UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1860

September Term, 2015

IN RE: ADOPTION/GUARDIANSHIP OF
K.C., M.E., R.C., AND L.P.

Kehoe,
Arthur,
Friedman,

JJ.

Opinion by Arthur, J.

Filed: May 23, 2016

The Allegany County Department of Social Services petitioned to terminate the parental rights of the natural parents of four minor children. The mother opposed the petitions. After a consolidated trial, the Circuit Court for Allegany County, sitting as juvenile court, found by clear and convincing evidence that the mother was unfit to remain in the parental relationship and that exceptional circumstances would make the continuation of the parental relationship detrimental to the best interests of the children.

The mother appealed. Seeing no error, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A. Early Court Interventions for Abuse and Neglect of Mrs. P.'s Children

Mrs. Ina P., appellant, is the mother of four minor daughters. The oldest child, K.C., was born in November 2003. Her biological father is Mr. Hilton C.[1]

Mr. Christopher P. is the biological father of the three younger daughters: M.E. was born in June 2008; R.C. was born in April 2011; and L.P. was born in February 2014. Mrs. P. and Mr. P. have been married since 2010.

Over the past eight years, the Allegany Department of Social Services has been involved with a series of investigations into the welfare of Mrs. P.'s children. In 2011, Mr. P. obtained a temporary protective order that barred Mrs. P. from contact with her children, based on allegations of neglect. K.C. had been sexually abused by her uncle after Mrs. P. left K.C. in the same house as the uncle even though Mrs. P. knew that the

[1] Mr. C. has been accused of committing acts of sexual abuse against K.C. Throughout the juvenile proceedings here, he was offered counseling and monitored visitation. Mr. C. did not contest the petition to terminate his parental rights.

uncle was a convicted sex offender. The Department provided counseling, visitation monitoring, and other services for K.C., and Mrs. P. eventually returned home.

In March 2012, when K.C. was seven years old, K.C. reported to a counselor that her stepfather, Mr. P., had sexually abused her. The State filed criminal charges against Mr. P. He was released before trial on the condition that he have no contact with his daughters or stepdaughter. Mrs. P. agreed to follow a safety plan developed by the Department, which required that the minor children would have no contact with Mr. P.

Around this time, Mrs. P. and her children lived in an apartment on Columbia Street in Cumberland, which she had secured with help from the Department. In the weeks that followed, the Department received reports that Mrs. P. was allowing her husband to have contact with his two daughters. Mr. P. was detained for violating his pretrial release conditions.

Soon after, Mrs. P. attempted to reschedule a counseling appointment for K.C. so that Mrs. P. could visit her husband at the detention center. In response to this pattern of behavior, the Department filed juvenile petitions alleging that K.C., M.E., and R.C. were in need of court intervention.

In August 2012, Mr. P. was released after the State dropped the criminal charges against him. Mrs. P. agreed to another safety plan, specifying that she would not allow Mr. P. to be present at home with the children. Five days after his release, however, K.C. reported to her counselor and to a social worker that Mr. P. had been staying at the home every night since his release. The three children were immediately removed from Mrs. P.'s home and placed in emergency shelter care.

After a hearing, the Circuit Court for Allegany County, sitting as juvenile court, found that "the mother's failure to prevent contact between the children and Mr. P.'s contact with the children" created an "emergency situation," which made it contrary to the children's best interest to return home. In a shelter care order, the court noted that Mrs. P. had not prevented Mr. P. from seeing the children because Mrs. P. did not believe that her daughter K.C. was telling the truth about being abused by Mr. P. The court committed the three children to the Department's custody for foster care placement and established a supervised visitation schedule for the parents.[2] K.C. was sent to a different home from that of her two half-sisters, M.E. and R.C.

In September 2012, the Department also began to investigate possible sexual abuse of M.E., who was four years old at the time. During interviews with a Child Protective Services worker, M.E. indicated that she too had been molested by her father, Mr. P. The Department amended the juvenile petitions to include the new allegations.

At an adjudicatory hearing in October 2012, the court determined that K.C., M.E., and R.C. were children in need of assistance.[3] Mr. and Mrs. P. had agreed that the Department could prove the allegations in the amended juvenile petitions. They also agreed to accept the Department's recommendations. The court returned the children to

[2] The court permitted K.C. to have supervised visits with her biological father, Mr. C., but did not permit K.C. to have any contact with her stepfather, Mr. P.

[3] The term child in need of assistance (CINA) includes a child who requires court intervention because the child has been abused or neglected and the child's parents are unable or unwilling to give proper care and attention to the child and the child's needs. *See* Md. Code (1974, 2013 Repl. Vol.), Courts and Judicial Proceedings Art., § 3-801(f).

their mother's custody, subject to the conditions that Mrs. P. reside in secure housing and that Mr. P. have no contact with the children outside of supervised visits with his two daughters, M.E. and R.C.

The court required Mr. P. to undergo a psychological evaluation and to participate in impulse control counseling. The court ordered Mrs. P. to cooperate with any psychological treatment and to participate in domestic violence counseling. After a later review hearing, the court also ordered Mr. and Mrs. P. to take parenting classes.

B. Initial Out-of-Home Placement and Reunification Efforts

With the Department's help, Mrs. P. obtained temporary housing at the Family Crisis Resource Center in October 2012. The shelter's staff informed Mrs. P. that she could stay there for only two months. Mrs. P. obtained some housing applications, but did not submit them.

At a review hearing in January 2013, a juvenile master heard testimony about the efforts to find secure housing for Mrs. P. and the children. The master's report stated that Mrs. P. told a social worker that she "did not want to look for a new home because she was listed on the lease for the apartment on Columbia Street." The master wrote that "Mrs. P. does not believe that [K.C.] was abused by Mr. P.," and that "[s]he does not see a necessity to find housing in which [Mr. P.] would not be present." Overall, the master

concluded that Mrs. P. remained "unable to protect the children from [Mr. P.]" and that the "level of danger" had not decreased over the preceding months.[4]

On January 24, 2013, the court issued an order adopting the master's findings and recommendations. The court ordered that K.C., M.E., and R.C. be committed to the Department's custody for foster care placement. The court allowed Mrs. P. to have supervised visits, and it continued the other aspects of the treatment plans.

Mrs. P. returned to live with Mr. P. at the apartment on Columbia Street after the removal of the children. While the children remained in foster care over the next year, she completed parenting classes, participated in Mr. P.'s psychological treatment, completed a domestic violence counseling program, regularly attended visits, and periodically participated in therapy with K.C.'s counselors.

During this time, Mr. and Mrs. P. also conceived another child. The youngest daughter, L.P., was born in early February 2014.

Over three successive weekends in February and March 2014, M.E. and R.C. returned home for unsupervised, overnight visits with their parents. Mr. P.'s psychologist set guidelines for the visits including, most importantly, the requirement that another adult (either Mrs. P. or Mr. P.'s mother) be present whenever Mr. P. was in the same room with any of the children. Immediately after the third visit, however, M.E. reported to a social worker that her father had kissed her on the mouth and fondled her genitals

[4] The master found that a social worker had helped to extend Mrs. P.'s stay for a short period, but the master wrote that it was "unclear what, if anything, [the social worker] did to assist [Mrs. P.] in finding housing[.]" Overall, however, the master found that the Department made reasonable efforts to prevent out-of-home placement.

with his hand at the home. M.E., who was five years old at that time, made detailed allegations during an interview that was recorded by video.

In response, the Department filed a juvenile petition for the one-month-old L.P. She was placed in a separate foster home, apart from her older sisters. At an emergency hearing, the Department recommended that the children remain in foster care, that the visitation schedule be reduced, and that Mr. P. continue his treatment programs. Both parents agreed with those recommendations, but they did not admit the truth of the allegations that Mr. P. had abused M.E.

Shortly after the removal of all four children from the home, Mrs. P. confronted M.E. in a bathroom during a supervised visit. She accused M.E. of lying about her father and blamed M.E. for preventing herself and her siblings from returning home. Mrs. P. stopped questioning M.E. when a social services worker intervened.

C. Failure to Make Adjustments Necessary to Achieve Reunification

In the months following the second removal, Mr. and Mrs. P. continued to live together, but their marital relationship deteriorated. On two occasions during the summer of 2014, Mr. P. called the police and accused his wife of assaulting him or his teenage nephew during a domestic argument. The State filed criminal charges against Mrs. P. in connection with one of the incidents, but dropped those charges.

In July 2014, a juvenile master held a consolidated hearing to adjudicate L.P.'s juvenile petition and to review the cases for M.E. and R.C. The Department introduced the recording of M.E.'s statements that she had been molested by her father. The master found those statements to be credible and concluded that none of the children could be

returned home safely at that time. The master did not credit Mrs. P's testimony that she had prevented Mr. P. from being alone with the children during the overnight visits.

Mrs. P. filed exceptions to the master's report, asking the court to return L.P. to her care and to reinstate the in-home visits with M.E. and R.C. The court overruled her exceptions and adopted the master's conclusions. Mrs. P. filed an appeal, in which she challenged the admissibility of M.E.'s statements, and this Court eventually affirmed the order in an unreported opinion. No. 1598, Sept. Term 2014 (filed May 21, 2015). The master denied Mrs. P.'s request to stay the permanency planning hearings pending the outcome of that appeal.

The master heard testimony about the issue of permanency plans for the children over four separate hearing dates between October 2014 and January 2015.[5] The Department took the position that reunification was no longer in the best interests of the children because Mr. P. had molested both K.C. and M.E., and because Mrs. P. still did not recognize that her husband posed a danger to the children. Adopting the master's recommendations, the court changed all four permanency plans from reunification to adoption by a non-relative. The master's report, which the court ratified, stated that Mrs.

[5] The master found that the reports and orders for all four cases contained no explicit statements about the children's permanency plan, but that the record made it clear that the Department had been working toward the goal of reunification.

P. showed "no insight into ways to protect a young child . . . from molestation" and she did "not believe her daughters" when they "stated that [Mr. P.] ha[d] molested them."[6]

Throughout 2014, Mr. and Mrs. P. decreased their level of participation in reunification services. Mr. P. refused to resume his psychological treatment. Mrs. P. began to miss visits more frequently than she had in the past. As the number of missed visits increased, Mrs. P.'s relationship with her oldest daughter, K.C., became more strained. K.C. would become upset whenever her mother would cancel a visit, and she would often retaliate by refusing to attend visits the following week.

Mrs. P. continued to live with her husband and his mother at the Columbia Street apartment until they were evicted in October 2014. They became homeless for a few months before moving into an apartment located above a bar in Cresaptown in December 2014. Several months later, they lost that apartment and moved to a new residence in Barton.

On March 16, 2015, the Department filed four petitions for guardianship with the right to consent to adoption of the children. By that point, the three older daughters had been in foster care continuously for over two years, and the youngest daughter had been in foster care for over one year (beginning just after her birth). The petitions alleged that Mrs. P. "refused to believe the statements of two of her children . . . that [Mr. P.] was

[6] The Department informs us that Mrs. P. appealed from the orders changing the permanency plans to adoption and that the appeal (No. 114, Sept. Term 2015) was stayed pending the outcome of the petitions for termination of parental rights. Mrs. P. concedes that her appeal from the permanency planning orders would become moot if this Court were to affirm the orders terminating her parental rights.

sexually inappropriate with one, or both, of them." The Department requested that the court terminate parental rights with respect to each of the four children.

In July 2015, Mrs. P. separated from her husband and filed for divorce. Mrs. P. then began residing primarily with her mother, while sometimes staying with her sister.

D. Hearing on Termination of Parental Rights

The juvenile court adjudicated the four petitions at a consolidated hearing on September 3, 2015. Separately, Mr. and Mrs. P. both contested the petitions. Mrs. P. was present and represented by counsel. Mr. P. did not attend, but an attorney participated in the proceedings on his behalf. K.C.'s biological father, Mr. C., did not contest the petition.

The Department introduced 30 exhibits, which included various petitions, master's reports, and court orders for the four juvenile cases between 2012 and 2015. Mrs. P. did not object to the introduction of these documents, and the court admitted them into evidence.[7]

The Department called three case workers to testify about the history of the Department's involvement with the family. The most lengthy and detailed testimony came from Ms. Paulette Hose, who had been assigned to the family since early 2014. To Ms. Hose's knowledge, the Department had completed six service plans for K.C., five

[7] Later during the hearing, the Department's attorney asked the court to take judicial notice of certain findings from the various reports and orders. The attorney for Mrs. P. stated, "I certainly acknowledge all of that as being true." The mother's attorney invited the court to "review the evidence at the prior hearings" so that the court's decision would not "be influenced by questionable memory as to what the evidence was at that time."

plans each for M.E. and R.C., and three plans for L.P., the youngest daughter. She described the various services and referrals provided by the Department toward the goal of reunification, including housing assistance, transportation assistance, parenting classes, family involvement meetings, psychological treatment for Mr. P., domestic violence education for Mrs. P., counseling for K.C. and M.E., and visitation monitoring.[8]

Each of the reunification service plans had included the goal that Mrs. P. maintain secure housing. According to Ms. Hose, the Department had provided Mrs. P. with a list of housing options, and the Department's resource team at times had given Mrs. P. direct financial assistance to prevent evictions. Ms. Hose confirmed that Mrs. P. had continued to live with her husband until the summer of 2015 and that she was currently alternating between staying with her mother or with her sister. Ms. Hose further stated that Mrs. P. had not provided financial support for the children since their removal from the home and that Mrs. P. had no income.

The court asked whether Mrs. P.'s recent separation from her husband affected the Department's position on whether reunification was a safe option:

> [THE COURT:] . . . [Y]our position is that, or at one point was that Mrs. P., . . . would have a shot at being reunified with her children if she left Mr. P.?
>
> [MS. HOSE:] If she basically left him and believed her children. That was our . . .

[8] The first case worker had been assigned to the family between September 2010 and September 2011, and a second case worker had been assigned to the family from June 2011 to June 2012. These two witnesses generally summarized that the Department provided housing assistance, transportation assistance, in-home monitoring, counseling services, and help arranging medical and educational appointments for the children.

[THE COURT:] They have, she has in fact left him. I mean they don't live together, right?

[MS. HOSE:] Currently they do not live together since the end of June.

[THE COURT:] . . . [I]s what you are saying is that she has not affirmatively stated she is done with him and that's a problem?

[MS. HOSE:] She has reported . . . that she had filed for divorce, but . . .

[THE COURT:] . . . [W]hy doesn't that solve the problem as far as Mrs. P. is concerned, if she is done with Mr. P.?

[MS. HOSE:] . . . [B]asically the reasons are that she can't, she has, since the case has begun in 2007, that there has been numerous things that have happened and she is not willing to believe her children, plus there were other times when she has been around other people besides Mr. P. that have sexually abused the children.

[THE COURT:] Okay, so it is . . . a belief that she is simply [un]interested in her children's best welfare.

[MS. HOSE:] Yes.

[THE COURT:] It is not just about Mr. P.?

[MS. HOSE:] Correct.

Ms. Hose further explained that the recent separation did not eliminate the Department's concerns for the children's future safety because Mrs. P. had already reconciled with her husband more than once in the past. She reiterated that for years Mrs. P. had consistently told counselors, case workers, and the courts that she believed that her daughters were lying when they accused Mr. P. of sexually abusing them. To Ms. Hose's knowledge, Mrs. P. had never told her daughters that she believed them and had never

apologized to them for accusing them of lying. Overall, Ms. Hose believed that Mrs. P. loved her children, but was unable to protect them or to provide a safe environment for them.

According to Ms. Hose, records from 2014 and 2015 showed that Mrs. P. had missed 21 of 92 scheduled visits with K.C., five of which had been canceled by K.C. when K.C. would become angry at her mother for missing visits. Mrs. P. had also missed 7 out of 51 possible visits with M.E. and R.C., and 13 out of 110 possible visits with L.P. Ms. Hose stated that the Department provided the parents with a monthly calendar so that they could attend medical appointments and educational meetings. Aside from a few medical appointments, Mrs. P. did not regularly attend the events on the calendars. Whenever Ms. Hose asked Mrs. P. about why she did not attend those appointments, Mrs. P. would either "give an excuse of car problems or . . . she just wouldn't say anything."

Ms. Hose characterized Mrs. P.'s interactions with the children during supervised visits as "[f]or the most part pretty healthy," but "sometimes not[.]" She explained that Mrs. P. was "very good" at a few things ("she comes in, gets into their backpacks, looks at their homework, brings a snack[] . . . , she will read a book here and there"), but that she often struggled to make an emotional connection with her daughters. Ms. Hose characterized most of Mrs. P.'s conversations with the children as "checking in talk," such as asking about the child's day at school. She said that Mrs. P. gave little physical

or verbal affection to the children other than hugging them or saying that she loved them at the end of visits.[9]

As an example of Mrs. P.'s interactions with the children, Ms. Hose recalled a discussion she had with Mrs. P. and K.C. about the potential adoption of K.C. Ms. Hose informed Mrs. P. that K.C. said that she wanted to stay at her foster home. Ms. Hose said that K.C. then said: "mom, it's okay if I don't live with you because I have a friend that doesn't live with her mom[.]" Mrs. P. did not appear to have any emotional reaction. K.C. became upset and told her mother that she wanted to share more thoughts and feelings with her, but Mrs. P. made no effort to console her.

Ms. Hose also recalled that she needed to intervene during a supervised visit in 2014, soon after M.E. had reported that Mr. P. abused her during overnight visitation. She said that Mrs. P. was "mad at [M.E.] about her accusing Mr. P.," and she confronted M.E. in the bathroom and asked M.E., "[W]hy did you lie on your daddy?," and told M.E. that her father "can't come home now because you lied." Shortly after that incident, Ms. Hose informed Mrs. P. that her chances at regaining custody would improve if she permanently left her husband, but Mrs. P. had no response.

According to Ms. Hose, M.E. and R.C. had stayed with one foster family since June 2015, which planned to adopt both girls. L.P. had lived with her pre-adoptive foster family since February 2015. In Ms. Hose's assessment, the children had become attached to their foster parents and the foster families provided a stable and loving environment for

[9] During her own testimony, Mrs. P. stated that she generally agreed that Ms. Hose had provided a "fair" description of the interactions during supervised visits.

them. The Department later called one of the foster parents for M.E. and R.C. and one foster parent for L.P. The foster parents confirmed that the girls were healthy and happy and had adjusted well to their new environments. The foster parents also expressed their intentions to ensure that the girls would remain in contact with their sisters after adoption.

Ms. Hose testified that K.C. had been in one foster home continuously since January 2014, which was "the longest that she ha[d] lived anywhere in her whole life." Ms. Hose stated that K.C. appeared to be happy in her foster placement, that she "had come a long way" with anger and anxiety problems, and that the foster parents were providing appropriate support for her special education needs. She reported that K.C.'s foster parents were willing to make a long-term commitment, but had not yet decided whether they would pursue adoption or a guardianship.

The court accepted K.C.'s therapist as an expert in child and family counseling. The expert testified that K.C. had been making progress in her treatment for anxiety, anger outbursts, attention disorder symptoms, academic difficulties, and self-esteem issues. According to the counselor, K.C.'s current guardians were meeting K.C.'s need for a stable and supportive home environment. The counselor opined that K.C. needed a parent to comfort her in times of distress and that, in particular, a parent's failure to acknowledge a child's sexual assault would "very much jeopardize[]" the "sense of trust" that is the "absolute base of any relationship" between parent and child.

Mrs. P. took the stand on her own behalf. For the first time after years of proceedings, Mrs. P. said that she believed that Mr. P. had abused her daughters. Her

narrative was, however, often contradictory or unclear as to when she came to that realization.

Mrs. P. testified that, around the time of Mr. P.'s arrest in 2012 for molesting K.C., she was living apart from Mr. P. in her own apartment on Columbia Street. She said: "Then like right after he got released from jail in August, . . . I guess somebody went back and said that [Mr. P.] was living with me, which he wasn't, because he went back to Oldtown with my uncle[.]" According to Mrs. P., she already believed that her husband "did something" to K.C., "[b]ecause the way he was treating her and everything, he made her like feel unsafe and every time I took up for her he yelled at me and everything, told me to leave, to stay out of it." She stated that she then allowed Mr. P. to move back in with her at that apartment after the Department removed the children from the home. When asked to explain why she would make that decision if she had believed K.C.'s reports of molestation, Mrs. P. responded: "I guess 'cause I was stupid. I don't know."

Mrs. P. stated that she resided with the children at the Family Crisis Resource Center from October 2012 until January 2013, when the shelter's time limit expired. She said that she "just went back to [her] apartment" on Columbia Street, even though Mr. P. was residing there and she knew that the children would not be able to live there with him. She claimed that she had applied for housing at the YMCA but she "never heard nothing back about it."

During cross-examination by the Department, Mrs. P. stated that it was "before 2013" that she came to believe that Mr. P. had abused K.C. The Department's attorney

asked Mrs. P. to explain why the report from a January 2013 hearing stated that she did not believe that K.C. had been abused by Mr. P. She responded with this statement: "I hate to tell you. You don't know what I went through. When I was with him, what all I had to deal with because if I would have said something about him, I would have got the hell beat out of me." The attorney further questioned Mrs. P. about why she would have continued to live with Mr. P. after 2013 if she had believed that he had molested K.C.:

Q: So you said, you said that you went and got the apartment on Columbia Street yourself. Is that right?

A: Yes, and Social Services helped me get it.

Q: Okay, and Mr. P. was not there, is that right?

A: Yes.

Q: But after the kids left you let him in the home, correct?

A: Yea.

Q: Weren't you mad at him that he had sexually abused [K.C.]?

A: Yea. But I didn't . . .

Q: And that he, weren't you mad at him that he had hurt you?

A: Every time I turn around, it is either about my kids or about me. I always get the shit beat out of me.

Q: And you had a chance of keeping him out of the home, didn't you?

A: Yes, I did.

Q: And you let him back in the home and actually had another child with him. Correct?

A: Yes.

Mrs. P. went on to testify that she did not know at first who made the allegations of abuse during overnight visits at the apartment in 2014. She said: "I don't know because I am the only one that gives the kids a bath, I am the one that puts them to bed and I don't know where the allegation came from." Mrs. P. claimed that she had questioned M.E. during a supervised visit only to get information about who had made the accusations. When asked whether she believed that M.E. was telling the truth about the abuse by her father, Mrs. P. said: "At first no, but then afterwards I started thinking about it more, then I do believe her." She stated that she began to believe that "something" had happened "a couple days after they came and removed the kids[.]" When Mrs. P.'s attorney asked her to explain why she had consistently denied that Mr. P. had abused the children, she gave this answer: "Because if you kind of figure he won't go and see his kids or anything, so you kind of figure something had to happen. If not, if he didn't do it, then he should be seeing them; but if he did do it, then I don't know. . . . It is hard to tell what is going on with him."

Mrs. P. claimed that she believed that M.E. had been sexually assaulted by Mr. P. "[r]ight after" the Department informed her of the allegations in March 2014. Nonetheless, Mrs. P. admitted that, at an October 2014 permanency planning hearing, she had testified that she did not believe her daughters' reports of abuse. When questioned about the inconsistency, Mrs. P. claimed that she was not lying when she made that statement at the hearing and that she in fact disbelieved her children at that time. Mrs. P. could not explain the major contradiction in her testimony other than to assert that "people do change after a while."

During cross-examination, the children's attorney also asked Mrs. P. to clarify her testimony about when she came to believe that Mr. P. had abused the children. She responded with this statement: "I guess I just got tired of him, and then I should think more about my kids than what he thinks."

Elsewhere in her testimony, Mrs. P. attempted to explain why she had separated from her husband in July 2015: "Me, and well, one day he got in this little argument and that he called me names and told me to get out, so the next day I just left." She said that she had filed for divorce on July 22, 2015, on the ground of adultery. On the divorce complaint (which had been entered into evidence), Mrs. P. had also checked a box on a pre-printed form for "Cruelty/Excessively Vicious Conduct Against Me or My Minor Child." Mrs. P. claimed that she was in the process of trying to serve Mr. P. and that he had threatened to punch anyone who tried to serve him.[10] Mrs. P. admitted that she had been separated from her husband and had reconciled with him in the past, but she insisted: "This time, I am completely through with him."

Mrs. P. testified that she was currently living at a three-bedroom house with her mother and her mother's boyfriend. She said that her prior applications for independent housing had been unsuccessful because she lacked income, but she intended to reapply in the future. Mrs. P. stated that she had no current income, and that she was in the process of applying for Social Security disability benefits based on "a learning disability." She

[10] Docket entries show that the divorce action was dismissed in February 2016 for lack of prosecution. Mrs. P. re-filed for divorce in April 2016.

said that her prior disability applications had been denied. She stated, "If I get denied from it, I am just going to go get a job."

At the conclusion of the hearing, the Department asked the court to terminate Mrs. P.'s parental rights based on "a history of years of her not being able to protect her children because of her not willing to believe that Mr. P. was th[e] perpetrator." The attorney for the children supported the Department's position. Mrs. P.'s attorney made no argument to the contrary, but asked "to reserve the right to make any argument in [a] written memorandum[.]" The record includes no indication that any such memorandum was filed in any of the four cases.

E. Judgments of the Juvenile Court

On September 28, 2015, the juvenile court entered orders granting each of the four petitions. The court issued written findings for each of the considerations set forth in Md. Code (1984, 2012 Repl. Vol.), § 5-323(d) of the Family Law Article ("FL"). Many of the court's findings about Mrs. P.'s fitness were identical for each of the four children.

In summary, the court found: that the Department had provided timely reunification services, including regular visitation and referrals for housing assistance, transportation assistance, sexual offender treatment, parenting classes, domestic violence treatment, and family counseling; that Mrs. P. had not been able to make the necessary adjustments that would make it in the best interests of the children to return home; that additional services would not be likely to bring about a lasting adjustment within an ascertainable time; that each of the children had made a positive adjustment in foster

care; and that the termination of parental rights would serve the best interests of each child. The court emphasized that it rejected much of Mrs. P.'s testimony:

> During this case (and prior to), Mrs. P. was confronted with the sexual abuse of two of her daughters. Mrs. P., over a period of years, has denied that Mr. P. was a perpetrator and failed to protect the children's safety. Mrs. P. did admit at the guardianship hearing that she now believes Mr. P. was a perpetrator. Mrs. P. is found not to be credible.

The court found by clear and convincing evidence that Mrs. P. was unfit to remain in a parental relationship with any of her children. The court explained: "Mr. P.'s daughter and stepdaughter both report that he has sexually abused them. Mrs. P. repeatedly stated that she does not believe her daughters and therefore cannot protect them[.]" For similar reasons, the court found that exceptional circumstances existed that would make the continuation of the parental relationship detrimental to the best interests of each of the children. The court wrote that K.C. and M.E. had each "reported sexual abuse by . . . Mr. P." but that "Mrs. P. has repeatedly and adamantly denied such abuse occurred and cannot protect her children from further abuse[.]"

After the entry of those orders, Mrs. P. filed timely notices of appeal in each of the four cases.[11] Neither Mr. P. nor K.C.'s father appealed from the orders. Both the

[11] Unlike the opinions in the other three cases, the opinion for M.E. included no written findings about reunification services offered by Department. One week after the entry of the order, the Department filed a motion to amend the judgment, asking the court to make those omitted findings. After Mrs. P. noted a timely appeal, the court issued an order disposing of the post-judgment motion. Under Md. Rule 8-202(c), Mrs. P.'s notice of appeal in M.E.'s case is effective notwithstanding that it was filed before the order disposing of the Department's timely motion to amend the judgment. *See Edsall v. Anne Arundel Cnty.*, 332 Md. 502, 508 (1993).

Department and the attorney for the children submitted briefs asking that the orders be affirmed.

QUESTIONS PRESENTED

Mrs. P. now asks the following questions:

1. Did the court err by terminating Mrs. P.'s rights in [K.C.]?

2. Did the court err by terminating Mrs. P.'s rights in [M.E.], [R.C.] and [L.P.]?

After considering all of the grounds for reversal raised by Mrs. P., we see no error in the court's determinations.

DISCUSSION

A. Governing Standards for Termination of Parental Rights Cases

When the State petitions to terminate parental rights without a parent's consent, the court's paramount consideration is the best interests of the child. *In re Adoption of Jayden G.*, 433 Md. 50, 82 (2013) (citing *In re Adoption of Ta'Niya C.*, 417 Md. 90, 94 (2010)). Recognizing that parents have a constitutionally-protected interest in raising their children without undue State inference, Maryland law presumes that it is in the best interest of children to remain in the care and custody of their parents. *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 495 (2007) (citations omitted). The natural rights of parents are "not absolute," however, and they "must be balanced against the fundamental right and responsibility of the State to protect children, who cannot protect themselves, from abuse and neglect." *Id.* at 497. Thus, in appropriate cases the "presumption that the interest of the child is best served by maintaining the

parental relationship . . . may be rebutted . . . by a showing that the parent is either unfit or that exceptional circumstances exist that would make the continued relationship detrimental to the child's best interest." *Id.* at 498.

Juvenile courts have statutory authority to terminate the rights of a parent and to grant guardianship of a child without the parent's consent under certain conditions:

> If, after consideration of factors as required in this section, a juvenile court finds by clear and convincing evidence that a parent is unfit to remain in a parental relationship with the child or that exceptional circumstances exist that would make a continuation of the parental relationship detrimental to the best interests of the child such that terminating the rights of the parent is in a child's best interests, the juvenile court may grant guardianship of the child without consent otherwise required under this subtitle and over the child's objection.

FL § 5-323(b).

When ruling on a petition for guardianship upon termination of parental rights, the juvenile court must "give primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether terminating a parent's rights is in the child's best interests[.]" FL § 5-323(d). The court must consider and make specific findings with respect to all of the mandatory factors set forth in FL § 5-323(d). *See Ta'Niya C.*, 417 Md. at 103-04 (citing *Rashawn H.*, 402 Md. at 499). "In addition to these statutory factors, courts may consider 'such parental characteristics as age, stability, and the capacity and interest of a parent to provide for the emotional, social, moral, material, and educational needs of the child.'" *Ta'Niya C.*, 417 Md. at 104 n.11 (quoting *Pastore v. Sharp*, 81 Md. App. 314, 320 (1989)).

Appellate courts apply different and interrelated standards for reviewing different aspects of a juvenile court's decision to terminate parental rights. *Ta'Niya C.*, 417 Md. at 100 (citing *In re Adoption/Guardianship of Victor A.*, 386 Md. 288, 297 (2005)). Generally, the appellate court "must 'ascertain whether the [juvenile court] considered the statutory criteria, whether its factual determinations were clearly erroneous, whether the court properly applied the law, and whether it abused its discretion in making its determination.'" *In re Adoption/Guardianship of Cross H.*, 200 Md. App. 142, 155 (2011) (quoting *In re Adoption/Guardianship No. 94339058/CAD in Circuit Court for Baltimore City*, 120 Md. App. 88, 101 (1998)). In deciding whether the evidence was sufficient to support the court's best interests determination, "'we must assume the truth of all the evidence, and of all of the favorable inferences fairly deducible therefrom, tending to support the factual conclusion of the trial court.'" *Cross H.*, 200 Md. App. at 155-56 (quoting *In re Abiagail C.*, 138 Md. App. 570, 587 (2001)). In particular, the appellate court "must treat the juvenile court's evaluation of witness testimony and evidence with the greatest respect." *In re Adoption/Guardianship of Amber R.*, 417 Md. 701, 719 (2011).

B. The Court's Assessment of K.C.'s Best Interests

Although most of the issues that Mrs. P. raises here relate to all four children, the first part of her argument includes a few points that specifically concern K.C., the oldest child. K.C. was 11 years old at the time of the hearing and she had been in foster care continuously for over two-and-a-half years. The court heard testimony about K.C.'s circumstances from her therapist and from the case worker assigned to her. According to

Mrs. P., the court "failed to make an informed decision about [K.C.'s] best interests." We do not agree.

With respect to K.C.'s emotional ties to her mother, the court wrote: "[K.C.] enjoys visits with Mrs. P., but [K.C.] gets upset when Mrs. P. misses visits." The court found that K.C. was "attached to her foster family" and she had "made significant positive adjustments . . . during her time in foster care." The court summarized:

> [K.C.] receives special education services in which her mother does not participate. She has adjusted well in her foster home and expresses that she wishes to stay there permanently. [K.C.]'s foster mother communicates regularly with [K.C.]'s therapist, and the entire foster family has participated in sessions. [K.C.]'s therapist reports her foster family is providing the sense of stability, predictability[,] and structured family environment that is important to [K.C.], because she is a victim of sexual abuse.

Addressing K.C.'s "emotional response and feelings toward termination of parental rights," the court wrote: "[K.C.] wants to remain permanently with her foster family." The court concluded that it was likely that terminating the parental relationship would "positively impact [K.C.], as she has been in foster care since January 2013 and needs a permanent stable placement. [K.C.]'s foster family has expressed a permanent commitment to her, which she appreciates and desires."

Mrs. P.'s appellate challenge focuses on K.C.'s status as an 11-year-old child, who, unlike her younger siblings, was "old enough to have a position on being adopted[.]" *See In re Adoption/Guardianship No. 6Z970003 in Dist. Court for Montgomery Cnty.*, 127 Md. App. 33, 57 (1999). The statute requires the court, in making its best interest determination, to consider "the child's feelings about severance

of the parent-child relationship[.]" FL § 5-323(d)(4)(iii). The court addressed this factor in its opinion when it found that K.C. "wants to remain permanently with her foster family." Notwithstanding this express finding, Mrs. P. asserts in her brief that "the court did not consider this factor." Her assertion is not correct.

Mrs. P. also asserts that "the court did not have evidence regarding [K.C.]'s wishes with respect to adoption." That too is incorrect. Although K.C. did not testify at the hearing, the court heard testimony from the Department case worker who had spoken with K.C. and her mother about K.C.'s feelings about the prospect of adoption:

> [MS. HOSE:] . . . I had met with [Mrs. P.] and [K.C.] and I was talking about court processes, trying to have them have a discussion about what was happening that we were going towards adoption and just what the conversation would, what would that look like. I asked [Mrs. P.], you know, did you know this is what we are going for? I was trying to get her to talk to [K.C.] about how she was feeling about it, umm, and she just said we are filing it, I am talking to my lawyer. She wasn't mad, she just said I am talking to a lawyer. I said to [K.C.] do you want to tell your mom how you feel and [K.C.] just smiled at me. And she was nervous, because she said to me that she didn't, she wanted to stay at the [foster family] home, so I pointed that out and I said that too, to the two of them, and [K.C.] quickly then said mom, it's okay if I don't live with you because I have a friend that doesn't live with her mom, but [Mrs. P.] never had a reaction either way. . .

Mrs. P. raised no objections to the admission of this testimony. During her own testimony, Mrs. P. did not dispute the case worker's version of events even though she had disputed some details of Ms. Hose's testimony. Mrs. P. did not call K.C. as a witness, nor did she request that the court exercise its discretion (*see generally Ta'Niya C.*, 417 Md. at 114-15 n.22) to conduct its own in camera interview.

As a result, the only evidence offered on the specific issue of K.C.'s feelings about severance of the parent-child relationship was neither challenged nor rebutted. Under the

circumstances, the court did not err when it found that K.C. desired to remain permanently with her foster family. *See In re Adoption/Guardianship of Jasmine D.*, 217 Md. App. 718, 727, 732, 739 (2014) (in opinion upholding termination of mother's parental rights, noting that court's finding that child preferred to sever ties with mother was supported by 11-year-old child's statement to social worker that she wanted to be adopted). Furthermore, the court's finding was consistent with the other evidence in the record that K.C. often expressed anger towards her mother and that she appeared to be happy and improving in her foster care placement.

As additional criticisms of the court's analysis regarding K.C., Mrs. P. points out that K.C.'s therapist did not reach a specific conclusion about Mrs. P.'s parenting ability and that K.C.'s foster family "was not necessarily an adoptive resource[.]" She asserts that Mrs. P. "shared a bond" with K.C. even though she admits that their relationship "was a strained one." The court's opinion indicates that those facts were not decisive on the ultimate issue of K.C.'s best interests. The court is not required "to weigh any one statutory factor above all others[,]" but instead must "review all relevant factors and consider them together." *Jasmine D.*, 217 Md. App. at 736 (citation and quotation marks omitted); *see id.* (holding that evidence supported juvenile court's decision to terminate parental rights where court "acknowledged [the child's] bond with her mother, but decided that it was not sufficient to overcome the negative aspects of [the mother]'s parenting abilities"). The court here properly weighed those facts in the context of all of the other factors, particularly the risks that reunification with Mrs. P. would pose to K.C.'s future health and safety. *See id.* at 738-39 (holding that sufficient evidence

supported court's decision to terminate mother's parental rights where mother minimized issues concerning child's exposure to domestic violence, child experienced emotional turmoil when mother missed visits, and child expressed preference to be adopted by foster family).

C. The Court's Findings of Unfitness and Exceptional Circumstances

In her appeal, Mrs. P. does not contend that K.C. or any of the other children could have been returned safely to her at the time of the September 2015 judgment. Instead, she asserts that she was entitled to more resources and more time before the court could determine that she was unfit. She contends that "[t]he court erred in finding that the Department made efforts to reunify the family, and in finding that Mrs. P. was unfit, where the agency failed to ensure that she had support in locating housing independent from Mr. P." On a related note, she argues that, "where the mother's primary barrier to reunification at the time of the TPR hearing was independent housing and maintaining a separation from Mr. P., the court erred by declining to grant her more time." We disagree on both points.

It is true that, for most of the time that the children were in foster care, Mrs. P. did not live in a home that was safe for the children. It is, however, untrue that the Department failed to provide her with reasonable assistance. *See Rashawn H.*, 402 Md. at 502-03 (holding that juvenile court properly found that mother received substantial help from local department of social services to locate suitable housing, where record showed that agency provided referrals but that housing options were not available at that time or that mother did not meet eligibility requirements). The State has an obligation to

"provide reasonable assistance" (*id.* at 500-01) in ameliorating the conditions that resulted in a child's out-of-home placement, but it "is not obliged . . . to find and pay for permanent and suitable housing for the family[.]" *Id.* at 500. The State's "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." *Id.* at 501.

The court heard testimony from two case workers that the Department worked to find housing for Mrs. P. in 2011 and 2012 and that she was established in her own apartment in 2012. In addition, Ms. Hose testified that the Department provided housing assistance by providing Mrs. P. with a list of housing options and at times giving her direct assistance to prevent evictions. During her testimony, Mrs. P. admitted that "Social Services helped [her] to get" the apartment on Columbia Street. Later, she temporarily had independent housing at the Family Crisis Resource Center between October 2012 and January 2013. During cross-examination, she affirmed that she had the chance to obtain a protective order against Mr. P. at that time and to keep him out of the home, but instead she let him back in the home and conceived another child with him. She continued to live with Mr. P. at the Columbia Street apartment after the children were removed in 2014 and then she moved with him to two more places. Eventually, she left Mr. P. in June 2015 only after he "called [her] names and told [her] to get out."

In sum, the record indicated that the Department had provided Mrs. P. with reasonable assistance in obtaining safe and secure housing. In her appellate brief, Mrs. P. argues (without any citation to the transcript or record) that the only reason that Mrs. P.

continued to live with him after 2013 was that she was "on a lease with him, which she could not break without assistance that was not offered." During her extensive testimony, Mrs. P. made no such assertions that a lease or lack of assistance from the Department forced her to decide to live with her daughters' abuser years after their removal. The record, including Mrs. P.'s own testimony, supported the conclusion that, over several years, Mrs. P. made a series of conscious choices to continue to live with Mr. P. despite her daughters' repeated allegations that he sexually abused them. As the court concluded, the Department's overall efforts to aid reunification were reasonable under the circumstances because Mrs. P. had "demonstrated a lack of conviction in protecting [each] child and her siblings from sexual offenders[.]"

According to Mrs. P., because it was undisputed that Mrs. P. had separated from her husband a few months before the hearing, the issue before the court "was not Mrs. P.'s willingness to live apart from Mr. P., but her ability to do so." We disagree with that premise. Mrs. P.'s willingness and ability to protect her daughters from future abuse was the central issue.

On a fundamental level, Mrs. P.'s argument is based on an inaccurate characterization of the court's decision to terminate her parental rights. The court did not decide that Mrs. P. was unfit simply because she lacked adequate housing at the time of the September 2015 hearing. The court concluded that Mrs. P. was unfit because, for several years, she had failed to protect her daughters from abuse when she had chosen to trust her husband rather than her children. She damaged the parental relationship by accusing her daughters of lying and by failing to provide the emotional support that they

needed. As the court noted at the hearing, the question of Mrs. P.'s parental fitness was "not just about Mr. P." because her pattern of behavior indicated that she was "simply [un]interested in her children's best welfare." The court may, as it did here, consider evidence of a parent's character and past behavior to assess whether the parent has adequate concern for a child's future well-being. *See In re Adoption/Guardianship No. A91-71A*, 334 Md. 538, 563-64 (1994). After the Department presented evidence of Mrs. P.'s history of unfitness, the court was entitled to infer that her problems would continue. *See Amber R.*, 417 Md. at 720-21.[12]

Mrs. P. did testify that she intended to permanently sever her relationship with Mr. P. She also tried, quite unconvincingly, to explain that she had believed that her daughters were telling the truth very soon after they had made accusations against Mr. P. The court did not credit her testimony, and it was not required to do so. *See In re Adoption/Guardianship Nos. 2152A, 2153A, 2145A in Circuit Court for Allegany Cnty.*, 100 Md. App. 262, 273-74 (1994) (holding that trial court did not err in refusing to credit mother's testimony about her role in neglecting children and allowing her husband to commit sexual abuse where her testimony was inconsistent with prior statements and "[t]he trial court, having observed [the mother's] demeanor and having had the best

[12] Mrs. P. has not argued that her daughter's allegations were unproven or untrue and, hence, that it was unfair for the court to fault her for failing to believe them. Indeed, not only did Mrs. P. eventually come to accept that the allegations were true, but the court found them to be credible (and, in M.E.'s case, that decision was upheld on appeal). We express no opinion about whether the failure to believe a child's unsubstantiated allegations of abuse (on its own) would be a sufficient basis to conclude that a parent is unfit.

opportunity to assess her credibility, found that her attempts, during the hearing, to [recant her prior testimony] were 'simply incredible'"). In any event, the court was not required to ignore Mrs. P.'s actions during the years before her separation from her husband, nor was it required to view her circumstances since the separation in isolation. *See Adoption/Guardianship No. 94339058/CAD*, 120 Md. App. at 112.

As an additional argument, Mrs. P. contends that the juvenile court erred in its application of FL § 5-323(d)(2)(iv), which requires the court to consider "whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the parent within an ascertainable time not to exceed 18 months from the date of placement unless the juvenile court makes a specific finding that it is in the child's best interests to extend the time for a specified period[.]" As the brief on behalf of the children points out, the three older children had already been in foster care for 31 months, well beyond that 18-month period. The youngest child, L.P., had been in foster care since March 2014, which was over 17 months before the hearing. Under the circumstances, the court could reasonably conclude that it was unlikely that Mrs. P. would accomplish the necessary adjustment in any ascertainable time. *See Adoption/Guardianship Nos. 2152A, 2153A, 2154A*, 100 Md. App. at 275. Mrs. P. simply asserts that more services and more time were necessary, but she "has not indicated with any particularity what more [the Department] was required to do" (*Rashawn H.*, 402 Md. at 503) or how much additional time would be required.

Based on all of the evidence before the court, we see no error in the court's determination that Mrs. P. was unfit to remain in a parental relationship with her children

and that exceptional circumstances existed that made it in the children's best interests not to continue the parental relationship. We see no error or abuse of discretion in the court's decision to terminate Mrs. P.'s parental rights as to each of her four children. *See Jayden G.*, 433 Md. at 101 (holding that "ample evidence" supported court's finding that mother was unfit and its decision to terminate mother's parental rights where, "[d]espite the Department's reasonable efforts over a period of thirty-three months, the [m]other was unable to make a meaningful adjustment" and she "continu[ed] the destructive relationship with the Father," and she was "unable to maintain stable employment or housing"); *In re Adoption of Quintline B. & Shellariece B.*, 219 Md. App. 187, 209-10 (2014) (upholding finding that it was not in best interests of two children to extend foster period, where father had complied with services offered by the local department but he still lacked stable employment and housing, where the quality of visitation was lacking and father's conduct demonstrated a "lack of judgment, as well as a flippant attitude toward the seriousness of his family's situation," and where the two children had been in foster care for 52 and 38 months respectively and had bonded with their foster parents), *cert. denied*, 441 Md. 218 (2015).

JUDGMENTS OF THE CIRCUIT COURT FOR ALLEGANY COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.