UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1321

September Term, 2016

IN RE: J.H.

Beachley,
Shaw Geter,
Thieme, Jr., Raymond G.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Shaw Geter, J.

Filed: May 10, 2017

By juvenile petition filed April 14, 2016, 15-year-old J.H., appellant, was charged with the delinquent acts of second-degree rape, sexual abuse of a minor, second-degree child abuse, second-degree sexual offense, third-degree sexual offense, fourth-degree sexual offense, and second-degree assault. At a June 14, 2016 adjudicatory hearing before the Circuit Court for Prince George's County, sitting as a juvenile court, J.H. pled involved to one count of what would constitute the crime of third-degree sexual offense if committed by an adult.

At a July 15, 2016 disposition hearing, the juvenile court determined that J.H. was a delinquent child in need of placement and committed him to the Department of Juvenile Services ("DJS") for Level B placement.[1] J.H. noted a timely appeal of the juvenile court's decision, raising the following questions for our consideration:

1. Did the juvenile court abuse its discretion in repeatedly denying a consent motion for postponement of disposition, which would have given the defense a fair opportunity to produce the testimony of the sole expert retained by the defense to rebut the reports from the Department of Juvenile Services?

2. Did the juvenile court err or abuse its discretion in preventing the defense from cross-examining the three witnesses who wrote the DJS reports, ordered by and filed with the Court, unless the defense, first, offered the State's reports as Defense exhibits?

For the reasons that follow, we shall affirm the juvenile court's finding of delinquency and disposition order.

FACTS AND LEGAL PROCEEDINGS

[1] The court's disposition order classifies a Level B facility as a "non community residential facility."

On April 11, 2016, P.H. reported to the Prince George's County police that his seven-year-old daughter had been sexually assaulted by J.H., whose father was involved in a romantic relationship with the victim's mother.[2] A forensic interview of the victim by the Criminal Investigation Division, Child and Vulnerable Adult Abuse Unit, revealed that between April 3, 2015 and April 7, 2016, J.H. had forced her to perform fellatio on him, forcefully removed her clothing, anally and vaginally penetrated her, and fondled her vagina and breasts on numerous occasions.

The State charged J.H. with the delinquent acts of second-degree rape, sexual abuse of a minor, second-degree child abuse, second-degree sexual offense, third-degree sexual offense, fourth-degree sexual offense, and second-degree assault. On June 14, 2016, J.H. agreed to plead involved to Count Five of the delinquency petition, third-degree sexual offense. The juvenile court accepted the plea and found J.H. involved as to that crime. The court ordered a social study, along with predisposition psychiatric and psychosexual evaluations, and scheduled J.H.'s disposition hearing for June 28, 2016.

On June 20, 2016, DJS advised the court that because J.H.'s "MAST staffing" was scheduled for July 5, 2016, the social study and court-ordered evaluations would not be completed before that date.[3] DJS therefore requested a continuance of the disposition

[2] We accept the State's invitation to mask the identity of the minor sexual assault victim. To protect the privacy of the victim, as well as the identity of the minor appellant, we will employ the use of initials for the parties and witnesses.

[3] A "MAST," Multidisciplinary Assessment Staffing Team, is "a specialized regional diagnostic team responsible for assessing and evaluating youth who are detained and at risk of out-of-home placement, prior to disposition. Following the in-depth review,

hearing until sometime after July 5, 2016. The juvenile court granted the request and rescheduled the disposition hearing for July 7, 2016.

On July 6, 2016, J.H. filed a "consent motion to continue disposition hearing" until July 25 or 28, 2016, on the ground that defense counsel had not received the evaluations from the MAST staffing until that day, the day before the scheduled disposition hearing. Therefore, counsel claimed not to have adequate time to review the evaluations with J.H., or with Dr. Teresa Grant, the independent evaluator retained by the defense. In addition, Dr. Grant, who had completed her own psychosexual evaluation of J.H., was unavailable to testify at the scheduled July 7, 2016 disposition hearing. Notwithstanding the State's purported consent to the continuance, the juvenile court denied the motion.

Later that same day, J.H. filed a renewed consent motion to continue the disposition, stating that the defense had received the evaluations from the MAST staffing at 4:55 p.m. on July 5, 2016, which was outside the time frame prescribed by Maryland Rule 11-105(a)(2).[4] In addition, attempts by the defense to subpoena the authors of the court-ordered evaluations for attendance at the disposition hearing had been unsuccessful.

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the MAST prepares security and treatment recommendations to the juvenile court. The MAST includes a psychologist, social worker, community and facility case managers and supervisors, resource specialist, MSDE, and individuals from other disciplines as needed." djs.maryland.gov/Documents/Terms_And_Concepts (last visited April 19, 2017).

[4] Rule 11-105(a)(2) requires that copies of all studies and reports of physical and mental examinations made to the court in a juvenile case "shall be furnished by the court to counsel for the parties when received by the court, but not later than two days before any hearing at which the results of the examinations will be offered in evidence."

In his renewed motion, J.H. did not explain the change, from his first motion to continue, of the date of his receipt of the MAST evaluations.

DJS filed its own written request for a continuance of the matter, as the Department had been unable to decide on a recommendation for J.H.'s disposition during the MAST staffing of July 5, 2016. Therefore, DJS asked for additional time to conduct a home study to assist in making its final determination of disposition.

At the scheduled hearing on July 7, 2016, DJS reiterated to the court its request for a continuance, and defense counsel explained her consent motion to continue based on the defense's inability to serve the authors of the DJS reports with subpoenas. The court responded, "You all can pick a date next week for disposition."

Defense counsel requested a date "of the week of the 25th of July," as Dr. Grant was unavailable to challenge the DJS reports until then. The court again advised counsel to "pick a date next week. This date was set some time ago." After defense counsel's response that she had indicated previously that the hearing might require further continuance, depending on the timing of her receipt of the court ordered evaluations, the court replied simply, "Okay, do you all want to pick a date or do you want me to pick a date next week?" The prosecutor chose July 15, 2016, and the court scheduled the disposition hearing for that date.

The following colloquy ensued:

> [DEFENSE COUNSEL]: Your Honor, I am sorry. The difficulty with that is that essentially the Court is not allowing this to be effective and confront, it is all right under the rules, these reports and present mitigation for disposition on behalf of our client because the witness that we need is not available on July 15. Can we please look at an alternate date that is not next week when that witness is unavailable?
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> THE COURT: The matter was set for the 28th. On the 28th, I was told you needed more time for the report. You got more time. And this case has

been—this matter was initially set back on June 14. I will see everybody back on the 15th.

[PROSECUTOR]: Thank you, Your Honor.

[DEFENSE COUNSEL]: Your Honor, when it was set on the 14th, that was set for a merits plea. This case was already--. The State received—

THE COURT: It was not set. This date was chosen on the 14th, counsel.

[DEFENSE COUNSEL]: Your Honor, the State—

THE COURT: The 28th.

[DEFENSE COUNSEL]: Your Honor, there has been two continuances [sic] in this case for the merit's plea.

THE COURT: Pardon?

[DEFENSE COUNSEL]: The State received two continuances in this case for—

THE COURT: I am not talking about the merits.

[DEFENSE COUNSEL]: Department of Juvenile Services received another continuance.

THE COURT: Wait a minute, counsel,--

[DEFENSE COUNSEL]: --is asking for—

THE COURT: On the 14th of June.

[DEFENSE COUNSEL]: --in this case is the defense so that we have the—

THE COURT: Did I not hear your argument. On the 14th of June, you chose the 28th. On the 28th, you asked for the--.

[DEFENSE COUNSEL]: The Department of Juvenile Services seeks the continuance because they—

THE COURT: And I continued it and on the 14th of June did you not know you wanted an evaluation?

> [DEFENSE COUNSEL]: So then we received the report on Tuesday at 4:55 and the person that we need to present our case under the rules to impeach and challenge it is not available on the 18th.
>
> THE COURT: Okay.
>
> [DEFENSE COUNSEL]: 15th.
>
> THE COURT: Thank you. I will see you all back on the 15th.

On July 14, 2016, J.H. filed with the court the written psychosexual evaluation performed by Dr. Grant "for the court's consideration at [J.H.'s] disposition hearing." Dr. Grant's report detailed J.H.'s version of the events involving the victim, wherein he stated that the victim asked him to "do it with her" after she saw her mother and J.H.'s father engaging in sexual intercourse. J.H. said he declined but agreed to "do oral sex" with the victim, which they performed on each other on two occasions.

The sexual activity was revealed when the victim told her grandmother. J.H. said he had not told his own parents of the victim's advances because he did not want her to get in trouble. Pointing out that the incident was J.H.'s first encounter with the juvenile justice system, Dr. Grant recommended that J.H. be placed in a "supervised group home" and receive "community based juvenile sex offender specific treatment."

On July 14, 2016, J.H. filed yet another motion to continue the July 15, 2016 disposition hearing. Therein, he stated that, "[d]espite providing the court with Dr. Grant's evaluation and recommendation, without her testimony [J.H.]'s counsel will not be able to effectively challenge or impeach the reports that are in front of the Court through

confrontation of their writers," which would lead to ineffective representation of J.H. at the disposition hearing.

At the start of the scheduled disposition hearing on July 15, 2106, defense counsel again renewed the motion to continue the hearing, on the ground that Dr. Grant would not be present to offer testimony "in order to challenge and to impeach the other reports." In addition, counsel continued, DJS had not provided the predisposition investigation ("PDI") to her until that morning, and she had not had adequate time to review it. The State, conceding that the PDI report had not been provided to the defense until that morning, nonetheless opposed a continuance, stating that defense counsel had had ample time to read the report, and the State was ready to proceed.

The court denied the defense motion for continuance. In light of the court's ruling, defense counsel asked that the court hear from the witnesses then present but continue a portion of the disposition until Dr. Grant was available to testify. The court did not specifically respond to that request, instead advising the State to proceed with its case for disposition.

The victim's father presented a statement, detailing that his then-eight-year-old daughter suffered from nightmares and was receiving therapy to work on her continued terror of J.H. and the fact that her own mother had appeared to protect J.H. instead of her when the allegations of sexual assault were made.

The State, aware that DJS recommended a Level B placement—essentially a staff-secured group home—opposed that placement, given the "horrific nature of the incident" and the fact that J.H.'s father and the victim's mother "basically condoned what [J.H.] did"

by hiding him from the police after the report of sexual assault. Were J.H. placed in a facility from which he could "walk away whenever he wishes" and have contact with his family, the State continued, the influence of his family would "get in the way" of his treatment. The State therefore requested that J.H. be placed in a Level A facility.[5]

The defense called as a witness Dr. Janell Kelly, who authored the court-ordered psychological report, which recommended that J.H. receive sex offender treatment in a therapeutic setting. Such treatment, Dr. Kelly agreed, could be achieved at a group home, given J.H.'s low risk for chronic assault. The defense also called Marvin Stone, who completed the psychosexual evaluation of J.H.; he recommended residential treatment. Finally, the court heard the testimony of Dr. Sheldon Glass, who performed the psychiatric evaluation of J.H. and recommended a residential treatment program tailored specifically to adolescent sexual offenders.

At the close of the testimony, defense counsel once again requested that the court carry over the matter until either July 25, or 28, 2016, when Dr. Grant would be available to testify. The court denied the request.

In closing, defense counsel advocated a placement in a therapeutic group home in the community, arguing against the Level A placement endorsed by the State. She pointed out that the DJS evaluators suggested a therapeutic setting in a group home, and Dr. Grant, in her report, agreed that the treatment necessary for J.H. could be achieved within a group home setting. The court, finding that J.H. had committed "some serious offenses" and was

[5] Level A facilities are physically secured.

"in need of some serious help," ordered J.H. committed to a Level B, non-community staff secure program that provides sex offender treatment, for no more than three years.

DISCUSSION

I.

J.H. argues, first, that the juvenile court abused its discretion in repeatedly denying his motions for postponement of the disposition hearing, especially as it granted every postponement request made by the State or DJS. The postponement, he concludes, would have given him a fair opportunity to elicit the testimony of his expert witness, who would have rebutted the court-ordered reports by the DJS evaluators.

An appellate court reviews the juvenile court's decision to deny a motion for a postponement or continuance for a clear abuse of discretion. *Touzeau v. Deffinbaugh*, 394 Md. 654, 669 (2006). The juvenile court's ruling on a request for a postponement or continuance will not be reviewed on appeal unless the court acted arbitrarily. *Zdravkovich v. Siegert*, 151 Md. App. 295, 303 (2003).

An appellant bears the burden of establishing that he was prejudiced by the error of which he complains. *Fagnani v. Fisher*, 190 Md. App. 463, 477 (2010), *aff'd*, 418 Md. 371 (2011). *See also Harris v. David S. Harris, P.A.*, 310 Md. 310, 319 (1987) ("[T]he appellate courts of this State will not reverse a lower court judgment for harmless error: the complaining party must show *prejudice* as well as *error*") (emphasis in original). A refusal to grant a continuance is reversible error only in "some exceptional circumstances," and a failure to show that the expected testimony by an unavailable witness was vital is not one of them. *Plank v. Summers*, 205 Md. 598, 605 (1954).

Although J.H. argued repeatedly that a postponement was required until Dr. Grant was available to testify in impeachment of the court-ordered DJS evaluations, he filed with the court the expert's written report, which presumably contained the same facts and opinions to which she would have testified at the disposition hearing. As the report was received by the court and made part of its file, we further presume that the court reviewed and considered it in rendering its disposition. As such, we fail to see how the additional time granted by a postponement of the disposition hearing so that Dr. Grant could testify in person would have altered significantly J.H.'s presentation of his position therein.[6]

Moreover and crucially, J.H.'s expert did not differ substantially from the court-ordered evaluators in her recommendation of disposition. The DJS evaluators, Dr. Kelly, Mr. Stone, and Dr. Glass, respectively recommended "a group home," "residential treatment," and "a residential treatment program tailored specifically to adolescent sexual offenders," while Dr. Grant recommended a "supervised group home" with "community based juvenile sex offender specific treatment," all of which were in contrast to the State's recommendation of a physically secure and more restrictive Level A placement. In closing argument at the disposition hearing, defense counsel asked the court to follow "the Department's recommendation" and place J.H. "in a community residential staff secured treatment center" where he could receive sex offender treatment. In agreeing with DJS's

[6] Moreover, although not articulated by the juvenile court as reason to deny J.H.'s motions for a continuance, we point out that Md. Rule 11-115(a) requires that a disposition hearing "shall be held no later than thirty days after the conclusion of the adjudicatory hearing."

recommendation, which corresponded with Dr. Grant's, defense counsel belied any need for Dr. Grant's live testimony to rebut the opinions of the DJS evaluators.

We perceive no abuse of discretion by the juvenile court in the denial of J.H.'s motions to postpone his disposition hearing because J.H. has failed to establish any unfair prejudice he suffered due to the court's denial of his postponement requests. *See Ware v. State*, 360 Md. 650, 706–07 (2000), *cert. denied*, 549 U.S. 1342 (2007) (finding no abuse of discretion in denying the request to postpone sentencing, noting "[a]ppellant never specified, at trial or on appeal, how his sentencing case might have been presented differently if he had had more time"). In addition the Rules require that disposition be held within 30 days.

II.

J.H. also contends that the juvenile court erred or abused its discretion in restricting his cross-examination of the authors of the court-ordered evaluations in the absence of the admission of the written evaluations into evidence as defense exhibits. Because the evaluations were within the court's file, J.H. continues, he should have been permitted to cross-examine their authors about them, irrespective of the fact that they had not been marked or offered into evidence.

At the disposition hearing, J.H. called as witnesses three of the authors of the court-ordered evaluations—Dr. Janell Kelly, who authored the court-ordered psychological report, Marvin Stone, who completed the psychosexual evaluation, and Dr. Sheldon Glass, who performed the psychiatric evaluation of J.H. None of the witnesses was accepted by

the court as an expert, and their written evaluations, while received by the court and made a part of its file, were not offered into evidence by either side.

Upon defense counsel's questioning of Dr. Kelly, the State, "unclear as to whether or not Dr. Kelly is testifying as a medical expert," objected when counsel asked the witness to "talk about [J.H.'s] legal history," and his "mental health issues" as contained in her report. The court expressed its opinion that the doctor was not a medical expert.

Defense counsel advanced an argument that, as Dr. Kelly's report had been "given to the Court in consideration for this disposition hearing," counsel had the right to ask the doctor about it. On that ground, the court sustained the State's objection but clarified it "was not saying you can't challenge the report." The court went on to sustain defense counsel's additional questions about J.H.'s "past treatment history," "social support," stressors" in his case history, and diagnosis.

In questioning Mr. Stone, the court similarly sustained objections to defense counsel's questions about J.H.'s legal history, mental history, and psychosexual testing. When counsel again argued that she was not being afforded the opportunity to challenge Mr. Stone's report, the court responded, "You are just doing it the wrong way."

Defense counsel then sought to have the court qualify Mr. Stone as an expert "clinically certified sex offender treatment specialist," able to discuss his assessment of J.H. The State again objected and reminded the court that Mr. Stone's report had been submitted to the court as part of the social history investigation, so the State was unclear on what defense counsel was trying to elicit from Mr. Stone "different and apart from what is in his report."

Defense counsel argued that the report was evidence, and the court reminded counsel that none of the court-ordered reports had been admitted into evidence. Counsel insisted that because the reports were "in front of the Court" and "entered into the Court file," she had the right to challenge them. The court asserted that counsel was "actually wrong" on that basis.

After a short recess, the court asked defense counsel if she would like to have the reports admitted into evidence, but counsel merely continued to assert that they had been submitted to the court and were in the court file. The State's objections to counsel's remaining questions to Mr. Stone about the specifics of his assessment and recommendation pertaining to J.H. were sustained by the court.

Defense counsel similarly attempted to have the court qualify Dr. Glass as an expert "to speak about the psychiatric evaluation." The State opposed that request, and the court sustained the objection "at this time," advising counsel to lay a proper foundation for Dr. Glass's testimony.

The court again asked counsel if she wanted to have the doctor's evaluation admitted into the record, to which counsel again answered, "It is in the court file." The court reminded her that "[i]t is not in the record." The court continued, "You have not ask[ed] to have a document marked. I asked quite clearly to try to help you out. Would you like to have the document admitted into the record as evidence[?] You said no. You then attempted to question the witness never had the document marked so the Court would know what the heck you are talking about."

Refusing to request that the reports be admitted into evidence, counsel steadfastly attempted to ask Dr. Glass additional questions, in an attempt to lay a foundation to qualify him as an expert in psychiatry and so as to be permitted to ask him about his evaluation. The court again admonished counsel, "The problem is I have made a suggestion, I almost told you what to do, you just won't do it. He has not been received. . .I mean I tried to tell you, even tried to assist you in having the report marked because no remark [sic] is marked."

Notwithstanding her inability to question the witnesses about the details of their reports, defense counsel, in opposing the State's recommendation for Level A placement, referred to the evaluations and the testimony of the witnesses in her closing:

> [DEFENSE COUNSEL]: Your Honor, at this point, all of the objections that were sustained and the fact that we weren't able to go into the reports that were—that the PDI that are attached within the Court file, we would be asking either that [J.H.] be placed—*we would ask that [J.H.] follow the Department's recommendation and ask that you place [J.H.] in a community residential staff secured treatment center[.]*
>
> Now, when you look—staff secured program. *Now if you look at all of the reports that are within the PDI, the psychological report says the juvenile sex offender treatment can be done within a therapeutic setting.*
>
> *Dr. Kelly testified that that type of treatment is able to take place in a therapeutic group home. Additionally, all of the psychosexual evaluation says to be committed to DJS and the study that would provide him with sex offender treatment.*
>
> Again, we have a young man here who has not had any type of treatment regarding sex offender treatment. And a therapeutic group home would be the best placement for him. It would be within the community. Now he is 14, never received any type of treatment, never had any type of—contacts.
>
> And I think that everyone here agrees at this moment that there are treatment needs. But those treatment needs can be addressed within a therapeutic setting. And they can provide shelter, they can provide therapy and they can also provide him being closer with his family to be able to serve his process where they can do family therapy.

* * *

Now looking at the actual adjudicated offense here. The adjudicated offense is a third-degree sex assault. *And, again, there have been no past contacts with the Juvenile Justice System and when you look at the reports that are within the PDI there are no serious concerns about other behavior.*

Putting him—again, he would have his—he would have greater family access, and the Court should not look past the fact that we should be trying to place him in the least restricted environment where he can still obtain the necessary treatment that would be in a therapeutic group home.

* * *

And so what we are asking is for [J.H.] receive [sic] the type of treatment that is necessary. *The type of treatment that is being asked for in the evaluations that were ordered by the Court.*

Within the Court file, we submitted from Dr. Teresa Grant, that it says that all of the type of treatments that is necessary [sic] for [J.H.] can be achieved within a group home setting.

* * *

And, again, based on the testimony from Dr. Kelly that was allowed in, that therapeutic treatment is able to be provided in a group home. The State is not a doctor; the State is not someone who met with [J.H.] who knows about his needs.

So, *asking for Level A placement when you have health care professionals who are saying that this is the type of treatment that he needs in that type of setting those are the individuals that we should be following.*

We trust DJS recommendation when they—I think this Court very much trust [sic] DJS recommendation when they ask about placement for individuals. So to—to follow DJS recommendation. DJS is recommending a group home. And that would be the best place for [J.H.] and that is where we ask that you place [J.H.] today. (Emphasis added).

Preliminarily, we agree with the State that J.H. did not preserve this issue for appellate review. After the juvenile court refused to permit certain of J.H.'s questions upon cross-examination of the witnesses, he failed to make any proffer as to the expected contents and relevancy of the excluded testimony, as required. *See Peterson v. State*, 444

Md. 105, 124–25 (2015); *Grandison v. State*, 341 Md. 175, 207 (1995). Even had J.H. preserved the issue, he would not prevail.

A juvenile court, in evaluating disposition possibilities in a delinquency matter, must consider the purposes and factors set forth in Maryland Code (2006, 2013 Repl. Vol.), § 3–8A–02 of the Courts and Judicial Proceedings Article ("CJP"), which requires the court to balance public safety and personal accountability with the rehabilitative interests of the child offender. *Lopez-Sanchez v. State*, 155 Md. App. 580, 598 (2004), *aff'd*, 388 Md. 214 (2005), *cert. denied*, 546 U.S. 1102 (2006). We review the disposition decision in a juvenile case for abuse of discretion and intervene "only upon a finding that such discretion has been abused." *In re Hamill*, 10 Md. App. 586, 592 (1970). A court abuses its discretion if its disposition "is guided solely by the delinquent act itself, and is impermissibly punitive without giving proper consideration to the child's rehabilitative needs and best interests." *In re Julianna B.*, 179 Md. App. 512, 575 (2008), *vacated on other grounds*, 407 Md. 657 (2009).

Maryland Rule 11–115 controls disposition hearings in juvenile matters. It states, in pertinent part:

> **b. Disposition—Judge or Magistrate.** The disposition made by the court shall be in accordance with Section 3-820(b) of the Courts Article. If the disposition hearing is conducted by a judge, and his order includes placement of the child outside the home, the judge shall announce in open court and shall prepare and file with the clerk, a statement of the reasons for the placement. If the hearing is conducted by a magistrate, the procedures of Rule 11-111 shall be followed. In the interest of justice, the judge or magistrate may decline to require strict application of the rules in Title 5 [*i.e.*, the Rules of Evidence], except those relating to the competency of witnesses.

Likewise, Rule 5–101(c)(b) lists "[d]isposition hearings under Rule 11–115" among the proceedings in which the juvenile court, "in the interest of justice, may decline to require strict application of the rules in this Title other than those relating to the competency of witnesses."[7]

Therefore, a juvenile court in a disposition hearing may decline, *in its discretion*, to apply strictly the Rules of Evidence. *In re Ashley E.*, 158 Md. App. 144, 159 (2004), *aff'd*, 387 Md. 260 (2005). Although the court need not strictly apply the rules of evidence at a disposition hearing, "the court must still determine whether proffered evidence is 'sufficiently reliable and probative to its admission.'" *In re A.N.*, 226 Md. App. 283, 310–11 (2015) (quoting *In re Billy W.*, 387 Md. 405, 434 (2005)).

Although the juvenile court, in this matter, arguably, could have relaxed its stance on defense counsel's examination of the witnesses in the absence of her laying a proper foundation regarding their reports and acceptance of their opinion testimony, it did not abuse its discretion in declining to do so, especially as it attempted to assist her in complying with the rules of evidence on several occasions. And, even if we were to assume, for the sake of argument, that the juvenile court abused its discretion in sustaining the State's numerous objections to defense counsel's questions in the absence of the admission of the evaluators' reports into evidence, it is clear that the court's rulings did not affect its ultimate decision on disposition.

[7] Similarly, the strict rules of evidence do not apply at a criminal sentencing proceeding. *Smith v. State*, 308 Md. 162, 166 (1986)

As noted in Section I of this opinion, "[i]t is well settled in Maryland that a judgment in a civil case will not be reversed in the absence of a showing of error *and* prejudice to the appealing party." *In re Ashley E.*, 158 Md. App. at 164 (emphasis in original). Notwithstanding, the lack of admission of the court-ordered evaluations into evidence at J.H.'s disposition hearing, the court made clear that it had considered the evaluations, including, presumably that of Dr. Grant, in rendering its disposition. Defense counsel was given ample opportunity to argue her position, and, in closing, she sought exactly the disposition recommended by the DJS evaluators and Dr. Grant in their reports.

Therefore, we fail to see how further examination of the testifying witnesses about their reports, if permitted by the court, would have had any significant impact upon the juvenile court's ultimate decision on disposition. As such, we discern no unfair prejudice to J.H. in the court's rulings or its disposition based on the totality of the facts before it.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, SITTING AS A JUVENILE COURT, AFFIRMED; COSTS TO BE PAID BY APPELLANT.