

Order

Michigan Supreme Court
Lansing, Michigan

January 31, 2024

Elizabeth T. Clement,
Chief Justice

165815

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

In re BATES, Minors.

SC: 165815
COA: 361566
Grand Traverse CC Family Division:
18-004645-NA

By order of October 20, 2023, while retaining jurisdiction, we remanded this case to the Court of Appeals to consider whether the Grand Traverse Circuit Court clearly erred by concluding that termination of the respondent's parental rights was in the children's best interests. MCL 712A.19b(5). On order of the Court, the Court of Appeals having issued its opinion on remand on December 21, 2023, the application for leave to appeal is again considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1). The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing whether, when a child is in the care of a relative, the trial court is required to consider and eliminate available alternative remedies short of termination as a matter of: (1) constitutional due process, see generally *Washington v Glucksberg*, 521 US 702, 721 (1997) (The government may not infringe on fundamental liberty interests "unless the infringement is narrowly tailored to serve a compelling state interest."); or (2) statute, see MCL 712A.19b(5); and (3) whether the trial court erred in this case.

The Clerk of the Court is to schedule the case for argument at the May 2024 session, to be argued the same day as *In re D N Dailey, Minor* (Docket No. 165889). Motions to extend the time for the filing of briefs will not be considered.

The State Bar of Michigan Family Law and Children's Law Sections, the Legal Services Association of Michigan, the Michigan State Planning Body for Legal Services, the Prosecuting Attorneys Association of Michigan, and the University of Detroit Mercy Law Juvenile Appellate Practice Clinic are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.

ZAHRA and VIVIANO, JJ., would deny leave to appeal.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 31, 2024

Clerk