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STATE OF MICHIGAN
IN THE SUPREME COURT
Appeal from the Court of Appeals
(Gadola, C.J., and Patel and Young, JJ.)

IN RE BARBER / ESPINOZA MINORS,

MSC Case No. 167745
COA Case No. 369359
Lower Court Case No. 23-033-NA
(Lenawee County)

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AMICUS CURIAE BRIEF OF THE UNIVERSITY OF DETROIT MERCY SCHOOL OF LAW JUVENILE APPELLATE CLINIC

University of Detroit Mercy School of Law Juvenile Appellate Clinic
By: Deborah Paruch (P47089)

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II. Even assuming that the Michigan DHHS was required to make reasonable efforts to reunify non-custodial parent / respondent with her children, the DHHS's failure to make such efforts in this case was not plain error affecting respondent's substantial rights 2

III. No plain error existed by the trial court failing to advise respondent of appellate rights per MCR 3.965(B)(15), where the plain language of that rule makes it applicable to a "removal" from a parent, and where there was no "removal" of the children from the non-custodial respondent's care or custody..... 2

IV. The Department satisfied the requirements of MCL 722.638(3), when it utilized its discretion to seek termination of the respondent's parental rights at initial disposition with the concurrence of the LGAL. 3

V. Because the Department satisfied the requirements of MCL 722.638(3), termination of the respondent's parental rights should also be affirmed under

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that provision because the trial court's findings under MCL 712A.19b(3) and (5) were appropriate and remain uncontested..... 3

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Amicus Curiae University of Detroit Mercy School of Law Juvenile Appellate Clinic concurs in and adopts the Index of Authorities contained in the Joint *Amici Curiae* Brief of the Michigan Probate Judges Association and the Coalition of Child Welfare Appellate Attorneys in Support of the LGAL's Application for Leave to Appeal, and of the Joint Supplemental Brief of the DHHS and LGAL.

STATEMENT OF JURISDICTIONAL BASIS

Amicus Curiae University of Detroit Mercy School of Law Juvenile Appellate Clinic concurs in and adopts the Statement of Jurisdictional Basis contained in the Joint *Amici Curiae* Brief of the Michigan Probate Judges Association and the Coalition of Child Welfare Appellate Attorneys in Support of the LGAL's Application for Leave to Appeal, and of the Joint Supplemental Brief of the DHHS and LGAL.

STATEMENT OF QUESTIONS INVOLVED

Amicus Curiae University of Detroit Mercy School of Law Juvenile Appellate Clinic concurs in and adopts the Statement of Questions Involved contained in the Joint *Amici Curiae* Brief of the Michigan Probate Judges Association and the Coalition of Child Welfare Appellate Attorneys in Support of the LGAL's Application for Leave to Appeal, and of the Joint Supplemental Brief of the DHHS and LGAL.

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STATEMENT OF INTEREST OF *AMICUS CURIAE* UNIVERSITY OF DETROIT MERCY SCHOOL OF LAW JUVENILE APPELLATE CLINIC

The Juvenile Appellate Clinic at the University of Detroit Mercy School of Law was established in 2009 by then Adjunct Professor William Ladd and Professor Deborah Paruch. The Clinic was established to provide quality legal representation to children in the State of Michigan and to train law students to practice according to the highest professional and ethical standards. Since its creation, the Clinic has primarily represented children in appeals to the Michigan Court of Appeals from trial court abuse and neglect proceedings in the Wayne County Juvenile Court. Students have also had some experience in juvenile delinquency proceedings. Currently, the Clinic is offered three semesters per year and students, along with an adjunct clinical director, provide approximately 3,000 pro bono hours of legal services per year. Professor Deborah Paruch, signing on behalf of the Clinic, is a Tenured Professor of Law at University of Detroit Mercy School of Law and, as noted above, was a cofounder of the Clinic. She has served for many years as a Council member of the Children's Law Section of the State Bar of Michigan.

The University of Detroit Mercy School of Law Juvenile Appellate Clinic files to express its full agreement with, and full concurrence in, the statements, arguments, and reasoning, contained in the Joint *Amici Curiae* Brief of the Michigan Probate Judges Association and Coalition of Child Welfare Appellate Attorneys, filed in this Court on April 7, 2025.[1]

[1] Per MCR 7.312(H)(5), *Amicus* states that no counsel for a party authored the brief in whole or in part and no counsel or a party made a monetary contribution intended to fund the preparation or submission of the brief.

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INTRODUCTION

Amicus Curiae University of Detroit Mercy School of Law Juvenile Appellate Clinic concurs in and adopts the Introduction contained in the Joint *Amici Curiae* Brief of the Michigan Probate Judges Association and the Coalition of Child Welfare Appellate Attorneys in Support of the LGAL's Application for Leave to Appeal, and of the Joint Supplemental Brief of the DHHS and LGAL.

STATEMENT OF FACTS

Amicus Curiae University of Detroit Mercy School of Law Juvenile Appellate Clinic concurs in and adopts the Statement of Facts contained in the Joint *Amici Curiae* Brief of the Michigan Probate Judges Association and the Coalition of Child Welfare Appellate Attorneys in Support of the LGAL's Application for Leave to Appeal, and of the Joint Supplemental Brief of the DHHS and LGAL.

STANDARD OF REVIEW

Amicus Curiae University of Detroit Mercy School of Law Juvenile Appellate Clinic concurs in and adopts the Standard of Review contained in the Joint *Amici Curiae* Brief of the Michigan Probate Judges Association and the Coalition of Child Welfare Appellate Attorneys in Support of the LGAL's Application for Leave to Appeal, and of the Joint Supplemental Brief of the DHHS and LGAL.

ARGUMENT

Introduction - Overview of Federal Laws bearing upon issues presented in this appeal.

Amicus Curiae University of Detroit Mercy School of Law Juvenile Appellate Clinic concurs in and adopts the Introduction – Overview of Federal Laws contained in the Joint *Amici Curiae* Brief of the Michigan Probate Judges Association and the Coalition of Child

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WelfareAppellate Attorneys in Support of the LGAL's Application for Leave to Appeal, and of the Joint Supplemental Brief of the DHHS and LGAL.

I. Reasonable efforts to reunify respondent and her children were not required to be made where respondent subjected her daughter to aggravated circumstances by abusing her daughter in a manner that included criminal sexual conduct involving penetration.

Amicus Curiae University of Detroit Mercy School of Law Juvenile Appellate Clinic concurs in and adopts the Argument I contained in the Joint *Amici Curiae* Brief of the Michigan Probate Judges Association and the Coalition of Child Welfare Appellate Attorneys in Support of the LGAL's Application for Leave to Appeal, and of the Joint Supplemental Brief of the DHHS and LGAL.

II. Even assuming that the Michigan DHHS was required to make reasonable efforts to reunify non-custodial parent / respondent with her children, the DHHS's failure to make such efforts in this case was not plain error affecting respondent's substantial rights.

Amicus Curiae University of Detroit Mercy School of Law Juvenile Appellate Clinic concurs in and adopts the Argument II contained in the Joint *Amici Curiae* Brief of the Michigan Probate Judges Association and the Coalition of Child Welfare Appellate Attorneys in Support of the LGAL's Application for Leave to Appeal, and of the Joint Supplemental Brief of the DHHS and LGAL.

III. No plain error existed by the trial court failing to advise respondent of appellate rights per MCR 3.965(B)(15), where the plain language of that rule makes it applicable to a "removal" from a parent, and where there was no "removal" of the children from the non-custodial respondent's care or custody.

Amicus Curiae University of Detroit Mercy School of Law Juvenile Appellate Clinic concurs in and adopts the Argument III contained in the Joint *Amici Curiae* Brief of the Michigan Probate Judges Association and the Coalition of Child Welfare Appellate Attorneys in Support of the LGAL's Application for Leave to Appeal, and of the Joint Supplemental Brief of the DHHS and LGAL.

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IV. The Department satisfied the requirements of MCL 722.638(3), when it utilized its discretion to seek termination of the respondent's parental rights at initial disposition with the concurrence of the LGAL.

Amicus Curiae University of Detroit Mercy School of Law Juvenile Appellate Clinic concurs in and adopts the Argument IV contained in the Joint *Amici Curiae* Brief of the Michigan Probate Judges Association and the Coalition of Child Welfare Appellate Attorneys in Support of the LGAL's Application for Leave to Appeal, and of the Joint Supplemental Brief of the DHHS and LGAL.

V. Because the Department satisfied the requirements of MCL 722.638(3), termination of the respondent's parental rights should also be affirmed under that provision because the trial court's findings under MCL 712A.19b(3) and (5) were appropriate and remain uncontested.

Amicus Curiae University of Detroit Mercy School of Law Juvenile Appellate Clinic concurs in and adopts the Argument V contained in the Joint *Amici Curiae* Brief of the Michigan Probate Judges Association and the Coalition of Child Welfare Appellate Attorneys in Support of the LGAL's Application for Leave to Appeal, and of the Joint Supplemental Brief of the DHHS and LGAL.

RELIEF

WHEREFORE, *Amicus curiae* University of Detroit Mercy School of Law Juvenile Appellate Clinic respectfully requests that this Honorable Court issue a peremptory order REVERSING and VACATING the Court of Appeals' erroneous and harmful published decision in this matter and AFFIRM the trial court's well-supported and well-reasoned decision terminating

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respondent's parental rights. Alternatively, *Amicus* asks this Court to grant the LGAL's Application for Leave to Appeal, and grant any other relief the Court deems appropriate.

Respectfully submitted,

Amicus University of Detroit Mercy School of Law Law Juvenile Appellate Clinic

Dated: April 21, 2025

/s/ Deborah Paruch
By: Deborah Paruch

CERTIFICATE OF COMPLIANCE

The undersigned certifies that, based upon the word count function of the word-processing system used to prepare *Amicus Curiae* **University of Detroit Mercy School of Law Juvenile Appellate Clinic**, there are 1,686 countable words contained within those portions of *Amicus* Brief subject to the type-volume limitation.

Respectfully submitted,

Amicus University of Detroit Mercy School of Law Law Juvenile Appellate Clinic

Dated: April 21, 2025

/s/ Deborah Paruch
By: Deborah Paruch