

Circuit Court for Baltimore County  
Case No. C-03-JV-23-000040

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND

No. 1235

September Term, 2025

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IN RE N.S.

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Graeff,  
Tang,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Tang, J.

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Filed: February 25, 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 appellant, Ms. T. (“Mother”), appeals from an order of the Circuit Court for Baltimore County, sitting as a juvenile court, that granted custody and guardianship of her child, N.S., to a relative. In addition, the court ordered that Mother’s visitation with N.S. be supervised. Mother presents two questions for our review:

1. Did the court abuse its discretion when it granted custody of N.S. to a relative?
2. Did the court abuse its discretion in ordering supervised visitation with N.S.?

For the reasons that follow, we shall affirm.

### **BACKGROUND**

Mother has a history of substance abuse. In September 2022, she gave birth to N.S., who tested positive for unprescribed codeine and morphine and suffered from neonatal abstinence syndrome. Later, N.S. was transferred to a pediatric hospital for close monitoring of ongoing medical concerns. A few months after N.S. was born, N.S.’s father, who also had a history of substance abuse, passed away from an apparent drug overdose.

N.S. has an older sibling, T., born in 2017.<sup>1</sup> Additionally, N.S. has a younger sibling, P., who was born in early December 2024 during the underlying proceedings.

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<sup>1</sup> T. was the subject of a separate CINA proceeding, which was closed in August 2020.

### **CINA Petition and Adjudication**

On January 20, 2023, the Baltimore County Department of Social Services (the “Department”) filed a CINA<sup>2</sup> petition seeking shelter for N.S. due to concerns regarding Mother’s unresolved substance abuse issues. The court ordered that N.S. be placed in the Department’s custody and that Mother have supervised visitation with N.S.

In March 2023, the Department approved the child’s paternal great aunt, Ms. B. (“Ms. B.”), as a kinship placement. N.S. moved into her home, where she has lived since that time. Supervised visitation with Mother had been taking place on Sundays at the church that Ms. B. attends.

In April 2023, the court held an adjudicatory hearing. It found N.S. to be a CINA due to her neonatal abstinence syndrome and Mother’s ongoing substance abuse issues, which included a positive test for fentanyl days before the hearing. The court committed N.S. to the Department’s custody pending further review and continued to order supervised visitation for Mother.

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<sup>2</sup> The term CINA or “child in need of assistance” means “a child who requires court intervention because: (1) [t]he child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) [t]he 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, § 3-801(f) of the Courts and Judicial Proceedings Article (“CJP”).

### **Subsequent Review Hearings**

In October 2023, at the initial review hearing, the magistrate recommended, and the court adopted, a permanency plan for reunification with Mother. The court continued to order supervised visitation.

In February 2024, the magistrate changed N.S.'s permanency plan to reunification with Mother concurrent with placement with a relative for custody and guardianship. The magistrate recommended that supervised visitation continue and prohibited transition to unsupervised visitation without the agreement of the parties or court intervention. In response, Mother filed exceptions to the recommendations, specifically requesting that the permanency plan remain a sole plan of reunification with Mother and that visitation be unsupervised.

In July 2024, the court held a consolidated exceptions and permanency plan review hearing. During the hearing, the Department presented evidence of N.S.'s ongoing medical issues. N.S. had been diagnosed with Wiedemann-Steiner syndrome, bilateral club feet, and congenital hip dysplasia, for which she underwent surgery in May 2024. Additionally, she had oropharyngeal dysphagia, chronic feeding disorder, failure to thrive, gastroesophageal reflux disease, ectopic atrial tachycardia, a heart murmur, pulmonary hypoplasia, an anomalous right upper lobe bronchus, a cleft palate, gross motor delays, hypotonia, and hyperinsulinism.

N.S. was non-ambulatory and fully dependent for all her activities of daily living. She received all her feeding using “specialized formula and water flushes,” as well as all

regular medications, administered via a gastrojejunostomy tube. N.S. attended speech and language therapy once a week and required regular rehabilitation services and complex medical care from a team that included an orthopedist, a pulmonologist, a cardiologist, an otolaryngologist, a gastroenterologist, a nutritionist, and a general pediatric surgeon.

At the conclusion of the hearing, the court ordered the permanency plan to be reunification with Mother and placement with a relative for custody and guardianship. The court continued supervised visitation, with the possibility of transitioning to unsupervised visitation if Mother complied with drug treatment, provided negative drug test results, and completed training by N.S.'s hospital team regarding the child's medical care. The court denied the exceptions as moot based on its decision in connection with the permanency plan hearing. Mother appealed the court's decision but ultimately dismissed the appeal.

On February 18, 2025, during the next review hearing, the parties agreed that the permanency plan would remain reunification concurrent with custody and guardianship with a relative. The Department recommended unsupervised visitation, to which N.S.'s counsel agreed. However, N.S.'s counsel expressed concerns upon learning for the first time that Mother had given birth to P. in December 2024 and noted the lack of honesty regarding this birth.

The court inquired about the parties' positions on the parameters of the unsupervised visits in light of this new information. It suggested that the parties discuss the matter off the record to determine whether the information would impact the Department's recommendations.

Thereafter, the parties agreed that Mother would have unsupervised visitation in the community at a location agreed upon by the parties for approximately two hours. They also agreed that the child would be transported to and from the visitation by someone approved by the Department.

Based on the parties' agreement, the court entered an order for the permanency plan to remain reunification with Mother, concurrent with custody and guardianship with a relative. Consistent with the parties' agreement on the record, the court ordered unsupervised visitation to "take place in the community on a day and at a location agreed upon by the parties; the visits shall be two (2) hours in duration and may increase at the discretion of the Department. [N.S.] shall be transported to and from the visit by a person approved by the Department."

### **July 2025 Review Hearing**

On July 15, 2025, the court held another review hearing, which is the subject of this appeal. By this time, N.S. was about two and a half years old and had been living with Ms. B for over two years. The court heard testimony from various witnesses and admitted two Department reports from June and July 2025, as well as a home study conducted by the Department a few days before the hearing.

### *N.S.'s Status*

N.S. had undergone many surgeries and had been receiving "complex care" from her medical providers. In addition to visiting her primary care physician and dentist, N.S. saw a cardiologist, gastroenterologist, audiologist, ENT specialists, a cleft palate clinic,

and her plastic surgeon. She also attended sessions with a physical therapist and speech therapist. Recently, N.S. had been pulling her hair, which Mother had discussed with N.S.'s primary care provider.

At that time, N.S. was on a feeding tube, which required continuous feeding for nineteen hours, followed by a five-hour rest period. Mother was trained on how to maintain the feeding tube and had completed other training specific to N.S.'s special needs. According to Mother, she had attended nearly all of N.S.'s medical appointments, missing only one. However, she had not yet had the opportunity to independently care for N.S.'s medical needs.

Ms. B had also been trained on maintaining the feeding tube. She testified that she knew how the child was doing overnight, whereas others might not. She could recognize when N.S. was having a difficult day in terms of her stomach or bowel health and knew when to vent N.S.'s tubes based on her communication cues.

The Department reported that N.S. had thrived while living with Ms. B. Ms. B was attentive to N.S. and had recently enrolled the child in a special daycare that offered support from a team of licensed practical nurses, to assist both her and her teachers.

#### *Mother's Status*

Mother had a long history of substance abuse and treatment beginning in her teens. In 2017, when her oldest child, T., was about two years old, Mother was incarcerated. After her release in 2019, she regained full custody of T. However, after T. was returned to her care, Mother began using drugs again, and at some point, the Department became involved.

According to Mother, the Department closed T.'s case around 2020, when he was three years old, after concluding that she was no longer using drugs and had the support she needed. At some point, T. stayed with Mother's father in Florida so that she could "get[] her life together." T. returned to Mother's care in early 2023, after the birth of N.S.

When N.S. was born in September 2022, Mother tested positive for various drugs, including fentanyl, heroin, and cocaine. Mother did not follow through with the assessments and treatments to which the Department referred her.

During the last review period, the Department requested that Mother submit to a drug test at the end of February. However, she did not appear for the test. Due to her failure to appear, the results were considered a "behavioral positive." The Department reported that Mother had not scheduled appropriate transportation to appear for the test. It offered to arrange transportation and specified a deadline for completing the request, but Mother did not comply. In response, Mother claimed that her failure to appear was a "transportation issue" and insisted that she was not "trying to hide anything." She stated that she took the test soon afterward.

Mother tested negative on drug tests that she underwent during the relevant period. Mother testified that she completed an intensive outpatient program, signed all releases required by the Department to verify participation in treatment, and had been clean for about a year and a half. Monique Swain, a supervisor at the Formal Kinship Care Program with the Department, testified that she did not have concerns regarding current safety risks that would prevent reunification from the perspective of Mother's substance use disorder.

Mother had been employed as a medical secretary for the past year and a half, working forty hours a week, Monday through Friday. Just a few days before the hearing, she began an online nursing program that required twelve hours of coursework per semester. N.S.’s maternal great aunt (“Ms. G.”), Mother’s brother, and her cousins assisted with T., who was seven years old at the time of the hearing. P.’s father, who did not live with Mother, looked after P. with the help of his family while Mother was working during the week.

*Supervised and Unsupervised Visitation*

For the first two years of N.S.’s CINA case, Ms. B. was responsible for supervising visits. In February 2025, as visits transitioned to unsupervised visitation, Ms. G. took over the management of these visits. During this time, Mother visited with N.S. every Sunday at Ms. B.’s church and every other Saturday at Ms. G.’s house. Mother also brought N.S.’s siblings to these visits, which lasted about two and a half hours.

Ms. G. transported Mother to the visits and assisted her during these visits. Ms. G. testified that she became involved in these visits because Mother “needed me to be there for each of those visits” since, as she understood it, “the [c]ourt doesn’t feel that [Mother] was ready to transport her own child at that time and required supervision.”

When asked if an adult was present during her visits, Mother testified that she had one visit with N.S. at a library without an adult present. In addition, during visits at Ms. G.’s house, Mother was able to go into a room without being monitored and engage in various activities with N.S. Ms. G. confirmed that Mother had one-on-one time with N.S.,

while Ms. G. assisted with P., who was also present. The Department reported no issues during any of Mother’s visits with N.S.

Ms. Swain had no concerns about Mother’s ability to meet N.S.’s medical and special needs during visits at Ms. G.’s home. According to Ms. Swain, while the visits were unsupervised, Mother and N.S. “were always in [Ms. G.’s] home.” Thus, Ms. Swain had “no concern regarding [Mother’s] ability to address [N.S.’s medical or special needs] in a controlled environment either supervised by [Ms. B.] or at [Ms. G.’s] home[.]” Ms. Swain noted that Mother “hasn’t been able to do that within her own home yet.” Ms. G. testified that she would continue to provide support for Mother as needed.

*Mother’s Lack of Transparency and Candor*

The Department presented evidence demonstrating a lack of transparency and candor. The first incident involved the birth of N.S.’s younger sibling, P. In early December 2024, Mother gave birth to P. Mother had represented that she had an “abdominal surgical procedure” when the procedure was actually a C-section.

Mother did not inform the Department about P.’s birth, and the Department only learned of it in February 2025. By that time, the Department had conducted two assessments of Mother’s home. The first assessment took place in October 2024, during which the Department noted concerns about the smell of marijuana and the presence of another adult living or sleeping in the home. Additionally, there was no safe area for N.S. to play.

The Department scheduled another assessment of the home on December 16, 2024, which occurred after P.’s birth. At the time of this assessment, P. was living with the child’s father. Mother had addressed the issues related to the marijuana smell and clutter in the home, and there was no longer any evidence of another adult residing there. However, the Department was still unaware of P.’s birth, and their assessment was based on the assumption that Mother had only two children: N.S. and T.

Mother denied being deceptive about P.’s birth, stating that she did not believe the “whole scope” of the abdominal procedure needed to be shared with the court. She further testified that she did not understand that disclosing P.’s birth was relevant because the CINA case only involved N.S. Mother did not disclose the birth because she considered it “a private matter” and thought issues related to N.S.’s case were separate from P.’s situation. Additionally, she explained that she did not inform the court about her pregnancy with P. due to her distrust of N.S.’s counsel, who had previously represented T. in his case, and she felt that counsel was biased against her.

There were other incidents regarding Mother’s lack of transparency, specifically regarding follow-up home assessments. Mother canceled a follow-up home assessment scheduled for April 2025, claiming that she had COVID-19. The Department requested documentation to support the cancellation. After the Department followed up seeking the documentation, Mother provided a photograph of a COVID-19 test result. Upon cross-referencing this photograph, the Department discovered it was an image sourced from the internet. The Department informed Mother of this finding and requested proper medical

documentation. However, Mother never provided the requested verification and denied obtaining the image of a positive COVID-19 test from the internet.

The Department rescheduled the home assessment for June 6, 2025. However, on that day, Mother informed the Department that T. would not be present because he had testing for an individualized education program (“IEP”) at school. The Department had advised Mother several times before scheduling the home assessment that T. needed to be present during the evaluation. Ms. Swain testified that the Department would have been willing to arrange an alternate date if Mother had communicated the scheduling conflict earlier; however, the Department only learned of it on the day of the assessment. Since the Department could not complete the assessment without all the children present, it had to cancel the home assessment.

Eventually, on July 8, 2025, just days before the review hearing, the Department conducted a follow-up home assessment of Mother’s home, with all children present, and noted no concerns.

Ms. Swain testified that Mother’s recent conduct involved “multiple issues of lack of transparency,” and the Department had not “really received clarification on what the barrier has been to transparency around these issues.” Despite this, Ms. Swain concluded that “[w]hile the transparency is a concern . . . it has not impacted [N.S.]’s direct safety or well-being.” Ms. Swain felt that N.S. “really could benefit from being in the care of her Mother with the support of [Ms. B.]”

### **The Court’s Ruling**

On July 17, 2025, the parties reconvened for closing arguments and the court ruling. Mother requested sole custody of N.S. and to close the case. Alternatively, Mother requested that the case remain open, and that custody of N.S. be awarded to her, with a plan for reunification. Mother requested gradual, expanded unsupervised visitation to occur in Mother’s home. Mother acknowledged “hiccups” in the past but emphasized that the focus should not be on “perfection” but rather “progress.”

The Department argued that the case should remain “status quo” while recognizing that Mother had most recently been making progress toward reunification, including having unsupervised visits. However, Mother “seem[ed] to get in her own way” with her lack of honesty, which probably prevented expanding unsupervised visitation in Mother’s home. The Department recommended that N.S. remain committed to the Department for placement and that placement remain with Ms. B. The Department requested that visitation remain unsupervised.

Counsel for N.S. requested that custody be granted to Ms. B., who had provided care for the medically fragile child and with whom N.S. had bonded. Counsel argued that N.S. could not “afford to have her caretaker fall down on any of her responsibilities, for any amount of time[], or there could be serious life threatening consequences.” Counsel also shared concerns about Mother’s “level of honesty [and] transparency” and overcommitting herself to nursing school, full-time work, and caring for two other children.

In addition, there was “little knowledge or track record” of how Mother would take care of N.S. at “all hours of the day.”

The court gave its oral ruling. It made factual findings regarding Mother’s past substance abuse and progress towards recovery:

The Department provided a service plan and additional services to [Mother], including, but not limited to substance abuse treatment referrals, . . . referrals for drug screenings, trainings, transportation assistance, visitation [] coordination, and home assessment services.

On February 21st, 2023, [N.S.’s] father died of an apparent overdose. Both parents have been repeatedly referred for substance abuse evaluation and treatment, as well as drug testing.

There were repeated failures to submit to substance abuse evaluations in late 2022 and early in 2023.

However, during the hearing, [Mother] presented a certificate of completion of her intensive outpatient treatment. She testified that no aftercare was recommended, although she can choose to use NA as a resource, Narcotics Anonymous.

Also, during the review period, . . . since February of ’25, [Mother] has test[ed] negative for illicit substances, though she had one behavioral positive on February 24th, ’25, for failing to submit to a drug test.

According to the [c]ourt report that was admitted into evidence, the Department offered transportation, and indicated the deadline for compliance, but [Mother] did not adhere to the request.

The court recognized that Mother had accomplished positive things in the last review period, including maintaining full-time employment and enrolling in a full-time, online nursing program. However, the court expressed serious concern regarding Mother’s lack of transparency and her failure to disclose critical information:

This [c]ourt finds that during the last review period, [Mother] failed to submit to home assessments in April of this year and June 6th of this year.

[T]he June 6th home assessment was cancelled by [the Department] because [Mother] advised them on the day of the scheduled home assessment, that her oldest child [T.] had an IEP that was scheduled. [T]his was despite the fact that the Department had advised her repeatedly that both children . . . would need to be present for the home assessment, and when I say both children, I’m talking about [T.] and, the younger child, [P.]

There was no documentation submitted during the hearing to confirm that [T.] had an IEP on the June 6th, ’25 date. Although, again, there was testimony from [Mother] that there was a conflict. There was the earlier cancellation for the April 2025 home assessment, that was cancelled by [Mother] because she reported having Covid, however, when the Department asked for appropriate documentation she gave a screen shot of a positive Covid test, . . . the Department believed to be from Google and not legitimate. [Mother] claimed to also send . . . MyChart information, communications between . . . herself and her doctor, regarding Covid, but, again, this was not the type of proof that the Department requested.

It wasn’t until last week, just before this [c]ourt’s review hearing, that [Mother] made herself, her home and her two children, [T.] and [P.] available for home assessment. [O]bviously, the [c]ourt is concerned about transparency.

\* \* \*

I’m also concerned about these issues of failure to disclose. [Mother] did not disclose that she had been pregnant and had delivered a son on December 6th, 2024,<sup>3</sup> even though she was in contact with [the Department] on 12/16/24.

Also, at one point, what she told the Department . . . that she had a quote, “abdominal procedure” instead of telling the truth, which was that she had a C-section. There was no disclosure about [P.]’s father and what contact he may have had with her in the home, though she testified that he watched [P.] . . . at his mother’s home.

It wasn’t until the [c]ourt hearing in February of 2025 that the Department even learned about the existence of another child.

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<sup>3</sup> Other parts of the record indicate that P. was born December 3. The discrepancy is immaterial as the birth occurred before December 16, 2024, when Mother was in contact with the Department.

[Mother] testified she didn't think having another child was relevant, but she also acknowledged on cross-examination that she didn't disclose the pregnancy and birth of [P.] because [N.S.]'s attorney . . . is the same attorney who represented [T.], when he was removed from her care due to drug abuse and incarceration.

Regarding N.S.'s health, the court found that the child has a feeding tube, is in a wheelchair, and continues to have significant medical concerns, despite experiencing improvement while under Ms. B.'s care. The court found that Ms. B. had an in-depth appreciation and understanding of the nature and extent of N.S.'s needs, citing her overnight needs involving ongoing stomach and bowel issues as an example. The court further found that Ms. B. took special steps to enroll N.S. in a special daycare staffed with medical professionals.

The court acknowledged "some connection" between Mother and N.S. However, the court found that N.S.'s medical challenges could not be easily handled, and N.S. could not advocate for herself. The court found that while N.S. had complex nutritional issues in connection with the feeding tube, Mother had not demonstrated an in-depth appreciation for these issues.

The court reiterated its concern about Mother's lack of transparency and the lack of candor with the court about certain matters, which caused the court to question whether she could be trusted with a fragile child:

I am very concerned about a lack of transparency, and the lack of being candid with the [c]ourt about certain things.

It makes the [c]ourt question whether [Mother] can be trusted with such a fragile child, because she's worried about [the N.S.'s attorney] having

handled another child’s case that was removed from her care, because of the same issues with substance abuse. . . .

[W]e’re not looking for perfection, but I think we have to be very careful when we’re talking about a fragile child.

After considering the evidence and the witnesses’ credibility, the court awarded Ms. B. custody of N.S. and closed the case. The court emphasized its concern for the child’s safety and stability. It found that Ms. B., with whom N.S. was bonded, had provided N.S. with consistent stability.

Regarding the visitation arrangement, the court found that Mother had had “supervised and unsupervised visitation with [N.S.], with the assistance of [Ms. G.], who provides transportation and allows visitation in her home.” The court found that Ms. B. was willing to offer Mother access and coordinate access with N.S. It further found that Ms. G. was willing to continue and assist with visitation in that regard. The court reiterated that “[w]e have to think about what is going to keep the child safe, and it should be done under those circumstances.”

Mother’s counsel requested that Mother have weekly unsupervised visits. The court responded by explaining that it understood that “the access is with the assistance of [Ms. G.] supervising [N.S.] while she is visiting . . . with [Mother], so it’s like supervised, but unsupervised.” N.S.’s counsel responded that although the most recent order provided for “unsupervised” visitation, Mother “has never visited with [N.S.] without another adult around.” Mother’s counsel interjected, disputing that assertion as Mother testified that “she’s been unsupervised with [N.S.]”

Ultimately, the court ordered supervised visitation, explaining:

[B]ecause of the concerns I have about [N.S.’s] health and her many challenges . . . if there is going to be access, I want [Ms. G.] who testified that she was willing to continue to serve in that capacity, . . . to supervise, okay, that’s what I want.

I want the child safe, and that is what the [c]ourt is ordering.

So, there will be access. There will be regular access. It can continue on the schedule that it has been on, but [Ms. G.] has offered to continue, and . . . that’s what should happen.

After the hearing, the court issued a written order reflecting the oral custody ruling.

Regarding visitation, the court ordered that visitation “shall be supervised at the discretion of [Ms. B.] and shall take place a minimum of one time per week.”

#### **DISCUSSION**

Mother argues that the court abused its discretion in granting Ms. B. custody of N.S. and closing her CINA case because the court failed to make the necessary factual findings under Maryland Code, Family Law (“FL”) § 5-525(f)(1). Mother also argues that the evidence was insufficient to show that reunification was no longer in N.S.’s best interests.

In addition, she argues that the court abused its discretion in “*sua sponte* removing” Mother’s unsupervised visitation with N.S. Specifically, she contends that the court’s decision violated Mother’s due process rights, and there was no evidence that Mother was unable to care for N.S. during visitation safely. We address each issue in turn.

**I.**

**Custody to Ms. B.**

We begin with an overview of the relevant statutory framework. Once the Department files a petition requesting a child be declared a CINA, the juvenile court holds both an adjudicatory hearing to consider the allegations of the CINA petition, concurrent with or followed within 30 days after by a disposition hearing to determine whether the child is a CINA. *See* CJP §§ 3-817 (adjudicatory hearing), 3-819 (disposition hearing).

No later than eleven months after a child has been committed under § 3-819, the court must hold a permanency planning hearing to determine the child’s permanency plan. *See* CJP § 3-823(b)(1)(i); Md. Rule 11-219(e)(1). The permanency plan “sets the tone for the parties and the court” by providing “the goal toward which [they] are committed to work.” *In re Damon M.*, 362 Md. 429, 436 (2001). The statute sets forth a list of potential permanency plan placements in descending order of priority, beginning with reunification with the parent or guardian, followed by other options not relevant to this appeal. *See* CJP § 3-823(e)(1)(i).

In determining the permanency plan, or when changing and re-determining the plan, the court must consider the factors set forth in FL § 5-525(f)(1), while giving primary consideration to the best interests of the child. *See* CJP § 3-823(e)(1)(i), (2); *In re D.M.*, 250 Md. App. 541, 563 (2021). These factors are:

- (i) [T]he child’s ability to be safe and healthy in the home of the child’s parent;
- (ii) [T]he child’s attachment and emotional ties to the child’s natural parents and siblings;

- (iii) [T]he child’s emotional attachment to the child’s current caregiver and the caregiver’s family;
- (iv) [T]he length of time the child has resided with the current caregiver;
- (v) [T]he potential emotional, developmental, and educational harm to the child if moved from the child’s current placement; and
- (vi) [T]he potential harm to the child by remaining in State custody for an excessive period of time.

FL § 5-525(f)(1).

The court then reviews the permanency plan at a review hearing at least every six months until the child is no longer committed to the Department. *See* CJP § 3-823(h)(1);

Md. Rule 11-219(e)(2)(A). At the review hearing, the court shall:

- (i) Determine the continuing necessity for and appropriateness of the commitment;
- (ii) Determine and document in its order whether reasonable efforts have been made to finalize the permanency plan that is in effect;
- (iii) Determine the appropriateness of and the extent of the compliance with the case plan for the child;
- (iv) Determine the extent of progress that has been made toward alleviating or mitigating the causes necessitating commitment;
- (v) Project a reasonable date by which a child in placement may be returned home, placed in a preadoptive home, or placed under a legal guardianship;
- (vi) Evaluate the safety of the child and take necessary measures to protect the child;
- (vii) Change the permanency plan if a change in the permanency plan would be in the child’s best interest; and
- (viii) For a child with a developmental disability, direct the provision of services to obtain ongoing care, if any, needed after the court’s jurisdiction ends.

CJP § 3-823(h)(2).

If the court determines that reunification is impossible, impracticable, or unlikely, it may consider “a permanency plan with either concurrent or single long-term placement goals.” *In re Karl H.*, 394 Md. 402, 417 (2006). This concurrent plan “broadens the permanency plan” by providing a secondary goal. *In re D.M.*, 250 Md. App. at 559. The focus is therefore no longer limited to making reasonable efforts to reunify the child with their parents, but may instead involve concrete steps by the department to implement both a primary and secondary plan, such as providing time-limited family reunification services while also exploring placement with relatives. *See id.* at 558–59; COMAR 07.02.11.03(B)(16) (defining concurrent permanency planning). The Department and the court must make “[e]very reasonable effort” to permanently place the child within 24 months. CJP § 3-823(h)(5).

Before granting custody and guardianship to a non-parent, the court must consider:

- (i) Any assurance by the local department that it will provide funds for necessary support and maintenance for the child;
- (ii) All factors necessary to determine the best interest of the child; and
- (iii) A report by a local department or a licensed child placement agency, completed in compliance with regulations by the Department of Human Services, on the suitability of the individual to be the guardian of the child.

CJP § 3-819.2(f)(1).

An order granting custody and guardianship to a relative “achieves the child’s permanency plan,” rescinds the child’s commitment to the department, terminates the department’s legal obligations and responsibilities to the child, and terminates the child’s case, unless the court finds good cause not to terminate the child’s case. *See* CJP § 3-

819.2(c)). “Parental rights are not terminated in such a situation: the parents are free at any time to petition an appropriate court of equity for a change in custody, guardianship, or visitation.” *In re Caya B.*, 153 Md. App. 63, 78 (2003).

A.

**The Court Was Not Required to Consider the Factors Under FL § 5-525(f)(1).**

The court initially determined N.S.’s sole reunification plan in October 2023 and then changed that plan in July 2024 to reunification concurrent with custody and guardianship to a relative. At those points, the court was required to consider the factors set forth in FL § 5-525(f)(1). Mother had the right to appeal the change in the permanency plan, which she did, before later withdrawing the appeal and thus allowing the change to take effect. Following the withdrawn appeal, the concurrent plan remained in place.

At the review hearing at issue, the court neither determined nor changed N.S.’s permanency plan. Rather, the court effectuated and “achieve[d] the child’s permanency plan.” *See* CJP § 3-819.2(c)(2). Nothing in CJP § 3-819.2(f)(1) requires the court to consider factors under FL § 5-525(f)(1) before granting custody to a non-parent.

Mother cites *In re M.*, 251 Md. App. 86 (2021), for the purported proposition that a juvenile court is required to consider factors under FL § 5-525(f)(1) when granting a relative legal guardianship of a child at a permanency planning review hearing where there are concurrent plans in place, including a plan of parental reunification. However, *In re M.* does not stand for this proposition. *See generally* 251 Md. App. 86. Instead, the case illustrates that the court *may* use the FL § 5-525(f)(1) factors in assessing the best interest

of the child under CJP § 3-819.2(f)(1)(ii) (“All factors necessary to determine the best interest of the child”), but nowhere in that opinion does this Court require it.

For the reasons stated, the court was not required to consider the FL § 5-525(f)(1) factors in deciding to grant custody to Ms. B.

**B.**

**Sufficiency of the Evidence**

In arguing that the evidence was insufficient to show that reunification was no longer in N.S.’s best interests, Mother challenges several of the court’s factual findings, claiming that they were clearly erroneous.

“Under the clearly erroneous standard, this Court does not sit as a second trial court, reviewing all the facts to determine whether an appellant has proven his case.” *Lemley v. Lemley*, 109 Md. App. 620, 628 (1996). Instead, the Court looks for any evidence to support the trial court’s factual findings. *See Figgins v. Cochrane*, 403 Md. 392, 409 (2008). “If any competent material evidence exists in support of the trial court’s factual findings, those findings cannot be held to be clearly erroneous.” *Id.* This standard is a “deferential one, giving great weight to the trial court’s findings,” *Gizzo v. Gerstman*, 245 Md. App. 168, 200 (2020) (citation modified). When it is applied on appeal, “all evidence . . . must be viewed in the light most favorable to the prevailing party below,” *Lemley*, 109 Md. App. at 628.

1.

**Bond Between N.S. and Mother**

Mother challenges the court’s finding that N.S. and Mother had “some connection.” She argues that the court overlooked evidence of years of consistent, joyful visits between them. She states that N.S. recognizes her as her mother and feels comforted by her. She also states that they spent countless hours together reading, playing, and singing, including dedicated one-on-one time. In sum, Mother appears to take issue with the court’s failure to make a finding that she and N.S. had a stronger connection.

There was competent evidence to support the court’s finding that N.S. and Mother had “some connection” for some of the stated reasons above. However, during the relevant review period, Mother had limited visits with N.S., every Sunday and every other Saturday, for a few hours each. In addition, the evidence established that N.S. was cared for by someone else (Ms. B.) for most of her life. Therefore, the evidence did not compel a stronger finding, and we discern no clear error in the court’s conclusion.

2.

**Mother’s Appreciation of N.S.’s Medical Needs**

Mother challenges the court’s finding that Mother had not “really demonstrated an in-depth appreciation” for N.S.’s complex nutrition issues with a feeding tube. She maintains that this finding “flies in the face” of the Department’s stated belief that Mother could meet N.S.’s medical needs, that Mother attended N.S.’s medical appointments, that

Mother expressed concern regarding N.S.’s hair-pulling, and testimony about Mother’s care, attention, and consideration of N.S.’s medical needs.

Testimony was received from both Mother and Ms. B. regarding N.S.’s feeding tube. Ms. B. demonstrated a greater understanding of N.S.’s nutritional needs. She testified that N.S. is on “continuous feeds” for nineteen hours a day, followed by a five-hour rest. She also mentioned that N.S.’s nutritionist had recently switched her formula from infant to toddler formula, as N.S. was “drastically underweight” and “under height.” She further testified that N.S. had not tolerated the new formula due to the recent change, “so we’re kind of still trying things out.” In addition, Ms. B. testified regarding N.S.’s bowel and stomach issues overnight and her knowledge of when to vent the tubes for N.S.

In contrast, Mother did not demonstrate the same level of understanding regarding N.S.’s nutritional complications and the feeding tube. When discussing N.S.’s nutrition and feeding, Mother indicated that “[i]t looks like they allowed her to do five hours off now” and N.S. had been “using a sippy cup so she can drink some of her formula” and “she does drink it.”

### 3.

#### **Mother’s Lack of Transparency**

Mother challenges the court’s finding that she lacked transparency regarding: (1) P.’s birth, (2) the rescheduling of home assessments, and (3) Mother’s concern about the ability of N.S.’s counsel to remain neutral and fair.

The court did not clearly err in finding that Mother lacked transparency in any of these ways. *First*, the evidence established that Mother failed to disclose P.’s birth during the home assessment on December 16, 2024, even though she had the opportunity to do so. Additionally, instead of stating that she had a C-section, she represented it as an “abdominal procedure.”

*Second*, the evidence demonstrated that Mother cancelled the April 2025 follow-up home assessment, claiming she had COVID-19. The Department concluded that the photo of her positive COVID-19 test was an image from the internet. In addition, there was evidence that Mother did not provide verification as requested by the Department. Regarding the June 2025 home assessment, the evidence established that the Department advised Mother that T. needed to be present during the evaluation. However, the Department was only notified by Mother on the day of the assessment that T. would not be present due to his IEP testing.

*Finally*, the evidence showed that Mother expressed concerns about N.S.’s attorney being biased, particularly because this attorney had also represented T. in a previous CINA case. Mother argues the court’s finding that Mother cannot be trusted to care for N.S. because she voiced concerns about N.S.’s attorney was “not logical.” We disagree. Mother’s feelings regarding the attorney’s potential bias were pertinent to the court’s finding of a lack of transparency; Mother’s concerns may lead her to withhold other critical information about her circumstances that could affect N.S.’s care, out of fear that the attorney might notify the Department or the court if such information becomes known.

Mother argues that even if the evidence indicates a lack of transparency, this issue alone, without any accompanying safety concerns, cannot justify deeming her unfit for custody of N.S. She claims that the court abused its discretion by granting custody to a relative based solely on a lack of transparency, which has no relevance to N.S.’s safety with Mother.

As mentioned, before granting custody and guardianship to a non-parent, the court must consider the three factors under CJP § 3-819.2(f)(1). The first and third factors are not at issue. Mother’s argument implicates the second factor involving “[a]ll factors necessary to determine the best interest of the child.” *See* CJP § 3-819.2(f)(1)(ii). The statute does not specify the factors necessary to determine N.S.’s best interest at this stage. Instead, the court’s assessment of which factors are necessary is a matter of discretion. *See In re M.*, 251 Md. App. at 111–12. “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.’” *In re Ashley S.*, 431 Md. 678, 715 (2013) (quoting *In re Yve S.*, 373 Md. 551, 584 (2003)). In doing so, we recognize that:

[I]t is within the sound discretion of the [juvenile court] to award custody according to the exigencies of each case, and . . . . [s]uch broad discretion is vested in the [juvenile court] because only [the juvenile judge] sees the witnesses and the parties, hears the testimony, and has the opportunity to speak with the child; he 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.

*In re Yve S.*, 373 Md. at 585–86.

Here, the court considered the lack of transparency along with several other factors. It expressed significant concern about N.S.’s medically fragile condition, and considered the consistent care and stability provided by Ms. B., as well as Mother’s history of substance abuse and treatment. The court raised doubts about whether Mother could be trusted to care for such a fragile child, given her potential to withhold critical information that could affect N.S.’s health and safety out of fear that N.S.’s attorney might take action to remove N.S. from her care. The court did not abuse its discretion in granting Ms. B. custody of N.S. and closing the case.

## II.

### **Supervised Visitation**

Mother argues that the court erred in ordering supervised visitation. First, Mother argues that the decision did not comport with due process because she lacked notice that the court would order supervised visitation; no one asked for it. Second, she claims there was insufficient evidence to support the decision to order supervised visitation. We address each in turn.

#### A.

### **Due Process**

Mother’s due process argument is not preserved. *See* Md. Rule 8-131(a) (“Ordinarily, an 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.”). At no time after the court’s oral ruling did Mother object on the basis that she lacked notice that an order of supervised

visitation was a possibility. *See, e.g., B.O. v. S.O.*, 252 Md. App. 486, 519–20 (2021) (holding that due process issue was not preserved because the appellant failed to object after circuit court rulings excluding her from the case).

**B.**

**Sufficiency of Evidence**

Mother argues that there was no evidence to support the court’s decision to order supervised visitation.

“Decisions concerning visitation generally are within the sound discretion of the trial court, and are not to be disturbed unless there has been a clear abuse of discretion.” *In re Billy W.*, 387 Md. 405, 447 (2005). We will not overturn the court’s decision unless it acted without reference to any guiding rules or principles, that no reasonable person would take the view adopted by the court, or that the court’s decision is “well removed” from what this Court “deems minimally acceptable.” *Michael Gerald D. v. Roseann B.*, 220 Md. App. 669, 686 (2014).

Visitation, although an “important, natural and legal right . . . is not an absolute right.” *Roberts v. Roberts*, 35 Md. App. 497, 507 (1977). This means that “the best interests of the child may take precedence over the parent’s liberty interest in the course of a custody, visitation, or adoption dispute.” *Boswell v. Boswell*, 352 Md. 204, 219 (1998). The court is in the “unique position to marshal the applicable facts, assess the situation, and determine the correct means of fulfilling a child’s best interests.” *In re Mark M.*, 365 Md. 687, 707 (2001).

Initially, Mother claims that the court’s decision was based on an incorrect statement by N.S.’s counsel during the oral ruling, which claimed that Mother had “never visited with [N.S.] without another adult around.” However, we disagree with this assertion, as nothing in the record indicates that the court relied on counsel’s statement when making its visitation decision. Instead, the court found that Mother had had “supervised and unsupervised visitation with [N.S.], with the assistance of [Ms. G.], who provides transportation and allows visitation in her home.” The court understood that “the access is with the assistance of [Ms. G.] supervising [N.S.] while she is visiting . . . with [Mother], so it’s like supervised, but unsupervised.”

The evidence supported the court’s finding. Ms. G. testified that she became involved in visitation because, as she understood it, “the [c]ourt doesn’t feel that [Mother] was ready to transport her own child at that time and *required supervision*.” (Emphasis added.) Mother testified, and Ms. G. testified consistently, that during visits at Ms. G.’s house, Mother would go into a room without being monitored and spend one-on-one time with N.S. while Ms. G. helped with P. Moreover, Ms. Swain testified that while the visits were unsupervised, Mother and N.S. “were always in [Ms. G.’s] home.”

Mother argues that even if the court’s finding was correct, it still erred because no evidence supported ordering supervised visitation. Instead, she claims that the evidence overwhelmingly demonstrates her ability to care for N.S. safely. Mother highlights that the Department did not express any concerns regarding past visitations. She points out that she

is employed in the medical field, has maintained communication with N.S.’s doctors, attended hospital visits with her, and has reviewed N.’s health summary information.

Relatedly, she asserts that the court cited no evidence that N.S.’s medically fragile condition required her contact with Mother to be supervised for safety reasons. In addition, she argues that the court cited no examples of any instances in which Mother provided anything but excellent care to N.S. In sum, Mother argues that the court’s decision to order supervised visitation did not logically follow from the court’s findings, particularly concerning N.S.’s medically fragile condition.

Mother’s arguments do not persuade us. Mother isolates one aspect of the court’s findings and attempts to undermine its significance, while disregarding the overall weight of the court’s other findings and considerations. In addition to finding that N.S. was fragile, had extensive medical needs, and could not advocate for herself, the court also made findings concerning Mother’s history of substance abuse and compliance with treatment. While the court recognized that Mother tested negative for illicit substances and completed intensive outpatient treatment, it also found that she “repeated[ly] fail[ed] to submit to substance abuse evaluations in late 2022 and early in 2023” after N.S. was born and had a “behavioral positive” on February 24, 2025 “for failing to submit to a drug test.” In addition, Mother’s lack of candor led the court to question whether she could “be trusted with such a fragile child, because she’s worried about [N.S.’s attorney] having handled [T.’s] case that was removed from her care, because of the same issues with substance abuse[.]” From the court’s perspective, the stakes regarding N.S.’s medically fragile

condition were high, allowing little margin for error in her care. Viewing the record of the hearing in its entirety, we conclude that the court’s decision to order supervised visitation was reasonable and was supported by the record.

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