Circuit Court for Worcester County
Case No.: C-23-JV-18-000053

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 3233

September Term, 2018

IN RE: B.S.

Meredith,
Shaw Geter,
Salmon, James P.
(Senior Judge, Specially Assigned),
JJ.

Opinion by Salmon, J.

Filed: August 30, 2019

Ms. S., appellant, appeals the order of the Circuit Court for Worcester County, sitting as a juvenile court, terminating her parental rights to her daughter, B.S. B.S.'s father, Mr. S., did not object to the petition of the Department of Health and Human Services (the "Department"), thereby consenting to the termination of his parental rights.[1] In her appeal, Ms. S. does not directly challenge the court's statutory findings or its conclusion that exceptional circumstances exist that would make continuation of her parental relationship detrimental to the best interests of B.S., and that termination of her parental rights is in B.S.'s best interests. Nevertheless, she contends that the judgment entered below should be reversed because of "errors" the trial court made when ruling on objections to evidence raised by her counsel. She phrases the questions presented as follows:

1. Did the trial court commit error when it allowed the [D]epartment to introduce hearsay statements by B.S.?

2. Did the trial court err when it allowed the Court Appointed Special Advocate for B.S. to offer lay opinion testimony on the legal conclusion of the case?

For the reasons set forth below, we shall affirm the judgment of the juvenile court.

[1] Pursuant to Maryland Code (1984, 2012 Repl. Vol., 2017 Supp.) § 5-320(a)(1)(iii)(1)(C) of the Family Law Article ("FL"), a parent will have consented to the grant of guardianship "by fail[ing] to file a timely notice of objection after being served with a show-cause order[.]"

FACTUAL AND PROCEDURAL BACKGROUND[2]

B.S. was born in November 2004. In December 2015, the Department initiated an investigation in response to a report of possible abuse and neglect of B.S. due to inadequate supervision by Ms. S., possible sexual abuse,[3] and poor housing conditions.

On December 23, 2015, a caseworker for the Department observed Ms. S.'s apartment to be "in serious disarray" due to plumbing problems, the presence of multiple animals and unhygienic conditions in the home. There were also concerns about Ms. S.'s mental health.

Ms. S. told the caseworker that she and B.S. spent a lot of time in her van. She also reported that she had ongoing financial issues. The Department promptly gave Ms. S. aid so that she could obtain temporary housing. The Department also referred Ms. S. to mental health services and a money management class, but she declined those services.

On March 4, 2016, Ms. S. was arrested on theft and other charges and detained in jail. B.S., who was then 11 years old, was left at home with a roommate who had cognitive delays such that she was unable to care for herself or B.S. Ms. S. refused a respite placement for B.S. and refused to permit B.S. to stay with her paternal grandmother. Instead, she insisted that B.S. could stay with the roommate, stating that B.S. "takes care of both of us."

[2] The facts set forth below were adopted from the parties' briefs and the trial judge's opinion. None of the facts are disputed.

[3] There was no concern that Ms. S. was engaged in sexual abuse.

The Department consulted with B.S.'s father, Mr. S., who was living in Pennsylvania. He informed the Department that he was unable to care for B.S. and admitted that he and Ms. S. had a history of child maltreatment in Pennsylvania. Mr. S. also indicated that Ms. S. had previously been arrested in Pennsylvania, and B.S. had been removed by Pennsylvania's authorities and placed with her paternal grandmother.

Due to a lack of any viable plan for care for B.S., the Department placed her in emergency shelter care and filed a Child in Need of Assistance ("CINA") petition.[4]

After the CINA petition was filed, Ms. S. was released from detention after posting bond. At the CINA adjudicatory hearing, the juvenile court found that Ms. S. had criminal felony charges pending, and there were concerns of poor parenting, inadequate housing and supervision. The juvenile court determined that B.S. had been neglected, and that Ms. S. was unable to give proper care and attention to B.S's needs. The court found B.S. to be a CINA, and placed her in Ms. S.'s care under the protective supervision of the Department.

Ms. S. and B.S. then temporarily relocated to Pennsylvania where they stayed with family members for two months prior to Ms. B.'s trial date for pending criminal charges. At that point Ms. S. reported that she was working on a care plan for B.S. in the event that she became incarcerated.

[4] A "child in need of assistance ("CINA") 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." Maryland Code (1973, 2013 Repl. Vol., 2016 Supp.), Courts & Judicial Proceedings Article ("CJP") § 3-801(f).

On August 8, 2016, Ms. S. pled guilty to burglary, theft and drug charges and was sentenced to four years imprisonment. Prior to her sentencing, Ms. S. never came up with a plan as to where B.S. should live while she was imprisoned.

The Department's attempts to locate relatives in Pennsylvania who could be a resource for B.S. were unsuccessful. B.S.'s father maintained that he could not be a resource for B.S. because he did not have appropriate housing. B.S.'s paternal grandmother reported that she and her husband were no longer willing to be a resource for B.S. because Ms. S. had sabotaged their relationship with B.S. and B.S. had become increasingly oppositional toward them. Consequently, B.S. was emergently sheltered by the Department in August 2016.

At a shelter care hearing on August 10, 2016, the juvenile court placed B.S. in the custody of the Department and granted limited guardianship of B.S. to the Department. The Department then placed B.S. with a licensed foster care resource, Ms. Q. Initially, B.S. struggled to adjust to living with Ms. Q. She missed her mother and verbalized her desire to be reunified with her mother. After a few months, however, she had adjusted well to her foster placement, was happy at school, and had enjoyed supervised visits in prison with her mother on August 9, September 9, October 21, and November 7, 2016. B.S. also had weekly phone calls with Ms. S. during that period.

On Thanksgiving Day 2016, B.S. spoke to Ms. S. by phone. During that call, Ms. S. expressed concern that an individual whom she believed had "sent [her] to jail" was attending Thanksgiving dinner at Ms. Q.'s home. Ms. S. told B.S. in that phone

conversation that the individual abused drugs. She was angry because Ms. Q had assured the Department that she would not permit this individual to have contact with B.S. Ms. Q. got on the phone and attempted to assure Ms. S. that the individual was present for Thanksgiving dinner only, and was not a usual guest in her home. Apparently dissatisfied with Ms. Q.'s explanation, Ms. S. told B.S. that she would be calling her attorney and requesting that B.S. be removed from Ms. Q.'s home. That threat greatly angered B.S. because she didn't want to be removed from Ms. Q's care. Following that Thanksgiving Day phone call, B.S. refused to speak to her mother.

In February 2017, a permanency plan hearing was held. B.S. met with the court and insisted that she did not want to visit with Ms. S., and the court deferred to her wishes. The purpose of the hearing was to determine whether B.S.'s permanency plan should be changed to adoption. On the morning of the hearing, the Clerk of the Circuit Court's office received a call from a staff officer at the facility where Ms. S. was incarcerated. That officer advised that Ms. S. "refused to get dressed," and, as a result of her refusal, she would not be transported to the hearing.[5] The hearing went forward and the permanency plan was not changed at that point. Reunification with Ms. S. remained the goal of the plan.

On May 14, 2018, another permanency plan hearing was held. At that point the plan was changed from reunification to adoption. Eight days later, the Department filed a

[5] Subsequently, Ms. S. wrote a letter to the court denying that she had refused to get dressed. Ms. S. claimed that she did not attend the hearing because the transportation staff told her "that she was not on the list."

petition for guardianship with the right to consent to adoption of B.S. Ms. S. was served with notice of the Department's petition, and on July 28, 2018, she filed a notice of objection. A mediation hearing took place on August 23, 2018, at which Ms. S. participated by phone, but the mediation attempt did not help to resolve the matter.

On December 17, 2018, the juvenile court held a merits hearing on the Department's petition. But before the hearing commenced, the juvenile court received a notice that morning from security at the Maryland Correctional Institute for Women that Ms. S. had "barricaded herself" in her cell, was refusing to leave, and was acting "oppositional and belligerent[.]" For those reasons, Ms. S. was not transported to court for the hearing and she did not otherwise participate in the hearing.

When the matter was called for hearing, Ms. S.'s counsel reported to the court that he had received information, similar to what the court received, regarding the circumstances of Ms. S.'s absence from court. Counsel requested a postponement of the hearing, which was denied. Ms. S.'s counsel then moved for a postponement on the ground that Ms. S. may have a mental disability, requiring new counsel to be appointed. The court denied that motion, finding that Ms. S. was not suffering from a disability and noting that Ms. S. had, at all times during the CINA proceedings and in the period leading up to the merits hearing, "steadfastly maintained" that she was willing and able to provide proper care and attention to B.S.

The hearing proceeded as scheduled, and the court heard evidence. On January 11, 2019, the court issued a 29 page opinion that included findings of fact and conclusions of

law, and a final order terminating Ms. S.'s parental rights and granting guardianship of B.S. to the Department with the right to consent to adoption.

In the course of explaining why exceptional circumstances existed, the court said, *inter alia*:

> This conclusion was made after weighing all of the evidence in light of the Family Law Article 5-323(d) factors, in consideration of both parents' inability to establish a meaningful and trusting bond with [B.S.], after consideration of Mother's lengthy incarceration and failure to make a plan for [B.S.], after review of . . . [B.S.'s] almost two and a half years in foster care, [B.S.'s] own feelings toward terminating the parental relationship, and after consideration of the exceptional bond that [B.S.] shares with Ms. [Q] and her extended family.

DISCUSSION

I. The State of Mind Exception to the Rule Against Hearsay

Ms. S. contends that the juvenile court erred in permitting Debra Hileman, the Court Appointed Special Advocate ("CASA") assigned to B.S., to testify regarding out-of-court statements made by B.S. At the December 17, 2018 merits hearing, counsel for the Department asked Ms. Hileman if she "had an opportunity to speak with [B.S] about her relationship with her mother." Counsel for Ms. S. objected on hearsay grounds. Counsel for the Department responded that "hearsay of the child is admissible in these proceedings" and "[i]t's relevant and credible coming from the CASA." The court agreed that the question elicited hearsay, but stated that "the difference here is that [counsel for B.S.] is the one really with the objection if she chooses to make it as child['s] counsel." Counsel for B.S. stated that she had no objection to the testimony. The court explained further as to why it was allowing the testimony: "I'm going to allow it in. Number one, in a TPR

case the child is a party to the case. Her attorney is here and chooses not to object on behalf of the child. I think the evidence is relevant, it is competent, it should be allowed in." Ms. Hileman then testified that B.S. had told her that she did not want "to speak with her mother at all," and did not "want to live with her mother."

Ordinarily, we review rulings on the admissibility of evidence under an abuse of discretion standard. *Gordon v. State*, 431 Md. 527, 533 (2013). We review hearsay evidence differently, however, because hearsay is not admissible unless it falls within an exception to the hearsay rule or is permitted by an applicable constitutional provision or statute. *Thomas v. State*, 429 Md. 85, 98 (2012) (citing *Bernadyn v. State*, 390 Md. 1, 7-8 (2005)); Maryland Rule 5-802.1. Thus, a circuit court has no discretion to admit hearsay evidence absent an applicable exception or statutory provision. *Gordon*, 431 Md. at 533 (citing *Bernadyn*, 390 Md. at 8). Whether evidence is hearsay is a question of law, subject to de novo review. *Id.*

"Hearsay is generally defined as a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." *Ali v. State*, 314 Md. 295, 304 (1988) (footnote omitted). Maryland recognizes a hearsay exception for statements as to the declarant's "state of mind," even if the declarant is available to testify. As we explained in *Edery v. Edery*:

> Maryland has long recognized . . . the common law hearsay exception for statements of the declarant's "state of mind," regardless of whether the declarant is available to testify, unavailable to testify, or testifies in the case. Under this exception, codified in Md. Rule 5-803(b)(3), a statement of the declarant's then existing state of mind is admissible to prove the truth of the matter asserted, except that it is generally inadmissible (except in will and

> probate cases) to prove a fact that purportedly happened before the statement was made.
>
> * * *
>
> **When the declarant's state of mind is relevant, . . . the declarant's assertion as to his or her state of mind is admissible to prove that the declarant had that particular state of mind (emotion, feeling, etc.) and therefore also had it at the time relevant to the case**. . . . Direct assertions by the declarant as to the declarant's state of mind are admissible under this hearsay exception. Statements that provide circumstantial evidence of the declarant's state of mind are not excluded by the hearsay rule either, but this is because they are nonhearsay, as they are not offered to prove the truth of the matter asserted.

193 Md. App. 215, 234 (2010) (emphasis added) (quoting 6A LYNN MCLAIN, MARYLAND EVIDENCE § 803(3):1 at 198-99 (2001) (footnotes omitted).

In *Figgins v. Cochrane*, 174 Md. App. 1, 32 (2007), *aff'd*, 403 Md. 392 (2008), Judge Charles E. Moylan, Jr., writing for this Court, made the following observation regarding statements under Md. Rule 5-803(b)(3) that express a declarant's then present state of mind:

> The most helpful explanation of this use of the exception is found in John W. Strong, *McCormick on Evidence* (4th ed.1992), § 274, "Statements of Physical or Mental Condition: (b) Statement of Present Mental or Emotional State to Show a State of Mind or Emotion in Issue," 227-28.
>
> > *The substantive law often makes legal rights and liabilities hinge upon the existence of a particular* ***state of mind*** **or feeling**. Thus, such matters as the intent to steal or kill, or the intent to have a certain paper take effect as a deed or will, or the maintenance or transfer of the affections of a spouse may come into issue in litigation. When this is so, *the mental or emotional state of the person becomes an ultimate object of search. It is* not *introduced* as evidence from which the person's earlier or later conduct may be inferred but *as an operative fact upon which a cause of action or defense*

> *depends.* While a state of mind may be proved by the person's actions, **the statements of the person are often a primary source of evidence.**

(Italics in *Figgins*; boldface added.)

In a termination of parental rights case, a court must consider the child's wishes when determining the best interests of the child and whether exceptional circumstances exist to terminate the parent's rights. Family Law § 5-323(d) requires that the court must give "primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether terminating a parent's rights is in the child's best interests . . . ." Specifically, the court must consider the child's emotional ties with the parent and the likely impact of terminating parental rights on a child's well-being. FL § 5-323(d)(4)(i) & (iv).

Applying the factors in FL § 5-323(d)(4) necessarily requires that a court "address termination of parental rights from the point of view of the child's circumstances." *In re Adoption/Guardianship of Ta'Niya C.*, 417 Md. 90, 114 (2010) (holding that trial court erred in focusing on mother's interest rather than child's best interest, including the child's feelings about severance of her relationship with her mother and the impact of the termination of mother's parental rights in a termination of parental rights case). Indeed, a court's failure to consider a child's feelings and emotional ties with a parent in making a finding as to whether a continued parental relationship would be detrimental to the child's best interests may constitute reversible error. *See In re Adoption/Guardianship of Alonza D., Jr.*, 412 Md. 442, 460 (2010) (holding that circuit court's failure to consider evidence

of children's feelings toward their father and make explicit findings that a continued parental relationship would be detrimental to the best interests of the children before terminating father's parental rights was reversible error).

In this case, Ms. Hileman's testimony was admissible to show B.S.'s state of mind, i.e., her emotions and feelings about her relationship with her mother, which the juvenile court was required to consider in making its determination as to whether a termination of Ms. S.'s parental rights was in B.S.'s best interests. As a result, the juvenile court did not err in admitting the testimony. *Green v. State*, 81 Md. App. 747, 755 (1990) ("A ruling generally will be affirmed even when the ruling is right for the wrong reason."); *State v. Breeden*, 333 Md. 212, 227 n.5 (1993) (a trial court's ruling may be affirmed if the trial court is correct for a reason properly before us, even though the trial court did not rely on that reason in making its decision).

II. Admission of Ms. Hileman's Opinion Testimony

At the merits hearing, counsel for the Department asked Ms. Hileman the following leading question: "As an advocate for [B.S.], is it your opinion that you think that the termination of parental rights should be granted?" Counsel for appellant objected. After the objection was overruled, Ms. Hileman answered:

> My opinion is that [B.S.] needs to be able to have something to hang onto, you know, a family, something to know that it's permanent and solid. And you know, she has almost that, but there's such uncertainty now that she needs to just have her family, you know?

Ms. S. argues that the trial court erred in allowing Ms. Hileman to offer lay opinion testimony about whether termination of parental rights was in the best interests of B.S.

More specifically she contends that Ms. Hileman's testimony exceeded the permissible scope of lay opinion testimony. Ms. S. also contends the trial court abused its discretion in permitting Ms. Hileman to offer her opinion as to a legal conclusion in the guise of an opinion.

The Department contends that Ms. Hileman's testimony was properly admitted lay witness testimony as it was confined to her personal observations of B.S. and it was helpful to a determination of a fact in issue – B.S.'s best interests. Alternatively, the Department contends that even if Ms. Hileman's opinion was admitted in error, it was harmless error.

Md. Rules 5-701 and 5-702 "divide[] the universe of opinion testimony into two categories," lay witness testimony and expert testimony, respectively. *Ragland v. State*, 385 Md. 706, 717 (2005) ("Expert opinion testimony is testimony that is based on specialized knowledge, skill, experience, training, or education."). Ms. Hileman was not offered nor was she qualified as an expert. Thus, Ms. Hileman's opinion was not admissible under Md. Rule 5-702.

Md. Rule 5-701, governing the admissibility of lay witness testimony provides:

> **Opinion testimony by lay witnesses.**
>
> If the witness is not testifying as an expert, the witness's testimony in the form of opinions or inferences is limited to those opinions or inferences which are (1) rationally based on the perception of the witness and (2) helpful to a clear understanding of the witness's testimony or the determination of a fact in issue.

The decision to admit lay opinion testimony, like most evidentiary rulings, rests within the sound discretion of the trial court and will not be overturned on appeal unless it

is shown that the trial court abused its discretion. *Moreland v. State*, 207 Md. App. 563, 568-69 (2012) (citations omitted). "[Md.] Rules 5-701 and 5-702 prohibit the admission as 'lay opinion' of testimony based upon specialized knowledge, skill, experience, training or education." *Ragland*, 385 Md. at 725.

In *Ragland*, the Court held that it was error to accept the testimony of two police witnesses as lay opinions when those witnesses were not accepted as experts but nevertheless were allowed to give opinions that were based on their special knowledge, skill, and experience. *Id.* at 726.

In deciding whether an opinion qualifies as an expert or lay opinion, we must, of course, focus on the nature of the testimony. *See In re Ondrel M.*, 173 Md. App. 223, 244 (2007). Testimony based on the witness's perceptions of daily life will generally be admissible as lay opinion testimony. *See id.* at 243-44 (police officer's lay opinion testimony that he recognized the smell of marijuana because he had previously encountered the smell of marijuana in daily life was held admissible). Opinion testimony that is not based on a witness's general knowledge as a layperson, but rather, derives from some specialized knowledge or experience, requires that the witness meet the expert qualifications provided in Rule 5-702 before testifying. *See State v. Blackwell*, 408 Md. 677, 691 (2009) (testimony about defendant's performance on a roadside sobriety test constituted expert testimony subject to the requirements of Rule 5-702, and testimony of a state trooper who had not been qualified as an expert was inadmissible).

As we explained in *Bell v. State*, 114 Md. App. 480, 508-09 (1997):

> "The distinction between fact and opinion is often difficult to draw." Joseph F. Murphy, Jr., MARYLAND EVIDENCE HANDBOOK, § 603(B), at 330 (1993). But, "when . . . the witness is 'pulling together' his observations and is therefore testifying to conclusions, the trial judge should not admit such testimony." *Id.*, § 603(A), at 328; *see also, e.g.*, *In Re Nawrocki*, 15 Md. App. 252, 289 A.2d 846 (1972) (finding that officer's testimony that juvenile used "profane" language was conclusory; it was for the trier of fact to determine if the language was "profane").

Applying the reasoning in *Bell*, we conclude that Ms. Hileman's opinion was not based on observations made during her regular contact with B.S. Her opinion that B.S. needed permanency and stability due to the "uncertainty" of her relationship with her mother and, as a consequence, Ms. S.'s parental rights should be terminated is a clear example of what a lay witness may not do. The testimony at issue was not based upon the witness's perception of daily life; instead, the witness drew a conclusion that was not based upon observation(s). We therefore conclude that the juvenile court abused its discretion in permitting Ms. Hileman to offer her lay opinion testimony as to the termination of parental rights.

We turn now to the issue of prejudice. In all civil cases, the burden is on the party claiming error to show that an error resulted in prejudice. *Flores v. Bell*, 398 Md. 27, 33 (2007); *In re Ashley E.*, 158 Md. App. 144, 164 (2004) ("It is well settled in Maryland that a judgment in a civil case will not be reversed in the absence of a showing of error and prejudice to the appealing party."). In *Lewin Realty III, Inc. v. Brooks*, 138 Md. App. 244, 273-74 (2001), *aff'd* 378 Md. 70 (2003), we explained the test for determining whether erroneously admitted evidence constitutes reversible error:

> Whether an error was prejudicial is determined on a case-by-case basis. In determining whether improperly admitted evidence . . . prejudicially affected the outcome of a civil case, the appellate court balances the probability of prejudice from the face of the extraneous matter in relation to the circumstances of the particular case. . . . It is not the possibility, *but the probability*, of prejudice which is the object of the appellate inquiry.

(Emphasis added, internal quotations and citation omitted.)

Ms. S. argues that the erroneously-admitted opinion evidence "could have tipped the balance in the [D]epartment's favor" because B.S. "was still working through her feelings toward her mother, and there were signs that her anger . . . was dissipating." The Department argues:

> [E]ven if Ms. Hileman's opinion was admitted in error, any such error was harmless. Ms. Andreas had similarly testified that it was the Department's position that it would be in B.S.'s best interests to terminate parental rights. Additionally, the court had firsthand knowledge of B.S.'s need and desire for permanence and for an end to her parental relationship with Ms. S. based on its multiple consultations with B.S. over the course of her CINA case. Consequently, error, if any, was harmless.

We note that the trial judge, in her written opinion, did acknowledge that since Thanksgiving Day, 2016, B.S.'s anger toward her mother had abated "somewhat." But read in context, that statement does not support appellant's view that the erroneously admitted opinion evidence may have "tipped the balance" against her. In this regard, the court said:

> [B.S.] . . . is light years wiser, in many respects, than her parents. She understands that they love her and want to remain her parents; she also, on many levels, understands that they are incapable of providing her with the unconditional love, structure, discipline and stability that she has now been exposed to, and grown used to. Her anger is understandable, but, as expressed by her CASA volunteer, <u>is abating somewhat</u>, as the months go by

> and she remains in therapy with Mr. Sawyer. Nevertheless, she is firmly of the belief that her parents' rights to her should end. This [c]ourt agrees.

The court certainly had first-hand knowledge of B.S.'s views on permanency and the fact that, as Ms. Hileman testified, the child needed permanency. The trial court noted that before she became a circuit court judge, in her capacity as a Magistrate/Judge, she had presided over B.S.'s CINA case since its inception in early 2016, and took judicial notice of the court file in the CINA matter. The judge also personally listened to the recording of the Thanksgiving Day 2016 telephone conversation between B.S., Ms. S. and Ms. Q. That conversation was the root cause of the anger B.S. felt toward her mother. And the judge recounted the details of that telephone call in her written opinion. Moreover, the court had before it a great deal of evidence of B.S.'s relationship with Ms. Q. and Ms. S. and B.S.'s need for permanency, other than Ms. Hileman's opinion testimony.

Additionally, B.S.'s relationship with Ms. S. and her wish for permanency was only one of a multitude of factors the court considered, pursuant to FL §5-323(d), in reaching its decision that the termination of Ms. S.'s parental rights was in B.S.'s best interests. The court also considered Ms. S.'s "ongoing resistance and opposition to the [c]ourt proceedings," and her efforts to "voluntarily absent herself from two important hearings" – a permanency plan hearing in February 2017 and the December 2018 hearing on the merits of the termination of parental rights petition. The court also considered Ms. S.'s mental health, her refusal of mental health treatment, her misguided belief "that she never neglected [B.S.]," and her claim that she can care for B.S. upon her release from incarceration, which, to the trial judge, demonstrated "a lack of insight" that was

"disturbing." Also, the Court found that "even if given additional time to remain in a parental relationship with [B.S.], [Ms. S.] would be unable to adjust her way of thinking."

B.S. was eleven years old when she was first sheltered by the Department, and, at the time of the hearing, she was fourteen years old. The court noted that by the time Ms. S. is released from incarceration in two years, B.S. will be sixteen years old, and "well into adolescence and a very different person than the eleven year old who was initially removed from her mother." The court determined that B.S. was presently thriving but "[a]llowing [B.S.] to continue to remain 'in limbo' for another eighteen months or more would wreak havoc on her psychological well-being." Though there were signs that B.S.'s anger toward her mother was dissipating, the court determined, for a number of reasons, that allowing more time for Ms. S. to remain in a parental relationship with B.S. was not in B.S.'s best interests.

Contrary to appellant's argument, it does not appear that Ms. Hileman's opinion testimony was the "pivotal evidence" that tipped the balance in the Department's favor. *See Goss v. Estate of Jennings*, 207 Md. App. 151, 167 (2012). Rather, as the Court said in *Fields v. State*, 395 Md. 758, 764 (2006), "[t]he collective effect of the other evidence in this case so outweighs any possible prejudice resulting from the admission of the questioned evidence that there is no reasonable possibility that the [judge] would have reached a different result had [the questioned] evidence been excluded."

For the above reasons, we hold that Ms. S. did not meet her burden of showing that there was a reasonable probability that the error affected the outcome of this case.

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