Circuit Court for Baltimore County
Case No. C-03-JV-23-000001

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1967

September Term, 2024

IN RE: D.W.

Berger,
Nazarian,
Ripken,

JJ.

Opinion by Ripken, J.

Filed: July 1, 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).

In January of 2023, the Circuit Court for Baltimore County, sitting as a juvenile court, found that D.W.[1] was a child in need of assistance ("CINA").[2] D.W. was committed to the custody of the Baltimore County Department of Social Services ("the Department"). The Department was awarded limited guardianship of D.W. She was placed in shelter care with her mother's godmother, Malaika Bogan ("Bogan"), and remained a CINA until November of 2024 when the circuit court conducted a hearing regarding the close of the CINA case. D.W.'s father ("Father") contested closing the CINA case, arguing that D.W. should be returned to his care. The Department, Bogan, D.W.'s best interest attorney ("the BIA"), and D.W.'s mother ("Mother") opposed Father's position. The juvenile court ordered that Bogan maintain custody and guardianship of D.W. This timely appeal followed. Father presents a single question for this Court's review:[3]

> Whether the circuit court erred or abused its discretion in closing the CINA case and granting guardianship to a non-relative.

For the reasons to follow, we shall affirm the holding of the circuit court.

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[1] We refer to the minor child by the initials used by the circuit court and the parties.

[2] A CINA refers to a "child in need of assistance." Md. Code (1974, 2020 Repl. Vol.), Cts. & Jud. Proc. ("CJP") § 3-801(g). A child becomes a CINA when court intervention is required because: "(1) The child has been abused, has been neglected, has a developmental disability or has a mental disorder; and (2) The child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs." CJP § 3-801(f).

[3] Rephrased from: "Did the court err in granting custody and guardianship of D.W. to a non-relative—a ruling which required evidence of compelling circumstances to overcome the presumption that reunification was in D.W.'s best interests?"

FACTUAL AND PROCEDURAL BACKGROUND

In November of 2021, D.W. was born, medically fragile—she was born with one kidney and a congenital heart defect. Because D.W. was born medically fragile, she required frequent medical appointments with a variety of specialists, including pediatric cardiologist, nephrologist, and urologist.

October–November of 2022: First Allegations of Neglect

In October of 2022, D.W. was found in a reusable grocery bag in an outdoor stairwell covered in urine and feces after being left unattended for hours. Father had left D.W. there while attempting to evade law enforcement. Consequently, the Child Protective Services of Anne Arundel County ("AA CPS") opened a case to investigate allegations of neglect against both Father and Mother. Father was arrested and charged with three offenses pertaining to the events from October of 2022: neglect of a minor, desertion of a minor, and reckless endangerment. Father remained incarcerated subsequent to his arrest, awaiting disposition of the charges. Additionally, a protective order was entered against Father, whereby he was ordered to have no contact with D.W.

The AA CPS discovered that Father and Mother were homeless. A Safety Plan was put in place which provided that D.W. was permitted to live with Mother in Bogan's home. In late November of 2022, the AA CPS closed the neglect case.

December 2022: Second Allegations of Neglect and the CINA Petition

On December 21, 2022, the Department received a report from Bogan of further concerns of neglect regarding D.W. and her serious medical needs. Bogan reported that Mother and D.W.'s whereabouts were unknown. Although the pair were previously living

with Bogan under the AA CPS Safety Plan, they left Bogan's home on December 13, 2022, and missed several of D.W.'s medical appointments in December of 2022. Following multiple attempts by the Department to contact Mother, Mother eventually agreed to a Safety Plan, allowing Bogan to continue caring for D.W.[4]

In January of 2023, the Department conducted a Family Team Decision Making Meeting. The Department was concerned with Mother's minimization of D.W.'s medical needs and with Mother's lack of knowledge concerning D.W.'s health status. Following the meeting, in a Department report it was noted that "it was very concerning how [Mother] minimized the importance of her daughter being evaluated by the medical specialists recommended given her diagnoses of having one kidney and a [congenital heart defect], amongst other things." At the conclusion of the Family Team Decision Making Meeting, D.W. was sheltered to the Department and remained placed with Bogan.

Subsequently, the Department filed a CINA petition ("the Petition"), which also contained a request for continued shelter care with the Department, and from which D.W. was to remain placed with Bogan. The court ordered continued shelter care with Bogan and set an adjudicatory hearing for the end of January of 2023.

[4] Additionally, during this time, the Department social worker contacted several of D.W.'s medical providers. The Department social worker learned that D.W. had either missed or "no showed" at least seven of her previously scheduled medical appointments—several of which were urgent and critical—from June through December of 2022. D.W. missed appointments including a urology surgery, a rescheduled urology surgery, a radiology appointment for an ultrasound and other imaging tests, and an intake with a neurologist.

Late January 2023: Adjudication and Disposition Hearing

The circuit court, sitting as a juvenile court, held an adjudicatory and disposition hearing.[5] The court heard evidence from counsel for the Department, the BIA, and attorneys for Mother and Father. The Department presented evidence that D.W. was previously bonded with Bogan and thus her adjustment process had been "smooth." The attorney for the Department also noted that there was a concern that D.W. had developmental delays; hence Bogan enrolled D.W. in a State-funded program, entitled Infants and Toddlers. The attorney for the Department then provided recommendations to the court that an order be entered regarding the disposition and regarding the steps Mother and Father needed to take to achieve reunification.

Mother's attorney denied the allegations but conceded that if the court sustained them, they were sufficient for D.W. to be adjudicated a CINA. Father's attorney asked the Department to contact Father regularly at the jail to update him concerning D.W. Father also requested that the Department consider his mother as a resource and potential limited guardian for D.W. and requested that the Department conduct a home study of her residence.

[5] "After a CINA petition is filed . . . the court shall hold an adjudicatory hearing." CJP § 3-817(a). An adjudicatory hearing is a hearing "to determine whether the allegations in the petition, other than the allegation that the child requires the court's intervention, are true." CJP § 3-801(c). Unless the CINA petition is dismissed at the adjudicatory hearing, the court "shall hold a separate disposition hearing after an adjudicatory hearing to determine whether the child is a CINA." CJP § 3-819(a)(1). The disposition hearing can occur on the same day as the adjudicatory hearing. *See* CJP § 3-819(a)(2–3).

The attorney for the Department recommended that D.W. remain committed to the Department; that the Department maintain limited guardianship of D.W.; and that D.W. remain placed with Bogan. The BIA agreed with the recommendations suggested by the Department's attorney.

The court found, by a preponderance of the evidence, that the allegations in the Petition were true and therefore sustained the Petition. The court adjudicated D.W. a CINA and held that D.W. would remain in the custody of the Department. Regarding visitation, the court ordered that Mother have liberal and supervised contact with D.W., as arranged by the Department, and ordered that Father have no contact with D.W., in accordance with the protective order.[6] Regarding disposition, the court ordered Father to: "(1) enroll in and complete an agency approved parenting class; [and] (2) contact the Department when released[.]"[7] The court ordered that the permanency plan was reunification. The court set two hearings: a review hearing for June of 2023, and a permanency plan hearing for November of 2023.

[6] At the hearing, none of the parties nor the court could find a copy of the physical order and thus its duration and terms were unclear.

[7] Following this hearing, in each of the subsequent hearings, the court received and heard evidence regarding Mother's efforts to comply with the court's orders. As D.W.'s CINA case progressed, Mother's participation was inconsistent and her desire to reunify with D.W. was intermittent. By the time of the final permanency plan hearing—which occurred in November of 2024 and will be discussed further *infra*—Mother did not contest the Department and the BIA's recommendation of granting Bogan custody and guardianship of D.W. Further, when Father filed his appeal, Mother filed a brief as an appellee, requesting our affirmance of the juvenile court's decision. Accordingly, Mother's conduct will only be discussed further in this opinion to the extent it is relevant to our analysis.

June of 2023–April of 2024: Permanency Plan and Review Hearings

From June of 2023 through April of 2024, the court held both permanency plan and permanency plan review hearings. In preparation for each hearing, a Department social worker drafted a report. At the beginning of each hearing, the court admitted the report into evidence. Each report provided updates concerning: D.W.'s general health and wellbeing; Father's efforts to achieve the conditions required by the court's orders; whether visitation occurred between Father and D.W. and if so, details regarding the visitation; and a recommendation from the Department as to what the permanency plan should be for D.W. Additionally, the parties discussed these topics on the record. Each hearing is discussed in turn.

June 2023—Initial Permanency Plan Review Hearing

At the June 2023 hearing, the BIA explained that D.W. was doing well with Bogan. The BIA provided a plethora of updates regarding D.W.'s medical care. The BIA discussed Bogan's successful facilitation of numerous medical appointments with specialists. The BIA further stated that D.W. was doing "quite well," that she was receiving physical and occupational therapy, and that Bogan was attending to all of D.W.'s medical needs.

Regarding Father, the report indicated that he was incarcerated during this time, and that he remained in contact with the Department via telephone calls to inquire regarding D.W. In addition, in April of 2023, Father had a court proceeding, during which he pled guilty to the three charges wherein D.W. was the victim. Father was sentenced to five years; the court suspended all but seven months and sixteen days (which equated to time served). Father was placed on probation with conditions for three years. Father's attorney also stated

that Father was recently released from incarceration and was receiving services with Project Chesapeake—a behavioral health services organization which offers inpatient substance abuse and mental health treatment—including counseling, drug treatment, and parenting classes. However, as of the date of the pre-hearing report, Father had not yet contacted the Department to inform it of his release from incarceration, as he was directed to do by the court's initial order in January of 2023. In addition, the Department social worker noted that she was awaiting a verification of treatment letter from Project Chesapeake as to its recommendations for Father.

As to visitation, Father's attorney stated that Father did not have visitation with D.W. during this reporting period. The protective order against Father was still in place, which prevented him from having any contact with D.W.

Additionally, Father's attorney reminded the court that Father had requested that a home study be conducted of his mother's residence for placement, or at the very least, visitation, but that he was unable to determine whether the Department conducted the home study and whether visitation occurred between D.W. and her paternal grandmother. Father's attorney also stated that Father indicated that his grandmother would like to have some contact with D.W. as well. In response, the social worker explained that Father's mother and grandmother both reached out to Bogan; however, neither had requested a visit. The social worker explained that Bogan and Father's grandmother had had a conversation, from which Bogan learned that mobility was "an issue" for Father's grandmother at that time. Thus, Father's grandmother did not have the ability to care for or have in-person visits with D.W., but continued phone check-ins were welcome.

At the conclusion of the presentation and review of evidence, all parties recommended that the plan remain one of reunification.

The court ordered that D.W.'s permanency plan would remain reunification with her parents. The court ordered that D.W. was to remain in the Department's care and that D.W. was to remain sheltered with Bogan. The court ordered that Father was to have no contact with D.W. as directed by the protective order. The court then, consistent with the requests of the attorney for the Department and of the BIA, modified its order, as Father was no longer incarcerated. The court ordered that Father:

> (1) enroll in and complete an agency approved parenting class; (2) complete substance abuse treatment; (3) comply with random drug testing at the Department's discretion; (4) complete [a] comprehensive mental health evaluation and follow through with any treatment recommendations until successfully discharged; (5) sign consents for release of information with providers; (6) [have] no contact with child in accordance with [the] active protective order; (7) obtain employment to financially support the child; (8) secure and maintain stable housing; [and] (9) submit to a fitness to parent evaluation.

November 2023—Permanency Plan Hearing

The court heard from the BIA regarding D.W.'s continued success with Bogan. In October of 2023, D.W. completed a six-month evaluation from the Infant and Toddlers program, and was successfully discharged, as it was determined that D.W. was meeting all of her developmental milestones. D.W. continued to have some medical concerns, and Bogan continued facilitating medical appointments and care for D.W.

Regarding Father's status, the social worker's report demonstrated that during this reporting period, the Department had minimal contact with Father. In June of 2023, a Department social worker spoke with Father and his substance abuse counselor at Project

Chesapeake. The report indicated that Father did not have phone access while residing at Project Chesapeake, and that Father was to receive sixty to ninety days of court-ordered treatment. Later that same month, the Department received an email from Project Chesapeake stating Father was discharged from the inpatient program against treatment advice. Subsequent to his discharge, Father had an active bench warrant for his arrest for a violation of probation for not successfully completing his court-ordered treatment at Project Chesapeake. In November of 2023, Father participated in a Family Team Decision Making Meeting, during which Father's court-ordered tasks were reviewed with him.

Father's attorney represented to the court that Father was taking other steps to satisfy the court's order and achieve reunification. Father's attorney stated that Father was scheduled to have his fitness to parent evaluation completed soon; that he had a job; that he was going to start a parenting class soon; that he completed a mental health evaluation and began therapy with Oasis Health Ventures ("Oasis"); that he completed his substance abuse evaluation; and that he was living with relatives, so he had housing. The Department social worker explained that she was awaiting letters of confirmation from Father's service providers, and that she would follow up with the providers regarding those letters. The social worker also stated that the Department acknowledged Father's willingness to connect with service providers at the time of the hearing.

Regarding visitation, the court heard from Father's attorney that Father had participated in two or three virtual visits with D.W. in the preceding six-month period, since the protective order against Father was lifted in early November of 2023. The social worker's report noted that also in November of 2023, Father contacted the Department

requesting in-person visitation with D.W. for her birthday since the protective order was set to expire on November 3, 2023. The Department offered a one hour supervised visit at the agency, which Father declined. Father stated he would inquire if Bogan would supervise his visits. Subsequently, Bogan and Father set up a visit for November 4, 2023. On the day of the visit, Father did not show up—to the location that he chose—for the visit; Bogan waited the full hour. Father acknowledged that he missed the visit with D.W. Despite this, Father's attorney requested in-person visitation, arguing that it was challenging for Father to virtually engage with D.W. because she was only two years old.

Based on the social worker's report and the statements of the attorneys, the Department modified its recommendation as to the permanency plan from reunification to reunification concurrent with custody and guardianship to a non-relative (i.e., Bogan). The BIA agreed with the addition of concurrent custody and guardianship, noting that Bogan had been a long-term resource for D.W.

Father's attorney stated that Father was not in agreement with the plan change. He explained that the case had only been open for eleven months; for most of those months, Father was incarcerated. Father's attorney concluded that it was premature for the plan to change from the single goal of reunification.

The court held that it was slightly premature to change the plan, and ordered the permanency plan to remain reunification. The court ordered Father to have liberal and supervised visitation with D.W. and changed the conditions, as Father's protective order had expired. The court ordered Father to increase his understanding of D.W.'s medical needs and care, specifically noting that Father should

> (1) cooperate with the Department by providing family background information and signing Release of Information forms regarding educational, medical, mental health, and substance abuse services and treatment that are necessary to provide services to the child and family; . . . [and] (6) remain[] involved and attentive to the medical, dental, educational[,] and mental health needs of [D.W.], including but not limited to scheduling and following through with evaluations and/or appointments with providers and maintaining consistent communication with providers[.][8]

April 2024—Permanency Plan Review Hearing

The court first reviewed the social worker's report regarding D.W.'s wellbeing and medical needs. The report indicated that D.W. continued to do very well in Bogan's care, and that Bogan was maintaining the facilitation of D.W.'s medical appointments. The social worker reported that she had lengthy conversations with D.W. and that Bogan was "doing an excellent job in caring for her and ensuring that she has the specialty appointments" and was "staying on top of the things that are necessary to ensure that her health is up to date."

The court inquired of the status of D.W.'s significant medical conditions. The social worker responded that due to consistent medical appointments, Bogan's ability to attend appointments, and Bogan's ability to give D.W. her medication, D.W.'s medical conditions had substantially improved. The social worker shared her concerns that Father had yet to attend D.W.'s medical appointments, and that his attendance at those appointments was the

[8] In addition to the conditions stated above, the court also ordered that Father: sign a release of information regarding his mental health evaluation and treatments; participate in and cooperate with substance abuse evaluation and treatment until successfully discharged; allow various forms of drug testing, to include urinalysis, hair follicle, oral swab, and breathalyzer tests; provide the Department with a certificate of completion of the parenting class; and maintain weekly contact with the Department, allowing scheduled and unscheduled home visits.

most important thing "to ensure that [he was] fully aware of what is needed even upon reunification because her appointments will still be needed to be followed[.]"

Next, the parties addressed Father's status and communication with the Department. The report indicated that the Department had minimal contact with Father during this reporting period. In November of 2023, Father completed his fitness to parent evaluation on the scheduled date. The court received and admitted a copy of the report into evidence. In the report, the evaluator opined with a reasonable degree of psychological certainty that Father did not have parental capacity at that time, but that he "may gain capacity in the future."

The report additionally noted that Father completed his mental health and substance abuse evaluations in November of 2023. The urine screening and evaluation indicated that Father tested negative for all illicit drugs; based on this, Oasis reported that substance abuse treatment was not necessary at that time. In December of 2023, the Department received a letter from Oasis which verified Father was a client in its psychiatry Outpatient Mental Health and Psychiatry Rehabilitation Program. In January of 2024, the Department received confirmation that Father had completed a parenting class. In April of 2024, the Department contacted Oasis and spoke with Father's provider. The provider reported that Father's last therapeutic session was in February of 2024, that he was scheduled to have weekly sessions with his counselor, and that his last psychiatric phone call was in March of 2024.

Regarding visitation, the Department attorney and the BIA explained that Father's visits had not been consistent. In late December of 2023, the Department contacted Father

by phone and his attorney by email to explain that Father's face-to-face visitation with D.W. was put on hold due to Father's outstanding warrant. During the Department's phone conversation with Father, the Department encouraged him to address the active warrant immediately. Father refused to address the warrant and refused to provide the Department with his probation officer's contact information. According to Father, he had not spoken to his probation officer since July of 2023. The social worker explained that face-to-face visitation could resume once the warrant was resolved.

Father's attorney explained that Father was attempting to get the warrant quashed because he was engaged in all the services ordered by the court. In response to this, the court stated:

> It's kind of beyond my understanding that somebody would have a warrant out and not take care of it right away. That really rebuts a lot of the things you said about him coming a long way. It's perhaps immaturity, but I am not sure I agree with you about some of the other things.

At the close of the hearing, the Department recommended a change in the permanency plan from solely reunification to reunification, concurrent with custody and guardianship to a non-relative, Bogan, and asked for D.W. to remain committed to care and custody of the Department. The BIA agreed with the Department's recommendations. Father did not; he requested the plan to remain solely reunification.

The court stated that it was going to follow the Department and the BIA's recommendations. The court changed the permanency plan from reunification to reunification concurrent with guardianship to a non-relative. The court ordered the same conditions of Father as the November 2023 order. The court noted that Father had "shown

a great deal of immaturity or lack of responsibility" regarding visitation and his interest in actually pursuing reunification.

November of 2024: Close of CINA Case and Guardianship Determination

In late November of 2024,[9] the court held its final permanency plan hearing. The Department and the BIA stated that they would be moving for the court to change the permanency plan to guardianship and custody with Bogan, with Mother and Father retaining rights to liberal visitation supervised by Bogan, and that they would be moving to terminate the CINA case. Father contested the Department and the BIA's position, arguing that the CINA case should remain open.

The court first heard from Bogan that D.W. was doing very well in her care, was meeting her developmental milestones, and was generally happy, bright, adventurous, and curious. The Department attorney explained that the Department had completed a home study of Bogan's residence, and that Bogan was deemed to be an appropriate placement for D.W. The Department attorney explained that with Bogan, D.W. was "in a positive, nurturing environment," that also supported D.W.'s educational needs. The Department attorney stated that Bogan "has . . . been and remains committed to meeting [D.W.'s] social, medical, and emotional needs, and is attentive to [D.W.'s] overall wellbeing." Bogan described D.W.'s serious medical conditions as improved, noting that D.W. was

[9] This hearing was initially set to occur in September of 2024, but was continued. Thus, there were three reports before the court for this reporting period: a report from September of 2024, and two addenda from November of 2024, which provided updates regarding the time between the date of the September report and the date of the November hearing. All references in this section construe the report and two addenda as one for ease of combining the evidence.

dismissed from all medical specialists except for annual visits to the urologist. At the hearing, D.W. referred to Bogan as "mommy" and Father as "dad."

Next the court reviewed the Department's report regarding Father's status and communication with the Department and the steps he was taking to satisfy the court's order. The report indicated that during this reporting period, the Department had semi-regular contact via phone call and text message with Father. In November of 2024 the social worker scheduled a face-to-face check-in with Father, which he failed to attend; the Department rescheduled the check-in for later that month, and Father again failed to attend. Father testified that, although one of the recommendations from the parenting evaluation was that the evaluator perform another evaluation in the future to determine whether Father had gained parental capacity, a second evaluation was not performed. Father testified that he was "[m]ore than willing" to complete another evaluation.

The report also detailed that Father had yet to attend any medical appointments for D.W., despite being ordered to by the court, and despite communicating to Bogan that he would attend. In the instances in which Father agreed to attend but did not, he called at the last minute to say he was not able to attend.

Next the court heard evidence regarding Father's substance abuse and mental health counseling. The report illustrated that as of August of 2024, Father was no longer attending Oasis for substance abuse treatment or counseling, having switched his provider to Oriented Healthcare LLC ("Oriented"). The social worker contacted Father's provider at Oriented, but Father's provider could not confirm whether Father was actively engaged in substance abuse treatment. The social worker requested a treatment plan or progress report

from the provider, but never received the requisite confirmatory documents demonstrating that Father was in fact receiving substance abuse services. In November of 2024, the social worker learned from an Oriented employee that Father had revoked consent for release of information related to his substance abuse treatment.[10] That same month, the Department requested that Father complete a random drug test; Father did not complete the drug test, "which is considered a behavioral positive." At the hearing, Father testified that he had recently completed a mouth swab with his probation officer and that he tested "negative for everything."

As to mental health counseling, prior to the hearing, the social worker was able to confirm with an Oriented employee that Father had been "on his caseload" since May of 2024. The social worker requested a treatment plan or progress report from the provider, which the Department received in October of 2024. The report explained that Father "ha[d] been gaining a positive support network, appear[ed] to be utilizing skills. . . . appear[ed] to be more motivated for the treatment process and [was] experiencing a mild reduction in maladaptive skills to . . . meet treatment goals." The Department also received an updated treatment letter from Oriented in November of 2024, which provided information that Father was continuing to have success in therapy; however, Father was only seeing his therapist once a month—despite the recommendation of biweekly attendance from the

[10] At the November 2024 hearing, Father contested this statement. He testified that he did not revoke his consent for a release of information, that it was a mistake on the part of the program, that he followed up with the program and asked that the records be sent to the Department, and that as of the hearing the records had not been sent to the Department, because that was "not [his] job."

therapist—due to scheduling conflicts. The treatment letter also noted that Father had been compliant with group therapy attendance. Father testified that he attends two different groups, both of which are scheduled four times a week; he attends a mental health group in the mornings and a substance abuse group in the afternoons, Tuesday–Friday.

The court further received evidence concerning Father's housing. The Department report stated that the Department provided Father with a housing voucher application, and that Father had maintained housing in a new apartment as of October of 2024. The Department scheduled and completed a home assessment of Father's residence in November of 2024, after having to reschedule the visit from earlier that month. Father had a two-bedroom apartment which appeared safe of hazards, and the second bedroom appeared to be set up for D.W. Although Father maintained that the second bedroom was for D.W., the social worker observed the bedroom to be occupied by someone else; in addition, Father's girlfriend appeared to be living at the residence with Father. The Department did not have information or clearance as to Father's girlfriend, and thus, it could not recommend that visitation between Father and D.W. occur in his new apartment. Father testified that at his apartment, D.W. had her own bed, toys, and clothes, and that he had applied for a childcare program through the Department. Father also testified that the Department never informed him that they would need information or a clearance regarding his girlfriend.

As to employment, the Department report noted that Father reported that he works part-time with a moving company under the table, and thus he did not have a paystub for the Department's verification. At the hearing, Father testified that he took a flaggers class

so that he could get a license, which he obtained in February of 2024. He further testified that he works as a flagger for a "temp agency" so he does not have steady employment.

Regarding visitation, the Department report noted, and the Department attorney explained, that visitation had been regularly scheduled, however, Father's attendance had been inconsistent. Father was concerned that Bogan was "not accommodating last minute visitation locations, dates[,] or times." In response, the Department social worker had several conversations with Father, wherein they discussed the need for Father to be more committed to being on time and attending the scheduled visitation with D.W. Further, the social worker provided Father with ideas as to how he could improve in this area, including "setting a reminder in his phone, calculating travel to and from his visit, and encouraging him to always be honest when communicating with [Bogan] regarding barriers [to] his visitation plan." Still, several visits had been cancelled due to Father's "poor time management and/or tardiness to his scheduled weekly visitation." Additionally, Father had agreed to participate in two different "trunk or treat" events, and D.W.'s third birthday party—all of which he actively participated in planning—however, he did not attend those events. The court also heard testimony from Bogan concerning Father's struggles to proactively communicate regarding confirmation of visitation location and times and regarding Bogan's accommodation of his location choices. Further, Bogan testified that when Father did communicate as to his reasons for why he was missing the visits, that sometimes Father "said he was tired. Sometimes he said that both of his phones were dead, they weren't charged and he couldn't make a call. One time he said he was sick[,]" and one other time, he had no contact with D.W. for ten to fourteen days.

The Department report indicated that when Father did attend the scheduled visits there were no concerns reported to the Department and that he appeared to be establishing a bond with D.W. The court received evidence that Father had at least four supervised visits with D.W. in late September and October of 2024.

At the hearing, Father's mother and grandmother both testified in support of Father.

At the end of the hearing, the Department requested that the CINA case be terminated, that D.W.'s commitment to the Department be rescinded, and that Bogan be granted custody and guardianship of D.W. The Department contended that the statutory factors that the court was required to consider in making this decision supported its request. Mother agreed with the recommendations of the Department. Father contested the Department's recommendation, stating that he was in "vehement disagreement." Father argued that to say he had not made substantial improvements was a "disservice" to him, that he had made substantial improvements, and that thus it was too early to close the case.

The court briefly recessed to consider the evidence and the arguments of the parties. The court then issued an oral ruling, examining each of the requisite statutory factors. The court stated that "because of the need for permanency," it was in D.W.'s best interest to grant the Department's request to terminate the CINA case, rescind D.W.'s then-existing commitment to the Department, and order D.W. to be committed to the sole care and custody of Bogan, with Mother and Father retaining rights to liberal visitation supervised by Bogan. The court then entered a written order to that effect. This timely appeal followed.

DISCUSSION

THE CIRCUIT COURT DID NOT ERR OR ABUSE ITS DISCRETION IN CLOSING THE CINA CASE AND IN GRANTING CUSTODY AND GUARDIANSHIP TO BOGAN.

A. Party Contentions

Father contends that the juvenile court abused its discretion in granting guardianship and custody to Bogan. Father asserts that it was in D.W.'s best interest to reunify with him or in the alternative, for the case to remain open, because D.W. was attached to Father. Finally, Father asserts that none of the evidence adduced at the November 2024 hearing constituted a compelling circumstance to overcome the presumption that parental reunification was in D.W.'s best interest.

The Department asserts the opposite. The Department contends that the juvenile court did not abuse its discretion in granting guardianship and custody to Bogan. The Department asserts that it made reasonable efforts to reunify D.W. and Father, and that Father failed to establish that there was no likelihood of further neglect. The Department contends that the juvenile court properly determined that it was in D.W.'s best interest to grant custody and guardianship to Bogan.

Mother agrees with the Department, adding that the court did not err when it granted custody and guardianship to a non-relative because D.W. has been in Bogan's care for most of her life. Additionally, the BIA for D.W. filed a line indicating agreement with the Department and Mother.

B. Standard of Review

In CINA cases, this Court utilizes "three distinct but interrelated standards of review[.]" *In re J.R.*, 246 Md. App. 707, 730–31 (2020) (quoting *In re Adoption/Guardianship of H.W.*, 460 Md. 201, 214 (2018)).

> First, we review factual findings by the juvenile court for clear error. Second, whether the juvenile court erred as a matter of law is reviewed without deference to the juvenile court, i.e., under a *de novo* standard. If it appears that the [juvenile court] erred as to matters of law, further proceedings in the [juvenile] court will ordinarily be required unless the error is determined to be harmless. Third, the final conclusion of the juvenile court, when based upon sound legal principles and factual findings that are not clearly erroneous, will stand, unless there has been a clear abuse of discretion.

In re R.S., 470 Md. 380, 397 (2020) (internal citations and quotation marks omitted). "In particular, we review a juvenile court's 'ultimate decision' regarding a CINA permanency plan for abuse of discretion." *In re M.*, 251 Md. App. 86, 111 (2021) (quoting *In re Ashley S.*, 431 Md. 678, 704 (2013)). "In this context, an 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.'" *Id.* (quoting *In re Andre J.*, 223 Md. App. 305, 323 (2015) (in turn quoting *In re Yve S.*, 373 Md. 551, 583 (2003)).

Accordingly, we review the juvenile court's factual findings that supported it was in D.W.'s best interest to grant custody and guardianship to Bogan for clear error. Furthermore, we review the juvenile court's ultimate decision to change D.W.'s permanency plan and grant guardianship to Bogan under the abuse of discretion standard.[11]

[11] Father does not allege that the juvenile court erred as to matters of law, i.e., application of the applicable FL and CJP statutes to this case. As such, we will not address this portion of the standard of review.

In re Shirley B., 419 Md. 1, 18–19 (2011). In doing so, we are mindful that "[q]uestions within the discretion of the trial court are much better decided by the trial judges" and thus those decisions "should only be disturbed where it is apparent that some serious error or abuse of discretion . . . occurred." *Id.* at 19 (quoting *In re Yve S.*, 373 Md. at 583–84). "In sum, to be reversed[,] the decision under consideration has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *Id.* (quoting *In re Yve S.*, 373 Md. at 583–84).

C. Legal Framework

"Maryland courts harmonize parents' fundamental rights to raise their own children with the children's best-interest standard through application of the substantive presumption of law and fact that it is in the best interest of the children to remain in the care and custody of their parents." *In re M.*, 251 Md. App. at 114 (internal citation and quotation marks omitted). "The State can rebut this presumption by showing either that the parent is unfit or that exceptional circumstances exist which would render custody to the parents contrary to the child's best interests." *Id.* (internal quotation marks and citations omitted). In instances in which it is determined that a parent cannot adequately care for the child, i.e., the child is determined to be a CINA, the State may "intercede and petition for guardianship of the child pursuant to its *parens patriae* authority." *Id.* at 114–15 (quoting *In re Adoption/Guardianship of C.E.*, 464 Md. 26, 48 (2019)).

i. CINA Statutory Scheme

The procedures which govern the designation of a child as a CINA are set forth in in Maryland Code (1974, 2020 Repl. Vol.), Courts & Judicial Proceedings Article ("CJP")

section 3-801 *et seq. See In re Ashley S.*, 431 Md. at 685. Related provisions regarding out-of-home placement are found in the Maryland Code (1984, 2019 Repl. Vol.), Family Law Article ("FL") section 5-524 *et seq*. *See In re Ashley S.*, 431 Md. at 685. A CINA is "a child who requires court intervention because: (1) The child has been . . . neglected . . . and (2) The child's parents, guardians, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs." *In re T.K.*, 480 Md. 122, 134 (2022) (quoting CJP § 3-801(f)(1–2)) (footnote omitted). When a child's situation satisfies both prongs of CJP § 3-801(f), "a local department of social services may petition the juvenile court for a determination that a child is a CINA[,]" *In re Ashley S.*, 431 Md. at 685, if "doing so is in the child's best interest." *In re T.K.*, 480 Md. at 134 (citing CJP § 3-811(a)(1)).

Once a court receives a CINA petition, the case "proceeds in two phases." *Id.* at 135. First, the court is required to hold an adjudicatory hearing at which it will determine, by a preponderance of the evidence whether the department's factual allegations are substantiated. *In re Ashley S.*, 431 Md. at 685; CJP §§ 3-801(c), 3-817(a). Second, if the court finds that the allegations are substantiated, then the court must hold a disposition hearing, at which the court determines whether the child is in need of assistance, "and, if so, what intervention is necessary to protect the child's health, safety, and well-being." *In re Ashley S.*, 431 Md. at 685; CJP §§ 3-801(m), 3-819(a). At the disposition hearing, if the juvenile court determines that a child is a CINA, "it may take either of two actions: (1) '[n]ot change the child's custody status;' or (2) '[c]ommit the child on terms the court considers appropriate to the custody of' a parent, a relative or other individual, or a local department of social services, or the Maryland Department of Health" for placement in

foster, kinship, group, or residential treatment care. *In re T.K.*, 480 Md. at 135 (quoting CJP § 3-819(b)(1)(iii)); *see also In re Ashley S.*, 431 Md. at 686.

"If the child is committed to the local department for out-of-home placement, the court must hold, within [eleven] months, a hearing to determine a 'permanency plan' for the child." *In re Ashley S.*, 431 Md. at 686; CJP § 3-823(b)(1).

ii. Setting a Permanency Plan

The purpose of a permanency plan is to "set the direction" which the parents, agencies, court, and other parties involved will work towards, with the ultimate goal "of reaching a satisfactory conclusion to the situation." *In re Yve S.*, 373 Md. at 582. A permanency plan serves an integral role; it is

> designed to expedite the movement of Maryland's children from foster care to a permanent living, and hopefully, family arrangement. It provides the goal toward which the parties and the court are committed to work. It sets the tone for the parties and the court and, indeed, may be outcome determinative. Services to be provided by the local social service department and commitments that must be made by the parents and children are determined by the permanency plan.

In re Damon M., 362 Md. 429, 436 (2001).

In developing a permanency plan, the juvenile court's role is to give primary consideration to the best interests of the child. Accordingly, when determining a permanency plan, a juvenile court "must follow a prescribed hierarchy of placement options," *In re M.*, 251 Md. App. at 116 which are—in descending order of priority—"reunification of the child with the parent or guardian (unless the local department is the guardian); placing the child with relatives for custody or adoption; custody or adoption by the current foster parent or other approved adoptive family; or another appropriate

permanent living arrangement." *In re Ashley S.*, 431 Md. at 686 (citing CJP § 3-823(e)(1)(i) and FL § 5-525(f)(2)). In effectuating a permanency plan, the court must consider the following factors:

> (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.

FL § 5-525(f)(1); *see also* CJP § 3-823(e)(2).

The statutory scheme carries a presumption that reunification is in a child's best interest. *See In re Andre J.*, 223 Md. App. at 321; *see also* CJP § 3-802(a)(3) (a purpose of this subtitle is "[t]o conserve and strengthen the child's family ties and to separate a child from the child's parents only when necessary for the child's welfare."). To overcome this presumption, one must demonstrate "compelling circumstances to the contrary." *In re Yve S.*, 373 Md. at 582.

iii. Permanency Plan Review Hearings

"Once set initially, the goal of the permanency plan is re-visited periodically at hearings to determine progress and whether, due to historical and contemporary circumstances, that goal should be changed." *In re Yve S.*, 373 Md. at 582. These hearings,

typically named "permanency plan review hearings," are conducted at a minimum of every six months "until commitment is rescinded or a voluntary placement is terminated." CJP § 3-823(h)(1). At the review hearings, the juvenile court must consider the factors under FL § 5-525(f)(1) to:

> (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; [and]
>
> (vii) Change the permanency plan if a change in the permanency plan would be in the child's best interest[.]

CJP § 3-823(h)(2); *see also In re Adoption/Guardianship of Cadence B.*, 417 Md. 146, 156–57 (2010).

"Thus, if there are weighty circumstances indicating that reunification with the parent is not in the child's best interest, the court should modify the permanency plan to a more appropriate arrangement." *Id*. at 157. If the court modifies the permanency plan, it must follow the statutorily prescribed hierarchy of placement options. *See* CJP § 3-823(e)(1)(i); FL § 5-525(f)(2)(i–iv). "Every reasonable effort shall be made to effectuate a

permanent placement for the child within [twenty-four] months after the date of the initial placement." CJP § 3-823(h)(5).

D. Analysis

We discern no error or abuse of discretion in the juvenile court's decision to grant custody and guardianship of D.W. to Bogan. The juvenile court, consistent with its statutory obligations, made factual findings and issued an order based on D.W.'s best interest. *See In re Adoption of Ta'Niya C.*, 417 Md. 90, 111 (2010) ("[W]hile the parental rights are recognized and the statutory requirements of FL [s]ection 5-525 must be met, the child's best interest standard trumps all other considerations."). Here, this was evidenced by the court's statement, which occurred directly before its oral ruling: "Every decision that I am making today, every finding that I am making today[,] is designed to be done in the best interest of the child as [is] required by law." We summarize the pertinent facts related to the statutory factors and review the court's findings below.

D.W.'s ability to be safe and healthy in Father's home.[12] The court noted that there had been "some issues" regarding Father's housing. The court found, that according to the November 2024 Department report to the court, someone else was living in the home with Father. The court reviewed the conflicting testimony and evidence regarding whether Father's girlfriend was, in fact, residing at Father's apartment, and ultimately stated that it did not have "anything further on that" point. The court also found that Father's employment history had been "a little sketchy"—as Father testified that he had been

[12] FL § 5-525(f)(1)(i).

employed under the table and via a "temp agency" during which time he did not have consistently scheduled hours of employment—and that he had been frequently unemployed. The court also had before it competent evidence in the form of the Department's reports and statements from the BIA and the social worker as to Father's inability to attend D.W.'s medical appointments. The court also had evidence that contrary to its previous order that Father attend all of D.W.'s appointments so that he could learn how to adequately care for D.W.'s medical needs—which were required for D.W.'s safety—he failed to do so. Based on these findings, the court was concerned that D.W. was not able to be safe and healthy in Father's home.

D.W.'s attachment and emotional ties to her natural parents and siblings.[13] At the outset of the hearing, the court heard D.W. call Father "dad," and express that she wanted to go to the playground with him. The court also found that Father had missed numerous visits, suggesting that D.W. could not form an attachment or deep emotional ties to Father. The court noted that although missing visits did not mean that Father does not love D.W., it indicated that visitation with D.W. was not Father's primary concern. The court also had before it competent evidence of Father's delay in addressing an open bench warrant that remained active for several months—which prevented him from having face-to-face visitation with D.W. This also supported the court's indication that Father had a lack of urgent interest in achieving the court's orders and consequently, a lack of interest in reaching reunification. The court noted that although Father had testified that he wanted

[13] FL § 5-525(f)(1)(ii).

to take care of D.W., he had not had any overnight visits with her. There was no evidence that D.W. has any natural siblings.

D.W.'s emotional attachment to Bogan and Bogan's family.[14] The court found that D.W. had an emotional attachment to Bogan, and that the two had established a bond. The court noted that from its consultation with D.W. and Bogan—which occurred at the outset of the hearing—that D.W. seemed comfortable with Bogan. Moreover, at the beginning of the hearing when the court spoke with D.W. and Bogan, the court heard and observed D.W. call Bogan "Mommy." The court had before it competent evidence from each of the permanency plan review hearings and permanency hearings which demonstrated that D.W. was comfortable in Bogan's care and bonded with Bogan. Further, the court had competent evidence of the home study conducted of Bogan's residence, wherein the Department determined that Bogan's home was safe and fully furnished; that with Bogan, D.W. was "in a positive, nurturing environment," which supported D.W.'s educational needs; and that D.W. was thriving with and was bonded to Bogan. The home study also indicated that Bogan "devotes age-appropriate time for learning"; that her home "provides safety, security, and sense of belonging for [D.W.]"; and that "Bogan is committed to being a long-term support for [D.W.]." There was no evidence presented concerning Bogan's family.

[14] FL § 5-525(f)(1)(iii).

The length of time D.W. has resided with Bogan.[15] The court noted that D.W. had resided with Bogan for two years. At the time of the hearing, D.W. had just turned three years old.

The potential emotional, developmental, and educational harm to D.W. if moved from Bogan's care.[16] The court noted that if D.W. was to be removed from Bogan's care, there was "certainly the risk for potential harm." The court found that D.W. was doing very well with Bogan, and that her serious medical issues had improved with Bogan's care. The court further noted a concern that if D.W. was taken away from Bogan, her progress "might not go quite as well." The court also had before it for consideration that one of the requirements of Father was that he "remains involved and attentive to the medical, dental, educational[,] and mental health needs of [D.W.], including but not limited to scheduling and following through with evaluations and/or appointments with providers and maintaining consistent communication with providers[,]" yet the Department demonstrated that Father had not attended D.W.'s medical appointments.

The court heard evidence that D.W.'s serious medical conditions had improved, as she was dismissed from all medical specialists except for annual visits to the urologist. Thus, the Department's assertion that Bogan "has . . . been and remains committed to meeting [D.W.'s] social, medical, and emotional needs, and is attentive to [D.W.'s] overall wellbeing[,]" was supported by the factual record.

[15] FL § 5-525(f)(1)(iv).

[16] FL § 5-525(f)(1)(v).

The potential harm to D.W. by remaining in State custody for an excessive period of time.[17] The court found that were D.W. to remain in State custody, her case would have timing issues. The court found that were it to keep the CINA case open, the time period would go "well past" the time in which it was supposed to conclude. The court acknowledged that although the "time standards are not immutable, . . . they are important and they are illustrative of what [it was] trying to do here," which was to give D.W. permanence. The court continued, "the Department is not designed, nor should it be, . . . a babysitter on a continuous basis[,]" and explained that should the case remain open, pursuant to statute, it could potentially shift to a termination of parental rights case.

The juvenile court properly considered the factors under FL section 5-525(f)(1) in determining D.W.'s best interest. The evidence before the court was ample to support the court's finding that it was not in D.W.'s best interest to reunify with Father, and thus was not an error. *See In re M.H.*, 252 Md. App. 29, 45 (2021) ("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."). Therefore, we discern no error; the juvenile court's factual findings and oral ruling —which were supported by competent evidence from the record—reflect appropriate consideration of all factors necessary to determine the best interests of D.W. as is required by CJP section 3-819.2(f)(1)(ii) and FL section 5-525(f). Thus, the juvenile court did not abuse its discretion in granting custody and guardianship to Bogan.

[17] FL § 5-525(f)(1)(vi).

Father makes a myriad of unavailing arguments as to errors he contends were committed by the juvenile court, which we address here.

First, Father argues that the court erroneously penalized him by failing to appropriately weigh the "tremendous" progress that Father had made over the past year, and by ending the possibility of reunification.

As to the court's account of Father, the juvenile court acknowledged Father's progress, stating that Father "clearly ha[d] shown a great improvement since the beginning of this case" and that he did not doubt that Father "loves his daughter." The court did not fail to take account of Father's progress, but rather, considered Father's progress and determined that the length of D.W.'s case and the other evidence presented outweighed Father's progress regarding D.W.'s best interest.

As to Father's contention that the court penalized Father, we likewise disagree. "[T]he purpose of a CINA case is to protect the child, not to punish the parent." *In re Shirley B.*, 419 Md. at 31. Here, D.W.'s CINA case had been open for approximately twenty-two months, which is a substantial amount of time.[18] *See* CJP § 3-823(h)(5) ("Every reasonable effort shall be made to effectuate a permanent placement for the child within [twenty-four] months after the date of the initial placement."); *see also In re M.*, 251 Md. App. 86, 128 (2021) ("'The valid premise is that it is in the child's best interest to be placed in a permanent home and to spend as little time as possible in' the custody of the Department." (quoting *In re Adoption/Guardianship of Jayden G.*, 433 Md. 50, 84

[18] D.W. was committed to the Department on January 30, 2023. The court ordered the termination of the CINA case on December 2, 2024.

(2013))). "Our CINA system is designed to be temporary because 'a child should have permanency in . . . her life.'" *In re M.*, 251 Md. App. at 127 (quoting *In re Adoption/Guardianship of Jayden G.*, 433 Md. at 84). The court's decision served to provide permanence to D.W.—who had been lacking permanence for approximately twenty-two months— not to punish Father for lack of progress. *See In re Shirley B.*, 419 Md. at 31. Permanency was in D.W.'s best interest and thus the court did not err or abuse its discretion. *See In re M.*, 251 Md. App. at 128.

Second, Father argues that because the Department was missing three pieces of critical information, the Department therefore failed to make reasonable efforts to reunify Father and D.W. Those pieces of information were an updated parenting evaluation, Father's girlfriend's background check, and a resolution as to whether Father revoked Oriented's release of information regarding his substance use treatment.

Reasonable efforts are "efforts that are reasonably likely to achieve the objectives set forth in [section] 3-816.1(b)(1) and (2)" of the CINA subtitle.[19] CJP § 3-801(x).

[19] The objectives in CJP section 3-816.1(b) are:

> (1) In a hearing conducted in accordance with § 3-815, § 3-817, § 3-819, or § 3-823 of this subtitle, the court shall make a finding whether the local department made reasonable efforts to prevent placement of the child into the local department's custody.
>
> (2) In a review hearing conducted in accordance with § 3-823 of this subtitle or § 5-326 of the Family Law Article, the court shall make a finding whether a local department made reasonable efforts to:
>
> (i) Finalize the permanency plan in effect for the child; [and]

Reasonable efforts are determined on a case-by-case basis. *In re Shirley B.*, 419 Md. at 25. "The reasonableness of the Department's efforts to reunify parent with child cannot be considered in a vacuum, but rather, must be evaluated against the backdrop of the services available to it." *Id.* at 34. The Supreme Court of Maryland has stated that despite the individualized analysis of reasonable efforts, cases such as *In re Adoption/Guardianship of Rashawn H.* have provided "guideposts" for future evaluation of such efforts. *In re Shirley B.*, 419 Md. at 34.

> The court is required to consider the timeliness, nature, and extent of the services offered by DSS or other support agencies, the social service agreements between DSS and the parents, the extent to which both parties have fulfilled their obligations under those agreements, 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—educational services, vocational training, assistance in finding suitable housing and employment, teaching basic parental and daily living skills, therapy to deal with illnesses, disorders, addictions, and other disabilities suffered by the parent or the child, counseling designed to restore or strengthen bonding between parent and child, as relevant.* Indeed, the requirement is more than implicit. FL [section] 5–525(d), dealing with foster care and out-of-home placement, explicitly requires DSS to make "reasonable efforts" to "preserve and reunify families" and "to make it possible for a child to safely return to the child's home."

In re Adoption/Guardianship of Rashawn H., 402 Md. 477, 500 (2007) (emphasis added). Finally, the Department's efforts do not need to be "perfect to be reasonable[.]" *In re James G.*, 178 Md. App. 543, 601 (2008). While the Department's services "must adequately

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

CJP § 3-816.1(b)(1–2).

pertain to the impediments to reunification[,]" it need not "expend futile efforts on plainly recalcitrant parents." *Id.* The Department is required to "provide reasonable assistance in helping the parent to achieve those goals, but its duty to protect the health 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." *In re Adoption/Guardianship of Rashawn H.*, 402 Md. at 500–01.

Here, the record indicates that the Department made reasonable efforts. From January of 2023 through November of 2024, the Department: provided case management services, including Family Team Decision Making Meetings and review of court-ordered tasks; assisted in facilitating regular visitation between Father and D.W., as supervised by Bogan; offered transportation assistance; attempted to maintain contact with Father; increased communication with Father when a bench warrant had issued and provided guidance on how to resolve said warrant; offered a supervised visit at the agency while the bench warrant was still outstanding; responded to Father's request for visitation to occur with his other family members and investigated whether they were suitable guardians for D.W.; communicated with Father's service providers for verification of treatment, progress reports, and treatment confirmation letters; provided Father with guidance as to how to he could improve in timeliness and attendance for visitation, after explaining to him that his lack of commitment in this area was concerning; and provided Father with a voucher application to help Father receive Family Unification Program housing.

Each of these efforts by the Department were designed to address the root causes and effect of the Department's and the court's concern regarding Father's fitness to parent.

See In re Adoption/Guardianship of Rashawn H., 402 Md. at 500. Further, throughout the entirety of this case Father failed to attend medical appointments concerning D.W. This was notable as Father and Mother's inability to care for and prioritize D.W.'s physical health and medical appointments was the genesis of the court's CINA adjudication. The Department provided reasonable assistance to Father, which would have allowed him to achieve the court's orders; however, its ultimate duty was to protect the health and safety of D.W. *Id.* at 501. That duty cannot be "cast aside." *Id.*

Finally, Father argues that because the court focused on his missed visits and D.W.'s need for permanency in reaching its decision to terminate the CINA case, the court elevated D.W.'s need for permanency over her best interest. Relatedly, Father asserts that the record contained insufficient evidence of "compelling circumstances" to overcome the presumption that reunification was in D.W.'s best interest.

Father cites *In re Yve S.*, where the Court held that CJP section 3-823 "presumes that, unless there are compelling circumstances to the contrary, the plan should be to work toward reunification, as it is presumed that it is in the best of a child to be returned to . . . her natural parent." 373 Md. at 582. "However, a plan other than reunification is appropriate where weighty circumstances require such a modification." *In re Ashley S.*, 431 Md. at 687 (internal quotation marks and citations omitted). In a recent case from the Maryland Supreme Court, *In re M.Z.*, the Court explicitly stated that "reunification is not the only goal of a CINA proceeding." 490 Md. 140, 158 (2025) (capitalization removed). The Court explained that "CJP [s]ection 3-802(a) emphasizes that one of the core purposes of CINA proceedings is to 'provide for the care, protection, safety, and mental and physical

development of any child coming within the provisions of this subtitle[.]'" *Id.* The Court continued that "the State's interest in child protection under CINA statutes is paramount and can override a parent's right to raise their child when the child's welfare is at risk." *Id.* (citing *In re T.K.*, 480 Md. at 132).

Father's contention fails to recognize that there are circumstances where a court, in evaluating the child's best interest, determines that the child's need for permanency—and thus placement not with a parent—is what is in a child's best interest. *See In re Adoption of Ta'Niya C.*, 417 Md. at 111 ("[W]hile the parental rights are recognized and the statutory requirements of FL [s]ection 5-525 must be met, the child's best interest standard trumps all other considerations."); *see also In re M.*, 251 Md. App. at 117–18 (affirming the change of the permanency plan from reunification to custody and guardianship to a relative because guardianship to a relative achieved permanency and permanency was in the child's best interest); *In re Shirley B.*, 419 Md. at 34–35 (affirming the change of the permanency plan from reunification to adoption because adoption achieved permanency and permanency was in the child's best interest); *In re Adoption of Cadence B.*, 417 Md. at 157 (same).

"Because the overarching consideration in approving a permanency plan is the best interests of the child, we examine the juvenile court's decision to see whether its determination of the child's best interests was 'beyond the fringe' of what is 'minimally acceptable.'" *In re Ashley S.*, 431 Md. at 715 (quoting *In re Yve S.*, 373 Md. at 583–84). As we previously explained, the Department made reasonable efforts toward reunification. D.W.'s case had been ongoing for approximately twenty-two months, and there continued

to be portions of the court's order that Father was not satisfying, particularly with respect to his communication with Bogan, visitation with D.W., and attendance at D.W.'s medical appointments. The court found that, in accordance with FL section 9-101, there was no further likelihood that abuse or neglect would occur with Bogan maintaining custody and guardianship of D.W. *See* FL § 9-101(b) ("Unless the court specifically finds that there is no likelihood of further child . . . neglect by the party, the court shall deny custody . . . to that party[.]"). Additionally, the court was concerned that D.W.'s medical conditions would regress if D.W. was removed from Bogan's care. Thus, the court did not err or abuse its discretion; the determination that custody and guardianship be granted to Bogan was not "'beyond the fringe' of what was 'minimally acceptable.'" *In re Ashley S.*, 431 Md. at 715 (quoting *In re Yve S.*, 373 Md. at 583–84).

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. COSTS TO BE PAID BY FATHER.