Circuit Court for Baltimore City
Case No. T19217017

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2539

September Term, 2019

IN RE: A.N.N.W.

Fader, C.J.,
Kehoe,
Beachley,

JJ.

Opinion by Fader, C.J.

Filed: November 18, 2020

Roger C., the appellant, challenges an order of the Circuit Court for Baltimore City, sitting as a juvenile court, that terminated his parental rights to A.N.N.W. ("A.") and granted the Baltimore City Department of Social Services (the "Department") guardianship with the right to consent to her adoption by a relative. In its decision, the juvenile court found that Mr. C. was unfit to parent A. and that exceptional circumstances existed that would make continuation of his parental relationship detrimental to her best interests. We will affirm.

BACKGROUND

The Department's Involvement with A.

A. was born in November 2015. A.'s mother ("Mother"), named her current boyfriend, Terry W., as A.'s father on the birth certificate.[1]

At the time of birth, both A. and Mother tested positive for opiates and cocaine. The Department removed A. from Mother's custody while still at the hospital and filed an emergency shelter care petition in which it alleged, among other things, that Mother and Mr. W. had admitted to abusing heroin, had "failed to cooperate" with the Department's attempts to facilitate drug treatment, and lacked the means to provide A. with basic

[1] Mother, who is not a party to this appeal, consented to the termination of her parental rights by operation of law by not "fil[ing] a timely notice of objection" to the guardianship proceeding. *See* Md. Code Ann., Fam. Law § 5-320(a)(1)(iii)(C) (Repl. 2019; Supp. 2020); *see also In re Sean M.*, 430 Md. 695, 708 (2013) ("The Legislature[] . . . intended for a late filing of a notice of objection to an adoption to become a consent to that adoption arising under operation of law.").

A., who is a party to this appeal, has adopted the brief of the Department of Social Services.

necessities. The juvenile court granted the Department a limited guardianship over A. and placed her in shelter care.

After an adjudicatory hearing in May 2016, the juvenile court found A. to be a child in need of assistance.[2] The court placed her in Mother's custody under an order of protective services, which required Mother and Mr. W. to take part in substance abuse treatment and family services. Shortly thereafter, Robert B., A.'s maternal great-uncle, grew concerned about A.'s health and safety and contacted the Department. Following an investigation, the Department petitioned to remove then-nine-month-old A. from Mother's custody. The juvenile court subsequently found that Mother and Mr. W. had "failed to adhere to the terms of the [Order for Protective Services]," and that all parties consented to A.'s placement with a relative, Mr. B. The court adopted a permanency plan of reunification with Mother and Mr. W., which was to be implemented within one year.[3]

Mr. B. received A. into his care on August 26, 2016. In October 2017, more than one year later, the juvenile court found that despite the Department's "reasonable efforts to accomplish the permanency plan" of reunification with a parent, neither Mother nor Mr. W. had achieved the requirements for reunification. Among other things, the court

[2] A "child in need of assistance" is one who requires court intervention because the child has been abused or neglected, or has a developmental disability or mental disorder; and his or her "parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs." Md. Code Ann., Cts. & Jud. Proc. § 3-801(f) (Repl. 2020).

[3] Within 11 months after a child comes into care in a child in need of assistance case, the court must hold a hearing to implement a permanency plan. Md. Code Ann., Cts. & Jud. Proc. § 3-823(b).

found that "mother is still using illicit substances" and "has not been visiting" with A., and that Mr. W. was incarcerated at the time and "ha[d] no recent contact with" the child. The court further found that A. had been "doing well" in Mr. B.'s care. The court therefore ordered that "the permanency plan [be] changed to placement with a relative for custody and guardianship." Accordingly, A.'s placement with Mr. B. continued.

Mr. C. Comes Forward

In December 2017, the Department filed a petition to terminate Mother's and Mr. W.'s parental rights. At some point after the Department filed the petition, however, questions arose concerning A.'s paternity. In May 2018, when A. was two-and-a-half years old, DNA testing confirmed that Mr. C. is A.'s biological father.

Mr. C. was incarcerated at the time of the DNA test and has remained incarcerated ever since.[4] In 2014, Mr. C. pleaded guilty to a charge of intent to distribute a controlled dangerous substance and was sentenced to eight years' imprisonment, with seven years, eight months, and seven days of that time suspended. He subsequently violated his probation by committing a second-degree assault and, on June 14, 2018, was ordered to serve the balance of his sentence. Mr. C.'s eligibility for release on parole has been delayed on several occasions as a result of his involvement in five fights and a stabbing.

[4] Pursuant to Rule 5-201(c), we take judicial notice that Mr. C. remains incarcerated as of the date of oral argument in this appeal. *See* Maryland Department of Public Safety and Correctional Services, *Inmate Locator*, *available at* https://dpscs.maryland.gov/services/inmate-locator.shtml (accessed November 4, 2020).

After Mr. C. was identified as the father and indicated a desire for "reunification" with A., the Department withdrew its petition for guardianship and prepared to provide "reunification services" to Mr. C., which included "[p]arenting classes, substance abuse treatment, mental health treatment, employment, and housing." These services ultimately were not provided because of Mr. C.'s continued incarceration. In October 2018 and again in May 2019, all of the parties, including Mr. C., stipulated and agreed to a set of facts and recommendations, which the juvenile court then adopted in orders, including that: (1) "[r]easonable efforts required by [federal law] have been made"; (2) Mr. C. was "provid[ed] an opportunity to be present and participate" in a hearing and to "review the permanency plan"; (3) A.'s commitment to the Department "for relative placement [should] be continued"; and (4) the Department "is not required to provide reunification services for [A.] because . . . the child has been in and out of home placement for 15 of the previous 22 months."[5]

Mr. C. also entered a mediated agreement with his aunt and Mr. B. for visitation with A., which provided for visits both while Mr. C. was incarcerated and after his anticipated release. The agreement provided "for visits to take place every other weekend" during his incarceration. However, after the visit went poorly, Mr. C. and Mr. B. agreed that there should be no further visits while Mr. C. was incarcerated. That single visit was

[5] Generally, § 5-525.1(b)(1)(i) of the Family Law Article requires the Department to pursue termination of parental rights for a child who "has been in an out-of-home placement for 15 of the most recent 22 months." That does not apply in a case such as this one, in which "the child is being cared for by a relative." *Id.* § 5-525.1(b)(3)(i).

the only time that Mr. C. met A., and except for Mr. C. sending her a couple of letters, it was their only communication. Mr. C. made no further attempt to visit or contact A.

The Termination of Parental Rights Hearing

In August 2019, the Department filed an amended petition for guardianship with the right to consent to adoption, this time listing Mr. C. as A.'s father. The juvenile court held a hearing on the petition in February 2020, during which it heard testimony from a Department representative, Mr. B., and Mr. C. In addition to the facts set forth above, the court heard the following testimony:

- After Mr. C. established paternity, the Department was prepared to provide reunification services to him, and contacted a family member of his to facilitate such services. Other than exploring that possible placement option and helping to facilitate the negotiated visitation agreement, the Department did not provide services due to Mr. C.'s incarceration outside of Baltimore.

- Mr. C. did not request any services from the Department, nor did he provide it with documentation showing that he had obtained employment or housing, or had participated in any treatment programs.

- Although A.'s original permanency plan was reunification with Mother and Mr. W. (her then-presumed father), no change was made to the October 2017 order modifying her permanency plan to placement with a relative for custody and guardianship.

- A. was four years old at the time of the hearing and, except for a few months when she resided with Mother, had lived with Mr. B. continuously since the age of nine months.

- Mr. B. provides daily care for A., including making medical and educational decisions for her. A. has her own bedroom and several pets. Mr. B. testified that he wants to "move forward with adoption" because he loves A. as his daughter. He further testified that A. is "very attached to" him.

- At the time of the hearing, Mr. C. believed he would be released on parole in June 2020. He testified that his parole date had been delayed because of his

involvement in "fights, stabbing[]s, whatever it is," and he estimated that he had received infractions for at least "5 fights and 1 stabbing" in prison. Mr. C. commented: "[E]very time I get close to . . . getting out, something happens in prison to me, something goes wrong."

- Mr. C. stated that if he were eventually released on parole, he would need to complete a work or drug treatment program, which would last four months after his release. He was unsure whether A. would be allowed to live with or visit him during that time.

- Mr. C. stated that he agreed to the mediated visitation agreement so that "[A.] would get to know me a little bit more," but testified that he was not inclined to adhere to its terms because of his incarceration.

The juvenile court granted the petition and ordered the termination of Mr. C.'s parental rights. In oral comments at the hearing and in a subsequent written order, the court found by clear and convincing evidence both that Mr. C. was "unfit to continue in the parent-child relationship" and that "significant" exceptional circumstances "warrant the termination of [his] parental rights." The court reviewed the factual and procedural background and then engaged in a thorough review of the statutory factors in § 5-323(d) of the Family Law Article.[6] With respect to the services offered and provided by the Department—which are at the center of this appeal—the court found that the Department had been prepared to offer services but could not do so as a result of Mr. C.'s continuous incarceration. The court observed that despite suspecting that he was A.'s father earlier, Mr. C. "did not identify himself as such" until A. was two-and-a-half years old. The court also found that although Mr. C. had a visitation agreement in place, only one visit occurred

[6] After concluding that Mother had "consented to the termination of her parental rights by operation of law," the court addressed the § 5-323(d) factors solely as they pertained to Mr. C.

before Mr. C. and Mr. B. "agreed that a prison visit was no place for a young child" and discontinued the visits. The court found that "Mr. [C.]'s actions prevented [the Department], the family, and others from providing timely services to Mr. [C.]" and that the Department "ha[d] had no meaningful opportunity to offer viable services agreements to Mr. [C.]"

The court also found that Mr. C.'s "efforts to adjust his circumstances, conditions, and conduct to make it in the child's best interests to be returned to him ha[d] been complicated by several factors," including that he was not initially identified as the father, he waited more than two years to come forward, he had been incarcerated ever since, he had visited with A. only once, and his "conduct during his incarceration ha[d] frustrated any possibilities of his early release." Thus, although the court expressly recognized that Mr. C.'s incarceration was not a disability preventing him from caring for A., the court determined that "it is not in the best interest of [A.] . . . to wait and see when Mr. [C.] will be released, and if he will avail himself of the programs necessary to properly care for [her]." The court further found "that additional services would not likely bring about a lasting adjustment in Mr. [C.]'s life so that [A.] could be returned to him" and "that it would not be in [A.]'s best interest to extend the time to allow Mr. [C.] to receive services to prepare for [A.]" In that context, the court noted that "[A.] will be five (5) years old this year, and the only home she has really known is Mr. [B.]'s home."

The court found no evidence that Mr. C. had abused or neglected A. or any other child. However, the court also found that A. had not formed any emotional ties with Mr. C.,

she had adjusted well to Mr. B.'s home and care, and "[t]he likely impact of terminating the parental rights of Mr. [C.] would be positive" and "would enhance the possibility of [A.] experiencing stability for the first time in her young life."

In assessing whether exceptional circumstances existed that rendered continuation of the parental relationship detrimental to A.'s best interests, the court relied on its analysis of the factors already discussed, and expressly found that A. and Mr. C. did not know each other, Mr. C. had waited to identify his possible paternity, his incarceration prevented him from participating in programs and services to prepare him "to assume the actual role of a father," and his "history of violence has repeatedly prevented him from early parole." The court also found, however, that "these challenges pale[] in comparison to the abject indifference that Mr. [C.] has demonstrated by failing to attempt to establish and maintain some form of contact with [A.] through Mr. [B.]" The court thus determined that it would be "much too much to ask of [A.]" to delay her case to see if and when Mr. C. might be released from prison and, if he were released, if and when he might engage in necessary "programs and services required for reunification." The court concluded that it was "abundantly clear" that termination of Mr. C.'s parental rights was in A.'s best interest.

Mr. C. timely appealed.

DISCUSSION

We review a court's decision to terminate parental rights under "three different but interrelated standards": we defer to the juvenile court's factual findings, unless clearly erroneous; review the juvenile court's legal conclusions de novo; and review the juvenile

court's ultimate decision for an abuse of discretion. *In re Adoption/Guardianship of Jayden G.*, 433 Md. 50, 96 (2013) (quoting *In re Adoption/Guardianship of Ta'Niya C.*, 417 Md. 90, 100 (2010)). A court abuses its discretion when its decision is "well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *In re Adoption/Guardianship of C.A. & D.A.*, 234 Md. App. 30, 45 (2017) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 313 (1977)).

When evaluating the juvenile court's findings of fact, we must give "the greatest respect" to the court's opportunity to view and assess the testimony and evidence, *In re Adoption/Guardianship of Amber R.*, 417 Md. 701, 719 (2011), and view the record in the light most favorable to the prevailing party, *see In re Jayden G.*, 433 Md. at 88. The juvenile court's determination of the best interest of the child must be "accorded great deference, unless it is arbitrary or clearly wrong." *In re C.A. & D.A.*, 234 Md. App. at 46 (quoting *In re Adoption/Guardianship Nos. 2152A, 2153A, 2154A*, 100 Md. App. 262, 270 (1994)). It is our role "to decide only whether there was sufficient evidence—by a clear and convincing standard—to support [the court's] determination that it would be in the best interest of [the child] to terminate the parental rights[.]" *In re C.A. & D.A.*, 234 Md. App. at 46 (quoting *In re Adoption No. 09598*, 77 Md. App. 511, 518 (1989)).

THE JUVENILE COURT DID NOT ERR OR ABUSE ITS DISCRETION IN TERMINATING MR. C.'S PARENTAL RIGHTS.

As a preliminary matter, we must address the Department's argument that Mr. C. waived his challenge to the sufficiency of the Department's efforts to facilitate

reunification with A. The Department argues that waiver applies because, among other reasons, Mr. C. agreed and stipulated in writing in at least two filings submitted to the juvenile court that: (1) A.'s permanency plan should continue to be placement with a relative for custody and guardianship; (2) the Department "had made reasonable efforts to accomplish the [permanency] plan"; and (3) the Department "was not required to provide reunification services to him because [A.] had been in an out of home placement for at least 15 of the previous 22 months."

Although we do not discount the Department's argument, in rendering its decision and addressing the relevant statutory factors, the circuit court discussed and considered the services the Department had provided, the services it had planned to provide if Mr. C. had been released from incarceration, and the reasons it did not provide further services.[7] Whether it was required to or not, the circuit court made factual findings on those issues and considered those findings in arriving at its ultimate conclusion to terminate parental

[7] Notwithstanding its waiver argument on appeal, it appears from the record that the Department believed it was required at least to attempt to provide services to Mr. C. In an internal memorandum requesting approval to withdraw its original petition for guardianship after Mr. C. was shown to be the father, the Department wrote that it "has yet to meet our obligation of facilitating 15 months of reunification services with Mr. [C.] since the establishment of paternity; therefore, the agency has not shown that reasonable efforts towards the plan of reunification have been made." The Department also waited for more than a year after Mr. C. was identified as A.'s father "to see if [Mr. C.] would [be] released to begin to offer him reunification services," and further stated that "the Department was still open . . . to facilitate reunification" if he were released from prison.

rights.[8] For that reason alone, Mr. C.'s contention that the circuit court erred in its consideration of those factors is properly before us.

Turning to the merits, Mr. C. argues that the juvenile court erred in granting the Department's petition and terminating his parental rights because the Department failed to make reasonable efforts to provide him with services to facilitate his reunification with A. He also maintains that in determining that he was unfit and that exceptional circumstances existed, the court "improperly terminated [his] paternal rights based upon his incarceration." The Department responds that the court correctly found that the Department was not obligated to provide Mr. C. with additional services and that the court did not err in its decision to terminate his parental rights. We agree with the Department.

Under both the federal and State constitutions, parents have a fundamental liberty interest in caring for and raising their own children. *In re O.P.*, 470 Md. 225, 234 (2020); *see In re Adoption/Guardianship of C.E.*, 464 Md. 26, 48 (2019) (recognizing parents' "fundamental right . . . to 'make decisions concerning the care, custody, and control of their children'" (quoting *Troxel v. Granville*, 530 U.S. 57, 66 (2000))). That right, however, is not absolute. Although a parent's liberty interest is protected by the "presumption . . . that it is in the best interest of children to remain in the [parent's] care and custody," *In re C.A. & D.A.*, 234 Md. App. at 48 (quoting *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 495 (2007)), that presumption "may be taken away where (1) the parent is deemed unfit, or extraordinary circumstances exist that would make a continued

[8] The Department does not argue that the circuit court erred in considering the statutory factors related to the provision of services.

relationship between parent and child detrimental to the child, and (2) the child's best interests would be served by ending the parental relationship," *In re Adoption/ Guardianship of Jasmine D.*, 217 Md. App. 718, 734 (2014). In balancing a parent's liberty interest against the State's duty to protect children from abuse and neglect, *see In re Rashawn H.*, 402 Md. at 497, "the ultimate focus of the juvenile court's inquiry must be on the child's best interest," which "trumps all other considerations," *In re Ta'Niya C.*, 417 Md. at 111, 116; *see also In re C.E.*, 464 Md. at 49 ("In determining whether to terminate parental rights, 'a juvenile court shall give primary consideration to the health and safety of the child[.]'" (quoting Md. Code Ann., Fam. Law § 5-323(d))).

In guardianship and adoption proceedings involving children in need of assistance, "a juvenile court has the authority to terminate parental rights upon a finding of clear and convincing evidence that (1) the parent is unfit to remain in the parental relationship with the child or (2) exceptional circumstances exist that would make continuation of the relationship detrimental to the child's best interest." *In re C.E.*, 464 Md. at 49. In determining whether one of these circumstances exists, a juvenile court is required to consider all of the statutory factors enumerated in Family Law § 5-323(d).[9] The Court of

[9] The § 5-323(d) factors are:

> (1)(i) all services offered to the parent before the child's placement, whether offered by a local department, another agency, or a professional;
>
> (ii) the extent, nature, and timeliness of services offered by a local department to facilitate reunion of the child and parent; and
>
> (iii) the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any;

(2) the results of the parent's effort to adjust the parent's circumstances, condition, or conduct to make it in the child's best interests for the child to be returned to the parent's home, including:

(i) the extent to which the parent has maintained regular contact with:

1. the child;

2. the local department to which the child is committed; and

3. if feasible, the child's caregiver;

(ii) the parent's contribution to a reasonable part of the child's care and support, if the parent is financially able to do so;

(iii) the existence of a parental disability that makes the parent consistently unable to care for the child's immediate and ongoing physical or psychological needs for long periods of time; and

(iv) 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;

(3) whether:

(i) the parent has abused or neglected the child or a minor and the seriousness of the abuse or neglect;

(ii) 1. A. on admission to a hospital for the child's delivery, the mother tested positive for a drug as evidenced by a positive toxicology test; or

B. upon the birth of the child, the child tested positive for a drug as evidenced by a positive toxicology test; and

2. the mother refused the level of drug treatment recommended by a qualified addictions specialist, as defined in § 5-1201 of this title, or by a physician or psychologist, as defined in the Health Occupations Article;

(iii) the parent subjected the child to:

1. chronic abuse;

2. chronic and life-threatening neglect;

3. sexual abuse; or

4. torture;

(iv) the parent has been convicted, in any state or any court of the United States, of:

Appeals has summarized that the § 5-323(d) factors "are divided by topic and include consideration of":

> (1) the services that the Department has offered to assist in achieving reunification of the child with the parents; (2) the results of the parent's effort to adjust their behaviors so that the child can return home; (3) the existence and severity of aggravating circumstances; [and] (4) the child's emotional ties, feelings, and adjustment to community and placement and the child's general well-being.

In re C.E., 464 Md. at 51. None of the factors necessarily receives more weight than another, nor is it "necessary that every factor apply, or even be found, in every case." *In*

---

1. a crime of violence against:
A. a minor offspring of the parent;

B. the child; or

C. another parent of the child; or

2. aiding or abetting, conspiring, or soliciting to commit a crime described in item 1 of this item; and

(v) the parent has involuntarily lost parental rights to a sibling of the child; and

(4)(i) the child's emotional ties with and feelings toward the child's parents, the child's siblings, and others who may affect the child's best interests significantly;

(ii) the child's adjustment to:

1. community;

2. home;

3. placement; and

4. school;

(iii) the child's feelings about severance of the parent-child relationship; and

(iv) the likely impact of terminating parental rights on the child's well-being.

re Jasmine D., 217 Md. App. at 737. If the juvenile court sets forth all of the statutory factors and relevant considerations,[10] determines that the parent is unfit or that exceptional circumstances exist, and expressly finds that the child's best interest lies in terminating the parent's rights, then "the parental rights we have recognized and the statutory basis for terminating those rights are in proper and harmonious balance." *In re Rashawn H.*, 402 Md. at 501.

Here, the juvenile court provided an extensive oral and written decision in which it stated the correct legal standard guiding its analysis and gave a detailed summary of its findings of fact supporting its legal conclusions. The court reviewed each of the requisite statutory factors and explained whether and, if applicable, how each factor applied to the evidence. In considering A.'s best interest, the court concluded that exceptional circumstances existed that made continuation of the parental relationship with Mr. C.

[10] In addition to the statutory factors, a court may consider: "age, stability, and the capacity and interest of a parent to provide for the emotional, social, moral, material, and educational needs of the child," *In re Ta'Niya C.*, 417 Md. at 104 n.11 (quoting *Pastore v. Sharp*, 81 Md. App. 314, 320 (1989)); and

> the length of time that the child has been with his adoptive parents; the strength of the bond between the child and the adoptive parent; the relative stability of the child's future with the parent; the age of the child at placement; the emotional effect of the adoption on the child; the effect on the child's stability of maintaining the parental relationship; whether the parent abandoned or failed to support or visit with the child; and, the behavior and character of the parent, including the parent's stability with regard to employment, housing, and compliance with the law.

In re C.A. & D.A., 234 Md. App. at 50.

detrimental to her best interest. Based on our review of the record, we discern no legal error or abuse of discretion in the court's analysis and decision.[11]

As noted, Mr. C. brings two challenges to the circuit court's order terminating his parental rights. Although stated separately, the crux of both challenges is that the court improperly relied on Mr. C.'s incarceration in terminating his parental rights, both (1) to excuse the Department's failure to provide him services, and (2) to blame Mr. C. for not forming a bond with A. In making those arguments, however, we think that Mr. C. misunderstands the role that consideration of his incarceration played in the court's decision.

Mr. C. is correct that a parent's incarceration itself neither justifies termination of parental rights nor excuses the Department from making reasonable efforts at reunification. *See In re Adoption/Guardianship Nos. CAA92-10852 & CAA92-10853*, 103 Md. App. 1, 29-30 (1994). Nor, however, does a parent's incarceration: (1) require the Department to provide services that cannot reasonably be provided while the parent is incarcerated; (2) excuse a parent's conduct or omissions that are related in some way to the parent's incarceration, if they evidence unfitness or exceptional circumstances; or (3) require the court or the Department to bring permanency proceedings to a halt while awaiting the parent's possible release at an undetermined date. As we have held, "incarceration may . . . be a critical factor in permitting the termination of parental rights, because the

[11] The court also concluded that Mr. C. was unfit as a parent. Because the bulk of the court's analysis focused on exceptional circumstances, and we affirm on that ground, we need not address the alternative finding of unfitness. *Cf. In re C.E.*, 464 Md. at 54 (recognizing that "unfitness and exceptional circumstances are two separate inquiries").

incarcerated parent cannot provide for the long-term care of the child." *In re Adoption/Guardianship No. J970013*, 128 Md. App. 242, 252 (1999). In other words, a parent's incarceration cannot be the sole reason for a trial court's termination of parental rights, but the court neither can nor should ignore relevant facts. A child's best interest cannot be set aside indefinitely—in "legal limbo," *id.* at 255-56 (quoting *In re Adoption/Guardianship No. 10941*, 335 Md. 99, 119 (1994))—in the hope that an incarcerated parent will be released at an uncertain date and, upon release, be able to take responsibility for the child.

With that context, we turn to Mr. C.'s two specific contentions of error. First, Mr. C. contends that the juvenile court erred in its consideration of factors that implicate the "services offered to the parent" by the Department. *See* § 5-323(d)(1)(i-iii). Specifically, he contends that the court ignored the fact that the Department did not offer him any reunification services and that the court "summarily dismissed all of the obligations that the Department must meet, and focused solely on [his] incarceration." We disagree.

Contrary to Mr. C.'s assertion, the court neither dismissed the Department's obligations nor focused solely on his incarceration. Indeed, the court specifically and separately analyzed: whether the Department had offered Mr. C. services before A.'s placement,[12] *see* § 5-323(d)(1)(i); the "extent, nature, and timeliness" of any services, *see* § 5-323(d)(1)(ii); and whether Mr. C. and the Department had entered into any services agreements, *see* § 5-323(d)(1)(iii). The court observed that the Department was prepared

[12] The Department could not have offered services before A.'s initial placement because Mr. C. was not identified as her father until years later.

to provide Mr. C. with parenting classes, substance abuse treatment, mental health treatment, regular visits with A., and assistance locating housing. As the court explained, Mr. C.'s incarceration from the time he was confirmed to be A.'s father through the date of the hearing precluded the Department from providing most services. *Cf. In re C.A. & D.A.*, 234 Md. App. at 54 ("Any provision of services toward reunification would have been futile given that Father was incarcerated the entire time the children were in foster care."); *In re No. J970013*, 128 Md. App. at 257 (where parent was sentenced to 20 years to life imprisonment, the local department "was relieved of any obligation to provide the appellant with services for reunification"). Moreover, although Mr. C. had an agreement in place for weekly visitation with A. while he was incarcerated, he agreed to discontinue visitation after just one visit and made little to no attempt to form a relationship with A. thereafter. His inability to remain infraction free, which postponed his eligibility for parole on at least six separate occasions, exacerbated the situation.

Notably, Mr. C. does not identify any specific services the Department could have provided him while he was incarcerated. Instead, he refers only obliquely to services that would "facilitate removal of foreseeable impediments to him reunifying with his daughter upon his impending release." But: (1) there is no indication in the record that the Department could have made available, for example, parenting classes or substance abuse or mental health treatment while Mr. C. was incarcerated; (2) Mr. C. agreed to abandon visitation with A. during his incarceration; and (3) it is unclear how the Department could have provided him with housing assistance in the absence of a firm date or timetable for

his release.[13] He thus faults the Department for failing to provide him with services, but does not identify a single service that actually could have been provided effectively during his incarceration other than visitation, which he agreed to discontinue. Moreover, the court expressly found that the provision of "additional services would not likely bring about a lasting adjustment in Mr. [C.]'s life so that [A.] could be returned to him."[14] Based on this record, that finding is not clearly erroneous.

Mr. C.'s contention that the court focused solely on Mr. C.'s incarceration is simply untrue. To the contrary, as we have discussed, the court focused on the absence of any relationship or emotional ties between Mr. C. and A.; Mr. C.'s "abject indifference" to establishing any contact with A.; Mr. C.'s failure to timely step forward as A.'s father; his "history of violence"; the infractions that have thwarted his eligibility for parole; the stable environment that Mr. B. had provided A.; and the length of time A. had already been in the Department's custody. To be sure, Mr. C.'s incarceration was relevant in one way or another to several of these issues, but that does not mean that the court focused exclusively

[13] Mr. C. includes in his brief a lengthy block quote from this Court's decision in *In re James G.*, 178 Md. App. 543, 581-83 (2008), in which we in turn quoted from a COMAR regulation identifying some services that a Department can provide through a referral to another agency as "Rent deposits," "Vocational counseling or training," and "Assistance to locate housing." To the extent Mr. C. intended to imply that the Department should have provided those services, we disagree. Mr. C. was in no need of rental assistance while incarcerated; he had no release date that would have permitted the Department to assist him in locating housing; and he offered no evidence that the Department could have arranged for vocational counseling or training while he was incarcerated.

[14] Mr. C. objects to the court's use of the word "additional" because the Department did not provide him with services at all. The Department did, however, provide services to Mother and Mr. W. before Mr. C. was identified as A.'s father.

on his incarceration or made any decision based on the fact of his incarceration. To the contrary, the court's assessment was based on its review of all relevant factors. On this record, the court's findings regarding the statutory factors were not "arbitrary or clearly wrong." *See In re C.A.& D.A.*, 234 Md. App. at 46.

Mr. C. relies heavily on this Court's decision in *In re Adoption/Guardianship Nos. CAA92-10852 & CAA92-10853*, 103 Md. App. 1 (1994). There, we determined that the juvenile court had erred in treating a father's relatively short period of incarceration as a disability that per se justified the termination of his parental rights. *Id.* at 29-30. The father in that case had been given probation in his criminal case and was required to complete a nine-month drug treatment program, during which he was permitted to visit with his children. *Id.* at 29. We noted that the father's "incarceration was temporary, and not permanent or long-term in nature[,]" and that he would be "free" after the completion of the treatment program. *Id*. Here, by contrast, the court expressly recognized that Mr. C.'s incarceration was not a disability. The court also recognized, however, that there was "a distinct possibility . . . that [Mr. C.] will remain incarcerated" for the foreseeable future. *See In re No. J970013*, 128 Md. App. at 254. Given the nature of Mr. C.'s incarceration, it was not improper for the juvenile court to consider the implications of that incarceration within the context of all of the evidence.

Finally, Mr. C.'s objections to the court's recognition that A. had already been in the Department's custody for nearly two years before Mr. C. came forward, and for four years by the time of the hearing, are not well-taken. Under Family Law § 5-525(c)(1), the

Department is required to "provide time-limited family reunification services . . . , in order to facilitate the child's safe and appropriate reunification within a timely manner." Because "children have a right to reasonable stability in their lives," *In re Rashawn H.*, 402 Md. at 501, it is a primary goal of the State to "streamline the foster care placement process" and "expedit[e] permanency . . . proceedings," *In re James G.*, 178 Md. App. at 579-80 (quoting *In re Karl H.*, 394 Md. 402, 421 (2006)). The Department and the juvenile court are thus required to make "[e]very reasonable effort . . . to effectuate a permanent placement for the child within 24 months after the date of initial placement." Cts. & Jud. Proc. § 3-823(h)(4).

In asking the juvenile court to delay any determination of permanency for A. until after an indeterminate release date from his incarceration, Mr. C. focused narrowly on his own interests. As the court recognized, however, "[i]t is the policy of this State . . . to resolve doubts in favor of the child when there is a conflict between the interests of a minor child and the interests of an adult." Fam. Law § 5-502(b). Noting that A. remained in limbo while waiting for Mr. C., the court determined that it was not in her best interest to wait any longer. Although the Department does not contend that the late identification of Mr. C. would have permitted it to press forward with its initial petition, without providing an opportunity to assess the prospect of unification with Mr. C., the court was certainly entitled to consider the length of time A. had been in the Department's custody—along with the indeterminacy of Mr. C.'s release date—in deciding whether exceptional

circumstances existed that would make continuation of the parental relationship detrimental to A.'s best interest.

In sum, we conclude that the court did not err or abuse its discretion in granting the Department's petition, and will affirm.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELLANT.