Circuit Court for Baltimore County
Case No. C-03-JV-24-000716
Case No. C-03-JV-24-000717

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1866

September Term, 2024

IN RE: M.H. & N.H.

Reed,
Zic,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: July 30, 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 Maryland Rule 1-104(a)(2)(B).

This case arises from a home visit conducted by the Baltimore County Department of Social Services ("Department"), appellee, at the home of minor children M.H. and N.H. on July 23, 2024.[1] At the conclusion of the home visit, the Department removed M.H. and N.H. (collectively, "children") from the home.[2] The Department filed petitions in the Circuit Court for Baltimore County, sitting as a juvenile court, to have M.H. and N.H. declared Children in Need of Assistance ("CINA"). Following a disposition hearing, the juvenile court found M.H. and N.H. to be CINA. Mother and Father (collectively, "Appellants") separately appealed.

BACKGROUND

Family History

The Appellants have been married since 2023 and have two children together, M.H. and N.H. M.H. was born in February 2023 and N.H. was born in January 2024. Mother has two additional children, M.J. and J.H., who were 17 and 11 years old, respectively, at the time of the underlying adjudication hearing. M.J. was removed from Mother's care due to Mother's drug use when he was approximately two years old. M.J. then lived in Delaware with his paternal grandparents until he was 14 years old, at which time he returned to Maryland to reside with the Appellants. J.H. was removed from Mother's care as an infant when Mother "willfully turned over [her] guardianship" to

[1] In order to protect the minor children's privacy, we refer to them individually by initials.

[2] All references to "the children" include only M.H. and N.H. unless otherwise stated.

J.H.'s paternal grandparents due to Mother's continued drug use. J.H. continues to reside with paternal grandparents.

Prior to the underlying CINA matter, in January 2024, the Department became familiar with the Appellants following a report that N.H. was born substance-exposed. The Department opened a Substance-Exposed Newborns ("SENS") case, which it then closed after verifying that Mother was receiving treatment. In March 2024, the Department opened an alternative response ("AR") case.[3] As with the SENS case, the Department later closed the AR case when it confirmed that Mother was compliant with substance abuse treatment.

Between April and July 2024, multiple police reports were filed concerning the H. family. We summarize those reports most pertinent to this appeal below.

According to a police report dated April 18, 2024, the Appellants had an argument a few days prior, during which Father picked Mother "up over his shoulder." The report indicates that Mother told the police officer that she sustained two broken ribs as a result.[4]

Another incident was reported to police on May 28, 2024. Father told police that Mother attempted to harm herself with a knife, and when he attempted to intervene,

[3] As part of an AR case, an AR assessment may be conducted by the Department when a family has not been the subject of a prior Child Protective Service ("CPS") investigation. We note that the January 2024 SENS case did not result in a CPS investigation.

[4] During her testimony at the adjudication hearing, described in greater detail below, Mother denied having broken her ribs and stated that she did not remember telling police that she had sustained broken ribs.

Mother fled the area with the knife. The same day, Mother entered a substance abuse treatment program.[5]

Mother remained in a treatment center and away from the H. family's home from the end of May until approximately July 15, 2024. A few days before leaving the treatment center, Mother relapsed. Mother testified that she relapsed with cocaine, not opiates, and had otherwise been "clean" for more than three years before this relapse.

While Mother was in the treatment center, Father's sister stayed at the Appellants' home to help Father with childcare. Father relapsed while his sister was staying at the home and "smoked crack for two days straight." Father testified that he had otherwise been sober for the previous three years and was actively attending drug abuse support meetings.

On July 18, 2024, police were again called to the Appellants' home. According to the police report, M.J. was watching M.H. when M.H. poked the family dog in the eye and the dog bit M.H.'s face. M.J. called out for help, and when the Appellants came downstairs, Father fatally stabbed the dog with a knife.

[5] Mother provided additional context for her May 28 mental health crisis at the adjudication hearing, testifying that around this time, she learned she would be directly examined by the defendant in an unrelated criminal matter in which she was a victim-witness. Mother explained that during this time, she was also working with her medical provider to manage her mental health diagnoses and adjust her medications following an adverse reaction to a change in dosage and a relapse a few weeks prior to the May 28 incident.

The Home Visit

On July 23, 2024, two representatives from the Department arrived unannounced at the H. family's home. This home visit was prompted by four separate community member reports of alleged substance use and domestic violence occurring at the Appellants' home. Prior to the home visit, Noa Davis, one the Department representatives, had reviewed four police incident reports, which were provided to the Department by the Baltimore County Police Department.[6]

Ms. Davis testified that she and her colleague spent "hours" at the Appellants' home attempting to create a safety plan. As part of the safety plan, Ms. Davis told the Appellants that the Department would "request a hair follicle drug test from both [Mother and Father], signed releases for both of their [treatment] programs, if they were in any, and to see the children." She also noted that the safety plan would require the children to leave the Appellants' home and stay with a relative while the test results were pending.

The Appellants refused the hair follicle drug tests because they would admittedly fail those tests due to recent substance use. Mother offered instead to submit to a urinalysis, but Ms. Davis explained that a urinalysis required a referral and could not be conducted by the Department during the home visit. The Appellants also told Ms. Davis that they were not currently in substance abuse treatment programs. Further, although the Appellants suggested that the children stay with their maternal grandmother, who lived in

[6] These reports included those corresponding to the above-described incidents on April 18, 2024, May 28, 2024, and July 18, 2024.

Delaware, the Department could not "safety plan over state lines without proper clearances[.]"

After these safety planning efforts were unsuccessful, Mother locked Ms. Davis out of the home.[7] Concerned for the children's safety, Ms. Davis called the police. The children were then removed from the Appellant's custody and placed in shelter care. The next day, the Department filed separate but substantively identical CINA petitions for the children.[8]

On August 12, 2024, the Appellants consented to and submitted hair follicle drug tests. Mother also provided a urinalysis on the same day. Mother's hair follicle results were positive for cocaine and marijuana, and Father's were positive for methamphetamines, cocaine, and marijuana. Mother's urinalysis was only positive for marijuana.

The Adjudication Hearing

At the adjudication hearing held on October 22 and October 23, 2024, the juvenile court heard testimony from the Appellants, Ms. Davis, M.J., and the children's maternal grandmother.

The court gave an oral ruling at the conclusion of the hearing, in which it made specific findings as to each paragraph in the amended CINA petitions. The court sustained most of the Department's allegations, stating in summary that: "I do find that

[7] Ms. Davis' colleague was still inside the home when Mother locked Ms. Davis out.

[8] The Department amended both CINA petitions in September 2024.

at this stage of the proceedings, by a preponderance of the evidence . . . the Department clearly has met its burden. And I believe that [the Department has] sustained the allegations contained in the amended CINA petition[s]."

Later the same day, the Department filed second amended CINA petitions ("Petitions") that reflected the court's specific findings and deletions in its oral ruling. The court then issued a written Adjudication Order Pending Disposition ("Adjudication Order") in which it sustained all factual allegations in the Petitions. The Adjudication Order explained that although the Department made reasonable efforts to prevent the need to remove the children when it attempted to create a safety plan with the Appellants, it would be contrary to the children's welfare to return them to the home without court and agency oversight. In particular, the Adjudication Order cited the "multiple community reports . . . regarding the [Appellants'] use of illicit substances . . . [and] concerns of ongoing domestic violence in the home between the" Appellants as reasons to continue the children's shelter with the Department, pending dispositional review. The Appellants were given liberal supervised visitation with the children, with a minimum of two hours of in-person visitation per week and additional virtual visits.

The Disposition Hearing

The disposition hearing was held on November 13 and November 20, 2024.[9] At the outset of the hearing, the Appellants requested that the juvenile court not find the

[9] Unless the court finds good cause for delay, a disposition hearing is typically held on the same day as the corresponding adjudicatory hearing. Md. Code Ann., Cts. & (continued)

children to be CINA, or in the alternative, that the court grant Mother an order of protective supervision ("OPS") and return the children to her custody. The court again heard testimony from Ms. Davis and the Appellants, as well as new testimony from representatives of both Mother's substance use treatment program and the transitional recovery home where Mother was residing for a few days before the hearing.

The court gave an oral ruling, followed by a written order ("Disposition Order"), on November 21, 2024. Before reaching its ultimate conclusions, the court made credibility findings. As to Mother's credibility, the court stated: "I remain concerned and question candidly [Mother's] level of sobriety in my very courtroom." After discussing the evidence presented, the court found that:

> [U]nder the totality of the circumstances, meaning the home instability, the domestic violence, the drug use, the mental health issues, a lack of demonstrated commitment to treatment of many forms, the age of the children, the inability of the children to self-protect, I do find by a preponderance of the evidence and more so that the children[']s health and welfare is being placed at a substantial risk of harm, and that there is a substantial risk of mental injury.

The court further found that the Department had made reasonable efforts to prevent the need for removal of the children, and both children to be CINA.

This timely appeal followed. Additional facts are presented as necessary below.

Jud. Proc. ("CJP") § 3-819(a)(2) (1974, 2020 Repl. Vol.). Here, the juvenile court found good cause to delay due to time constraints of the parties' counsel on October 23, 2024.

QUESTIONS PRESENTED

Mother and Father each present three questions for our review, which we have recast as four and rephrased as follows:[10]

1. Whether the juvenile court made clearly erroneous factual findings.

2. Whether the juvenile court erred in finding that the Department made reasonable efforts to prevent removal of M.H. and N.H.

3. Whether the juvenile court abused its discretion in finding M.H. and N.H. to be CINA.

4. Whether the juvenile court abused its discretion in denying Mother's request for an order of protective supervision.

For the following reasons, we affirm.

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[10] Mother presented the following three questions:

1. Did the court commit error when it found M.H. and N.H. to be in need of assistance?
2. Did the court err in refusing to return custody of the children to [Mother] under an order of protective supervision?
3. Did the court err in finding that the [D]epartment made reasonable efforts to prevent the need for removal of the children from [Mother]?

Father presented the following three questions:

1. Whether the juvenile court erred in sustaining allegations that were supported only by hearsay evidence set out in police reports entered over objection of Appellants.
2. Whether the juvenile court erred in finding that the [] Department [] made reasonable efforts to prevent removal of [M.H. and N.H.] from the home and throughout the pendency of the matter.
3. Whether the juvenile court erred in finding [M.H. and N.H.] to be CINA and not granting Mother a Protective Order of Supervision.

STANDARD OF REVIEW

This Court reviews CINA determinations pursuant to three distinct but interrelated standards of review, as explained in *In re T.K.*, 480 Md. 122, 143 (2022) (internal marks and citations omitted):

> Factual findings by the juvenile court are reviewed for clear error. Matters of law are reviewed without deference to the juvenile court. Ultimate conclusions of law and fact, when based upon sound legal principles and factual findings that are not clearly erroneous, are reviewed under an abuse of discretion standard.

"A finding of a trial court is not clearly erroneous if there is competent or material evidence in the record to support the court's conclusion." *In re M.H.*, 252 Md. App. 29, 45 (2021) (internal marks and citation omitted). "[A]n abuse of discretion exists 'where no reasonable person would take the view adopted by the [juvenile] court, or when the court acts without reference to any guiding rules or principles.'" *In re Andre J.*, 223 Md. App. 305, 323 (2015) (quoting *in re Yve S.*, 373 Md. 551, 583 (2003)).

Furthermore, this Court gives "'due regard to the opportunity of the trial court to judge the credibility of the witnesses.'" *Figgins v. Cochrane*, 403 Md. 392, 409 (2008) (quoting Md. Rule 8-131(c)). A "trial judge, most aptly situated to determine the credibility of witnesses, [is] 'entitled to accept—or reject—*all*, *part*, or *none* of' their testimony, 'whether that testimony was or was not contradicted or corroborated by any other evidence.'" *Hripunovs v. Maximova*, 263 Md. App. 244, 269 (2024) (quoting *Omayaka v. Omayaka*, 417 Md. 643, 659 (2011)).

DISCUSSION

I. THE JUVENILE COURT'S FACTUAL FINDINGS WERE NOT CLEARLY ERRONEOUS.

We first address Father's challenges to three specific factual findings that were adopted in the Adjudication Order. Father argues that the court erred in admitting "prejudicial hearsay statements contained with the police reports" to sustain Paragraph 3 of the Petitions, which states that Mother sustained two broken ribs from an altercation with Father on April 18, 2024, and is not otherwise supported by any admissible evidence in the record. Father additionally argues that the court erred in sustaining allegations included in Paragraph 7 and Paragraph 10, respectively, of the Petitions because the allegations were not supported by any evidence.

The Department contends that the court did not make any clearly erroneous factual findings, and argues that the allegation about the broken ribs was supported by Mother's and Ms. Davis' testimony. The Department argues that Ms. Davis' testimony also supports the allegations in Paragraph 7 and Paragraph 10. In the alternative, the Department argues that "the court did not rely upon [Paragraph 10] in reaching its ultimate conclusion, so any error was harmless."

A. Analysis

"A CINA case proceeds in two phases." *In re T.K.*, 280 Md. at 135. The juvenile court first holds an adjudicatory hearing to determine whether the factual allegations in the CINA petition are true. *Id.* During an adjudicatory hearing, a local department must prove the allegations in the CINA petition by a preponderance of the evidence. Md.

Code Ann., Cts. & Jud. Proc. ("CJP") § 3-817(c) (1973, 2020 Repl. Vol.). The rules of evidence apply at adjudicatory hearings. *In re M.H.*, 252 Md. App. at 50 ("Parties must present evidence, in compliance with the rules of evidence, in order for the court to make factual findings[.]") (citing CJP § 3-817(b)). Having outlined the legal framework, we analyze each of Father's challenges in turn below.

1. Paragraph 3

Paragraph 3 of the Petitions states: "The Department received a police report from an incident that occurred in April 2024, *which resulted in [Mother] sustaining two broken ribs after an altercation between she and [Father]*." (Emphasis added.) Father only contests the emphasized portion of the statement.

At the adjudication hearing, Ms. Davis initially testified that there was a domestic violence incident in April 2024 and that the police report states that Mother "had some broken ribs." Mother's trial counsel objected to Ms. Davis' statement regarding the broken ribs, and the court sustained the objection on hearsay grounds. Later in the hearing, however, Ms. Davis testified that based on the April 2024 police report, Mother told the police officers that she went to the hospital following the alleged altercation with Father and that x-rays showed that two of Mother's ribs were broken. No objection was made to this testimony.

On the second day of the adjudication hearing, Mother testified about the April 2024 incident. Mother stated that she did not actually sustain any broken ribs, but that she told the police officers she had because she "believed that they were broken at the time because they hurt[.]" Mother further testified that she was experiencing a "manic

episode at that time" and did not recall telling police about the altercation or that she had broken her ribs.

While the juvenile court sustained a hearsay objection to Ms. Davis initial testimony regarding the April 2024 incident, there was no objection to either Ms. Davis' later testimony or Mother's own testimony. Thus, there is nothing in the record to indicate that the court relied on inadmissible hearsay in sustaining Paragraph 3, and any argument as to whether the admitted testimony was hearsay is not properly preserved. 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[.]").

In sustaining Paragraph 3, the court stated:

> [W]hen I factor in witness's credibility, I'm not striking the two broken ribs. She -- I believe she said it to the police officer. Whether or not that actually turned out to be accurate or true, she at least believed they were broken at the time. So, I'm not striking that.

The admitted testimony from Ms. Davis constitutes competent and material evidence that supports the allegation that Mother sustained broken ribs. Although Mother's testimony refutes that same allegation, it is within the purview of the juvenile court to determine the credibility of witnesses. *Figgins*, 403 Md. at 409 (quoting Md. Rule 8-131(c)). We, therefore, conclude that the juvenile court did not commit clear error in sustaining the factual allegation that Mother sustained two broken ribs from an altercation with Father.

2. Paragraph 7

We turn to Father's challenge to Paragraph 7 of the Petitions, which, in disputed part, states: "It should also be noted that during the home visit, [Father] threatened to go inside and use substances."

At the adjudication hearing, Ms. Davis testified that during the home visit, Father said "several times that he was going to go inside to use." Father testified that he did not threaten to go inside the home and use substances, but rather stated to Ms. Davis that "this is the type of stuff that will make an addict go use."

Later, when ruling on the allegations in Paragraph 7—and specifically, Father's credibility—the court found that the statement "if it was said at all, [] was said in maybe an air of frustration or anger and not a threat of actual behavior." The court explained that it interpreted the statement as "letting off steam" and not as "firm intended behavior[.]"

Given the court's explanation of how it interpreted the testimony, we conclude this allegation had little, if any, impact on the court's finding that Father used substances in the Appellants' home. In addition, there was other evidence in the record supporting Father's recent substance use in the home, including Father's own testimony that he "smoked crack for two days straight" while Mother was at the treatment center following the May 28, 2024 incident. Moreover, the court's decision to credit Ms. Davis' testimony is well within its discretion. *See Figgins*, 403 Md. at 409; *see also Hripunovs*, 263 Md. App. at 269. For these reasons, we hold that the court did not clearly err in sustaining the contested statement in Paragraph 7 of the Petitions.

3. Paragraph 10

Paragraph 10 of the Petitions alleges the following: "[Mother's] 16-year-old son reported that [Mother] was acting frantic, paranoid and seemed under the influence while caring for the [children]." In its oral ruling, the juvenile court stated: "Candidly, I don't know if [counsel for the Department] agreed to delete that sentence [in Paragraph 10]. I just don't remember. And I'm just putting that on the record. Either way, it doesn't frankly alter my decision in this case."

It is unclear from the record before us whether the juvenile court intended to sustain or strike the sentence contained in Paragraph 10 of the Petitions. Even if we could discern the court's intentions as to Paragraph 10, the statement that "either way" it did not "alter [the court's] decision in this case" persuades us that that if there was any error at all, it was not a reversible error. *See Taylor v. State*, 407 Md. 137, 165 (2009) (explaining in a criminal context that an "error is harmless only if it did not play any role in the [] verdict"). Here, any error occasioned by the sentence did not "play any role in the [] verdict[,]" *id.* at 165, and therefore, was harmless.

II. THE JUVENILE COURT DID NOT ERR IN FINDING THAT THE DEPARTMENT MADE REASONABLE EFFORTS TO PREVENT THE CHILDREN'S REMOVAL.

A. The Parties' Contentions

The Appellants argue in their separate briefs that the juvenile court erred in finding that the Department made reasonable efforts to prevent the children's removal. Specifically, Mother contends that "[t]he [D]epartment's investigation and risk assessment cannot be viewed as a reasonable effort to *prevent* removal of the children"

because the Department had a preexisting statutory duty to investigate suspected abuse and neglect. Mother also argues that "the [D]epartment's attempt to create a safety plan cannot be viewed as a reasonable effort to prevent the need for placement of the children when [Mother] had no way to comply with the plan." Mother further contends that the court erroneously "made identical findings regarding the [D]epartment's reasonable efforts to prevent the need for placement of the child[ren] in the [D]epartment's custody" at both the adjudication and disposition hearings.

In his brief, Father asserts that the Department, relying "solely upon uncorroborated calls made by 'community members,' precipitously removed the [children] without making any efforts at all to prevent removal and preserve the family[.]"

The Department contends that the court acted "within its broad discretion in determining the Department made reasonable efforts to prevent the removal of M.H. and N.H." According to the Department, a child welfare investigation is a reasonable effort to prevent removal because it "could lead the Department to rule out any potential finding of abuse or neglect and lead to the prevention of placement of children into foster care." The Department also argues that its attempt to create a safety plan was a reasonable effort that failed only because of the Appellants' refusal to take the hair follicle test, and

because the only relative the Appellants offered for temporarily placement of the children lived out of state.[11]

B. Legal Framework

Unless a court orders that reasonable efforts are not required, Maryland law mandates "reasonable efforts" be made to preserve and reunify families:

> (i) [P]rior 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) [T]o make it possible for a child to safely return to the child's home.

Md. Code Ann., Fam. L. ("FL") § 5-525(e)(1) (1984, 2019 Repl. Vol.). "Reasonable efforts" are those "efforts that are reasonably likely to achieve the objectives" of preventing the child's placement in the local department's custody. CJP § 3-801(x); *see also* CJP § 3-816.1(b)(1). The child's "safety and health shall be the primary concern" when determining whether a local department has made reasonable efforts. FL § 5-525(e)(2). That said, there is no "bright line rule to apply" to the "reasonable efforts" determination, which means that each case "'must be decided based on its unique circumstances.'" *In re Shirley B.*, 419 Md. 1, 25 (2011) (quoting *In re Shirley B.*, 191 Md. App. 678, 710-11 (2010)).

"The [juvenile] court's finding [] shall assess the efforts made since the last adjudication of reasonable efforts and may not rely on findings from prior hearings."

[11] The Department agrees with Mother that maintaining the children's out of home placement is not itself a reasonable effort, but also argues that, "to the extent the court listed this as a reasonable effort, any error is harmless."

CJP § 3-816.1(b)(5). On appeal, we apply the clearly erroneous standard "when reviewing the juvenile court's factual finding that the Department made reasonable efforts to preserve and unify the family." *In re Shirley B.*, 419 Md. at 18; *see also In re M.H.*, 252 Md. App. at 45 (recognizing that there is no clear error when "there is competent or material evidence in the record to support the court's conclusion" (internal marks and citation omitted)).

C. Analysis

We first consider Mother's argument that the juvenile court erred in finding that the Department did not make reasonable efforts to prevent the children's removal. In the Adjudication Order, the court found that the evidence presented supported a finding that that Department had made "reasonable efforts to prevent or eliminate the need for removal of the child[ren]" based on the following:

> *[T]he Department conducted a Child Protective Services investigation that assessed risk and safety factors within the family*. Additionally, the [Department] spoke with collaterals, *attempted to safety plan with the family*, reviewed records and held a family meeting on 7/24/24; referrals for services were made for the parents; the [Department] communicated with parents regarding their progress in completing court-ordered tasks; drug testing was arranged and scheduled for the parents; regular supervised visitation was coordinated between the parents and [the children] at the [Department]; [and] out-of-home placement maintained for [the children].

(Emphasis added.)

We address Mother's argument that the Department's investigation and risk assessment cannot be viewed as a reasonable effort to prevent the children's removal. When a local department investigates suspected child abuse and neglect, it must

"[d]etermine if the alleged child abuse or neglect or any other child abuse or neglect is indicated, unsubstantiated, or ruled out" and "[d]etermine what services, if any, are appropriate and make referrals as necessary[.]" COMAR 07.02.07.07(A)(2)–(3). Thus, an investigation does not necessarily lead to the removal of a child because the local department may find that there is no child abuse or neglect, and, if neglect is found, removal is not the required remedy; instead, the local department retains discretion to determine what services are appropriate in each case. *See* COMAR 07.02.07.07(A)(3). Therefore, we agree with the Department that the child welfare investigation conducted here could be considered by the juvenile court as an effort to prevent removal.

Turning to the Department's efforts to create a safety plan, Ms. Davis testified that the safety plan, offered to the Appellants during the home visit, would have required the Appellants to submit to hair follicle drug tests and placing the children with an approved relative pending the test results. The Appellants, knowing they would fail, refused the hair follicle drug tests and were unable to name a relative other than the maternal grandmother with whom the children could temporarily stay. But because she resided in Delaware, the Department could not obtain a timely clearance to place the children in her care.

These offered services (if successful) could have prevented the need for the Department to take custody of the children. CJP § 3-801(x). Moreover, considering that alleged substance abuse by the Appellants at the home was one of the concerns prompting the Department's investigation and home visit, the services offered were reasonably tailored to the circumstances. *See In re Shirley B.*, 419 Md. at 25. Therefore,

we conclude that the juvenile court did not clearly err in finding that the Department made reasonable efforts to prevent the children's removal from the Appellants' custody.

We next consider Mother's argument that the juvenile court erred in making identical findings of reasonable efforts at the adjudication hearing and the disposition hearing. At the conclusion of the two-day disposition hearing, the court gave an oral ruling, which was accompanied by the written Disposition Order. The court's ruling highlighted some of the testimony it found especially important to its findings, e.g., Ms. Davis' statement that neither she nor her colleagues at the Department were familiar with Mother's transitional recovery home, and concluded that the Department made reasonable efforts to prevent removal, listing the same efforts as included in the Adjudication Order.

The court's written Adjudication Order and Disposition Order rely on the same facts to make a finding of reasonable efforts. At the disposition hearing, the court considered new testimony regarding Mother's efforts since the adjudication hearing. There is no evidence in the record that the finding of reasonable efforts made after the disposition hearing was based on the reasonable efforts finding made at the adjudication hearing. We further note that because the adjudication and dispositions hearings are intended to occur on the same day, CJP § 3-819(a)(2), there usually are not new facts relevant to "reasonable efforts" that a court considers for the first time at a disposition hearing. We, therefore, conclude that the juvenile court did not erroneously rely on its earlier reasonable efforts finding at the disposition hearing.

III. THE JUVENILE COURT DID NOT ABUSE ITS DISCRETION IN FINDING THE CHILDREN TO BE CINA.

A. The Parties' Contentions

The Appellants separately argue that the court erred in finding the children to be CINA because the Department produced insufficient evidence to show that children were neglected and that Mother was "unwilling or unable" to care for them. CJP § 3-801(f). Mother specifically contends that she did not put the children at substantial risk of harm because there was "no nexus between [her] substance use nor alleged domestic violence between [Father and her] and care [of] the children." Mother also argues that the juvenile court "ignored evidence [] of her track record that was positive." Mother maintains she demonstrated that she was willing and able to care for the children because she obtained housing, "engag[ed] with services, obtain[ed] employment, test[ed] negative for substances, and liv[ed] separately from [Father]." The Department conversely argues that the court properly exercised its discretion in applying the totality of the circumstances standard because the unresolved domestic violence, substance abuse, and mental health concerns placed the children at substantial risk of harm, thereby justifying the CINA findings.

B. Legal Framework

A "child in need of assistance" is defined as:

> [A] child who requires court intervention because:

> (1) The child has been abused, has been neglected,[12] has a developmental disability, or has a mental disorder; and
>
> (2) The child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs.

CJP § 3-801(f). "Although the same factual allegations may support both prongs, . . . the prongs are analytically distinct and must both be addressed." *In re T.K.*, 480 Md. 122, 146-47 (2022) (internal citation omitted). Furthermore, "[t]here is a presumption that a child is receiving proper care from the parent" if: "(i) [t]he parent is receiving treatment in a residential substance use disorder treatment program with beds and services for the patients' children; and (ii) [t]he child is in the presence of the child's parent for the duration of the child's parent's treatment." CJP § 3-818(b)(1).

The broader purpose of the CINA statute is to protect and advance a child's best interests. CJP § 3-802(c); *see also In re Najasha B.*, 409 Md. 20, 33 (2009). For that reason, a "judge need not wait until the child suffers some injury before determining that he is neglected." *In re William B.*, 73 Md. App. 68, 77 (1987). "This would be contrary

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[12] For purposes of CJP § 3-801(f)(1), "neglect" includes:

> [F]ailure to give proper care and attention to a child by any parent . . . who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate:
>
> (i) That the child's health or welfare is harmed or placed at substantial risk of harm; or
>
> (ii) That the child has suffered mental injury or been placed at substantial risk of mental injury.

CJP § 3-801(t)(1).

to the purpose of the CINA statute. The purpose of the act is to protect children—not wait for their injury." *Id.* at 77-78. In addition, "[it] has long been established that a parent's past conduct is relevant to a consideration of the parent's future conduct. Reliance upon past behavior as a basis for ascertaining the parent's present and future actions directly serves the purpose of the CINA statute." *In re Priscilla B.*, 214 Md. App. 600, 625-26 (2013) (internal marks and citation omitted).

C. Analysis

Here, the court's finding that returning custody to Mother posed a substantial risk of harm and mental injury to the children is supported by evidence in the record. *See* CJP § 3-801(f)(1). Ms. Davis testified that the Department received multiple community reports regarding the Appellants' use of substances in the children's presence. Mother's history of drug use led to her first two children, M.J. and J.H., being removed from the home. The Appellants also admitted to recent substance use, with Mother testing positive for cocaine and marijuana and Father testing positive for methamphetamines, cocaine, and marijuana in August 2024. In addition, the court reviewed evidence of domestic violence between the Appellants, as well as a report in the record that described an incident of attempted self-harm by Mother.

Ms. Davis' testimony regarding Mother's transitional recovery home further supported the court's finding that the Appellants were unable to provide proper care and attention to the children. Ms. Davis told the court that neither she nor her colleagues at the Department were familiar with Mother's transitional home. Ms. Davis also stated that she had been unable to conduct a safety assessment at the home and was concerned

with the lack of security, in-house mental health treatment, and childcare available at the home. Given this evidence, we hold that the court did not err in considering "the domestic violence, the drug use, the mental health issues, a lack of demonstrated commitment to treatment . . . , the age of the children, [and] the inability of the children to self-protect" in finding a substantial risk of harm or mental injury to the children.

The court separately found that the Appellants were unable to provide proper care and attention to the children. *See* CJP § 3-801(f)(2); *see also In re T.K.*, 480 Md. at 146-47 (requiring that both prongs of CJP §3-801(f) be considered separately). The court explained that while Mother had recently demonstrated cooperation and effort, "a longer track record and higher level of cooperation" was needed. Again, we see no error in this finding. Testimony at the disposition hearing revealed that Mother had only entered the transitional home within the prior week. Moreover, Ms. Davis testified that the transition home did not provide the mental health or substance abuse disorder treatment Mother needed. The court, therefore, did not clearly err in finding that Mother was unable to provide proper care.

In light of the facts reproduced above, the importance of the children's safety and welfare, *In re William B.*, 73 Md. App. at 77-78, and the wide scope of discretion afforded to the juvenile court, *In re Andre J.*, 223 Md. App. 305, 323 (2015), we discern no abuse of discretion in the court's CINA determination.

IV. THE JUVENILE COURT DID NOT ABUSE ITS DISCRETION IN DENYING MOTHER'S REQUEST FOR AN ORDER OF PROTECTIVE SUPERVISION.

A. The Parties' Arguments

Last, we turn to the juvenile court's denial of the order of protective supervision (previously, "OPS"). Father argues that the children would receive proper care and attention because "it is evident that [Mother] is currently undergoing treatment in a residential program for substance use disorder, which offers both accommodation and services for Mother and [M.H. and N.H.]" Mother argues that "[c]hildren are to be separated from their parents for only the most urgent of reasons[,]" and that an OPS subjecting Mother "to conditions as well as continu[ing] to promote her participation in services makes any need for removal less urgent, if not unnecessary at all[.]"

The Department argues that the court properly found that placement of the children with Mother under an OPS was not appropriate because Mother "was not in mental health therapy, was recently pregnant and tapering off her psychiatric medications, had not undergone a substance abuse evaluation, had not consulted with the Department about the appropriate type of substance abuse program, and had moved into a transitional housing facility only two days prior to the disposition hearing."

B. Analysis

When a child is declared CINA, the juvenile court exercises broad discretionary power to determine custody and visitation. CJP § 3-819(c)(2). The court *may*, even when a child is CINA, grant custody of the child to a parent "on terms the court considers appropriate[.]" CJP § 3-819(b)(1)(iii)(2). Further, "[u]nless 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[.]" FL § 9-101(b).

We are not persuaded by Father's and Mother's arguments regarding the court's denial of Mother's proposed OPS. *First*, it is not evident to this Court that Mother was receiving substance use disorder treatment in a residential program at the time of the disposition hearing, because Mother's treatment program representative indicated that Mother's substance use disorder treatment was (at most) provided at the intensive outpatient level—not the residential level.[13]

Second, although the court's visitation schedule differed from Mother's OPS proposal, the court determined that only under its visitation terms would there be "no further likelihood that abuse or neglect would occur[.]" This decision complies with the requirement that the visitation schedule eliminate the likelihood of further neglect by the Appellants. *See* FL § 9-101(b). Considering the juvenile court's broad discretionary power to determine custody and visitation, CJP § 3-819(c)(2), and the factual findings described above, we hold that the juvenile court did not abuse its discretion in denying Mother's specific OPS request.

[13] The representative from Mother's substance use disorder treatment program testified that: "[w]hen individuals are living in the community, or outside of [treatment program] homes, the highest level of care I can offer [] is intensive out-patient[.]"

CONCLUSION

We hold that the court did not clearly err in making any of the challenged factual findings. We additionally hold that the court did not err in finding that the Department made reasonable efforts to prevent the removal of the children from the home. Finally, we hold that the court did not abuse its discretion in finding the children to be CINA or in denying Mother's request for an OPS.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANTS.