

Circuit Court for Howard County  
Case No. C-13-JV-25-000271

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 2405

September Term, 2025

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In Re: C.P.

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Wells, C.J.,  
Kehoe, S.,  
Hotten, Michele D.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Wells, C.J.

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Filed: June 26, 2026

\* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

This appeal arises from a Child in Need of Assistance (“CINA”) proceeding in the Circuit Court for Howard County. Appellant C.G. (“Mother”) challenges the juvenile court’s order sustaining the allegations in the Department of Social Services’ (“DSS”) amended CINA petition, declaring her five-year-old son, C.P., to be CINA, committing him to the custody of DSS for placement with his paternal grandmother, and finding DSS made reasonable efforts to prevent the need for out-of-home placement. Appellees J.P. (“Father”), through counsel, and DSS urges this Court to affirm.

Mother presents three questions for our review, which we consolidate and rephrase as follows:<sup>1</sup>

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<sup>1</sup> Mother’s verbatim questions are:

1. Did the court err when it sustained all allegations in DSS’s amended CINA petition despite Mother’s numerous valid objections to the testimony of DSS’s only witness?
  - A. Did DSS offer insufficient admissible evidence during adjudication, when the rules of evidence strictly apply, for the court to sustain all petition allegations, and did the court make additional erroneous findings?
  - B. Did the court erroneously consider evidence only offered and/or admissible at disposition to conclude that DSS met its burden of proof at adjudication?
  - C. Was dismissal of the petition the proper outcome because the only petition allegations supported by adequate admissible evidence failed as a matter of law to establish that Mother neglected C.P.?
2. Did the court err when it failed to consider Mother’s dispositional request that the court return C.P. to her care, mistakenly concluding that she only excepted to adjudicatory findings, and was the evidence otherwise insufficient to justify a CINA declaration and out-of-court placement?
3. Did insufficient evidence support the court’s reasonable-efforts finding?

1. Did the court err in sustaining the allegations in the amended CINA petition;
2. Did the court err at disposition in declaring C.P. to be CINA, committing him to DSS custody, and declining to return him to Mother’s care;
3. Was the evidence sufficient to support the court’s finding that DSS made reasonable efforts to prevent the need for out-of-home placement?

For the reasons set forth below, we answer the first two questions in the negative and the third in the affirmative. Therefore, we affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

C.P. was born in October 2020 and was five years old at the time of the events giving rise to this proceeding. He has been diagnosed with autism and has limited verbal abilities. He had previously been enrolled in an Applied Behavior Analysis (“ABA”) program, a specialized therapeutic program for children with autism. At the time of the events in question, C.P. was in the sole care of Mother. Father, J.P., resided in a treatment facility in the Frederick area.

On November 4, 2025, Monique Mackell, an after-hours social worker for the Department, received a child protective services (“CPS”) report from Anne Arundel County stating that five-year-old C.P. was unattended at a hospital and his mother had been admitted for psychiatric treatment. Mackell spoke with hospital staff, who informed her that C.P. was unattended. She attempted to call Mother’s cellular phone but was unable to reach her. Mackell then contacted the maternal grandmother and an adult brother, both of whom declined to retrieve C.P. from the hospital. Following an unsuccessful search for

alternate kinship resources, and due to Mother’s unavailability, DSS issued a shelter care authorization and transmitted it to a hospital social worker.

The following day, Mackell reached Father, who disclosed that he resided in a Frederick County treatment facility and was consequently unable to be a placement resource for C.P. Father provided Mackell with the paternal grandmother’s phone number. Following the shelter care hearing, Mackell transported C.P. to his paternal grandmother’s home.

The juvenile court held a shelter care hearing on November 5, 2025; Mother was not present and not represented. The court made findings that Mother had been transported from the Hilton Garden Inn to Harbor Hospital, where she was admitted under a 72-hour psychiatric hold; that C.P. was with Mother and also transported to the hospital, where he required supervision; that C.P. was reportedly dirty and not wearing pants when found at the hotel; that C.P. reportedly has autism and limited verbally; and that the Department had contacted multiple relatives, all of whom declined to provide temporary care. The court placed C.P. in the temporary care and custody of DSS.

#### **A. Adjudication Hearing**

Prior to the adjudication hearing, DSS pre-filed two exhibits: a hospital discharge summary and a disposition report. The hospital discharge summary stated that Mother had been brought to the hospital under an emergency petition after being found with her son in a hotel room “with disorganized speech and behavior” and listed the following diagnoses: “1. Bipolar 1 disorder, severe, current or most recent episode manic, with psychotic

features F31.2[;] 2. Cannabis abuse F12.10[;] 3. Conjunctivitis, left eye H10.9.” However, DSS did not seek to enter any exhibits into evidence at the hearing.

The juvenile court held an adjudication hearing on December 3, 2025 before a magistrate. DSS called a single witness, Mackell. Mother’s counsel made numerous evidentiary objections throughout Mackell’s testimony, all of which the magistrate overruled.

Over Mother’s objection, Mackell testified it was her understanding Mother was treated for delusions in the psychiatric unit of the hospital. Over Mother’s objection, Mackell also testified it was reported that C.P. was dirty and not wearing pants when found at the hotel. In response to questions about whether Mother believed she and C.P. were being poisoned, Mackell responded that this information came from the initial referral from Anne Arundel County. Similarly, regarding allegations that Mother believed she was a descendant of Cleopatra and Janet Jackson, Mackell testified that this information came from another report that was not entered into evidence.

Mackell further testified about the meeting she had with Mother after Mother’s release from the hospital. Mother told Mackell she disagreed with the diagnosis given to her by the hospital and that she had been diagnosed with bipolar disorder a long time ago but disagreed with that earlier diagnosis due to co-occurring substance abuse issues. Despite the hospital’s discharge recommendation to take psychotropic medications, Mother told Mackell she would not take medication. Mother told Mackell she had relocated to a shelter in Washington, D.C. upon release from the hospital.

Mackell also testified about her concerns regarding Mother’s ability to care for C.P., given Mother’s bipolar diagnosis and refusal to take medication. Specifically, she stated:

Just given that she does, you know, was diagnosed with bipolar and is not taking any medication, the concerns are she does begin to experience delusions again, and you know, her behavior possibly seen as erratic, by taking him out of his daycare, taking him to you know a different location, is that [C.P.] will not be physically safe with her.

One of the concerns that was, one thing that, you know, was mentioned to me was about [C.P.] flushing the toilet repeatedly, that that’s something that he likes to do, and her thought was, well, I’ll let him flush the toilet repeatedly and flood the hotel so that I can get some type of support.

And generally, a parent who is of sound mind at the time would not just allow their child to unsafely be around, you know, water and do things of that nature. So, we are just concerned if she remains unmedicated and he’s in her care.

Without objection, Mackell testified that she recommends C.P. remains in case because C.P. has autism and required special services, stating: “[W]e have ongoing concerns about supervision as well as [C.P.] having autism and needing special services, and we just want to make sure that he’s able to get the services and support that he needs. And then also that mom is able to get the support and services that she needs as well.” On cross-examination, Mackell testified that C.P. had previously been in an ABA-specific program, which likely would have required a formal autism diagnosis for acceptance. Mackell also testified that Mother told her C.P. exhibited behavioral concerns, including “banging his head and things of that nature,” which Mother attributed to stressors at home or school.

Finally, Mackell testified that Mother had not contacted DSS or requested visitation with C.P. in the month since he was sheltered. At the conclusion of the hearing, the magistrate recommended sustaining all allegations in the amended CINA petition.

### **B. Disposition Hearing**

Immediately following the adjudication hearing, the magistrate conducted a disposition hearing. DSS presented no additional evidence. Both Mother and Father testified.

According to Mother, four or five days prior to the hearing, she moved back into her mother's residence, where she had lived off and on for the previous forty-three years. Mother claimed she had gone to the hotel not due to mental health concerns, but because her home was making her sick due to mildew, causing her to lose eighty pounds within a year. She stated she could not leave C.P. with her 80-year-old mother.

Mother testified that she took [C.P.] out of school because she was so sick living at her mother's and that she needed to take [C.P.] with her. Mother confirmed [C.P.] has been formally diagnosed with autism and that he has "special needs," stating:

[C.P.] needs to be in a school that is has helped to developing. [The school was] teaching [Mother] different skills to communicate with [C.P.]. And [C.P.] was doing very well. [C.P.] does need someone to be here with him. And I was here with him. I made sure that I even arranged my work hours around being able to be here with [C.P.] and being very, you know being very supportive.

Mother testified that it was likely true that C.P. may not have been wearing clothes at the hotel because she could not get up or move, her phone had died, and responders had to pick her up off the floor. She denied directing C.P. to flush items down the toilet but also

said, “I figured maybe that would get me some help. And maybe I would be able to go to the hospital and they would be able to give me something to make me like feel better.”

When asked about her hospitalization, Mother testified that until the hearing that day, she was unaware she had been on the psychiatric ward. She recalled telling Mackell about a prior bipolar diagnosis at age 21 but said she was later told the diagnosis was incorrect due to drug addiction. She recalled the hospital’s November 2025 discharge recommendation to take two medications—medications she had previously taken and experienced severe side effects from—and stated she was not currently following that recommendation. Mother admitted to using marijuana occasionally but denied doing so in C.P.’s presence.

When asked about outpatient treatment, Mother testified she was in the process of being connected to August Rose Health Center for counseling, though she had not yet started treatment due to insurance issues. She reported having check-ins from an individual at another treatment center, Medulla, though she did not testify about whether she received any specific treatment from that center.

Father testified at disposition that “he has had ongoing concerns about mother’s mental health,” and that while he was unable to provide details about Mother’s behaviors, he has previously visited Mother’s home which was “not clean and there was no food for [C.P.]” Father further testified that “he does not want his son in foster care but [he] understands that he is unable to provide physical care for him at the time.”



The magistrate recommended C.P. be declared CINA, committed to DSS for continued placement, that Mother submit to a full psychological evaluation and substance abuse assessment and follow all treatment recommendations, and that Father provide documentation of his compliance and enrollment in residential treatment. The magistrate’s written recommendations confirmed her oral rulings and indicated that she considered DSS’ discovery/disposition report.

### **C. Exceptions Hearing and the Juvenile Court’s Ruling**

Mother filed timely written exceptions on December 8, 2025, requesting an on-the-record hearing. Her exceptions specified four objections:

1. That the Magistrate improperly considered inadmissible evidence and the adjudication and perhaps the disposition,
2. That the Magistrate improperly concluded that Mother neglected the child,
3. The Magistrate improperly considered [DSS’] discovery/disposition report[,]
4. That the Magistrate improperly concluded that the child needed to be removed from the custody of the mother.

The juvenile court held the exceptions hearing on January 7, 2026. After the court stated that the hearing was for the exceptions as to the magistrate’s disposition, Mother’s counsel corrected stating “the Exceptions were to the adjudication, as well as the disposition.” Mother’s counsel went through the Amended Petition line-by-line arguing that “virtually none of the allegations in the Petition were proven by admissible and properly admitted evidence[,]” and thus “there is no basis defined by preponderance of the

evidence that [Mother] neglected [C.P.] by having to go to the hospital.” DSS responded by arguing that Mother’s own dispositional testimony on cross examination supported certain facts. C.P.’s counsel argued that while not every allegation may have been sustained, much of Mackell’s testimony was based on Mother’s own statements and was sufficient to support the CINA finding. Father concurred with DSS and [C.P.’s] counsel. In closing, Mother’s attorney requested that C.P. be returned to her care.

On January 11, 2026, the juvenile court issued a written adjudication and disposition order. The court’s material findings state in part:

A review of the transcript filed from the Adjudicatory proceeding, supports that on November 4, 2025, [Mother] was hospitalized for mental health issues and that the Respondent was with her at the hospital. The child had to be cared for by hospital staff as mother was being treated and there was no one else at the hospital to care for the child. The Respondent has autism, is almost non-verbal and needs a great deal of supervision. The record supports that, prior to the hospitalization, mother left paternal grandmother’s home where she and the child had been residing and took the child from daycare due to the belief that both were unsafe. Mother and child were staying in a hotel room. Mother allowed the child to continuously flush the toilet so that someone would respond with help for her. Mother disagrees with prior mental health diagnosis and will not take prescribed medication. Mother was staying in a homeless shelter upon release from the hospital.

Mother’s inability to acknowledge her emergency mental state situation and subsequent need for treatment coupled with her refusal to take medication to treat symptoms that led to the emergency rises to neglect as the child continues to need heightened supervision and services in light of his needs associated with his autism diagnosis.

Notably, in its findings the court did not find or otherwise refer to Mother’s alleged delusions, including poison, Cleopatra, or Janet Jackson, or the fact that C.P. was allegedly dirty and without clothes at the hotel.

The court also stated that “Mother only excepts to the adjudicatory findings” and “there were sufficient facts in the record to support a finding by preponderance of the evidence that [C.P.] is a child in need of assistance” The court affirmed the magistrate’s findings on adjudication, found the magistrate’s recommendations for disposition proper, and further found “[t]hat reasonable efforts were made prior to the placement to prevent or eliminate the need for the removal of the child.” The court made numerous orders, most importantly ordering C.P. committed to DSS for continued placement, Mother to complete a full psychological evaluation and substance abuse evaluation and follow all treatment recommendations, and Father to provide documentation of his compliance and enrollment in residential treatment. This appeal timely followed.

### **STANDARD OF REVIEW**

On review of a juvenile court’s CINA adjudication and/or disposition, this Court applies three standards of review: 1.) the juvenile court’s factual findings are reviewed for clear error; 2.) matters of law are reviewed de novo; and 3.) an abuse of discretion standard is applied to “ultimate conclusions of law and fact, when based upon ‘sound legal principles’ and ‘factual findings that are not clearly erroneous[.]’” *In re T.K.*, 480 Md. 122, 143 (2022) (quoting *In re Yve S.*, 373 Md. 551, 586 (2003)).

### **DISCUSSION**

#### **I. The Juvenile Court Did Not Err in Sustaining the Amended CINA Petition Allegations at Adjudication.**

##### **A. Parties’ Contentions**

Mother contends the juvenile court erred by overruling her numerous evidentiary objections to Mackell’s adjudicatory testimony. She argues Mackell’s testimony was replete with inadmissible hearsay derived from anonymous referrals and unidentified hospital personnel, that no hearsay exception was satisfied, and that without this testimony DSS failed to prove the petition allegations by a preponderance of the evidence. Mother further argues that DSS’s discovery/disposition report and uploaded medical records were never mentioned, marked, or moved into evidence, and that to the extent the court relied on those documents—or on Mother’s own dispositional testimony—to fill gaps in the adjudicatory evidence, it committed reversible error. Mother’s position is that the petition should have been dismissed outright because the limited facts properly before the court at adjudication did not establish neglect as a matter of law.

DSS contends the contested hearsay statements—that C.P. was dirty and unclothed at the hotel, that Mother was admitted for delusions, and that Mother believed she was a descendant of Cleopatra and Janet Jackson—were properly admitted to explain Mackell’s investigative response and her conclusion that C.P. required shelter care, even if not for the truth of the matter asserted, and that Mother failed to request a limiting instruction under Maryland Rule 5-105. DSS further argues that to the extent any error occurred, it was corrected by the circuit court, who issued revised adjudication findings that omitted any reference to delusions, Cleopatra, Janet Jackson, and C.P.’s dirty, unclothed condition. Finally, DSS argues the remaining material facts the court sustained were supported by

properly admitted evidence and were sufficient to establish neglect. The Department argues that if any reversible error occurred, the appropriate remedy is remand, not dismissal.

Father contends Mackell’s testimony was credible, trustworthy, and based on her statutory duty to investigate the child welfare referral. Father argues that DSS investigation records carry a “presumption of reliability” and are admissible under the public records exception to the hearsay rule, Md. Rule 5-803(b)(8), as well as the business records exception, Md. Rule 5-803(b)(6). Father further contends Mother failed to demonstrate that any portion of Mackell’s testimony was unreliable, that Mother’s own admissions corroborated the key factual findings, and that any evidentiary error was harmless.

### **B. Analysis**

At adjudication, the court’s task is to determine whether the factual allegations in the CINA petition are true. *In re O.P.*, 470 Md. 225, 236 (2020). The rules of evidence strictly apply, and DSS bears the burden of proving the petition allegations by a preponderance of the evidence. *See id*; Md. Code Ann, Cts. & Jud. Proc. (“CJP”) § 3-817.

Hearsay is an out-of-court statement offered to prove the truth of the matter asserted. Md. Rule 5-801(c). It is generally inadmissible unless it falls within a recognized exception. Md. Rule 5-802. Among those exceptions is the public records exception, which permits admission of a record made by a public agency that sets forth the activities of the agency, matters observed pursuant to a duty imposed by law as to which there was a duty to report, or factual findings resulting from an investigation made pursuant to authority granted by law. Md. Rule 5-803(b)(8). Moreover, “public records carry a ‘presumption of

reliability’ and [] the public records exception ‘appropriately allows the reception of reliable facts.’”. *In re H.R.*, 238 Md. App. 374, 405-6 (2018).

Under CJP § 3-801(t)(1) of Maryland Code Annotated:

“Neglect” means the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or individual who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate:

- (i) That the child’s health or welfare is harmed or placed at substantial risk of harm; or
- (ii) That the child has suffered mental injury or been placed at substantial risk of mental injury.

Notably, a court need not wait until a child has actually been harmed to rule a child has been “neglected.” *In re William B.*, 73 Md. App. 68, 77–78 (1987) (“The judge need not wait until the child suffers some injury before determining that he is neglected. This would be contrary to the purpose of the CINA statute. The purpose of the act is to protect children—not to wait for their injury.”).

We acknowledge that portions of Mackell’s testimony were based on information she received from third parties during her investigation, and that some of Mother’s evidentiary objections may have had arguable merit. In particular, the specific allegations that Mother believed she and C.P. were being poisoned and that she was a descendant of Cleopatra and Janet Jackson were derived from initial referral reports that Mackell herself had not substantiated. Similarly, Mackell’s testimony that C.P. was dirty and not wearing pants when found at the hotel was based on what was “reported to” her.

We need not decide, however, whether each of the magistrate’s specific evidentiary rulings was correct, because the juvenile court judge, on exceptions review, effectively cured any such error. The juvenile court judge’s findings omitted any reference to delusions, Cleopatra, Janet Jackson, or C.P.’s dirty and unclothed condition at the hotel. Furthermore, the juvenile court judge stated during the exceptions hearing that before making a written ruling she would review the “evidence submitted at the adjudication portion of the hearing versus the disposition hearing,” and that she would “go through the transcript specifically and look at that portion[.]” The court’s subsequent written order reflects that it undertook precisely this review and narrowed the factual findings to those it determined were supported by the evidence. Whatever error may have occurred before the magistrate was thus cured on exceptions.

While it can be argued that a later portion of the order could be read as sustaining the petition allegations without limitation, we decline to do so here. Given the court’s inclusion of detailed factual findings earlier in the order, we read this language as a general conclusion that the sustained facts were sufficient to support the petition’s overall allegation of neglect and to proceed to disposition, rather than as sustaining each specific allegation that the magistrate had originally found.

Ultimately, the evidence supported the material facts that the juvenile court expressly sustained in its revised findings. Many of the foundational facts rested not on contested hearsay but on Mother’s own statements to Mackell and her own testimony at the dispositional hearing. Specifically, Mother told Mackell she allowed C.P. to repeatedly

flush the toilet to flood the hotel room, hoping it would bring assistance. Mother confirmed this account at disposition, stating she “figured maybe that would get me some help.” Mother also acknowledged C.P. likely was not wearing clothes and was dirty because Mother was so physically ill that she could barely move. She also confirmed C.P.’s autism diagnosis and special needs during testimony and acknowledged her own prior bipolar diagnosis, albeit one she questioned. And finally, Mother acknowledged the hospital recommended she take two medications, which she testified were previously prescribed to her and she refused to take because of side effects.

Regarding the court’s finding that Mother was hospitalized for mental health issues, the court could reasonably draw this inference from the totality of Mackell’s testimony. Mackell testified, without objection, about her conversation with Mother after Mother’s hospital discharge, during which Mother discussed the hospital’s bipolar diagnosis and her refusal to take the prescribed medication. Despite Mother testifying that she was not aware she was ever on the psychiatric ward and that she believed she was hospitalized for her physical illness, the court was free to choose among different inferences that might possibly be drawn from the evidence. Considered in its totality, the testimony supported the inference that Mother’s hospitalization was for mental health reasons and that she had received a current bipolar diagnosis in addition to the prior diagnosis she acknowledged.

As to Mackell’s testimony about C.P.’s autism diagnoses, on cross-examination, Mackell testified that C.P. had previously been in an ABA-specific program, which likely required an autism diagnosis. Further, Mother’s own statements to Mackell—that C.P.



exhibited behavioral concerns including head banging—and her dispositional testimony confirming [C.P.] previously received a formal autism diagnosis and had certain “special needs” corroborated this finding.

To the extent Mackell’s testimony about the circumstances of the initial referral and Mother’s hospitalization involved hearsay, much of that information was gathered in the course of Mackell’s statutory duty as a CPS investigative social worker to investigate reports of suspected child abuse and neglect. *See* Md. Code Regs. (“COMAR”) 07.02.07.07(A)–(B).<sup>2</sup> Mackell had a statutory duty to assess C.P.’s safety and take immediate protective steps upon receiving a report of suspected neglect. Thus, at minimum, her testimony was admissible to explain the course of her conduct in responding to the report and issuing a shelter care authorization. The statements she received regarding C.P.’s

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<sup>2</sup> Under COMAR 07.02.07.07(A)–(B): “A. During an investigation, the local department shall: 1. Assess the immediate safety and risk of maltreatment of the alleged victim and of the children who are household or family members of the alleged victim or in the care or custody of the alleged maltreater; 2. Determine if the alleged child abuse or neglect or any other child abuse or neglect is indicated, unsubstantiated, or ruled out; 3. Determine what services, if any, are appropriate and make referrals as necessary; 4. Initiate shelter care, CINA proceeding, or voluntary placement as appropriate; and 5. If possible, determine the identity of a maltreater.

B. If necessary, the local department shall obtain information from the reporting source, parents, other relatives, community members, and other appropriate community resources including schools, hospitals, clinics, or law enforcement agencies.”

situation at the hospital directly informed those actions and were properly received for that non-hearsay purpose.<sup>3</sup>

These sustained facts were sufficient to establish neglect. The evidence established that Mother, while C.P.’s sole caretaker, experienced a mental health crisis requiring emergency hospitalization; that C.P., a five-year-old child with autism who requires heightened supervision, was left without an available caretaker at the hospital; that Mother had taken C.P. from his ABA program and from his home; that Mother allowed C.P. to flood a hotel bathroom hoping to summon assistance; that Mother disagreed with her mental health diagnosis and refused prescribed medication; and that Mother had not contacted the Department or requested visitation with C.P. in the month since his removal. Under the totality of the circumstances, these facts demonstrated a failure to give proper care and attention to C.P. under circumstances that placed his health and welfare at substantial risk of harm. The court’s neglect finding was not clearly erroneous.

Mother argues the sustained facts reflect a single medical event that does not amount to neglect, and that homelessness alone cannot justify commitment. While we agree that homelessness alone is insufficient to justify neglect, the court’s finding was not predicated on Mother’s housing status. Rather, the court found that Mother’s refusal to acknowledge

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<sup>3</sup> We also note that Mother did not request a limiting instruction under Maryland Rule 5-105, which provides that when evidence is admissible for one purpose but not another, the court shall restrict the evidence to its proper scope “upon request.” By failing to seek such an instruction, Mother arguably waived any objection to the court’s consideration of these statements for the truth of the matter asserted.

her mental health crisis and refusal of treatment, coupled with C.P.’s heightened needs, created a substantial risk of harm. The court need not wait for actual injury before finding neglect.

Mother further urges that the petition should have been dismissed under the reasoning of *In re M.H.*, 252 Md. App. 29 (2021). There, DSS filed a CINA petition that simply incorporated its emergency shelter care report by reference and, at the contested adjudicatory hearing, did not call any witnesses, did not move any exhibits into evidence, and instead relied on the longstanding local practice in Cecil County of “submitting on the report.” 252 Md. App. at 37, 53–54. This Court vacated the adjudication and disposition order, holding the findings of fact were clearly erroneous because they rested entirely on an unadmitted report and proffers from counsel, and emphasized that a CINA petition “may not prove itself in an adjudicatory hearing” — the same document that states the allegations cannot simultaneously serve as the evidence substantiating them when no testimony is taken and no exhibits are admitted. *Id.* at 54–55. Critically, however, we declined to dismiss the petition outright, concluding instead that remand for a new adjudicatory hearing was the appropriate remedy. *Id.* at 55–56.

This case is materially different. Here, DSS did not merely submit on a report. DSS called Mackell as a witness, and she testified at length about her investigation and was subject to cross-examination. While some of her testimony drew on information she received from third parties, the core factual predicates for the court’s neglect finding were established through Mother’s own statements to Mackell and Mother’s testimony at

disposition—neither of which presents the *M.H.* problem of a petition proving itself. Moreover, as discussed, the juvenile court judge on exceptions review independently read the transcript and issued revised factual findings narrowing the adjudication to those facts the judge determined were supported by the evidence. Thus, the concerns animating *M.H.* are not implicated here.

Finally, we likewise reject Mother’s contention that the juvenile court impermissibly used dispositional evidence to support its adjudicatory findings. The court’s written order stated that its findings were based on its review of the transcript from the adjudicatory proceeding. To the extent the court’s findings referenced facts that Mother also confirmed during her own dispositional testimony—such as her acknowledgement of C.P.’s condition at the hotel and her dispute of the hospital’s diagnoses—those same facts were elicited through Mackell’s adjudicatory testimony. Mother’s dispositional testimony did not introduce new facts so much as it corroborated—and, in some instances, failed to rebut—the evidence already before the court. The adjudicatory record, standing on its own, was sufficient.

Concluding the court did not err in sustaining the allegations in the amended CINA petition, we affirm.

## **II. The Juvenile Court Did Not Err in Declaring C.P. CINA and Committing Him to DSS Custody.**

### **A. Parties’ Contentions**

Mother contends the juvenile court misconstrued her exceptions as covering “only” the adjudicatory findings, when in fact her written exceptions and oral argument at the

exceptions hearing plainly challenged both adjudication and disposition, including the recommendation that C.P. be removed from her custody. Mother contends this mischaracterization caused the court to uncritically adopt the magistrate’s dispositional recommendations without engaging in its own independent analysis, as required. On the merits, Mother argues the evidence did not support a finding that she had a “present inability” to care for C.P., pointing to her stable housing, her initiation of counseling services, and the absence of any prior removals. She further argues the court failed to consider alternatives to removal, such as an Order of Protective Supervision (“OPS”). Mother argues separately that the court failed to meaningfully consider her request at the exceptions hearing to have C.P. returned to her care.

DSS contends that although Mother took exceptions to both adjudication and disposition, she argued at the exceptions hearing only that the adjudicatory findings were not supported by the evidence, and as to disposition merely asserted she was “ready, willing, and able” to resume care without citing particular facts or requesting supplemental evidence. DSS argues that based on the record before it, the court committed no error in ratifying the magistrate’s dispositional recommendations.

Father contends the court properly exercised its discretion under CJP § 3-819(b)(1)(iii) in committing C.P. to his paternal grandmother’s care. Father argues that Mother’s refusal to acknowledge the severity of her mental health crisis, coupled with her rejection of treatment recommendations, demonstrated that she was unable to care for C.P. Father further notes his own stated discomfort with C.P.’s return to Mother.

## **B. Analysis**

When reviewing a magistrate’s recommendations on exceptions, the juvenile court judge must conduct her own independent assessment of the dispositional issues, though she may be “guided” by the magistrate’s recommendations. *In re Michael W.*, 89 Md. App. 612, 622 (1991) (“[I]n the context of a CINA proceeding, the court does not accord such deference to the master’s CINA recommendation or proposed disposition of the case. A given set of circumstances does not lead to one conclusion, but rather may support a range of conclusions. The court may be guided, and no more, by the recommendations of the master.”).

A CINA finding requires the court to determine: “(1) [t]he child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) [t]he child’s parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child’s needs.” CJP § 3-801(f). The second prong requires a finding of “present inability” to care for the child. *In re T.K.*, 480 Md. 122, 147 (2022) (“A CINA petition, therefore, must allege facts that, if sustained, would be sufficient to support a determination that both prongs of the CINA definition—past abuse or neglect *and* a present inability or unwillingness to provide proper care—are satisfied.”) (emphasis included in original).

If the court declares a child to be CINA, it may, inter alia, commit the child on terms the court considers appropriate to the custody of a parent, relative, or DSS. CJP § 3-819(b)(1)(iii) (“In making a disposition on a CINA petition under this subtitle, the court

shall: ... (iii) ... find that the child is in need of assistance and: [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.]”).

We first address the scope of Mother’s exceptions. Mother’s written exceptions did include a challenge to the removal recommendation, and after the judge stated otherwise, Mother’s counsel corrected that the exceptions covered both adjudication and disposition. Evenso, the court’s written order stated “Mother only excepts to the adjudicatory findings.” We agree with Mother that this characterization was imprecise. We, however, do not conclude this imprecision constitutes reversible error.

The court’s order, read as a whole, demonstrates that the court reviewed the full transcript, summarized the evidence—including Mother’s dispositional testimony—and made specific findings regarding Mother’s inability to acknowledge her mental health crisis and refusal of treatment. The dispositional portion of the court’s order also incorporated the magistrate’s findings, which themselves summarized Mother’s testimony. While a more explicit recitation of the court’s independent dispositional reasoning would have been preferable, the order demonstrates sufficient engagement with the substance of the evidence and the dispositional outcome is independently and amply supported by the record

On the merits of the disposition, we discern no abuse of discretion. The evidence before the court established that Mother experienced a mental health crisis during which she was unable to care for C.P.; that she disputed the resulting diagnosis and declined the

recommended treatment; that C.P. is a special-needs child with limited verbal abilities who requires heightened supervision; that Mother had removed C.P. from his ABA program; and that even after her discharge, Mother did not contact DSS to arrange to see her child. Mother's testimony that she had recently returned to her mother's home and initiated counseling was before the court, and the court was entitled to weigh that testimony against the other evidence.

The court's finding that Mother was unable at the time of disposition to appropriately care for C.P. was not clearly erroneous. Mother's ongoing refusal to acknowledge the nature and severity of her mental health episode, combined with her rejection of the specific treatment that could prevent recurrence, created a present risk to C.P. This is not a case where a parent's mental health history alone was treated as disqualifying as the court's concern here was the interplay between Mother's unaddressed condition and C.P.'s particular vulnerability as a child with autism who requires heightened supervision and specialized services. While we acknowledge Mother's history as C.P.'s primary caregiver and her stated desire to parent him, the circuit court was entitled to weigh her aspirational testimony against the facts presented at the time of the hearing.

We are unpersuaded that the court was required to consider an Order of Protective Supervision. While such an order is a disposition the court may consider, nothing in the record suggests the court overlooked that option. Given Mother's active rejection of her diagnosis and failure to begin any recommended treatment, the circuit court reasonably



concluded that an OPS would have been insufficient to protect C.P.’s safety. The dispositional findings were not an abuse of discretion.

**III. Mother Has Not Preserved Her Challenge to the Reasonable-Efforts Finding, and the Finding Was in Any Event Supported by the Evidence.**

**A. Parties’ Contentions**

Mother contends DSS presented no evidence of meaningful steps taken to prevent C.P.’s removal from her custody. She argues that Mackell met with Mother only once, made no housing referrals, did not discuss whether Mother could resume custody with family support, provided no referrals for mental health services, and never informed Mother that her custodial rights were contingent upon medication compliance.

DSS contends Mother failed to preserve this issue by omitting it from her written exceptions and failing to raise it at the exceptions hearing. In the alternative, DSS argues the court’s reasonable efforts finding was supported by evidence of DSS’ diligent search for kinship resources, placement of C.P. with his paternal grandmother, continued monitoring of his placement, and contact with both parents.

Father contends Mackell testified about her efforts to contact family members for placement, search for relatives through Lexis Nexis, and discuss discharge recommendations with Mother, all of which constitute a reasonable effort.

**B. Analysis**

We determine Mother did not adequately preserve this issue for appeal. Any party may file exceptions from any of a magistrate’s findings or recommendations, but the filing party “shall specify those items to which the party objects.” CJP § 3-807(c)(1). The

exceptions hearing is limited to the items specified. CJP § 3-807(c)(4). Ordinarily, an appellate court will not decide any issue unless it plainly appears by the record to have been raised in or decided by the trial court. Md. Rule 8-131(a).<sup>4</sup>

Mother’s written exceptions specified four objections: (1) improper consideration of inadmissible evidence; (2) an improper conclusion that she neglected C.P.; (3) improper consideration of the Department’s report; and (4) improper removal of C.P. from her custody. None of these specified objections challenged the magistrate’s reasonable-efforts finding and Mother did not raise the issue at the exceptions hearing. Under CJP § 3-807(c)(1) and (4), exceptions hearings are limited to the items specified in the filing, and under Md. Rule 8-131(a), appellate courts ordinarily decide only issues raised in or decided by the trial court. Mother’s failure to specify an objection to the reasonable-efforts finding at the exceptions level forecloses appellate review of that issue.

But even were we to reach the merits, we would not find error. Local departments are required to make reasonable efforts to prevent a child’s placement in out-of-home care and, once the child is removed, to make it possible for the child to safely return home. FL § 5-525(e)(1)(i), (ii). The juvenile court must make a finding at adjudication and disposition

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<sup>4</sup> “Md. Rule 8-131 (a) Generally. The issues of jurisdiction of the trial court over the subject matter and, unless waived under Rule 2-322, over a person may be raised in and decided by an appellate court whether or not raised in and decided by the trial court. Ordinarily, an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court, but the Court may decide such an issue if necessary or desirable to guide the trial court or to avoid the expense and delay of another appeal.”

regarding “whether the local department made reasonable efforts to prevent placement of the child into the local department’s custody.” CJP § 3-816.1(b)(1). The Department’s efforts need not be perfect, and what constitutes reasonable efforts is an individualized assessment based on the particular circumstances. *In re James G.*, 178 Md. App. 543, 601 (2008) (“Although the Department’s efforts need not be perfect to be reasonable, and it certainly need not expend futile efforts on plainly recalcitrant parents, its services must adequately pertain to the impediments to reunification.”)

The record reflects that upon receiving the referral, Mackell attempted to contact Mother, reached out to the maternal grandmother and an adult brother, conducted a search for additional relatives through Lexis Nexis, located Father (who was unable to serve as a resource but identified the paternal grandmother), and placed C.P. with paternal grandmother. In the approximately one month between shelter care and adjudication, Mackell visited C.P. twice at his placement to assess his and his caregiver’s needs, attempted contact with Mother during and after her hospitalization, and discussed the hospital’s discharge recommendations with Mother upon her release. Mother, for her part, told Mackell she disagreed with her diagnosis and refused medication, relocated to a homeless shelter, did not contact DSS or request visits with C.P., and did not inform DSS when she moved back to her mother’s home.

We are cognizant that the record does not reflect, for example, that Mackell made efforts such as offering specific housing or mental health service referrals. However, as DSS observed, the barrier to placement with Mother was her unaddressed mental health

condition, not a lack of housing. Mother’s own testimony established that her 80-year-old mother could not be a caregiver for C.P. Under these particular circumstances, the court’s reasonable-efforts finding was supported by competent evidence and was not clearly erroneous.

We note Mother’s reliance on *In re Ashly F.*, 225 Cal. App. 4th 803 (2014), a California case in which the appellate court reversed a dispositional order removing two children from their home. There, the child welfare agency’s reports stated in conclusory fashion that “reasonable efforts were made to prevent or to eliminate the need for removal” and that “there are no reasonable means” by which the children could be protected without removal, but the reports did not describe what efforts the agency had actually made or what alternatives it had considered and rejected. *Id.* at 809–10. The juvenile court likewise failed to state the facts supporting its removal decision and did not inquire into available services that might have eliminated the need for removal, as required by California statute and court rules. *Id.* at 810. The appellate court reversed, holding that the agency’s perfunctory declarations risked becoming “merely a hollow formula designed to achieve the result the agency seeks” and that ample evidence existed of reasonable alternatives — including unannounced visits, in-home counseling, and removing the offending parent from the home — that should have been considered. *Id.* at 810–11.

*Ashly F.* is distinguishable from the present case in several respects. It applied a clear and convincing evidence standard rather than the preponderance standard applicable here. It also arose under California’s distinct statutory scheme, which imposes specific

requirements—such as mandatory discussion of reasonable efforts in the agency’s social study and mandatory consideration of removing the offending parent from the home—that have no direct analogue in the Maryland CINA framework. Moreover, unlike the agency in *Ashly F.*, here DSS did not rest on conclusory declarations alone. Mackell testified about her efforts to contact Mother, locate family resources, conduct a Lexis Nexis search for additional relatives, place C.P. with paternal grandmother, visit C.P. at his placement, and discuss discharge recommendations with Mother upon her release from the hospital. The juvenile court’s reasonable-efforts finding was thus grounded in specific testimony about DSS’ actions, not the type of unsupported boilerplate that *Ashly F.* condemned.

Thus, for the foregoing reasons, we hold the material facts sustained by the juvenile court at adjudication were supported by the evidence and sufficient to demonstrate that C.P. was neglected; that the court’s CINA declaration and dispositional order committing C.P. to the custody of the Department were not an abuse of discretion; and that Mother’s challenge to the reasonable-efforts finding is not preserved and, in any event, was not clearly erroneous. Therefore, we affirm.

**THE JUDGMENT OF THE CIRCUIT  
COURT FOR HOWARD COUNTY IS  
AFFIRMED. APPELLANT TO PAY  
THE COSTS.**