Circuit Court for Frederick County
Case No. I-16-21277

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2872

September Term, 2018

IN RE: H.I.

Wright,
Shaw Geter,
Wells,

JJ.

Opinion by Shaw Geter, J.

File: August 15, 2019

This appeal arises from an order by the Circuit Court for Frederick County, sitting as a juvenile court, that terminated appellant's ("Mother") parental rights to H.I., a minor born on May 8, 2016, and granted the Frederick County Department of Social Services ("the Department") guardianship of H.I. with the right to consent to her adoption. The juvenile court found appellant unfit to parent H.I. and that exceptional circumstances existed warranting the termination of Mother's parental rights.

On May 11, 2016, the Frederick County Department of Social Services removed H.I. from Mother's care and placed her in shelter care. The Department received limited guardianship of H.I. while Mother was granted supervised visitation of H.I. at least three times per week. On September 1, 2016, the juvenile court found H.I. to be a Child in Need of Assistance ("CINA"), and the juvenile court ordered a permanency plan of reunification. Following a permanency plan review hearing on November 30, 2016, the juvenile court found that H.I. remained a CINA, and ordered the permanency plan of reunification remain in place.

Two more permanency plan review hearings were held on April 26, 2017 and September 27, 2017, respectively. At the conclusion of the September hearing, the juvenile court ordered H.I.'s permanency plan be changed to adoption and Mother's visitation be reduced to one supervised visit per week. Mother filed exceptions, which were denied on January 31, 2018. Mother timely appealed the juvenile court's order, and, on September 6, 2018, this Court issued an unreported opinion affirming the juvenile court's change to H.I.'s permanency plan.

While Mother's appeal remained pending, the Department filed a Petition for Guardianship with the Right to Consent to Adoption. The Department sought to terminate the parental rights of both Mother and of H.I.'s unknown father, to which Mother objected. On December 3, 2018, after several days of hearings on the matter, the juvenile court found Mother unfit to parent H.I. and that exceptional circumstances existed warranting the termination of Mother's parental rights. Thereafter, pursuant to the court's order dated December 20, 2018, Mother's parental rights were terminated and the Department was granted guardianship of H.I. with the right to consent to her adoption.

Mother timely filed this appeal, and presents the following issues for our review, which we have rephrased and consolidated for convenience:[1]

1. Did the juvenile court err in finding Mother unfit to parent H.I.?

2. Did the juvenile court err in finding exceptional circumstances warranting the termination of Mother's parental rights?

3. Did the juvenile court err in admitting photographs of H.I. with her foster family into evidence?

BACKGROUND

A. Circumstances resulting in termination of Mother's parental rights to her other children.

[1] Mother originally presented the following questions for our review: (1) Did the juvenile court err in finding that Ms. S ["Mother"] was unfit to remain in a parental relationship with her daughter? (2) Did the juvenile court err by failing to make findings required by Md. Code Ann., Fam. Law Art. 5-323 to support a decision that exceptional circumstances clearly and convincingly warranted considering whether H.I.'s best interests were served through granting the Department's petition and where the court committed reversible error by admitting twenty-two pictures of H.I. in her foster home, which allowed the court to impermissibly compare the mother's poverty with the foster family's resources?

1. S.Y.; Y.Y.; and J.Y.

H.I. is the sixth child born to Mother. During her prior marriage to T.Y., Mother had three children: S.Y., born in 2001; Y.Y., born in 2003; and J.Y., born in 2007. Until 2008, Mother lived with T.Y. and their children in Japan. In July 2008, Mother traveled to Hawaii to, according to her, "fle[e] intimate partner violence from [T.Y..]" Mother intended to seek shelter with members of a local church community connected to her former church. However, due to a delay caused by an issue with her youngest son's paperwork, Mother did not meet with the people from the church. Instead, Mother resided within the airport with her then aged six, four, and one-year old children for nearly five days. According to Child Protective Services ("CPS"), Mother had "no plan as to how she was going to care for [the children]." Mother was indicated for neglect by Hawaii CPS based on this incident. CPS registered "severe concerns" regarding Mother's mental illness, paranoia, and unpredictable and bizarre behaviors.

While in Hawaii, Mother traveled with the children to a domestic violence shelter for housing. Mother asked the shelter's director if someone could watch the children so she could have a chance to sleep. According to Mother, the shelter workers did not provide care, but allowed her to sleep for three hours. Soon thereafter, CPS was called with allegations that Mother had left the children unattended while she slept and she was also suicidal.

At some point, either because Mother had taken up residence at the airport or because of the incident at the domestic abuse shelter, CPS took physical custody of S.Y.,

Y.Y., and J.Y. However, CPS permitted Mother to take the children to the home of a married couple in Oregon whom Mother knew.

Mother continued with the children to Oregon, where they lived with the married couple. According to Mother, T.Y. became aware of their location, and members of a "religious organization" tied to T.Y. began harassing Mother and the married couple with whom she lived. These individuals attempted to "get hold of" the children despite not knowing the children personally. At some point, T.Y. arrived in Oregon at which point Mother made plans to move.

Mother eventually took up residence at a hotel in Oregon. While there, Mother left the children—then aged seven, four, and one—unattended in the hotel room. While the children were unattended, the four-year-old wandered from the room and was found sleeping in the hotel lobby at 3:00 a.m. CPS was called and, as a result of the incident, Mother was indicated for neglect.

Mother was indicated for neglect on December 24, 2008. A shelter care hearing took place on December 26, 2008, and the children were given to T.Y.. S.Y., Y.Y., and J.Y. currently reside in Japan with their father. At the hearings below, Mother denied being investigated for neglect during December 2008. She also denied that her children experienced instability in Oregon. Instead, she maintained that she was with them at all times and that they were safe, fed, and clothed.

During the hearings before the juvenile court, Mother indicated she suffered from chronic fatigue, beginning as early as 2000 when she wed T.Y. while in Japan on a teaching contract. Mother stated that T.Y. "took over [her] life" and "messed with her sleep cycle"

as "he would wake up in the middle of the night to rape [her] monthly." She commented that she was "traumatized" by the prolonged exposure to such a toxic domestic environment. She disclosed that her psychiatrist prescribed her sleeping medications to resolve her symptoms. However, Mother later attributed her symptoms to a self-diagnosed traumatic brain injury caused by the physical assaults from T.Y.. No medical professional could find probative evidence of this diagnosis notwithstanding extensive neurological testing.

2. E.I.

In February 2009, Mother began residing with A.M.. Mother admitted that while she resided with A.M., he sexually assaulted her, and that she "had definitely left him as quickly as [she] could" following the assault. Upon leaving A.M.'s residence, Mother found out that she was pregnant with E.I., A.M.'s son.

Mother then spent several months living in various homeless shelters. In late December 2009, Appellant met some women at a church-based Christmas dinner. By January 4, 2010, Mother presented to the home of these women, where she later gave birth to her fourth child, E.I. Mother explained at the hearing that she intended to have a home birth and that she arranged for a birthing assistant to be present at the birth, who never arrived.

Pursuant to CPS' safety plan, E.I. was permitted to stay in Mother's care so long as Mother remained at that home, and under the supervision of the women she encountered at the church. On January 5, 2010, within four days of said safety plan being approved, E.I. was emergency sheltered when Mother refused to awaken to attend to E.I.'s needs,

including bathing, feeding, changing, and soothing. At an earlier point, Mother abandoned a crying E.I. while she departed to the bathroom to paint her nails.

During the hearings, Mother denied allegations that she refused to wake up and feed E.I.. Instead, she contended that she was exhausted, stressed out, and needed help. Mother stated that, although she did not make a specific request of anyone present, she was aware that other people were in the home who could assist with E.I.. She dismissed CPS' concerns that E.I. was deprived of necessary nutrition as baseless, claiming that her "body knows when [her] baby is hungry and produces milk accordingly." When questioned about leaving E.I. to paint her nails, Mother stated, "[i]t was the third night since he had been born, it was taxing me . . . People let babies cry for a lot longer periods than that on purpose, and this was not on purpose; this was just allowing him to ask for help that I needed at the time." Mother mocked the allegations of abandonment, stating that "she left the child to cry on the bed and walked away, god forbid, to do her nails."

When asked about her understanding of why E.I. was removed from her care, Mother argued that CPS' child welfare concerns were unfounded: "Oregon said that I had no supplies ready for the child, that wasn't true . . . I had enough diapers and changes of clothes and everything to facilitate a newborn for the first three to five days." Mother further maintained that she had secured lodging at a family homeless shelter.

Both Mother and A.M.'s parental rights to E.I. were terminated on June 16, 2011. The Department then placed E.I. in the care of an adoptive family.

3. P.I.

Shortly after E.I. was removed from her care, Mother became pregnant with P.I., A.M's daughter. At the time of the birth, Mother was homeless. Mother could no longer reside in family homeless shelters because "they took [E.I.]. It was for families only, and I lost that shelter as well because of DSS removing him." Mother eventually found housing with A.M., the man she accused of previously physically assaulting her. At trial, Mother averred, "It wouldn't have made a difference either way if he was harming me" as she "want[ed] [her] son [E.I.] to have a sibling." Mother explained that she made a "strange kind of sacrifice" and intentionally conceived a fifth child because "the best [she] could give E.I. was a sibling of his own . . . [so that] they could be placed together . . . and be[] there for each other."

Soon after P.I.'s birth, P.I. was placed in foster care. Mother testified that "about four or five hours" after she gave birth to P.I., CPS came to her house and "inspected and approved" it and then placed P.I. in foster care. According to Mother, CPS decided to place P.I. in foster care because E.I. had been removed from her custody. Mother's and A.M.'s parental rights to P.I. were then terminated on February 1, 2013.

B. Circumstances resulting in termination of Appellant's parental rights to H.I.

Soon after the termination of her parental rights to P.I., Mother migrated from Oregon to Louisiana in flight from a "boyfriend [who] caused trouble," before heading to Maryland because "God told her to come here." Mother stated that she travelled to the east coast to "explore" and "to move around . . . a little bit."

Soon after arriving in Maryland, Mother was sexually assaulted, resulting in her pregnancy with H.I. Mother spent the entirety of H.I.'s pregnancy moving from place to

place to flee H.I's father who was stalking Mother. Eventually Mother secured temporary lodging at a homeless shelter three weeks before H.I.'s birth.

Although Mother acknowledged that her pregnancy was high-risk due to her high blood pressure, she planned to give birth to H.I. at home, unassisted, or to deliver in a hotel in the company of "someone with [a] general knowledge of childbirth." Mother also acknowledged that she did not receive prenatal care.

On May 5, 2016, Mother was transported to Frederick Memorial Hospital by ambulance because her blood pressure was dangerously high. For two days, Mother refused to have a Caesarian Section, refused to take prenatal vitamins, and refused to have a blood transfusion for severe anemia. After the birth, Mother resisted the efforts of hospital staff to educate her about infant care feeding. Mother also continually demonstrated unsafe bed-sharing with H.I., and, at one point, H.I. nearly fell from the hospital bed when Mother fell asleep with H.I. in her arms. Mother blamed the incident on deficient bed railings. The hospital's subsequent psychiatric evaluation of Mother resulted in a diagnosis of post-traumatic stress disorder ("PTSD"), and a potential diagnosis of bipolar disorder. Frederick Memorial Hospital then contacted the Department and reported that Mother was exhibiting erratic behavior, seemed to be in an altered mental state, and was unable to safely care for H.I.

Upon her release from the hospital on May 10, 2016, H.I. was emergency sheltered and placed in licensed foster care with the Sh. family, where she remains. On August 30, 2016, the juvenile court declared H.I. to be a CINA and ordered the Department to provide Mother with three supervised visits with H.I. per week. The court also gave Mother certain

directives as to actions needed to be taken to facilitate her reunification with H.I. The relevant directives are as follows:

> a. That M[other] shall enjoy reasonable supervised visits with H.I. at least three times per week;
> b. That M[other] shall undergo psychological evaluation and psychiatric assessment and shall follow all treatment recommendations;
> c. That M[other] shall enter into a Service Agreement with the Department and follow the terms of said agreement;
> d. That M[other] shall enroll in, participate in, and complete a parenting coaching;
> e. That M[other] shall obtain steady and reliable employment or provide documentation of inability to obtain employment due to disability;
> f. That M[other] shall obtain adequate housing.

1. *Mother's psychological evaluation, psychiatric assessment, and compliance with treatment recommendations.*

In 2016, shortly after H.I.'s birth, the Department referred Mother to the Frederick County Health Department. In June, Dr. Estelle Dupree performed a behavioral health assessment of Mother. She diagnosed Mother with adjustment disorder with depressed mood and PTSD.

In November 2016, the Frederick County Department of Social Services referred Mother to Dr. Alexandra Mirabelli, a licensed clinical psychologist, for a psychological evaluation and parenting capacity assessment. Dr. Mirabelli concluded that Mother's "lack of insight and inability to examine her own shortcomings w[ould] hinder her ability to make changes" and posited that, because she was unable to "identify her role in . . . [H.I.'s] removal . . . she [was] unlikely to change the behavior and circumstances that led to it." Dr. Mirabelli recommended consistent therapy "to address the symptoms and maladaptive behavior patterns associated with Paranoid Personality Disorder" she warned that "therapy

[would be] . . . difficult to initiate" because "individuals with [Mother's] diagnosis typically do not believe they need treatment." Dr. Mirabelli also recommended a full physical exam and recommended that Mother's visits with H.I. remain supervised.

On December 15, 2016, Mother began seeing Dr. Sharon McClurkin, a therapist with experience treating individuals with diagnoses like Mother's, as recommended by Dr. Mirabelli. In February 2017, Dr. McClurkin submitted a report in which she identified Mother's primary diagnosis as PTSD while noting that she also likely suffered "from a level of brain injury due to multiple concussions and head injuries inflicted by her husband." Her secondary diagnosis was Major Depressive Disorder. In August 2017, Mother had failed to attend her sessions with Dr. McClurkin for more than six weeks leading Dr. McClurkin to discharge her. Mother began seeing Dr. McClurkin again starting in March 2017. However, after Mother missed six out of nine appointments, Dr. McClurkin again discharged her. Mother also reported not taking any of the medication she was prescribed during this time.

In July and August 2017, Mother underwent another psychological evaluation with Dr. Eric Lane, a licensed neuropsychologist. Although Mother was scheduled to meet with Dr. Lane four times, she cancelled her final appointment. In his assessment, Dr. Lane reported that Mother was "somewhat resistant, and, at times, not credible during the clinical interview." He also noted that her self-report measure "indicated that she likely attempted to portray herself in an overly positive light." Dr. Lane reported that Mother's "neurocognitive profile largely falls at or above normal limits," but that the nature and extent of her full psychiatric history remains unknown." Dr. Lane suggested that Mother

would likely remain symptomatic and that her life circumstances would reflect this until she "becomes compliant with recommended psychiatric and psychotherapeutic services." He recommended that Mother resume psychotherapeutic services, comply with all recommendations from relevant agencies, and undergo a physical examination. Dr. Lane emphasized that progress in psychiatric and psychotherapeutic services should be a prerequisite to H.I.'s return to Mother's care.

The Department referred Mother to Dr. Sangeeta Verma, a psychiatrist, who performed an evaluation of Mother over the course of two days in August and September 2017. Dr. Verma reviewed Mother's records, and noted that Mother had "not been able to accept any responsibility for her actions that led to any of her children including her most recent child being removed from her care" and that she remained at risk of continuing to struggle with homelessness and being unable to care for H.I.. Dr. Verma, also suggested Mother "might benefit from medication," although Mother remained unwilling to explore such treatment. Finally, Dr. Verma recommended that Mother continue therapy, cautioning that her inability to trust people would likely impact the possibility of reaching an accurate diagnosis. Mother stopped seeing Dr. Verma in December 2017.

In March 2018, Mother began Dialectical Behavioral Therapy through Dagenhart and Associates. Of the twenty-seven scheduled sessions, Mother attended thirteen.

As of November 2018, Mother was seeing Ms. Terbush, a licensed Master Social Worker who was treating her for PTSD and Adjustment Disorder. Ms. Terbush wrote a letter dated September 2018, describing Mother's mental state as operating at "varying degrees of functionality."

2. Mother's service agreements with the Department.

Mother refused to sign multiple service agreements. Since May 2016, the Department has offered Mother six service agreements. Although she stated that she did not "remember if . . . [she] did sign a few of them," she could not say for sure. One employee with the Department who provided services to Mother testified that she "kn[e]w that [Mother] ha[d] refused to sign any of them." During the hearings, Mother stated that she "did not understand the nature of the document[s]," that she was unaware that the court ordered her to enter into service agreements, and that she was never given the opportunity to edit any of the "outlandish" agreements. She testified further that she did not understand the purpose of the agreements and maintained her request for particularized accommodations. Ms. Karen Winfrey, a social worker who worked with Mother, stated that "the closest type of accommodation that she articulated was that she had wanted somebody to bring her tea when she needed tea . . . some type of person to assist her in her, almost in her day-to-day activities." The Department referred Mother to Potomac Case Management where, Mother reported, she was already receiving treatment. Mother reiterated her request for someone to live with her and help her with her daily needs.

3. *Parenting coaching services provided to Mother*.

Mother participated to varying degrees in three parenting coaching programs. Starting in September 2016, Mother received parent coaching services from the Mental Health Association. The parent coach that she worked with reported that Mother's interactions with H.I. were "mixed." She pointed to instances when Mother gave H.I. "proper attention and nurturing responses," and other times when Mother stated that H.I.

"felt the unfairness of what [was] happening to her," something not cognitively possible for a child of H.I.'s age. In March 2017, the parent coach working with Mother stated that she planned to discharge Mother who "continued to be resistant to services" and had an "overall poor demeanor" during their sessions.

Mother also participated in the Empowering Mothers Group. After two evenings spent working with the group in September and October 2016, staff met with her and gave her a letter informing her that she was not a good fit for the group. The letter explained that, based on observations of Mother with other participants and facilitators in the group, "it [was] evident that [Mother did] not accept and [was] not open" to the concepts of the class.

In a memo dated August 2017, another parent coach working with Mother terminated services due to Mother's "unwillingness to engage in Parent Coaching." The memo also noted that Mother was "unwilling to entertain any sort of information other than what she currently believe[ed] to be true" and often exhibited unpredictable behavior "which cause[d] concern for the Parent Coach in relation to [H.I.]'s safety and wellbeing."

Mother did not complete any parent coaching program. Karen Ann Winfrey, a parenting coach with whom Mother worked, testified that she had seen little improvement in Mother's behaviors. Moreover, she noted that Mother remained unable to adequately care for her children or to accept responsibility for their removal.

4. Mother's employment and housing.

Mother has been unwilling to provide any proof of employment though she has at times reported that she is employed. Mother acknowledged that she supported herself with

an SSDI income of approximately $750 a month. Mother has not been forthcoming about her employment history.

Mother has not had consistent housing. Since returning to the United States from Japan in 2008, Mother has resided in a variety of temporary housing situations. Mother has stayed with friends, lived in homeless shelters, in a "communal style" residence, and in her car. In the past three-and-one-half years alone, Mother has lived in fifteen different counties in Maryland.

C. H.I.'s emotional ties to and bond with Mother, her placement, community, and home.

Since May 10, 2016, two days after her birth, H.I. has lived with the Sh. family. The Sh. family includes H.I. in all family activities. According to a report filed in August 2017 by Sara Fankhauser, a licensed social worker, H.I. is well cared for. The Sh. family ensures that she attends all medical appointments and meets all of her daily needs. The report also noted that H.I. is meeting all developmental milestones and is an active, playful child.

On October 29, 2018, Ms. Winfrey testified in the juvenile court that she "believe[d] that [Mother's] . . . very unpredictable and unsure" behavior was likely to continue to present "ongoing safety issues in regards to any type of face-to-face contact" with H.I., but was clear that the safety issues were minimized while such contact was supervised. Ms. Winfrey also testified as to H.I.'s behavior during visitation with Mother, explaining that H.I. refers to her foster mother as "mom" and runs to her at the ends of visits, while H.I. "does not refer to [Mother] as anything." However, Mother testified that H.I. called her

"mommy" out of earshot of the social worker during one of her supervised visits with H.I.. Ms. Winfrey expressed further that as H.I. "gets older and can interpret" comments made by Mother during supervised visitation, those comments "could be emotionally distressing."

D. Juvenile Court's Ruling

On January 31, 2018, after several days of hearings, the court, in an oral ruling, held:

> Given the totality of the circumstances, all of the evidence, and the law…[the court] find[s] by clear and convincing evidence that [Mother] is unfit to remain in a parental relationship with [H.I.] and exceptional circumstances exist that would make a continuation of the parental relationship detrimental to the best interests of the child such that terminating the right to [Mother] is in the child's best interest, and thus [the court] shall grant guardianship to the Department with the right to consent to adoption.

In so ruling, the court examined each of the factors set forth in §5-323(d). It began by stating that "[t]he primary consideration in considering these factors is the health and safety of the child."

The court first contemplated the services offered to Mother before H.I.'s placement in foster care by the Department pursuant to § 5-323(d)(1)(i)–(iii). To that end, the court noted Mother's loss of parental rights to her five older children and her corresponding experiences with CPS, though in other states. The court then detailed the circumstances of H.I.'s removal and placement in shelter care two days after her birth where she has since remained. It characterized the services offered by the Department to facilitate reunification, noting Mother's failure to engage with parenting coaches and her troubling beliefs about her communication with H.I. during visits. The court recounted all of the psychological services provided to Mother between June 2016 and the present, noting

numerous missed appointments, an unwillingness to cooperate either generally or specifically with professional recommendations, and Mother's consequent termination as a patient with several providers. The court cited six unexecuted service agreements given to the Mother for a variety of services.

Next, the court examined Mother's contact with other relevant parties. This inquiry included an examination of Mother's engagement with the local Department, which, the court noted, involved disputes. The court did acknowledge that Mother communicated with H.I.'s foster mother and that, although Mother missed several of her visits with H.I., visitation was regular. The court determined that Mother was unable to contribute financially to H.I.'s care, and expressed concern about the presence of Mother's ongoing needs and her related request for accommodations in order to be able to care for H.I. appropriately.

Based on all of the testimony given and evidence presented, the court did not find that additional services were likely to bring about "a lasting parental adjustment." In coming to this conclusion, the court considered the length of time H.I. had already been in foster care, and Mother's continued inability to "recognize any responsibility in what has happened." The court observed H.I.'s attachment to her foster parents and siblings and her engagement in their community, pointing out that H.I. had known no home other than her foster parents' home. The court concluded that there was "no evidence of a negative impact on [H.I.] if the Court were to terminate parental rights." The court further remarked that Mother's own expert had expressed that Mother should not "be the master of th[e] ship" while spending time with H.I..

STANDARD OF REVIEW

Upon review of a juvenile court's decision to terminate an individual's parental rights, we apply three "different but interrelated" standards. *In re Jayden G.*, 453 Md. 50, 96 (2013) (quoting *In re Ta'Niya C.*, 411 Md. 598, 984 A.2d 243 (2009)). We apply the clearly erroneous standard of review to a juvenile court's factual findings. *In re Yve S.*, 373 Md. 551, 586 (2003). Where there is a "purely legal issue involving interpretation of the Maryland Code," we examine a juvenile court's decision under a *de novo* standard. *In re Malichi W.*, 209 Md. App. 84, 89 (2012) (citing *Davis v. Slater*, 383 Md. 599, 604, 861 A.2d 78 (2004)). In reviewing a juvenile court's "ultimate conclusion . . . founded upon sound legal principles and based upon factual findings that are not clearly erroneous," we will uphold the decision of the juvenile court unless it is apparent that a "serious error or abuse of discretion or autocratic action has occurred." *In re Shirley B.*, 419 Md. 1, 18–19 (2011) (quoting *In re Yve S.*, 373 Md. at 586). We are mindful of the fact that "[q]uestions within the discretion of the trial court are much better decided by the trial court than by appellate courts," and therefore "the decision under consideration has to be well removed from any center mark imagined by the reviewing court" to be reversed. *Id.* at 19.

DISCUSSION

I. Did the juvenile court err in finding Mother unfit to parent H.I.?

Mother alleges that the juvenile court erred when it found her unfit to parent H.I.. She argues both that (1) the Department failed to adequately provide her with reasonable services, and (2) the court lacked evidence connecting concerns about her mental health to her fitness as a parent sufficient to justify its determination.

The Supreme Court has "long recognized that a parent has a constitutionally protected fundamental right to raise his or her child," which Maryland has consistently echoed. *In re Karl H.*, 394 Md. 402, 415 (2006) (citations omitted). Although parents have a fundamental right to raise their children, "[t]hat fundamental interest . . . is not absolute and does not exclude other important considerations." *In re Yve S.*, 373 Md. 551, 570 (2003); *see also In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 498 (2007) (noting that there exists an "implicit substantive presumption that the interest of the child is best served by maintaining the parental relationship," but that the presumption may be rebutted by showing that the parent is unfit).

In determining whether to terminate parental rights, the best interest of the child is the "ultimate governing standard" and remains the "overriding statutory criterion." *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 496–98 (2007). "The best interests of the child standard embraces a strong presumption that the child's best interests are served by maintaining parental rights." *In re Yve S.*, 373 Md. at 571. This presumption "may be rebutted upon a showing either that the parent is 'unfit' or that 'exceptional circumstances exist which would make continued custody with the parent detrimental to the best interest of the child." *In re Adoption/Guardianship of Rashawn H.*, 402 Md. at 495. Either a parent's unfitness or exceptional circumstances must be proven by "clear and convincing evidence." FL § 5-323; *see also In re Adoption/Guardianship of Rashawn H.*, 402 Md. at 499.

When assessing the best interests of the child, the juvenile court is required to consider the statutory factors set forth in FL 5-323(d). *In re Jasmine D.*, 217 Md. App. 718,

734 (2014). The primary statutory factor the court must consider before terminating parental rights is "the health and safety of the child." FL § 5-323(d). The other factors relevant to this case, which the court must consider are: (1) all services offered to the parent before the child's placement, whether offered by a local department, another agency, or a professional; (2) the extent, nature, and timeliness of services offered by a local department to facilitate the reunion of the child and parent; (3) the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any; (4) the parent's efforts to adjust the parent's circumstances, condition, or conduct to make it in the child's best interest for the child to be returned to the parent's home; (5) the extent to which the parent has maintained regular contact with the child; (6) whether additional services would likely bring about a lasting parental adjustment so that the child could be returned to the parent within a reasonable time not to exceed 18 months from the date of placement unless the court finds that it would be in the child's best interests to extend the time period; (7) 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; (8) whether the parent has involuntarily lost parental rights to a sibling of the child; (9) and the likely impact of terminating parental rights on the child's well-being. *Id.* We will review each factor in turn.

The Department offered and provided Mother with a myriad of services over the past two and a half years. The Department has referred Mother to a range of mental health professionals practicing a wide a variety of therapeutic methods for treatment. Mother was not receptive to treatment, missed many scheduled appointments, and did not cooperate

with the recommendations she received. One professional to whom she was referred opined that she was at high risk for remaining "[un]able to take care of her daughter as she [wa]s unable to engage in treatment." Mother was referred to several different organizations offering parenting coaching, however Mother was not receptive to recommendations made by the parenting coaches. She missed many scheduled appointments and was terminated from several of the services offered for failing to attend and engage with the service providers.

Mother has also not entered into any of the six service agreements the Department has offered her. Mother has consistently stated that she does not understand their purpose and has been unwilling to sign any of them. The professionals to whom Mother had been assigned have worked to try to help her understand these agreements. Before the juvenile court, Mother stated that she had had discussions about some of the service agreements with the Department's professionals, but nonetheless refused to sign them. Ms. Winfrey, a social worker who worked with Mother, further testified that she "offered [Mother] input into . . . two [of the] service agreements," but even then, Mother refused to sign.

Mother's failure to regularly attend scheduled appointments and unwillingness to wholly participate in the services offered to her by the Department are illustrative. Mother has done little to alter her circumstances, and this further supports the finding that it is not in H.I.'s best interest to be returned to Mother's care.

Since H.I.'s removal from her care, Mother has been afforded supervised visitation with H.I.. However, Mother missed many of the visits. In August 2017 alone, Mother missed three visits, one of which she attempted to reschedule. Between March and August

of 2018, Mother missed eight of the twenty visits with H.I.. Between August 15 and October 22, she missed two more visits. Several of the visits had to be canceled because of Mother's tardiness. Mother explained that she missed some visits while on a trip to Japan. Mother also identified "transportation issues" as the cause of some of her absences, indicating that commuting to visits was a "huge transportation issue" though "not [because of] gas money," which she received from the Department.

In evaluating unfitness, we look to the likelihood that the provision of additional services would bring about a lasting parental adjustment so that the child can be returned to the parent. FL §5-323(d)(2)(iv). Mother has been diagnosed with PTSD and adjustment disorders. She has been prescribed medication and referred to various doctors. Her unwillingness to take medication indicates that her disabilities will remain an impediment to Mother providing sufficient care to H.I..

Mother argues, that the court did not sufficiently connect her mental health conditions to her unfitness to parent H.I.. Although mental health alone may not justify termination of parental rights where the parent meaningfully attempts to acknowledge and treat the disability, *see In re Adoption/Guardianship of J.T.*, __ Md. __, (filed July 31, 2019) (slip op. at 26–27), Mother was referred to several professionals who opined that her diagnoses, if left unaddressed, were likely to continue to disrupt her ability to adequately care for H.I.. And, such opinions, coupled with Mother's inability or unwillingness to obtain adequate treatment and her past neglect of H.I. and her other children due to her mental disability, is sufficient to support the court's finding that Mother was unfit to parent H.I.. *See In re Adoption/Guardianship No. 10941*, 335 Md. 99, 119 (1994) (finding a parent

was unfit due to persistent mental disorders that "repeated attempts at psychiatric treatment have been unable to cure," and that that was unlikely to change no matter the services offered). Moreover, a direct connection between Mother's mental health and her unfitness to parent is not required. Courts consider all of the factors in §5-323(d) when determining whether to terminate parental rights. Chief among these considerations is the well-being of the child. The juvenile court assessed all of the evidence before it, reasoned that Mother was unfit to parent H.I., and properly terminated her parental rights.

The court also rightfully considered Mother's involuntary loss of parental rights to H.I.'s siblings. FL §5-323(d)(3)(v). Mother does not have custody of any other of H.I.'s siblings. Mother's parental rights to her fourth child, E.I., and fifth child, P.I., were terminated after removal from her care by CPS.

H.I. does not have strong emotional ties to Mother and has never known her siblings as she was removed from Mother's care shortly after her birth. She does, however, have strong ties to her foster family. H.I. has been in foster care almost since birth. She refers to her foster parents as "mommy" and "daddy" and spends the majority of her days with one of her foster siblings. In contrast, H.I. does not have a particular name for Mother, nor has she ever spend time alone with Mother. H.I. has wholly adjusted to her current living situation; it is the only one she has ever known. H.I. is not yet school aged and is too young to articulate her feelings about the severance of her relationship with Mother. However, her attachment to her foster family and her distress when leaving her foster mother to attend visitations with Mother, coupled with her pleasure on seeing her foster mother again

following visitation, suggest that H.I. does not have any negative feelings connected to the severance of her relationship with Mother.

The termination of Mother's parental rights to H.I. is unlikely to negatively impact H.I.'s well-being. The guide post for the TPR inquiry in its entirety is the best interest of the child, and this factor refocuses the inquiry on that primary priority. Long term foster care is the "least desirable option" when reunion with a parent is not possible. *In re No. 10941*, 335 Md. 99, 121 (1994); F.L. §5-525(c)(5). Several professionals suggested that Mother's circumstances are not likely to change soon and that while they remain as they are, she cannot safely care for H.I.. Moreover, Mother suggested that she wished H.I. to remain in foster care for more than ten more years. This intention and the likelihood that H.I. would have to remain in foster care should Mother's parental rights not be terminated, run contrary to H.I.'s best interest. Terminating Mother's parental rights is therefore likely to have a positive impact on H.I.'s well-being.

Mother argues, nevertheless, that she was not afforded reasonable services to which she was entitled under FL § 5-323(d)(1)–(2). Mother contends that she was entitled to "reasonable efforts," and that, given her diagnoses, the efforts should have been "narrowly tailored" in order to make the services "meaningful." She specifically requested "an individual" who could help her to understand the reasons for her loss of parental rights to all of her children and to "ensur[e] that [she] understood the purpose behind the multiple service agreements." Mother expressed dissatisfaction with the variety of services offered to her and requested an accommodation in the form of an individual who could "bring her tea when she needed tea." She appeared to want help from the Department with everything

from the preparation of daily comforts to assistance in managing her legal affairs, and to want this help in the form of an almost full-time helper.

While the State is not permitted to "leave parents in need adrift and then take away their children" there are "limits . . . to what the State is required to do." *In re Adoption/Guardianship of Rashawn H.*, 402 Md. at 500.

> The State is not obliged to find employment for the parent, to find and pay for permanent and suitable housing for the family, to bring the parent out of poverty, or to cure or ameliorate any disability that prevents the parent from being able to care for the child. It must provide reasonable assistance in helping the parent to achieve those goals, but its duty to protect the health and safety of the children is not lessened and cannot be cast aside if the parent, despite that assistance, remains unable or unwilling to provide appropriate care.

Id. at 500–01; s*ee also In re No. 10941*, 335 Md. 99, 117–18 (1994) (reasoning that "the Department need not go through the motions in offering services doomed to failure" where the evidence "overwhelmingly demonstrates" a mother is unfit to care for her child and will remain so indefinitely); *but see In re Shirley B.*, 419 Md. 1, 27–28 (2011) (reversing a juvenile court order terminating the parental rights of a mentally-disabled father where the father "had proven to be willing and eager to work toward reunification" and the Department failed to offer relevant services that were "readily available")); *In re James G.*, 178 Md. App. 543, 599 (2008) (reasoning that services offered to facilitate reunification were not reasonable where only one attempt was made "to address the [parent's]…needs" and the single referral issued was to an organization that "could not address [the]…needs"). As we see it, the Department has not left mother adrift, but, instead, has offered Mother

more than enough services to facilitate her reunification with H.I.. Mother simply refused to take advantage of the services.

II. Did the juvenile court err in finding exceptional circumstances warranting the termination of Mother's parental rights?

Appellant next argues that the juvenile court erred in finding exceptional circumstances to justify the termination of her parental rights. She alleges that the court was biased and that no exceptional circumstances were either identified or explained. We note that the juvenile court was not required to find exceptional circumstances to justify the termination of Mother's parental rights once it found her unfit. FL § 5-323(b) (providing that a juvenile court may terminate parent's parental rights upon a finding that "a parent is unfit . . . *or* that exceptional circumstances exist[.]") (emphasis added); *see also In re Amber R.*, 417 Md. 701, 722 n. 13 (2011) (noting that where a juvenile court focused on petitioner's fitness as a parent it was not required "to make any findings with respect to 'exceptional circumstances'" (citations omitted)); *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 497 (2007) (maintaining that a termination of parental rights may be justified "by a showing that the parent is either unfit or that exceptional circumstances exist[.]"). Regardless, in its oral ruling, the juvenile court terminated Mother's parental rights to H.I. based on a finding that Mother was "unfit to remain in a parental relationship with [H.I.] *and* [that] exceptional circumstances exist[ed]," so we shall review the issue.

The juvenile court, in making its ruling, stated:

> The existence of a parental disability that makes a parent consistently unable to care for the child's immediate and ongoing physical or psychological

needs for a long period of time. Testimony was presented—I've indicated the stipulation—there have been numerous diagnoses made in this case. Testimony was presented several times during this trial that the mother believed a one-on-one assistant was needed for her. The Department testified that she stated the person could get her tea in the morning. However, the mother was clear in her assertion, that the Department was paying $800 to a foster family, they could pay money for assistance for her. Accommodations needed to be made for her as her disability makes her too tired in the morning.

This [c]ourt notes that this accommodation, two and a half years after the sheltering of the child is concerning to the [c]ourt. Who will be up in the morning with this little girl? Testimony was given that [M]other left the child on a changing table, did not dress her appropriately. And that was during the cold weather. It was January or February during a visit that [Mother] was indicated of [sic] the dressing of [H.I.]. [M]other was not cognizant of these being a concern whatsoever. Allowing [H.I.] to have an acorn in her mouth—according to [M]other, she and the child were just playing a game, and that the Department could not understand their relationship.

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The common theme throughout the testimony was that the Department of Social Services, Child Protective Services, the state government, the federal government, were out to get the mother. It's [the Department's] fault that she lost her housing, which she never had. They did not investigate. It was the hospital's fault she was unable to care for [H.I.]. She missed visitation because she went to Japan, the eastern shore. The clock was too fast at the Department. [The Department] would not make accommodations. Mother candidly stated to the [c]ourt . . . no one is an expert in parenting. One learns as they go. The social worker and the parenting coaches are too young. They don't have kids. Unfortunately, [M]other would not heed the advice of the parenting coaches. And although [M]other earnestly believes that she may learn as she goes, I respectfully submit that this is [H.I.'s] only childhood and is not a dress rehearsal.

Given the totality of the circumstances, all of the evidence, and the law that I have read, I find by clear and convincing evidence that [Mother] is unfit to remain in a parental relationship with [H.I.] and exceptional circumstances exist that would make a continuation of the parental relationship detrimental to the best interests of the child . . .

FL § 5-323(b) provides,

> "If, after consideration of factors [set forth in FL § 5-323(d)], a juvenile court finds by clear and convincing evidence that . . . exceptional circumstances exist that would make a continuation of the parental relationship detrimental to the best interests of the child such that terminating the rights of the parent is in a child's best interests, the juvenile court may grant guardianship[.]"

As in our analysis of unfitness of a parent, we look to the subfactors in FL § 5-323(d) to determine whether exceptional circumstances exist to warrant the termination of parental rights. *In re Adoption/Guardianship of Rashawn H.*, 402 Md. at 499 (emphasizing §5-323(d) as the criteria set forth by the legislature "to guide and limit the court . . . in determining the kinds of exceptional circumstances that would suffice . . . to justify termination [of parental rights.]").

Given the abundance of testimony, we hold the juvenile court did not err in finding exceptional circumstances existed warranting the termination of Mother's parental rights to H.I.. The Department provided Mother with a wide range of services, referring her to numerous mental health and parenting professionals. Mother consistently failed to attend scheduled appointments or follow treatment recommendations. Mother refused to sign six service agreements prepared by the Department. The additional accommodations that Mother requested, including a full-time co-parent, were beyond the scope of what the Department is required to do. Furthermore, many of the professionals who Mother did see, sought to gauge and aid her understanding of the reasons behind her children's removal. Many of them reported an unwillingness on Mother's part to accept her role in her children's removal or to take responsibility for any of her circumstances. As a result, they conveyed serious reservations as to her ability to alter her circumstances. The majority of those reservations were confirmed. In the approximately two years between H.I.'s removal

from Mother's care and the juvenile court hearing, Mother's circumstances changed little. In spite of the Department's efforts, she remained "unable or unwilling" to care appropriately for H.I..

III. Did the juvenile court improperly admit prejudicial photographs into evidence?

During the hearings before the juvenile court, appellees introduced twenty-three photographs of H.I. with her foster family. Mother contends that the juvenile court erred in admitting these photographs, arguing that the photos were prejudicial, irrelevant, and improperly compared her means to those of H.I.'s foster family.

"Ordinarily, the 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." Md. Rule 8-131(a). Where a party fails to make an objection to the admission of evidence at trial, the issue will generally not be preserved for appellate review. *See In re Matthew S.*, 199 Md. App. 436, 462 (2011) (reasoning that because "there was no objection" to testimony initially, the appellant's contention on appeal—that the testimony was inadmissible—was "not preserved for this court's review").

Here, H.I.'s counsel introduced a series of photos into evidence to demonstrate H.I.'s adjustment to community, home, and placement as outlined in FL § 5-323(d)(4)(ii). Counsel asked H.I.'s foster mother to describe each of the photos in turn, by telling the court when it was taken, who it showed, their relationship to H.I., and who had taken the photo. Following the examination, Mother formally objected to four of the photos: Child's 3, 4, 12, and 16. After objecting to these four photos, Mother reviewed each of the other

photos one-by-one without registering any objection. Finally, after going through each photo, Mother stated that she had "no objection to the balance" of the photographs, and thereby waived her objection to all of photos. Thus, we will not review the admission of photos 1, 5-11, 13-15, and 17-22.

Mother disputes the introduction of Child's 12 and Child's 16, which depicted H.I. with her foster family in the fall of 2016 in Monocacy Battle Field and with her foster sibling, "Ty-Ty," cuddling in a cart while shopping. Before the juvenile court, Mother objected to the duplicative nature of these photos, while her contention here on appeal is that they were prejudicial and irrelevant. In our view, the issue is not preserved. *Thomas v. State*, 183 Md. App. 152, 177 (2008) ("Where a party asserts specific grounds for an objection, all other grounds not specified by the party are waived.").

Mother also objected to Child's 3 and Child's 4. Child's 3 is a close-up photo of H.I. squinting at the camera. Mother objected to its introduction on the grounds that it "d[id not] depict anything related to the bond between [H.I.] and [her foster family]," and only showed H.I. making a funny face. Child's 4 depicted H.I. at a celebration of her first birthday in her foster family's home. Mother objected to this photo because its "depict[ion of] the condition of the [foster family's] home" was prejudicial. The juvenile court sustained Mother's objection to Child's 4.

Maryland Rule 5-403 provides, "relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice." We review the juvenile court's evidentiary rulings for an abuse of discretion. *Lamalfa v. Hearn*, 457 Md. 350, 373 (2018) (quoting *Brown v. Daniel Realty Co.*, 409 Md. 565, 583–84 (2009)). And,

we will not "disturb an evidentiary ruling," even when "manifestly wrong," if the resulting error was harmless. *Id.* It is "[t]he party maintaining that an error occurred [who] has the burden of showing that the error complained of likely affected the verdict below." *Id.*

With respect to Child's 4, the juvenile court sustained Mother's objection to the photograph, and thus it was not admitted. Mother's objection that Child's 3 was not relevant to the factors in § 5-323 was appropriately addressed by the juvenile court's decision to give it only "the relevance [the court] deem[ed] necessary." We observe the juvenile court did not mention the photo in its ruling, nor do we see any indication that the court gave any weight to the photo. The juvenile court did not abuse its discretion in admitting Child's 3 and, even if it had, we conclude it would not have likely affected the verdict.

JUDGMENT OF THE CIRCUIT COURT FOR FREDERICK COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.