STATE OF MICHIGAN

COURT OF APPEALS

In re S. G. Wilson, Minor.

UNPUBLISHED
November 18, 2021

No. 356370
Huron Circuit Court
Family Division
LC No. 19-004756-NA

Before: STEPHENS, P.J., and SAWYER and SERVITTO, JJ.

PER CURIAM.

Respondent-father appeals by right the trial court order terminating his parental rights to the minor child, SG.[1] We affirm the trial court's determinations that the statutory ground for termination articulated in MCL 712A.19b(3)(c)(*i*) was proven by clear and convincing evidence, that respondent-father was provided a meaningful and adequate opportunity to participate in proceedings, and that reasonable efforts were made toward reunification. We reverse the trial court's finding, without explicitly considering her relative placement as a factor weighing against termination, that termination was in the child's best interest. We also reverse the trial court's issuance of an injunction precluding respondent-father from having any contact with the minor child until she is 18 years of age and further prohibit the trial court from entering any such injunction in this and any other termination case without first clearly articulating, on the record, a finding that such an injunction is "necessary for the physical, mental, or moral well-being" of the child and the reasons behind such finding. We therefore remand for proceedings not inconsistent with this opinion.

SG was born to respondent-father and mother on January 11, 2017. Respondent-father and mother were in dating relationship from approximately 2016 through 2018, but had not married and resided together only part of that time. On October 3, 2019, the Department of Health and Human Services (DHHS) initiated a petition requesting that the court take jurisdiction over SG due to neglect, drunkenness, drug use and criminality on the part of respondent-father and mother. In the petition, DHHS alleged that in August 2019 it had put a safety plan into place for SG, who had been living with mother, to stay with her maternal grandmother due to the parents'

[1] The child's mother released her parental rights to the child and is not a party to this appeal.

actions/inactions. DHHS further alleged both parents were arrested on September 17, 2019, while "extremely high" and that respondent-father had outstanding criminal warrants at the time. Finally, DHHS alleged both parents previously participated in drug court without success, both parents had significant criminal histories, and respondent-father could not be located.

A referee entered an ex parte order to take SG into protective custody the day the petition was filed. On December 4, 2019, respondent-father appeared and entered a plea of admission to the court's exercise of jurisdiction over SG. Respondent-father admitted that while he had previously given DHHS his address and phone number, he failed to inform DHHS when he moved and changed his phone number. Respondent-father further admitted that he was arrested in September 2019 due to outstanding warrants, and currently still had outstanding warrants for traffic violations in two different counties. Respondent-father stated that he had "drug issues" and had gone to prison in 2016, but was currently on prescription Suboxone, had to undergo drug screens for his employment, and had relapsed only once in September 2019. Respondent-father admitted that he had not been providing for SG and could not provide for her if she were placed in his care at that time.

At a January 8, 2020 dispositional hearing, which respondent-father did not attend because he was in jail, a foster care specialist outlined the case service plan that had been developed for respondent-father. According to the foster care specialist, respondent-father was to complete psychological and substance abuse evaluations, comply with the recommendations of those evaluations, participate in individual therapy, maintain a legal and sufficient source of income, complete a parenting course, attend random drug screens, and refrain from the use of illegal substances. A report submitted at the hearing indicated that respondent-father had not been complying with his employer-required drug screens until December 2019, that he had missed seven drug screens, and that he tested positive for illegal substances on six occasions from October 2019 through December 2019. Respondent-father had two scheduled visits with SG during that time frame and had missed one and showed up late for the second one.

The referee held a dispositional review hearing on May 18, 2020. Respondent was not present, and respondent-father's attorney informed the referee that respondent-father had been in one jail, transferred to another, and then released in May 2020. Both respondent-father's attorney and the foster care specialist had been unable to contact respondent-father since his release from jail, despite their numerous attempts. On motion of DHHS in August 2020, the trial court suspended respondent-father's supervised visits with SG because respondent-father had expressed that he was going to release his parental rights and had not seen SG for seven months.

Respondent-father was present, via Zoom, at an August 19, 2020 review hearing. The foster care specialist testified at that hearing that she had made numerous attempts to contact respondent-father and had received no response until August 12, 2020, wherein he related that he would like to set up a time to talk to her. Respondent-father did not follow through with that request.

Respondent-father was not present at the next hearing, a permanency planning hearing held in October 2020. At that hearing, respondent-father's attorney indicated she had a multitude of problems with him keeping in touch with her and that she did not know his whereabouts or why he was not present at the hearing. The foster care specialist testified that respondent-father had

not completed any of the services set forth in his case service plan and had not had contact with DHHS since his release from jail, aside from his one appearance at the August 29, 2020 review hearing. Thereafter, DHHS filed a supplemental petition seeking termination of respondent-father's parental rights under MCL 712A.19b(3)(c)(*i*), (g), and (j). At the conclusion of a January 2021 termination hearing, at which respondent-father was present, the trial court terminated respondent-father's parental rights under MCL 712A.19b(3)(c)(*i*) and (3)(g) and found that termination was in SG's best interests. In announcing its decision, the court stated: "I will also be entering a permanent injunction against his contact with the child until the child retains [sic] the age of 18." The court included this injunction in its order terminating respondent-father's parental rights. This appeal followed.

Respondent-father first contends that the trial court erred in finding that statutory grounds to terminate his rights were proven by clear and convincing evidence. We disagree.

The trial court's findings regarding statutory grounds and reunification efforts are reviewed for clear error. *In re Sanborn*, ___ Mich App ___, ___; ___ NW2d ___ (2021) (Docket Nos. 354915 and 354916); slip op at 1, 9. "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505, 511 (2004). However,

> unpreserved issues are reviewed for plain error affecting substantial rights. To avoid forfeiture under the plain error rule, three requirements must be met: 1) the error must have occurred[;] 2) the error was plain, i.e., clear or obvious[;] 3) and the plain error affected substantial rights. Generally, an error affects substantial rights if it caused prejudice, i.e., it affected the outcome of the proceedings. [*Sanborn*, ___ Mich App at ___; slip op at 1 (quotation marks and citations omitted).]

And even if plain error occurred, reversal is only warranted "when an error seriously affect[ed] the fairness, integrity or public reputation of judicial proceedings . . . ." *In re Utrera*, 281 Mich App 1, 9; 761 NW2d 253 (2008) (quotation marks and citation omitted; alteration in original).

Respondent-father challenges the trial court's termination decisions made under both MCL 712A.19b(3)(c)(*i*) and (3)(g). Assuming, without deciding, that termination was improper under MCL 712A.19b(3)(g), we find that clear and convincing evidence supported the trial court's termination under MCL 712A.19b(3)(c)(*i*). Only one statutory ground must be proved to terminate parental rights. *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011).

Termination of parental rights is proper under MCL 712A.19b(3)(c)(*i*) when:

> (c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:
>
> (i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

Here, respondent-father entered a plea of admission to the trial court's exercise of jurisdiction on December 4, 2019, on the basis of substance abuse, failure to maintain contact with DHHS, and criminal issues. At the termination hearing on January 29, 2021, the foster care specialist testified that prior to his incarceration in January 2020, respondent-father attended two out of four scheduled visits with SG. SG did not recognize who he was. The foster care specialist testified that she sent letters to respondent-father in jail, encouraging him to participate in any services offered him in jail and advising that he could send letters and photos to SG through the DHHS. Respondent-father did not respond to the foster care specialist and sent no letters to SG.

The foster care specialist further testified that when respondent-father was released from jail in May 2020, he did not contact her or DHHS. The first time he contacted the foster care specialist was in August 2020, when he stated he wished to release his parental rights to SG. Respondent-father apparently had a change of heart, because he thereafter participated in a zoom visit with SG and signed no release. The foster care specialist testified that from November 1, 2019 until August 27, 2020 respondent-father did not participate in any of the services referred to him in the case service plan.

Respondent-father was in jail from January through May of 2020. Thus, of the fifteen months SG was in care, respondent-father was in jail for only four months. During the eleven remaining months, he participated in no verifiable services, visited with SG only twice, and failed to keep in contact with DHHS and the foster care specialist. He clearly still had issues with criminality, as he was in jail again at the time of the termination hearing, and he failed to provide any information regarding if or how he was addressing his substance abuse. Accordingly, we are not left with a definite and firm conviction that the trial court erred by concluding 182 days had passed since the initial dispositional order was entered, the conditions that led to the adjudication continued to exist, and there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the child's age.

Respondent-father additionally argues that the trial court prematurely terminated his parental rights when it failed to provide him a meaningful and adequate opportunity to participate in proceedings and failed to make reasonable efforts to reunify him with SG from January to May of 2020 while he was incarcerated. Again, respondent-father was in jail only four out of the fifteen months that SG was in care. Two proceedings took place during that four-month period. A dispositional review hearing took place on January 8, 2020, at which respondent-father's counsel indicated that she believed respondent-father was in the Livingston County Jail. No action was taken with respect to respondent-father at that hearing as a result, though it was later found that he did not go to jail until January 9, 2020.

The next proceeding was a dispositional review hearing held on May 18, 2020. At that hearing, respondent-father's counsel stated that she attempted to reach respondent-father at the Livingston County jail, and was told he was sent to the Oakland County jail. Counsel contacted the Oakland County jail and was told respondent-father had been released. Counsel then called the phone number respondent-father had provided her and was unable to contact him at that number. Counsel was given another phone number to try and reach him, and she left him a message, but respondent-father did not respond. The foster care specialist also testified at the hearing that she made attempts to contact respondent-father since his release from jail by calling all phone numbers provided and that she further spoke to the foster care specialist in Livingston

County that was assigned to a case involving respondent-father's other child. No calls were returned and no contact was made by respondent-father.

While it does not appear that the notice concerning the May 18, 2020 hearing was sent to the Livingston County Jail, it is also not clear that respondent-father was in the Livingston County jail rather than the Oakland County jail when at least one of the notices was sent. Moreover, respondent-father had been released from jail prior to the May 18, 2020 hearing. His counsel had been provided with all notices and respondent-father was aware that he had on ongoing case with respect to SG. He admitted that he did not keep in contact with his counsel or DHHS despite their attempts to contact him through all means possible. Respondent-father further admitted that he did not participate in a couple of other hearings and stated that he had no excuse for failing to participate in those hearings. We thus cannot conclude that respondent-father was not provided a meaningful and adequate opportunity to participate in the proceedings.

Concerning whether reasonable efforts were made for reunification, respondent-father admitted at the termination hearing (in which he participated remotely due to being in jail again) that he had received "quite a few packets" of material from his counsel throughout the proceedings. He testified that he had received the parent-agency agreement from DHHS and admitted that the signature on the agreement was his, but did not recall signing it. Respondent-father further testified that the agreement and services required were not explained to him.

Respondent-father testified that he completed a mental health assessment, underwent mental health treatment, and completed parenting classes while incarcerated "on his own,' but admitted he did not send the parenting class certificate to DHHS. He made no claim that he submitted any documentation to DHHS regarding his mental health assessment or regarding any counseling. Respondent-father admitted that he received letters from the foster care specialist while he was incarcerated and the letters had her contact information. Respondent-father testified that when he was released from jail in May 2020, he lived briefly in Livingston County and then was basically homeless and had no car or phone.

Respondent-father additionally testified that between October 2019 and January 2021 he had visited with SG only three times. He admitted that during 2020 when he was not in jail, he provided no support for SG, gave her no gifts, and saw her only twice. Respondent-father testified at different times that there was bond between he and SG and that there is no bond between he and SG due to the little contact they have had. He admitted that he is not in a situation to offer SG stability but believed it was something he could work towards and achieve when he was released from jail again, believed to be in May 2021.

The foster care specialist testified at the termination hearing that she referred respondent-father for a psychological evaluation, parenting classes, drug screening, a counseling intake, and substance abuse treatment. She also testified that she told respondent-father about these referrals in person at two parenting time visits (December 19, 2019 and January 9, 2020), gave him hardcopies of the referrals, as well as emailed, mailed, and texted them to him. Because respondent-father reported living in Livingston County when he was not incarcerated, she made referrals to services in that county. When respondent-father was incarcerated, she sent him letters keeping him informed about the case and encouraging him to participate in what services he could in jail. Respondent-father did not provide proof of completing any services to the foster care

specialist, although he completed drug screens and visited SG twice before going to jail in January 2020 and provided proof of income in August 2020.

The trial court found that the casework during respondent-father's incarceration was "totally inadequate." It also found, however, that respondent-father made "absolutely no effort to cooperate." The court noted that upon his release from jail in May 2020, respondent-father was free to visit SG, free to participate in hearings, and free to maintain contact with DHHS and the caseworker, but did not, in large part, do any of those things. After his release from jail, several notices were sent to the address respondent-father had provided as well as to his counsel. The trial court found that respondent-father "sat on his rights and didn't pursue further contact" and "didn't pursue the casework." The trial court took into consideration that respondent-father would potentially be released from jail in May 2021, but indicated that they would have to wait several months after that to see if respondent-father could obtain housing and employment, and comply with the services outlined in the parent agency agreement, and that was an unreasonable amount of time considering SG's age and the time she'd already been in care. Although we sympathize with respondent-father's plight of often being homeless and having no car or cell phone, had respondent-father attempted to stay in contact with his counsel or the foster care specialist, accommodation could have potentially been worked out to address those issue. However, we cannot fault the DHHS for inactions when respondent-father made no attempt to keep in touch, let alone advise that he needed help in the way of bus tickets, etc. While more effort could have made to reunify respondent-father with SG during his four-month period of incarceration, reasonable efforts were made during the remaining 11 months SG was in care and respondent-father made no effort to engage in services, little effort to visit with SG, and less than minimal effort to even maintain contact with his attorney, DHHS, or the foster care specialist.

Respondent-father relies on *In re Mason*, 486 Mich 142; 782 NW2d 747 (2010) to support his position otherwise. In that case, our Supreme Court made three central holdings:

> First, the court and the DHS failed to facilitate respondent's participation in the child protective action by telephone in light of his incarceration, as required by MCR 2.004. The DHS further abandoned its statutory duties to involve him in the reunification process and to provide services necessary for him to be reunified with his children. The court effectively terminated respondent's parental rights merely because he was incarcerated during the action without considering the children's placement with relatives or properly evaluating whether placement with respondent could be appropriate for the children in the future. Incarceration alone is not a sufficient reason for termination of parental rights. [Id. at 146]

Mason's first holding relied on MCR 2.004, which applies to "actions involving the custody, guardianship, neglect, or foster-care placement of minor children, or the termination of parental rights, in which a party is incarcerated under the jurisdiction of the Department of Corrections." MCR 2.004(A)(2). But respondent was not incarcerated under the jurisdiction of the Department of Corrections; he was incarcerated in a county jail. The second holding relates to the factual assessment of the reasonableness of DHHS's efforts, which was addressed above. *Mason*'s third holding is irrelevant because the trial court here did not terminate respondent's parental rights because he was incarcerated; it terminated his parental rights for failing to

participate in services for the time he *was not* incarcerated. Accordingly, respondent's reliance on *Mason* is misplaced.

Respondent-father next contends that the trial court's best interest determination was erroneous, given its failure to explicitly address that SG was in care with relatives. We agree.

A trial court's finding regarding best interests is reviewed for clear error. *In re Schadler*, 315 Mich App 406, 408; 890 NW2d 676 (2016). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *BZ*, 264 Mich App at 296-297.

Once a trial court finds a statutory ground to terminate parental rights has been established, it must consider whether termination is in the best interests of the child. *In re Keillor*, 325 Mich App 80, 93; 923 NW2d 617 (2018). In determining best interests, the trial court should weigh all the evidence before it, considering a variety of factors, including the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, the likelihood the child could be returned to the parent's home within the foreseeable future, and the child's placement in foster care. *Id*. at 93-94. "[A] child's placement with relatives weighs against termination" and is "an explicit factor to consider in determining whether termination" is in a child's best interests. *Mason*, 486 Mich at 164. "A trial court's failure to explicitly address whether termination is appropriate in light of the children's placement with relatives renders the factual record inadequate to make a best-interest determination and requires reversal." *In re Olive/Metts Minors*, 297 Mich App 35, 43; 823 NW2d 144 (2012).

In finding termination to be in SG's best interests, the only factors the trial court considered were SG's need for permanency, stability, and finality, the likelihood SG could be returned to respondent-father's home within the foreseeable future, and the length of time SG had been in care. The court did not explicitly consider that SG was placed with her maternal aunt, as required by *In re Olive/Metts Minors*. And while the court mentioned that SG was placed with the aunt in making its general findings of fact before analyzing statutory grounds and best interests, this mention was insufficient to satisfy *In re Olive/Metts Minors*. The court, in noting that respondent failed to participate in his parent-agency agreement, stated: "Meanwhile, [SG] while in good care of the maternal aunt, licensed foster care, as far as I'm concerned that's still languishing in limbo of foster care because she doesn't know whether she's got parents or not." While it is not entirely clear what the trial court was attempting to suggest, it is clear that to the extent the trial court considered SG's relative placement, it considered it as a fact *in favor of* terminating parental rights, contrary to the holding in *Mason*, 486 Mich at 164. Accordingly, the factual record is inadequate and the trial court's best-interests determination is reversed.

Respondent-father lastly argues that the trial court did not have the legal authority to enjoin respondent-father from having contact with SG until she is 18 years of age. A permanent injunction is generally reviewed for an abuse of discretion. *Lansing Ass'n of Sch Administrators v Lansing Sch Dist Bd of Ed*, 216 Mich App 79, 85; 549 NW2d 15 (1996).

Child protection proceedings are governed by subchapter 3.900 of the Michigan Court Rules and the juvenile code, MCL 712A.1 *et seq*. *In re Sanders*, 495 Mich 394, 404; 852 NW2d 524 (2014). MCR 3.901 provides, in relevant part,

> **(A) Scope**.
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> (1) The rules in this subchapter, in subchapter 1.100, and in subchapter 8.100 govern practice and procedure in the family division of the circuit court in all cases filed under the Juvenile Code.
>
> (2) Other Michigan Court Rules apply to juvenile cases in the family division of the circuit court only when this subchapter specifically provides.
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> ***
>
> **(B) Application.** Unless the context otherwise indicates:
>
> (1) MCR 3.901-3.930, and 3.991-3.993 apply to delinquency proceedings and child protective proceedings;
>
> ***
>
> (4) MCR 3.961-3.979 apply only to child protective proceedings;

Notably, there is no provision contained within subchapter 1.100, 8.100, or 3.900 allowing for the issuance of an injunction. Injunctions are provided for in MCR 3.310, but, as stated in MCR 3.901(A)(2), other Michigan Court Rules apply to juvenile cases *only* when subchapter 3.900 specifically provides. Subchapter 3.900 does not specifically state that MCR 3.310 is applicable in child protection proceedings.

Our goal in interpreting and applying court rules and statutes is to effectuate the plain meaning of the text. *Ligons v Crittenton Hosp*, 490 Mich 61, 70; 803 NW2d 271 (2011). "If the text is unambiguous, we apply the language as written without construction or interpretation." *Id*. MCR 3.901 is unambiguous and, applying its plain meaning, MCR 3.310 is not applicable in child protection proceedings.

The juvenile code, at MCL 712A.6 does give general authority to the family division of the circuit court to "make orders affecting adults as in the opinion of the court are necessary for the physical, mental, or moral well-being of a particular juvenile or juveniles under its jurisdiction. However, those orders must be incidental to the jurisdiction of the court over the juvenile or juveniles." MCL 712A.6. Thus, the trial court could arguably enjoin respondent-father from contacting SG under MCL 712A.6. Central to MCL 712A.6, however, is that such an injunction must be "*necessary* for the physical, mental, or moral well-being" of the child (emphasis added). We find *In re Macomber*, 436 Mich 386; 461 NW2d 671 (1990), to be instructive on the application of MCL 712A.6's language and on the issue before this Court.

In *In re Macomber*, the DHHS filed a complaint in the juvenile division of a court after a16–year-old girl reported that her father had sexually abused her. *Id*. After a preliminary hearing,

a referee ordered the child placed under supervision of the DHHS in care of her mother and ordered the father not to reside in family home. After the court took jurisdiction over the child, and after a jury determined that the father had sexually abused the daughter, the court ordered the father to have no contact with his daughter and to pay support for family. *Id*. at 399. When the father challenged the court's authority to enter the order, our Supreme Court found that MCL 712A.6 "provides clear authority for the court to make orders which are necessary for the well-being of a child." *Id*. at 391. The Court further found that,

> While the language is broad, it provides sufficient guidance and needed flexibility to the court. The court is limited in that it can only act after it has jurisdiction over a child, and it may only act to ensure a child's well-being. Any orders aimed at adults must also be incidental to the court's jurisdiction over children. In addition, under § 6, the court may only make orders affecting adults if "necessary" for the child's interest. The word "necessary" is sufficient to convey to probate courts that they should be conservative in the exercise of their power over adults. Furthermore, upon review of an order affecting adults, if an appellate court finds the factual record insufficient to justify the "necessity" of the order, it may overturn the order as clearly erroneous. [*Id*. at 398-399.]

Our Supreme Court found that because a jury determined that the father had sexually abused the daughter in the past, his behavior indicated a likelihood of similar conduct in the future and, taking into account that the applicable statutory provisions should be liberally construed in favor of keeping children at home, the record was sufficient to support the court's order.[2] *Id*. at 399.

In this matter, in contrast, the record is not sufficient to uphold the court's order enjoining respondent-father from contacting SG until she is 18 years of age. The court made no finding that the injunction was "necessary for the physical, mental, or moral well-being" of SG, instead appearing to enter the injunction as a matter of course.

In addition, we are troubled by a note in the trial court's December 4, 2020 pretrial conference summary that "If releases are signed by both parents, an injunction will not be sought." The above language gives the impression that the trial court uses injunctions such as the one issued in this case in an attempt to get respondent-parents to voluntarily release their rights, rather than go to trial. Such an impression is further evidenced by the trial court's statements at the mother's hearing to release her parental rights to SG. At the January 20, 2021 hearing, the following exchange took place:

[2] The Court found that the lower court's *pretrial* order prohibiting the father from living at home was improper because under MCL 712A.6 a court cannot act to issue "orders affecting adults" until it has acquired jurisdiction of a child, but that its posttrial order prohibiting the same was proper.

> *The Court*: Okay. Now, I want you to understand if you release the child, there is [sic] a couple of things that happen here. One of which is I don't enter an injunction and that means that if the adoptive parent wanted to let you have some contact with [SG], that could happen --
>
> [*Mother*]: Okay.
>
> *The Court*: -- okay? Now, if I get to the point where I have to order it like if I went to trial next week and I ordered termination of parental rights, then that order automatically includes an injunction that says your [sic] court ordered prohibited from any contact until the child reaches the age of 18. Okay? So one of the benefits of doing this is, is if you can work it out through the agency and the adoptive parents, you might be able to get maybe a picture and exchange some information. . . .

Such an "automatic" order is inconsistent with the statute's authorization of orders that are "necessary" for a child's well-being.

Moreover, parents have a fundamental liberty interest in the care, custody, and management of children. *Santosky v Kramer*, 455 US 745, 753; 102 S Ct 1388; 71 L Ed 2d 599 (1982). Accordingly, respondents in termination proceedings have the right to a full hearing before their parental rights are terminated. See MCL 712A.19b (detailing the steps that must be taken before a court may terminate parental rights, including the holding of a hearing on the issue). The trial court's practice likely has a chilling effect on many respondents' exercise of their constitutionally- and statutorily-protected right to a hearing before parental rights may be terminated. This practice also potentially renders involuntary every waiver of parental rights the trial court accepts. Thus, on remand in this case, and in every other termination of parental rights case, the trial court may not automatically enter an injunction precluding a parent whose rights have been terminated from contacting the child until the child is 18 years of age. Instead, the trial court must first clearly articulate, on the record, a finding that such an injunction is "necessary for the physical, mental, or moral well-being" of the child and the reasons behind such finding.

We affirm the trial court's determinations that the statutory ground for termination articulated in MCL 712A.19b(3)(c)(*i*) was proven by clear and convincing evidence, that respondent-father was provided a meaningful and adequate opportunity to participate in proceedings, and that reasonable efforts were made toward reunification. We reverse the trial court's finding, without explicitly considering her relative placement as a factor weighing against termination, that termination was in the child's best interest. We also reverse the trial court's issuance of an injunction precluding respondent-father from having any contact with the minor child until she is 18 years of age and further prohibit the trial court from entering any such injunction in this and any other termination case without first clearly articulating, on the record, a finding that such an injunction is "necessary for the physical, mental, or moral well-being" of the child and the reasons behind such finding. We remand for proceedings not inconsistent with this

opinion. We do not retain jurisdiction.

/s/ Cynthia Diane Stephens
/s/ David H. Sawyer
/s/ Deborah A. Servitto