harmful effects when children languish in temporary living situations").

We, therefore, conclude that the juvenile court adequately considered the required statutory factors when reviewing the children's permanency plans and reasonably concluded, based on all the evidence before it, that it was in M.B. and A.B.'s best interest to change their permanency plan to custody and guardianship by a non-relative and in B.B., T.B., and C.B.'s best interest to change their permanency plan to custody and guardianship by a non-relative and/or adoption by a non-relative. We perceive no abuse of discretion in the juvenile court's rulings.

III. REASONABLE EFFORTS

Mother and Father also argue that the juvenile court erred when it determined that the Department had made reasonable efforts to facilitate their reunification with the children. They fault the Department for offering no help in obtaining suitable housing or in facilitating visitation with the children.

Reasonable efforts "'means efforts that are reasonably likely to achieve the objectives set forth in § 3-816.1(b)(1) and (2) of [the Courts and Judicial Proceedings Article.]'[10] This definition is amorphous. Thus, it is clear that there is no bright line rule

[10] Section 3-816.1provides, in relevant part:

> (b) (1) In a hearing conducted in accordance with § 3-815, § 3-817, § 3-819, or § 3-823 of this subtitle, the court shall make a finding whether the local department made

to apply to the 'reasonable efforts' determination [and] each case must be decided based on its unique circumstances." *In re Shirley B.*, 191 Md. App. 678, 710-11 (2010). Reasonable efforts "need not be perfect to be reasonable" but "must adequately pertain to the impediments to reunification." *In re James G.*, 178 Md. App. 543, 601 (2008).

A finding of "reasonable efforts" is limited to the period of time between the "last adjudication of reasonable efforts" and the current proceeding. CJ § 3-816.1(b)(5). Before issuing its November 2020 permanency plan review hearing order, the juvenile court had last made findings that the Department's efforts were reasonable during the November 2019 permanency plan review hearing. Neither Mother nor Father appealed those findings (or the juvenile court's findings of reasonable efforts at previous hearings).

The juvenile court, in its November 2020 ruling and order, found that the Department had facilitated visits between the parents and children, conducted a Family Find to locate relatives who might visit with the children, referred the children to

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reasonable efforts to prevent placement of the child into the local department's custody.

(2) In a review hearing conducted in accordance with § 3-823 of this subtitle or § 5-326 of the Family Law Article, the court shall make a finding whether a local department made reasonable efforts to:

(i) Finalize the permanency plan in effect for the child; [and]

(ii) Meet the needs of the child, including the child's health, education, safety, and preparation for independence[.]

therapeutic services, referred the family for therapy, placed the children appropriately in foster care, obtained medical services for the children, ensured that the children's educational needs had been met, and facilitated home inspections (to the extent that Mother and Father provided Galloway an address of a home to inspect and permitted her access thereto). Despite their claim that the Department offered no help in obtaining suitable housing or in facilitating visitation with the children, Mother and Father acknowledged that the Department had held a family involvement meeting in October 2020, during which Galloway's supervisor provided them with potential housing opportunities, and that regular visits with the children had resumed in September 2020, when pandemic safety requirements eased.

There is no evidence that Galloway was unresponsive to the parents' needs, but the parents admittedly remained out of touch with her for a period of several months when Mother said her phone was broken (with no explanation why she could not have used Father's, or any other, phone to contact the Department). The lack of communication surely hindered the Department's efforts.

Although the Department arguably could have done more than providing a list of properties for rent to assist Mother and Father in obtaining suitable housing, there are limits to what the Department is required to do. The 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 Shirley B.*, 419 Md. at 26 (cleaned up). We perceive no clear error in the juvenile court's determination that the Department made reasonable

efforts toward the effectuation of the children's permanency plan of reunification, a task made that much more difficult by the pandemic shut-downs.

IV. JUDICIAL NOTICE OF PRIOR CINA ORDERS AND ADMISSION OF ASSESSMENT EVIDENCE

Finally, Mother asserts that the juvenile court erred in accepting the Department's request that the court take judicial notice of prior CINA orders after the Department had rested its case at the November 19, 2020 hearing. She also alleges error in the court's consideration of Smiley's testimony about an assessment done of Mother's and Father's leased home prior to the November 2019 review order. We disagree with both claims.

After resting its case and prior to closing argument, the Department requested that the juvenile court take judicial notice of its April 30, 2018 order sustaining the majority of the allegations in the CINA petition, November 18, 2018 review order as it related to the Department's reasonable efforts,[11] and November 22, 2019 order, which changed the children's permanency plans from a sole plan of reunification to a concurrent plan of reunification and custody and guardianship with a non-relative. Mother's attorney objected, on the ground that counsel should have asked the court to take judicial notice "during his case before he rested," that is, before the close of the evidentiary phase of the case. The court overruled the objection, stating that "the Court has in its possession a compendium of every order in this case. Because the Court has to make a decision as to

[11] The order was actually dated November 8, 2018. The reasonable efforts found by the juvenile court included: entering into a service agreement, making home visits, referring the family for housing assistance, providing financial assistance with clothing, referring the children for therapeutic services, and monitoring the parents' employment and housing status.

permanency, frankly at this stage of the proceedings. And I like to enlighten myself of what goes on prior, even beyond the 11/22/2019 order. So I'll take notice."

First, Maryland Rule 5-201(d) and (f) provide that, at any stage during the proceeding, "[a] court shall take judicial notice if requested by a party and supplied with the necessary information." And, as this Court has pointed out, "public records such as court documents are some of the most common of the types of information that can fall under the umbrella of judicial notice." *In re H.R., E.R., & J.R.*, 238 Md. App. 374, 401-02 (2018) (cleaned up). And more specifically, "CINA orders entered by the juvenile court are the type of public records that are appropriate for judicial notice." *Id*. at 402. Neither Mother nor Father appealed any of the orders that the Department asked the court to take judicial notice of, so they were not, at the November 2020 hearing, subject to reasonable dispute. Thus, we perceive no error in the juvenile court's decision to take judicial notice of them.

Second, Mother requested that the juvenile court take judicial notice of most of the same orders. She cannot not claim prejudicial error in the Department's almost identical request.

Mother also claims that the juvenile court erred in admitting into evidence, and permitting Smiley to testify about, a letter relating to an August 1, 2019 failed inspection at the family's leased home because it predated the applicable review period. When Mother objected on that ground, the court ruled that it was aware of "all the orders going back to 2017 or so," that the November 22, 2019 order noted that the home failed inspection, and that the "document here goes to the extent of the failure. Failure is failure." Therefore, in

the court's view, Smiley's testimony and evidence was "somewhat relevant." The court stated, however, that "I don't know how much it's going to have an effect on the Court's consideration."

Again, because the juvenile court properly took judicial notice of its previous orders, including the November 22, 2019 order that indicated that Mother's and Father's home had failed an inspection, and because the court likely did not predicate its decision on Smiley's evidence, we perceive no error in its admission of cumulative evidence of the failed inspection. *See Dove v. State*, 415 Md. 727, 747 (2010) (error, if any, in admission of cumulative evidence is harmless).

ORDER OF THE CIRCUIT COURT FOR BALTIMORE CITY, SITTING AS A JUVENILE COURT, AFFIRMED; COSTS TO BE PAID BY APPELLANTS.