Circuit Court for Baltimore City
Case No. 818352017J, 818352021J

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1613

September Term, 2024

IN RE: K. PE. N. & K. PA. N.

Wells, C.J.,
Graeff,
Berger,

JJ.

Opinion by Berger, J.

Filed: August 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).

This case involves an appeal by I.B. ("Mother"), challenging an order from the Circuit Court for Baltimore City, sitting as a juvenile court, which granted custody and guardianship of Mother's twin children, K. Pe. N. and K. Pa. N. ("the Twins"), to Mother's sister, C.F., who resides in Delaware. Through its order, the court closed the Twins' child in need of assistance ("CINA")[1] cases. This timely appeal followed.

QUESTIONS PRESENTED

Mother presents two questions for our review, which we have recast and rephrased as follows:[2]

I. Whether the court abused its discretion when it awarded custody and guardianship of the Twins to C.F.

II. Whether the court abused its discretion when it did not order visitation between Mother and the Twins.

For the following reasons, we affirm.

BACKGROUND

[1] A child in need of assistance ("CINA") is "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 (1973, 2020 Repl. Vol.) § 3-801(f), (g) of the Courts and Judicial Proceedings Article ("CJP").

[2] Mother phrased the questions as follows:

1. Did the hearing judge err in issuing a final order which fails to guarantee any visitation between the Appellant mother and the twins?

2. Did the trial court err in granting the request for [custody and guardianship] and closure of the case?

Mother's History with the Department

The Twins were born to I.B. and J.N. ("Father")[3] in 2013 and have three older siblings, D.H., B.D., W.D., and one younger sibling, E.M. Mother's involvement with the Baltimore City Department of Social Services (the "Department") began in January 2012, when Mother was hospitalized in a psychiatric care facility for symptoms including verbal and physical aggression, paranoia, anxiety, and suicidal ideations.[4] D.H., B.D., and W.D. were placed in emergency shelter care with the Department and that time. In September 2012, D.H., B.D., and W.D. were found CINA, and in October 2013, custody and guardianship of the three children was granted to their aunt, C.F.

In 2015, Mother filed a complaint for custody of D.H., B.D., and W.D., and in December 2015, Mother was granted sole legal and physical custody of the three children. In 2016, the Department alleged that Mother committed physical abuse following an incident where D.H. reported that Mother hit her with a broom, and the hospital determined that D.H.'s injuries were diagnostic of abuse. In June 2017, another altercation occurred between Mother and D.H., where Mother allegedly bit D.H., and D.H. allegedly responded by stabbing Mother with a screwdriver. Both D.H. and Mother were transported to the

[3] Father is currently incarcerated and is not a custody resource for the Twins. Father filed a brief in the present appeal and does not contend that the court made any error in granting C.F. custody and guardianship or declining to order visitation for Mother.

[4] Mother has received various diagnoses of PTSD, anxiety, depression, bipolar disorder, and schizophrenia, and "has a history of psychiatric hospitalizations and noncompliance with mental health treatment."

hospital for emergency psychiatric evaluations. While at the hospital, Mother required sedation.

Also in June 2017, the Department became involved with Mother again after E.M., then approximately two years old, fell off the roof at Mother's home, and Mother allegedly refused to allow E.M. to be transported to the hospital for emergency medical care. The Department alleged that when B.D., W.D., the Twins, and E.M. were removed from Mother's care, she was "uncooperative," and became "aggressive and combative" with Department staff and responding police and paramedics. The court denied the Department's emergency shelter care petition the same day, and all children were returned to Mother's care.

In April 2018, following receipt of a report alleging that Mother was using "excessive corporal punishment as a means of discipline" with the children, the Department again petitioned for emergency shelter care for B.D., W.D., the Twins, and E.M. The court granted the Department's petition, placing the children with their maternal grandmother. In May 2018, B.D. was placed under an order of custody and guardianship to her maternal aunt, C.F., in Delaware. The court found that W.D., the Twins, and E.M. were not CINA and returned them to Mother's care.

The Twins Placement in Shelter Care

In December 2018, police responded to a call from Mother's home. The police observed that there was no food or heat in the home, and that the children were sleeping on box springs on the floor without mattresses. The home also appeared to have cockroaches. While police were in the home, the Department was contacted after Mother again became

"aggressive and combative." During the removal, the children, who were dirty and in improper dress, reported that they were often malodorous due to poor hygiene. D.H., W.D., the Twins, and E.M. were removed from Mother's care and placed in emergency shelter care with another maternal aunt, C.W., in Baltimore.

The court conducted CINA proceedings in March 2019. Mother was incarcerated but attended the hearing and was represented by counsel. At the time, all the children except for B.D. remained in C.W.'s care. All eligible children were enrolled in school, and some were receiving therapy and educational services. Mother had a pending criminal trial and violation of probation hearing and indicated that she anticipated being released from the custody of the Baltimore City Department of Corrections and wanted to have her children returned to her care. Mother did not seek any additional services from the Department but indicated that upon her release she would be requesting housing assistance. The court found good cause to delay the CINA proceedings pending the resolution of Mother's criminal cases.

Mother and counsel were present at a CINA hearing in April 2019, at which time the court continued the shelter care order without making a CINA finding. The court resumed CINA proceedings at a contested hearing in May 2019. Mother attended the hearing and was represented by counsel. Mother indicated that she was looking for housing and would need a home assessment once she moved but did not require any services from the Department. D.H., W.D., the Twins, and E.M. were all found CINA and committed to the Department's care. They continued to reside with C.W. in Baltimore.

Permanency Plan Changed to Custody and Guardianship by a Relative

On April 24, 2019, Mother signed a service agreement with the Department. Pursuant to the agreement, Mother was to participate in mental health treatment and family therapy, attend parenting classes, obtain stable housing that has heat and air-conditioning, participate in a family involvement meeting ("FIM"), attend visitation with the children, and participate in a substance abuse assessment. The Department provided Mother with a referral for her substance abuse assessment and for housing. Mother claimed she would begin parenting classes in June 2019. The Department also allegedly set up visitation with the children, but Mother did not attend the first visit.

In November 2019, Mother entered a drug treatment facility and admitted use of several drugs in the past. Mother was discharged from treatment shortly after for failing to comply with program rules. Mother did not appear to re-enroll in a substance abuse treatment program after. Mother alleged that she was receiving mental health treatment, but the Department alleged that it was unable to verify her claims.

Following several continuances, Mother's counsel attended a hearing in August 2020, but Mother was not present. At the hearing, the Department alleged that Mother still had not attended parenting classes. The Department also alleged that Mother had been referred to the Family Recovery Program[5] but was discharged for failing to attend her evaluation or review hearings.

[5] The Family Recovery Program is administered through the Maryland Juvenile Court. The program "provides parents with immediate access to the substance use disorder treatment they need within 24 hours of assessment," including "individual and group counseling, relapse prevention, self-help groups, preventative and primary medical care,

In September 2020, a magistrate held a review hearing on the CINA cases for D.H., W.D., the Twins, and E.M. Mother and her counsel failed to attend the hearing. The Department indicated that it had not heard from Mother since the beginning of August 2020 and recommended that the children's permanency plans be changed from reunification to custody and guardianship by a relative. The magistrate noted that the Department had made reasonable efforts in support of the plan for reunification pursuant to the service agreement, but Mother had not completed her commitments under the service agreement. The magistrate accepted the Department's recommendation, and in October 2020, the court approved the magistrate's recommendation and the permanency plan for the Twins was changed to custody and guardianship by a relative. At this time, all of the children, except B.D., remained in C.W.'s care. Mother did not file an appeal of the change in permanency plan order.

Mother Challenges the Twins' Permanency Plan

From September 2020 to September 2022, Mother and her counsel failed to appear for any of the five scheduled hearings to review the permanency plans for the Twins.[6] In March 2022, the court found that Mother had only sporadic communication with the Department and had failed to attend visitation with the Twins. The court determined that the Twins were doing well in C.W.'s care and their medical, dental, and therapeutic needs

general health and nutrition education, parenting skills, and domestic violence education." *Home, Family Recovery Program*, https://frp-inc.org/ (last visited July 23, 2025).

[6] These hearings occurred on September 24, 2020, March 25, 2021, September 23, 2021, March 10, 2022, and September 8, 2022.

were being met. The court also noted that C.W. had been approved as a custody and guardianship resource for the Twins. The court continued the permanency plan of custody and guardianship to a relative, C.W.

At a review hearing in October 2022, although Mother and her counsel were not present, the court noted that Mother had recently reached out to the Department to schedule visitation. The court continued the Twins' permanency plan and placement with C.W. In November 2022, C.W. passed away, and the Twins were briefly in the care of C.W.'s daughter and their cousin, A.W. At this time, A.W. was caring for the Twins' younger sibling, E.M., and A.W. was unable to be a permanent resource for the Twins.

At a hearing in front of a magistrate in February 2023, Mother requested that the permanency plan be revised. Mother claimed she had participated in mediation with C.W. prior to her passing and requested that the permanency plan be revised to reunification and/or custody and guardianship. Mother alleged that she attempted on several occasions to contact her case worker at the Department to no avail. The Department alleged that Mother had not communicated with the Department since November 2022. Because Mother was contesting the case, the magistrate reset the hearing for April 2023.

At the contested hearing in April 2023, the Department informed the court that it was pursuing placement for the Twins with C.F. in Delaware. Mother's attorney shared that Mother wanted the children returned to her and wanted the permanency plan changed back to reunification. At the hearing, the Department caseworker, Tikia Duppins, testified that although she had been the Twins caseworkers since June 2021, she did not hear from Mother until March 2022. Ms. Duppins testified that during a phone call with Mother in

March 2022, Mother inquired when the plan changed to one of only custody and guardianship, and after Ms. Duppins informed Mother of the several hearings she had missed, Mother ended the phone conversation. Ms. Duppins noted that Mother and the Twins completed a visit in June 2022, and Mother did not complete another visit until March 2023. Ms. Duppins acknowledged that in March 2023, she completed a home visit to assess Mother's home because Mother was contesting the custody and guardianship plan. Ms. Duppins noted that the only issue with Mother's home was that it lacked furniture. Ms. Duppins further testified that she left a message with the mental health provider that Mother had identified, but she never received a return call and did not follow up. Ms. Duppins completed the home assessment and attempted to contact Mother's mental health provider despite the fact that the Department did not enter a service agreement with Mother due to the permanency plan being custody and guardianship to a relative rather than reunification.

The hearing was continued until June 2023, at which point Mother testified that she believed that after C.W.'s passing, she would be "the next resource for [her] children" and the children would be returned to her care. Mother also testified that beginning in March 2023, Mother began having monthly Zoom visits with the Twins. Mother also visited with her children every two weeks at her mother's home in Baltimore, and the visits lasted approximately 15 minutes. Mother testified regarding her mental health, noting that she was taking medication and was in treatment, and provided a letter from her mental health provider in support. Mother opposed placement of the Twins with C.F.

At the time of the hearing, the Twins remained in A.W.'s custody in Baltimore, but the Department had initiated the process to place the Twins out-of-state with C.F. in Delaware. On June 14, 2023, the magistrate noted that "[p]ermanency is essential for children who have been subject to the court's jurisdiction since 2017," and recommended as follows:

> Given [the Twins] interwoven relationships with their relatives, including their maternal aunt in Delaware, it is not in [the Twins] best interests to disrupt the plan to place the [Twins] with their relative. However, the material change in the [Twins] lives, brought about by the death of the caregiver, warrants further consideration of [M]other as potential resource. Effective today the plan is changed to concurrent plan of reunification and relative placement for custody and guardianship.

Counsel for the Twins filed exceptions to the magistrate's recommendation on June 15, 2023, arguing that the change adding a concurrent plan of reunification was not in the Twins best interest. Mother neither filed exceptions nor filed an opposition to the Twins exceptions.

The Exceptions Hearing

In April 2024, the court held a hearing on the Twins' exceptions. Mother was not present at the start of the hearing, and Mother's counsel did not oppose the exceptions. Mother appeared near the end of the hearing. At the hearing, the court heard testimony that the Twins were doing well in C.F.'s care, were doing well in school, had 504[7] plans,

[7] Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, requires that schools make reasonable accommodations for students with disabilities to allow them to participate in school and school-related activities.

and were receiving tutoring services. The Twins were receiving weekly therapy and regular medical and dental care. The court sustained the Twins' exceptions and continued the permanency plan of custody and guardianship by a relative.

The Court Awards Custody and Guardianship of the Twins to C.F.

A contested custody and guardianship trial of the Twins began in July 2024. C.F. offered testimony regarding the Twins' behavior and their care. C.F. testified that when the children first entered her care in 2023, they were "emotionally drained, sad and unable to articulate their feelings," had outbursts and needed significant emotional support. C.F. testified that the Twins adjusted well to their placement in Delaware, were doing well in school, made friends, participated in school and sports activities, had consistent contact with family, and had positive relationships with C.F. and her husband. C.F. further noted that the Twins had a positive relationship with their older sibling B.D. who also resides with C.F. C.F. testified that the Twins had phone calls and virtual and in-person visits with Mother, which C.F. encouraged. C.F. further testified that B.D. did not have contact with Mother, and when facilitating visits between Mother and the Twins, C.F. considered B.D's well-being as well. C.F. testified that there was no limitation on visitation when she took the Twins to visit Mother and other family in Baltimore, and she would continue to encourage and facilitate visitation and contact between Mother and the Twins.

Quadry Harris, who had been the Twins' caseworker since June 2023, also testified. Mr. Harris testified that the Twins were "extremely comfortable" with their placement at C.F.'s home. Mr. Harris testified that he supervised visitation between Mother and the Twins, and that the visits were "okay," Mother was frequently late to visits, and noted that

there is limited interaction between Mother and the Twins during visits. Mr. Harris testified that he did not observe any significant moments of positive emotion during the visits, but he did observe one negative moment. Mr. Harris recommended that the permanency plan should remain custody and guardianship to a relative.

Mother also testified at the hearing. Mother testified that she loves the Twins and either wants them returned to her care or wants unsupervised visitation with them. Mother testified that she did not have any concerns about the Twins being in C.F.'s care, but expressed frustration with the Department's facilitation of visitation and communication. Mother testified that she required assistance with paying her bills and other needs but had stable housing and was addressing her mental health needs in therapy. During closing arguments, Mother's counsel reiterated that Mother wanted unsupervised visitation with the Twins.

On August 28, 2024, the court awarded custody and guardianship of the Twins to C.F. The court noted that the Twins were doing well in C.F.'s care, that there were "no limitations on [the Twins] seeing their Mother in Baltimore, and that [C.F.] encourages them to contact their Mother." The court denied Mother's request "not to terminate jurisdiction based upon Mother's fear that she would not see her children," and concluded that "[t]o keep these children in [Mother's] care would be a complete travesty." This appeal followed.

STANDARD OF REVIEW

When we review a juvenile court's guardianship decision, we apply three interrelated standards of review. *In re Adoption/Guardianship of C.E.*, 464 Md. 26, 47

(2019). We review factual findings for clear error, legal conclusions *de novo*, and the court's "ultimate conclusion" for an abuse of discretion. *In re Adoption of Ta'Niya C.*, 417 Md. 90, 100 (2010) (citation omitted).

Factual findings are clearly erroneous if no "competent material evidence exists in support of the trial court's factual findings." *In re Ryan W.*, 434 Md. 577, 593-94 (2013) (citation and quotation marks omitted). "[I]f there is any competent and material evidence to support the factual findings of the trial court, those findings cannot be held to be clearly erroneous." *Carroll Indep. Fuel Co. v. Wash. Real Estate Inv. Trust*, 202 Md. App. 206, 224 (2011) (citation and quotation marks omitted).

If, after a *de novo* review of the court's legal conclusions, we find that the court has "erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless." *In re Yve S.*, 373 Md. 551, 586 (2003) (citations omitted).

Finally, juvenile courts have broad discretion to "determine the correct means of fulfilling a child's best interest." *In re Mark M.*, 365 Md. 687, 707 (2001). When the court's decision is "founded upon sound legal principles and based upon factual findings that are not clearly erroneous," we will only disturb that decision if "there has been a clear abuse of discretion." *In re Yve S.*, 373 Md. at 586. An abuse of discretion occurs when the trial court's conclusion is "clearly against the logic and effect of facts and inferences before the court" or when the ruling is "violative of fact and logic." *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997) (citations and quotation marks omitted).

DISCUSSION

I. The court did not abuse its discretion when it awarded C.F. custody and guardianship of the Twins.

Cases involving children present a unique challenge, as they require the court to weigh the rights of the child and the parent, which may, at times, be in tension. Parents have a fundamental right to raise their children, and there is "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." *See, e.g.*, *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 495 (2007). Parental rights, however, are "not absolute," and the State may intervene and petition for guardianship of the child "[w]hen it is determined that a parent cannot adequately care for a child." *Id.* at 495; *In re C.E.*, 464 Md. at 48. When considering third-party custody proceedings, the paramount concern of the court is always the best interest of the child. *See, e.g.*, *In re Ta'Niya C.*, 417 Md. at 111.

One permanency plan that the Department may recommend, and the court may grant, for a child that has been declared CINA is custody and guardianship to a relative or non-relative. CJP § 3-819.2(b). Custody and guardianship to a third-party terminates the CINA case and obligations of the Department to the child but does not terminate parental rights. *Id.* In the creation of the permanency plan that requires out-of-home placement, such as custody and guardianship to a third party, the Department must consider the following factors, while giving primary consideration to the best interest of the child:

> (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;
>
> (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.

Md. Code (1984, 2019 Repl. Vol.) § 5-525(f)(1) of the Family Law Article ("FL").

Mother argues that the court abused its discretion when it granted custody and guardianship to C.F. Mother, however, does not allege that the court incorrectly applied any of the FL § 5-525 factors. Mother concedes that "at the August 28, 2024 hearing, [the court] addressed the factors set forth in [FL § 5-525] and made findings concerning those factors which are not clearly erroneous." Rather, Mother contends that awarding custody and guardianship to C.F. was in error because (1) Mother and her attorney were absent during several critical CINA hearings prior to the grant of custody and guardianship to C.F., and (2) the Department failed to provide adequate reunification services prior to the change in the permanency plan. As explained below, we find no error and affirm.

A. *Mother's Absence from CINA Proceedings*

First, we address Mother's contention that her and her counsel's absence from various CINA proceedings constitutes reversible error. At its core, one of the purposes of the CINA law is "[t]o achieve a timely, permanent placement for the child consistent with

the child's best interests." CJP §3-802(a)(7). Thus, the Department must establish a permanency plan, which is "intended to set the tone for the parties and the court by providing the goal toward which they are committed to work." *In re D.M.*, 250 Md. App. 541, 561 (2021) (cleaned up). To achieve these ends, the court "must review the permanency plan at a review hearing 'at least every 6 months' until the child is no longer committed to the Department." *Id.* (quoting CJP § 3-823(h)(1)(i)). At each permanency plan review hearing, the court must:

> (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 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)(i)-(viii). The court and the Department must make "[e]very reasonable effort . . . to effectuate a permanent placement for the child within 24 months after the date of initial placement." CJP § 3-823(h)(5).

Mother correctly asserts that she has a right to be present at all critical stages of the CINA proceedings. "It is clear that a parent is a party to a CINA proceeding and, as such, would be considered a person whose presence is generally necessary under Rule 11-110(b). A CINA proceeding is essentially civil in nature." *In re Maria P.*, 393 Md. 661, 672 (2006) (citations and footnotes omitted) (holding that it was improper for parent to be excluded from part of the CINA proceeding). "A party to civil litigation has a right to be present for and to participate in the trial of his/her case." *Green v. North Arundel Hosp. Ass'n, Inc.*, 366 Md. 597, 618 (2001). Courts have made clear, however, that "the right is not absolute—that there are circumstances in which a civil case may proceed without the attendance of a party[.]" *Id.* at 618-19; *see also Gorman v. Sabo*, 210 Md. 155, 167 (1956) ("The right of a party to a cause to be present throughout the trial is not an absolute right in a civil case and in the discretion of the court, with due regard to the circumstances as to prejudice, the case may be tried or finished when a party, including a defendant, is absent.").

Mother contends that the permanency plan was changed to custody and guardianship by a relative without her knowledge due to her absence from review hearings. Indeed, the permanency plan was changed to custody and guardianship to a relative in October 2020. The Twins had resided with C.W. since December 2018, and it was anticipated that the Twins would remain in C.W.'s care. This change came after Mother

had been removed from her drug treatment program in November 2019 and failed to appear at either the August 11, 2020 or the September 24, 2020 CINA review hearings -- although Mother's counsel was present for the August 11 hearing.

Mother and her counsel were then absent from four additional hearings on March 25, 2021, September 23, 2021, March 10, 2022, and September 8, 2022. All of these hearings continued the permanency plan of custody and guardianship to a relative and made no additional critical changes. Following C.W.'s death, Mother sought a contested evidentiary hearing to argue for the reinstatement of a plan for reunification. The court agreed, and the magistrate recommended that reunification be reinstated concurrent with custody and guardianship to a relative. The Twins' attorney filed exceptions to the recommendation, and after mother did not oppose the exceptions, the court returned the permanency plan to solely custody and guardianship to a relative in June 2023.

Mother points to no specific obstruction to her participation in any of the CINA review hearings that she missed. The court did not remove Mother from the proceedings, purposefully fail to inform her or her counsel of the hearing dates, or schedule hearings for dates that it was aware Mother could not attend. Mother provides no reason for her absence from any of the proceedings prior to C.W.'s death, and, although she asserts that she "suffered serious and specific harm as a result of her and counsel's absence from the earlier hearings," she does not articulate what that harm was, particularly considering the court's reinstatement of a concurrent plan of reunification. Mother's absence from these proceedings does not necessitate reversal.

Furthermore, as noted above, the overriding concern of the court is the best interest of the child. *See Ashley S.*, 431 Md. 678, 712 (2013) (emphasizing that "the task of the juvenile court is not to remedy unfairness to the mother, but to weigh unfairness in light of the best interests of her children"). The CINA statue provides that a permanent placement for a child should be effectuated within 24 months. CJP § 3-823(h)(5). By the time Mother challenged the plan of custody and guardianship to a relative in February 2023, the Twins had been in State care for over four years. The court's refusal to continuously postpone CINA proceedings due to Mother's absence aligns with a permanency plan's goal of "avoid[ing] the harmful effects when children languish in temporary living situations." *Ashley S.*, 431 at 711. As such, the court did not abuse its discretion in ordering custody and guardianship to a relative following Mother's multiple absences from CINA proceedings prior to February 2023.

B. ***The Department's Reasonable Efforts***

Mother additionally contends that the court abused its discretion in awarding custody and guardianship to C.F. because the Department failed to provide adequate reunification services to Mother prior to the change in the permanency plan to custody and guardianship to C.F.

FL § 5-525(e) provides:

> (1) Unless a court orders that reasonable efforts are not required . . . reasonable efforts shall be made to preserve and reunify families:
>
> > (i) prior to the placement of a child in an out-of-home placement, to prevent or eliminate the need for removing the child from the child's home; and

> (ii) to make it possible for a child to safely return to the child's home.
>
> (2) In determining the reasonable efforts to be made and in making the reasonable efforts described under paragraph (1) of this subsection, the child's safety and health shall be the primary concern.

This Court has noted that the "reasonable efforts" requirement is "amorphous" and without a "bright line rule" and as such, "each case must be decided based on its unique circumstances." *In re Shirley B.*, 191 Md. App. 678, 710-11 (2010), *aff'd. In re Shirley B.*, 419 Md. 1 (2011). In *Rashawn*,[8] the Supreme Court of Maryland explained that "reasonable efforts" requires the Department to pursue reunification services:

> The statute does not permit the State to leave parents in need adrift and then take away their children. The court is required to consider the timeliness, nature, and extent of the services offered by DSS or other support agencies . . . and whether additional services would be likely to bring about a sufficient and lasting parental adjustment that would allow the child to be returned to the parent. Implicit in that requirement is that a reasonable level of those services, designed to address both the root causes and the effect of the problem, must be offered[.]

Rashawn, 402 Md. at 500. The Court also recognized, however, that there were limitations on what efforts the Department must provide:

> 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. It must provide reasonable assistance in helping the parent to achieve those goals, but its duty to protect the health

[8] *Rashawn* contemplated the termination of parental rights. Although this is not a termination of parental rights case, we find the Court's explanation of the reasonable efforts requirement instructive.

> and safety of the children is not lessened and cannot be cast aside if the parent, despite that assistance, remains unable or unwilling to provide appropriate care.

Id. at 500-01.

In the case at bar, the juvenile court found on multiple occasions throughout the case that the Department made reasonable efforts to reunify the Twins with Mother while the permanency plan was concurrent plans of reunification and custody and guardianship to a relative. The Department made referrals for Mother for a substance abuse assessment and housing. The Department also set up visitation, which Mother did not attend. The Department was not required to find housing for Mother or ensure she completed every assessment or treatment outlined in the service agreement. In short, the court's finding that the Department had made reasonable efforts to facilitate reunification between Mother and the Twins was not clearly erroneous.

Once the plan changed to custody and guardianship with a relative in October 2020, the Department was no longer required to make reasonable efforts to implement a permanency plan of reunification. Rather, the Department was required to make reasonable efforts to effectuate the plan of custody and guardianship with a relative. The Department did just that: it identified a caretaker in C.W. and began reasonable efforts to implement a plan of custody and guardianship with C.W. Following C.W.'s death, as the plan remained custody and guardianship with a relative following Mother's failure to oppose the Department's exceptions to the magistrate's recommendation, the Department made reasonable efforts to implement the plan with C.F. The Department made home visits, completed the interstate compact required for an out-of-state placement in Delaware,

provided foster care funds to assist C.F., and continued to facilitate visitation with Mother. Because the plan was no longer reunification with Mother, the Department was not required to continue to provide her with services aimed at reunification. As such, the Department did not abuse its discretion when it ordered custody and guardianship of the Twins to C.F., closing the Twins' CINA case.

II. The court did not abuse its discretion when it did not make a specific visitation order between Mother and the Twins and left the issue of visitation for C.F. to arrange.

Mother additionally contends that the juvenile court erred when it did not order visitation between her and the Twins and alleges that in closing the CINA case and declining to order visitation, the court effectively terminated Mother's parental rights. The Department argues that the issue regarding visitation is not preserved because Mother merely asked the court to continue to exercise jurisdiction by keeping the Twins CINA case open until visitation was "worked out." The Department further contends that even if the issue is preserved, the court did not abuse its discretion in declining to order visitation.

"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." Md. Rule 8-131(a). The Department argues that because "Mother did not propose a minimum amount of visitation or specify any kind of proposed visitation schedule for the juvenile court to include in its dispositive order," she failed to preserve the issue of visitation for appeal. This is too narrow a reading of Maryland Rule 8-131(a).

In closing arguments, Mother requested that the court not grant custody and guardianship to C.F. and specifically asked "that the [c]ourt, at this time, grant her

unsupervised visits and have a [FL §] 9-101 finding."[9] Mother continued, requesting that if the court was "going to grant custody and guardianship, that [the court] spell out exactly that the Mother does have visitation rights." Mother went on to request that the court not terminate its jurisdiction over the CINA proceedings, and to instead wait and see if Mother's contact with the Twins was positive. The court ultimately declined to keep the CINA case open, and found that a specific visitation order was not required because C.F. sufficiently facilitated contact between the Twins and Mother and would continue to do so. These requests by Mother were sufficient to preserve the issue of visitation for our review.

> [A] parent whose child is placed in the custody of another person has a right of access to the child at reasonable times. The right of visitation is an important, natural and legal right, although it is not an absolute right, but is one which must yield to the good of the child.

Boswell v. Boswell, 352 Md. 204, 220 (1998) (quoting 2 William T. Nelson, Divorce and Annulment, § 15.26, at 274-75 (2d ed. 1961)). As such, "[n]ot only must access to the

[9] FL § 9-101 provides:

> (a) In any custody or visitation proceeding, if the court has reasonable grounds to believe that a child has been abused or neglected by a party to the proceeding, the court shall determine whether abuse or neglect is likely to occur if custody or visitation rights are granted to the party.
>
> (b) Unless the court specifically finds that there is no likelihood of further child abuse or neglect by the party, the court shall deny custody or visitation rights to that party, except that the court may approve a supervised visitation arrangement that assures the safety and the physiological, psychological, and emotional well-being of the child.

children be reasonable, but any limitations placed on visitation must also be reasonable." *Id.*

It is well settled that the trial court does not have the discretion to "delegate its responsibility to determine the minimal level of appropriate contact between the child and his or her parent." *In re Justin D.*, 357 Md. 431, 449 (2000). Instead, the court is required to describe "at least the minimal amount of visitation that is appropriate and that DSS must provide, as well as any basic conditions that it believes, as a minimum, should be imposed." *Id.* at 450. Thus, if a court's order regarding visitation "constitutes an improper delegation of judicial authority to a non-judicial agency or person, the trial court has committed an error of law." *In re Mark M.*, 365 Md. at 704-05.

Mother argues that the court improperly delegated to C.F. the authority to control visitation, and this amounts to a "complete denial of visitation." We disagree that the court improperly delegated authority to C.F. to "determine the minimal level of appropriate contact" between the Twins and Mother. *In re Justin D.*, 357 Md. at 449. Rather, the court heard ample testimony describing Mother's contact with the Twins over the years and determined that a specific visitation plan was not necessary. The Twins have extensive contact with Mother's family, and she sees them at family events and interacts with them through social media, neither of which were ordered by the Department. C.F. testified that she encouraged the Twins to visit with Mother, facilitated such interaction, and would continue to do so "based on their availability, their school schedule, their activity schedule, and her schedule."

The court found that "there were no limitations on [the Twins] seeing their Mother in Baltimore." The court further stated that holding the CINA case open and keeping the Twins in Department care for the sole purpose of facilitating visitation with Mother "would be a complete travesty." The court was clearly satisfied that C.F. would continue to facilitate ample contact between Mother and the Twins such that a specific visitation order was not necessary. The court placed no limitation on Mother's "natural and legal right" of visitation. *Boswell*, 352 Md. at 220. We, therefore, are unpersuaded that the court abused its discretion in deciding not to include visitation for Mother in its order granting custody and guardianship of the Twins to C.F.

CONCLUSION

Finding no error in either the court's decision to award custody and guardianship of the Twins to C.F., or the court's decision not to order visitation between Mother and the Twins, we affirm.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELLANT.