

**STATE OF MICHIGAN
IN THE SUPREME COURT**

In Re J J Holbrook

Supreme Court Case No. 164489

COA Case No. 359504

Lower Court Case No. 2020-882579-NA
(Oakland County Family Court)

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**AMICUS BRIEF OF THE CHILDREN'S LAW SECTION
OF THE STATE BAR OF MICHIGAN**

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Amicus Curiae, Children’s Law Section, has concurred in and adopted below, all of the arguments set forth in the Supplemental Brief filed in this Court on January 10, 2023, by the child’s Lawyer Guardian Ad Litem. As a consequence, there are no authorities independently briefed or cited in Amicus Curiae’s brief; those referenced below are the authorities cited by the LGAL in his Supplemental Brief, with page references to the LGAL’s Supplemental Brief.

Cases

In Re Brock, 442 Mich 101, 107-108 (1993)7

In Re Hockett, Minor, __Mich App__11, 12

In re Mason, 486 Mich. 142, 152, 783 N.W.2nd. 747 (2010)6, 17

In re Sanders, 495 Mich 394, 404; 852 NW2d 524 (2014)6, 17

In re Terry, 240 Mich App 14, 22; 610 NW2d 563 (2000)6, 7, 8

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MCL 712A.2(b)11, 14

MCL 712A.2 (b)(1).....8, 9, 12, 16

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Statement of Jurisdiction

Amicus Curiae Children’s Law Section believes this Court has jurisdiction over Appellant-Mother’s Application for Leave to Appeal and the issues raised therein. MCR 7.303(B)(1); MCR 7.305(A), (B). The Children’s Law Section concurs with Appellant-Mother that the issues involved in the present case involve legal principles of major significance to the state’s jurisprudence, MCR 7.305(B)(3), and that the decision of the Court of Appeals is clearly erroneous and will cause material injustice. MCR 7.305(B)(5(a)).

Statement of Issues Presented

I. WHETHER THE OAKLAND COUNTY CIRCUIT COURT CORRECTLY ASSUMED JURISDICTION OVER THE MINOR CHILD PURSUANT TO MCL 712A.2(B)(1) UNDER THE CIRCUMSTANCES OF THIS CASE?

Lawyer-Guardian *ad Litem* answers: “No.”

Respondent-Appellant Mother answers: “No.”

Petitioner-Appellee DHHS answers: “Yes.”

The Court of Appeals answers: “Yes.”

Amicus Curiae Children’s Law Section answers: “No.”

II. WHETHER *IN RE HOCKETT, MINOR*, ___ MICH APP ___ (OCTOBER 21, 2021) (DOCKET NO 353132) WAS CORRECTLY DECIDED?

Lawyer-Guardian *ad Litem* answers: “Yes.”

Respondent-Appellant Mother answers: “No.”

Petitioner-Appellee DHHS will likely answer: “Yes.”

The Court of Appeals answers: “Yes.”

Amicus Curiae Children’s Law Section answers: “Yes.”

III. WHETHER THE FAMILY COURT IN THIS CASE SHOULD HAVE ASSUMED JURISDICTION OVER THE CHILD PURSUANT TO MCL 712A.2(B)(3)(A)?

Lawyer-Guardian *ad Litem* answers: “Yes.”

Respondent-Appellant Mother answers: “No.”

Petitioner-Appellee DHHS may answer: “Yes.”

The Court of Appeals was not presented this question and so, did not answer it.

Amicus Curiae Children’s Law Section answers: “Yes.”

**STATEMENT OF INTEREST OF AMICUS CURIAE CHILDREN’S LAW SECTION
OF THE STATE BAR OF MICHIGAN**

The Children’s Law Section (Section or CLS) is a recognized section of the State Bar of Michigan, with over 400 members who are attorneys and judges working in Michigan’s child welfare system. The Section works to advance the rights and protect the interests of children and families who become involved in matters before the Probate Courts and Family Divisions of the Circuit Courts, in the State of Michigan. The Section strives to improve the courts and agencies serving children and their families, through regular meetings among peers, organizing and attending relevant training events, active engagement by members on multi-disciplinary task forces convened by the Section itself, as well as by the Michigan Department of Health and Human Services (DHHS), the State Court Administrative Office (SCAO), Michigan Courts, and others. The Section provides services to its membership in the form of educational seminars, and advocating for and commenting on proposed legislation relating to child welfare law topics. The Section also files *amicus curiae* briefs in selected child welfare law cases with the potential for widespread impact in the field of child welfare law, such as the one before this Court.

The Children’s Law Section concurs with Appellant-Mother that the issues involved in the present case involve legal principles of major significance to the state’s jurisprudence, MCR 7.305(B)(3), and that the decision of the Court of Appeals is clearly erroneous and will cause material injustice. MCR 7.305(B)(5(a)).

In its December 7, 2022, Order, the Michigan Supreme Court directed the parties to file supplemental briefs and this Court invited the Children’s and Family Law Sections, to file *amicus curiae* brief on three questions. Whether:

- (1) the Oakland Family Court correctly assumed jurisdiction over the minor child pursuant to MCL 712A.2(b)(1) under the circumstances of this case;

- (2) *In re Hockett, Minor*, ___ Mich App ___ (October 21, 2021) (Docket No. 353132), was correctly decided; and
- (3) the family court in this case should have assumed jurisdiction over the child pursuant to MCL 712A.2(b)(3)(A).

The Children's Law Section appreciates this Court's invitation to participate as amicus. The Section appreciates that the Lawyer Guardian *Ad Litem* has filed briefs to ensure that the child's voice is heard. The Section believes it is essential - and should be a consistent practice - that a child's LGAL address issues in the appellate courts to ensure the child's voice is heard throughout the entire case.

Statement of Facts

Amicus Curiae Children's Law Section concurs with the Statement of Facts as set forth in the LGAL's Supplemental Brief filed in this Court on January 10, 2023, and incorporates same into this brief. MCR 7.305(A)(1)(d). (LGAL's Supplemental Brief, pp 3-5).

Standard of Review

Amicus Curiae Children's Law Section concurs with the Standard of Review as set forth in the LGAL's Supplemental Brief filed in this Court on January 10, 2023, and incorporates same into this brief. MCR 7.305(A)(1)(d). (LGAL's Supplemental Brief, p 6).

Arguments

(Questions from Michigan Supreme Court answered)

Amicus Curiae Children's Law Section concurs with each of the three argument sections, responding to this Court's questions, as set forth in the LGAL's Supplemental Brief filed in this Court on January 10, 2023, and incorporates same into this brief. MCR 7.305(A)(1)(d). (LGAL's Supplemental Brief, pp 7-17).

- I. Amicus Curiae Children’s Law Section concurs with the LGAL that the lower court did not correctly exercise jurisdiction over the minor child pursuant to MCL 712A.2(b)(1), under the circumstances of this particular case.
- II. Amicus Curiae Children’s Law Section concurs with the LGAL that *In re Hockett*, ___ Mich App ___ (October 21, 2021) (COA Docket No. 353132), was correctly decided, and that, further, the material facts of *Hockett* differ from the facts of the instant case before this Court, such that the outcome in *Hockett* does not dictate the same determination as the Court of Appeals made in *Hockett*.
- III. Amicus Curiae Children’s Law Section concurs with the LGAL that on the facts and circumstances of the instant case, the trial court should have exercised jurisdiction pursuant to MCL 712A.2(b)(3)(A).

Conclusion

Amicus Curiae Children’s Law Section concurs with the Conclusion as set forth in the LGAL’s Supplemental Brief filed in this Court on January 10, 2023, and incorporates same into this brief. MCR 7.305(A)(1)(d). (LGAL’s Supplemental Brief, p 18).

Dated: January 23, 2023

Respectfully submitted,

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WORD COUNT CERTIFICATION: Paula A. Aylward (P60757) certifies that this brief contains approximately 730 words per Microsoft Word.