

Circuit Court for Dorchester County
Case No.: C-09-JV-24-000006

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1376

September Term, 2024

IN RE: D.M.

Wells, C.J.,
Ripken,
Eyler, Deborah S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Eyler, Deborah S., J.

Filed: April 4, 2025

*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).

Following an evidentiary hearing, the Circuit Court for Dorchester County entered an order terminating the parental rights of Mr. M. (“Father”) and Ms. K. (“Mother”) to their daughter, D.M., finding that both were unfit and it was in D.M.’s best interests for their parental rights to be terminated.¹ Father noted a timely appeal, asking “Did the trial court commit error when it terminated [his] parental rights[?]”² The Dorchester County Department of Social Services (“the Department”) and D.M., the appellees, support the trial court’s decision. For the following reasons, we shall affirm the judgment.

FACTS AND PROCEEDINGS

Father met Mother through Dri-Dock Recovery & Wellness Center (“Dri-Dock”), a peer recovery program in Cambridge, Maryland. They moved in together in November of 2020. On December 4, 2021, D.M. was born at home. Two days later, Mother and D.M. went to a hospital, where they tested positive for cocaine. The hospital made a substance-exposed newborn referral to the Department. After being hospitalized for several days, Mother and D.M. were discharged home on December 9, 2021.

On December 12, 2021, the Department received an after-hours call reporting that Father had contacted law enforcement with concerns about Mother’s ability to care for D.M. The next day, the Department received a second after-hours call from Father reporting that Mother had left the home with D.M. and was “using [drugs] while she was away from the home.”

¹ We are using initials to protect the privacy of the minor child in this case.

² Mother, whose lawyer appeared at the hearing but who did not attend herself, did not note an appeal.

When Department workers responded to the home, Mother was present. She refused to give a urine sample and became irate. She yelled, cursed, and called the police. The police removed her from the home and took her to the hospital, where she was admitted due to “mental instability, paranoid and erratic behaviors.” Father was asked whether he could take full-time care of D.M., but he declined, agreeing instead that the Department take temporary custody of D.M.³ D.M., then ten days old, was removed from the home and placed in a respite foster care home. Nine days later, she was placed with her current foster parents, where she has lived ever since. They wish to adopt her.

After D.M. was placed in foster care, weekly supervised visitation was arranged for Mother and Father, to take place at the Department. Caseworkers noted that Father “did not appear as hands on and would defer to [Mother] to provide care to [D.M.]” In April of 2022, they noted that Father was “appropriate and engaging with [D.M.] during visits, however, he still appears to be uncomfortable with all care, such as changing and knowing what to do when [D.M.] cries.” In May of 2022, a random urinalysis of Father showed that he was positive for alcohol. Father acknowledged that “he had a drink earlier in the morning as he was not aware he would be tested.”

³ Father explained:

[T]hey asked me would I be able to make sure that the baby was okay around [Mother]. So I told them I can try, but she wouldn’t stop. So she wouldn’t stop acting crazy like, she was just out of control. So I told them -- well, they asked me, they was like would I like to have my daughter placed in a temporary respite care place until I can fix the situation when it was involving my baby’s mother. So I said as long as I can agree to this situation being temporary I will agree to it.

In June of 2022, the Department proposed a plan for supervised visits, eventually leading to unsupervised visits, with D.M. for Mother and Father, in their home. However, prior to the first home visit, Father asked that the visits continue to take place at the Department because the home was roach-infested and had inadequate air conditioning. After an altercation with police on July 6, 2022, Mother was charged with several offenses, including second-degree assault, and was incarcerated pending trial. On December 6, 2022, she was sentenced to five years, all suspended, and three years’ supervised probation.

In the meantime, on July 25, 2022, in the Circuit Court for Dorchester County, the Department filed a petition to have D.M. found to be a child in need of assistance (“CINA”). The Department alleged that Mother remained incarcerated at that time, and Father was continuing to struggle with housing issues. Father had “requested that [D.M.] remain” in foster care and that the supervised visitation with D.M. continue weekly. Department evidence showed that, although Father was scheduled for weekly hour-long visits with D.M., he “often visits for only thirty minutes because he states that he has appointments and errands to attend.”

On September 9, 2022, the court found D.M. to be a CINA and ordered Father to undergo a psychological evaluation and complete parenting classes. In addition, on September 19, 2022, the court appointed a Court-Appointed Special Advocate (“CASA”) to attend many of the supervised visits between Father and D.M.⁴

⁴ A CASA is a “trained volunteer[] whom the court may appoint to: (i) Provide the court with background information to aid it in making decisions in the child’s best interest; and (ii) Ensure that the child is provided appropriate case planning and services.” Md. Code Ann., Cts. & Jud. Proc. § 3-830(a)(3).

Father’s psychological evaluation was conducted by Dr. Laurie Lewis in October of 2022. In her report, Dr. Lewis described Father as having “certain cognitive weaknesses that may interfere with his reasoning, problem solving, planning, learning, and adaptive functioning.” She noted that Father’s “overall intellectual functioning fell within a very low range” and that “[h]is chronic difficulties with housing and homelessness, and with financial instability, continue to threaten his capacity to care for [D.M.]” Dr. Lewis related several diagnostic impressions, including borderline intellectual functioning, adjustment disorder, and alcohol use disorder (noted as in remission). She determined that, although Father’s history was “significant for alcohol dependence[,]” he denied current problematic use of alcohol. Nevertheless, he remained reliant on Dri-Dock for support, including for transportation. Dr. Lewis conducted a collateral interview of a supervisor from Dri-Dock, who reported having worked with Father for “at least 5 years.” From that interview, she determined that Father “appears to struggle with comprehending information and following through on directives” and “exhibits marked weaknesses in his capacity to perform everyday tasks competently across most domains[.]”

In November of 2022, Father completed parenting classes virtually. The following month, he obtained new housing, with the Department’s assistance. Due to the insect infestation at his prior residence, the Department bought a new mattress set, bed frame, and couch for him. It also furnished him with a baby gate and toys for D.M. Thereafter, supervised visitation between Father and D.M. took place in Father’s home. In January of 2023, Father began receiving in-person parenting coaching. In March of 2023, supervised visitation increased to four hours in duration, with an additional one-hour weekly visit in

the mornings before Father went to his part-time job with Food Lion. The morning visits ceased at Father's request because he thought they interfered with his getting ready for work.

In four visits in March and April of 2023, the CASA observed that Father “does not cuddle or hold” D.M. Instead, D.M. “tends to be in a walker or stroller during their visits.” When asked about that, Father said that “cuddling is not how he was raised and it only spoils children.” The CASA described Father as being unaware of D.M.'s immediate needs. One time, he attempted to feed her hot dogs even though she “was not chewing and swallowing the food already in her mouth.” Another time, Father spilled water on D.M., making her clothing wet, and Father did nothing to clean it up and change her clothes. He had to be prompted to do so. The CASA noted that Father appeared to need a significant amount of “redirection, prompting and support” during his visits with D.M.

In permanency planning reports, the Department documented continuing concerns with Father's parenting, including his “inability to recognize when [D.M.] is overeating/stuffing her mouth with food” and a “tendency not to use sidewalks or crosswalks when walking with her around Route 50 in Cambridge.” His explanation of the latter was to complain about Cambridge not being a walkable town. During a visit to an indoor play center, Father simply “got up and left” D.M. and walked off to another location to use his phone. At first, the supervising caseworker thought he had left D.M. in the care of a friend, but she quickly realized that he did not know any of the people around her. Father had to be told it was not safe to leave D.M. with strangers and to return to her. At one visit, Father used an “aggressive tone” in front of D.M. and had to be told to stop doing

that. During several visits, Father left plastic bags in D.M.’s lap and had to be warned that that was unsafe for her. Father declined the Department’s repeated referrals for mental health counseling.

In September of 2023, Father was arrested and charged with second-degree assault for an incident that took place in public and was observed by an independent witness. Father dragged Mother across the ground, removed her clothes so her private parts were showing, punched her, kicked her, and picked her up and threw her on the ground. Father was incarcerated pretrial and upon conviction was ordered to complete an anger management course. A Department caseworker visited Father three times during his incarceration. Father did not ask about D.M. at any of those visits. Father was released from incarceration on November 28, 2023.

On January 3, 2024, and after a permanency planning review hearing, the court changed D.M.’s permanency plan to adoption by a non-relative with a concurrent plan of guardianship by a non-relative. The court noted that during visits with D.M., Father demonstrated a lack of parenting skills and focus, and he had “not shown any real progress during the pendency of this case.” Later that month, the Department filed a petition for guardianship of D.M. In April of 2024, knowing that the hearing on the petition was coming up, Father finally enrolled in counseling and an anger management course.

The evidentiary hearing on the petition took place May 28 and 29, 2024. Father attended. Mother did not. After considering the factors in Maryland Code Annotated, Family Law Article (“FL”) § 5-323(d), the court found both Mother and Father to be unfit parents and granted the Department’s guardianship petition, terminating Mother and

Father’s parental rights in D.M. The court’s memorandum opinion and order was entered as a judgment on August 15, 2024. Father’s notice of appeal followed.

We shall include additional facts as necessary to our analysis.

STANDARD OF REVIEW

We apply three interrelated standards when reviewing cases involving the termination of parental rights. *In re Adoption of Jayden G.*, 433 Md. 50, 96 (2013). First, “[t]he juvenile court’s factual findings are left undisturbed unless they are clearly erroneous.” *In re Adoption/Guardianship of H.W.*, 460 Md. 201, 214 (2018). Next, “[w]e review legal questions without deference, and if the lower court erred, further proceedings are ordinarily required unless the error is harmless.” *Id.* Finally, “[i]f the court’s factual findings are not clearly erroneous, and legal conclusions are correct, we review the court’s ‘ultimate conclusion’ for abuse of discretion.” *In re Adoption of Jayden G.*, 433 Md. at 96 (quoting *In re Adoption of Ta’Niya C.*, 417 Md. 90, 100 (2010)). In other words, “‘the trial court’s determination is accorded great deference, unless it is arbitrary or clearly wrong.’” *In re Adoption/Guardianship of C.A. & D.A.*, 234 Md. App. 30, 46 (2017) (cleaned up) (quoting *In re Adoption/Guardianship Nos. 2152A, 2153A, 2154A in Cir. Ct. for Allegany Cnty.*, 100 Md. App. 262, 270 (1994)).

DISCUSSION

Father contends 1) the evidence was legally insufficient to support the trial court’s finding that he was unfit, and 2) the court’s termination of his parental rights was contrary to D.M.’s best interests.

“When it is determined that a parent cannot adequately care for a child, and efforts to reunify the parent and child have failed, the State may intercede and petition for guardianship of the child pursuant to its *parens patriae* authority.” *In re Adoption/Guardianship of C.E.*, 464 Md. 26, 48 (2019). Specifically, FL § 5-323(b) provides that, if the court finds a parent unfit to remain in a parental relationship with the child, it “may grant guardianship of the child without consent otherwise required under this subtitle[.]” FL § 5-323(b). “[I]n ruling on a petition for guardianship of a child,” the court shall consider several factors enumerated in FL § 5-323(d), and “shall give primary consideration to the health and safety of the child[.]” FL § 5-323(d). Indeed, as the Supreme Court of Maryland has made clear, “the best interest of the child remains the overarching goal when considering the termination of parental rights[.]” *In re Adoption/Guardianship of C.E.*, 464 Md. at 32. Accordingly, there is “a substantive presumption—a presumption of law and fact—that it is in the best interest of children to remain in the care and custody of their parents.” *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 495 (2007). However, this Court has noted that that presumption “has limits,” and:

the right of a parent to make decisions regarding the care, custody, and control of their children may be taken away where (1) the parent is deemed unfit, or extraordinary circumstances exist that would make a continued relationship between parent and child detrimental to the child, and (2) the child’s best interests would be served by ending the parental relationship.

In re Adoption/Guardianship of Jasmine D., 217 Md. App. 718, 734 (2014).

In the case at bar, the court issued a thorough written opinion documenting its consideration of the factors set forth in FL § 5-323(d), as well as D.M.’s best interests, and concluded that Father was unfit to parent D.M. and it was in D.M.’s best interest to

terminate Father’s parental rights. Specifically, pursuant to FL § 5-323(d)(1), the court considered “all services offered to [Father] before the child’s placement” and found that “the Department has provided extensive services.” The court noted that the Department had provided “supervised visits, housing assistance, [Family Team Decision Meetings], mental health and substance use disorder referrals[,]” and “parenting coaching and classes for [Father.]” The record also reflects that the Department assisted Father in obtaining new housing; purchased new furniture for Father, including a new bed and couch, and helped him assemble it; and purchased a baby gate, pack and play, toys, and various child-safety items for D.M.

Second, the court considered Father’s “effort[] to adjust [his] circumstances, condition, or conduct to make it in the child’s best interests for the child to be returned to [his] home” pursuant to FL § 5-323(d)(2). The court found that Father had failed to address his mental health issues and “[i]nstead of identifying healthy coping mechanisms, such as mental health treatment, he believes that his ways are more effective.” The court found that Father’s own ways did not “even begin to address [his mental health issues].” It noted “credible evidence” that Father committed “a violent assault” against Mother, as well as testimony that, on at least one occasion, he displayed “some hostility” to the Department. It further found that Father “ha[d] not taken seriously conditions imposed up[on] him, as was evidenced by only recently enrolling in anger management.” At no time in D.M.’s life had D.M. been considered sufficiently safe in Father’s presence to allow for unsupervised visitation.

The court acknowledged that “Father has visited [with D.M.] when not incarcerated” but his “contact with the Department is primarily limited to visits, without any real conversation involving the child’s well-being.” Further, with respect to FL § 5-323(d)(2)(iii), the court found that, although there were no known disabilities, Father has “challenges that impact his cognitive and adaptive functions, that then affects his ability to engage in self-care.” The court observed that “[t]he Department can think of no additional services that will lead to reunification[.]”

Next, as to FL § 5-323(d)(3), the court found that D.M. had been neglected by her parents and was born substance exposed. FL § 5-323(d)(3)(i), (ii)(B).

Finally, regarding D.M.’s emotional attachment to Father and her placement family under FL § 5-323(d)(4), the court made note of Father’s belief that holding D.M. “may be a negative thing, akin to spoiling the child.” The court found that D.M. “has a closer and warmer relation[ship]” with Mother than with Father, but that “even that pales in comparison to the closeness and warmth [D.M.] enjoys with her foster family.” The court found that D.M. “has bonded [with her] foster parents, extended family, church and community” and that she is “thriving with the resource family and that is the only family she’s known.” The court noted the “stark contrast” between D.M.’s interactions with Father and the “stability, provision, nurturing and warmth with her foster family[.]” stating that there was “little doubt” that termination of Father’s parental rights was in D.M.’s best interests:

The [c]ourt is faced with a mother and father capable or willing of little to no self-reflection in order to do what is best for [D.M.] In stark contrast stands the life of stability, provision, nurturing and warmth with her foster family.

There can be little doubt that under these circumstances, [D.M.]’s best interests are served by the termination of parental rights of the parents with whom she has been separated, and had little contact, for 20 or 28 months, depending on which benchmark one uses to measure the time. When the [c]ourt hears the psychological professional speak of the need, developmentally, for a young child to enjoy secure and significant attachments that lead to positive development and healthy outcomes for a child, the [c]ourt cannot see a path where she experiences that either from [Mother] or [Father].

The court emphasized several concerns regarding Father’s fitness as a parent, including testimony from Dr. Lewis regarding “the danger in [Father’s] failure to address his mental health issues” and Father’s reliance upon Dri-Dock although the evidence suggests that Dri-Dock is “a poor substitute” for mental health treatment. Additionally, the court found that the evidence demonstrated that Father’s “own cognitive issues make it difficult for him to parent [D.M.] safely” and Father “has no real plan for [D.M.], evidenced by his telling the [c]ourt that [D.M.] would be enrolled in daycare for free, but that he wasn’t really able to say where that daycare was located.”

On appeal, Father challenges the court’s finding that he has had “little contact” with D.M. during her time as a CINA, asserting that he “regularly attended visits offered by the [D]epartment” and had “established a relationship with D.M.” He adds that the Department’s evidence consisted only of “minor and speculative concerns” and points to progress he has made, including that he established stable housing, was continuously employed, and had a relationship with D.M. He further added that he is “not a parent who has put his child’s welfare much at hazard so that he cannot remain in a parental relationship with [D.M.]”

Contrary to these assertions, the evidence at trial did not consist of “minor and speculative concerns” about Father’s ability to parent D.M. Rather, there was first-hand testimony that Father did not handle D.M. safely. On at least two different occasions, he had to be directed against putting choking hazards directly into D.M.’s lap, and he seemed unable to feed her safely so she would not choke on food already in her mouth. Several times, when Father was accompanying D.M. along a busy road, a Department caseworker had to “direct [Father] to use crosswalks instead of sort of jaywalking across the highway.” On another occasion, a Department caseworker found herself collecting loose screws on the floor of Father’s home before D.M. could put them in her mouth. Finally, as noted, during a visit at a public play area, Father “got up and left” D.M. unattended with only strangers around her. Although Father characterizes these incidents as “minor[,]” we agree with the trial court that, taken together, they show that Father lacks the ability to safely parent D.M.

Father is correct that the record shows, for the majority of the time D.M. was a CINA, he “regularly attended visits” with her. The facts in evidence also show, however, that beginning as early as June of 2022, the Department proposed a plan for visits to occur in Father’s home and for those visits to be supervised at first, “then move to semi-supervised to eventually non supervised and extending the timeframe of the visits to transition to overnights and then back in the home completely.” Nonetheless, Father’s visits never progressed to being unsupervised due to concerns for D.M.’s safety when she was with Father. The “lack of progress in [Father’s] provision of a safe, stable, nurturing environment” accounted for his never attaining unsupervised visitation with D.M. Safety

of the child is of paramount importance. Since D.M. was placed in foster care at less than a month of age, Father has never been with her in an unsupervised setting because he was never able to demonstrate that he could care for her in a way that would keep her safe.

Finally, Father contends the court improperly “used [his] relationship with his older child Z.M., who is not subject to a CINA proceeding, as evidence of [Father’s] unfitness.” However, the record does not show that the court relied upon Father’s relationship (or lack thereof) with his older child as “evidence” of his unfitness to parent D.M., but as one relevant factor, among several, in considering D.M.’s best interests. We disagree that this was in error. *In re Adriana T.*, 208 Md. App. 545, 570 (2012) (noting that “a parent’s past conduct is relevant to a consideration of the parent’s future conduct”).

As the Supreme Court of Maryland has made clear, “[w]hat the [termination of parental rights] statute appropriately looks to is whether the parent is, or within a reasonable time will be, able to care for the child in a way that does not endanger the child’s welfare.” *In re Adoption/Guardianship of Rashawn H.*, 402 Md. at 499-500. Here, the court determined that on the facts before it, including that Father had made “dangerous crossings of a major highway [with D.M.] and expos[ed D.M.] to plastic bags,” that he “has asked strangers to keep an eye on [D.M.,]” that he “has not taken seriously conditions imposed up[on] him,” that he has “no real plan” for D.M.’s childcare, and that during the pendency of the proceedings, he has “not advanced in any apparent way[.]” that Father was unable to safely care for D.M. in a reasonable amount of time, and that termination of his parental rights was in D.M.’s best interests. Indeed, in all of D.M.’s two years and five months (at the time of the hearing), she had only spent her first ten days in Father’s unsupervised

custody and has not bonded with Father. By contrast, she is closely bonded with her foster parents and their family, in which she is fully integrated as a member. We are unpersuaded that the trial court's decision to grant the Department's guardianship petition and terminate Father's parental rights was arbitrary, clearly wrong, unsupported by competent and material evidence, or not in D.M.'s best interest.

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