If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
July 15, 2026
1:07 PM

In re L. E. MARION-CHILCUTT, Minor.

Nos. 376571 and 376573
Wayne Circuit Court
Family Division
LC No. 2017-002224-NA

Before: RICK, P.J., and MURRAY and BORRELLO, JJ.

PER CURIAM.

Respondents appeal as of right the June 11, 2025, order terminating their parental rights to their minor child pursuant to MCL 712A.19b(3)(c)(*i*) (conditions that led to adjudication continue to exist), (g) (failure to provide proper care and custody), and (j) (reasonable likelihood of harm if the child is returned to the parent). For the reasons set forth in this opinion, we affirm.

I. BACKGROUND

In October 2020, the minor child who is the subject of these proceedings, was removed from the care of respondents and placed in foster care after the child tested positive for tetrahydrocannabinol (THC) at birth. The petitioner, the Department of Health and Human Services (DHHS), immediately moved for termination of respondent-mother's parental rights at the initial dispositional hearing, relying on the fact that her parental rights to a different child had previously been terminated due to unresolved substance abuse issues. Respondents entered pleas to certain allegations in the petition, and the trial court assumed jurisdiction over the matter pursuant to MCL 712A.2(b). Upon concluding that the immediate termination of parental rights was not in the best interests of the child, the trial court ordered respondents to comply with and benefit from individualized case service plans, which were designed primarily to address and remediate substance abuse issues and establish the ability to provide safe and appropriate care for the minor child. Although respondents successfully completed parenting classes and regularly participated in supervised visitation, they continued to experience significant difficulty achieving and maintaining sobriety, a central requirement of reunification. Further, DHHS was unable to identify any suitable relative who was both willing and able to assume care of the child in accordance with statutory preferences for relative placement.

In January 2022, the DHHS filed a supplemental petition seeking termination of the respondents' parental rights. The proceedings experienced several adjournments over the course of the following year. Ultimately, in September 2023, respondents entered pleas of no contest to the statutory grounds for termination alleged in the supplemental petition, thereby establishing a legal basis for termination under MCL 712A.19b(3). The best-interests phase of the proceedings was likewise adjourned on multiple occasions. During the extended interim, respondents continued to participate in supervised parenting time, and evidence was presented that both respondents had begun to demonstrate sustained sobriety from heroin and fentanyl, as well as efforts to strengthen and improve the parent-child bond.

The best-interests hearing was eventually conducted over multiple dates spanning from July 2024 through April 2025. At the conclusion of the hearing, the trial court issued a written opinion and order terminating respondents' parental rights, finding by clear and convincing evidence that reasonable efforts at reunification had been provided and that termination was in the best interests of the minor child, consistent with MCL 712A.19b(5). Respondents timely appealed the trial court's order. For judicial efficiency, this Court consolidated the appeals arising from each parent's case. See *In re L E Marion-Chilcutt Minor*, unpublished order of the Court of Appeals, entered July 30, 2025 (Docket Nos. 376571 and 376573). On February 5, 2026, this Court remanded the case to the trial court for settlement of the record concerning the combined adjudication and dispositional hearing conducted on April 23, 2021. *Id*. After the remand proceedings were completed and the record was settled, the matter was returned to this Court for review of the merits of the appeals.

II. ANALYSIS

A INSUFFICIENT EVIDENCE, DUE PROCESS AND REASONABLE EFFORTS CLAIMS

In their submissions to this Court, respondents contend that the trial court erred in determining that statutory grounds existed to terminate their parental rights, asserting that the evidence established they had sufficiently addressed and remedied the barriers that initially led to the removal of their children.

We review "for clear error the trial court's finding that there are statutory grounds for termination of a respondent's parental rights." *In re Atchley*, 341 Mich App 332, 343; 990 NW2d 685 (2022). "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 Miller*, 347 Mich App 420, 425; 15 NW3d 287 (2023) (quotation marks and citation omitted).

"[T]he relationship between parent and child is constitutionally protected." *Quilloin v Walcott*, 434 US 246, 255; 98 S Ct 549; 54 L Ed 2d 511 (1978). However, "[o]nce the petitioner has presented clear and convincing evidence that persuades the court that at least one ground for termination is established . . ., the liberty interest of the parent no longer includes the right to custody and control of the children." *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000), superseded in part by statute on other grounds as recognized by *In re Medina*, 317 Mich App 219, 226-227; 894 NW2d 653 (2016). Indeed, "once at least one ground for termination is proven . . .

the parent's interest in the companionship, care, and custody of the child gives way to the state's interest in the child's protection." *Id*. at 356.

Respondents assert that the statutory bases for termination were not established by clear and convincing evidence. Nevertheless, the record reflects that the trial court found statutory grounds for termination of parental rights under MCL 712A.19b(3)(c)(*i*), (g), and (j), relying on respondents' *nolo contendere* pleas entered in September 2023. It is well-established that when a respondent enters a plea to the allegations in a petition, that respondent waives the right to later challenge on appeal the sufficiency of the evidence supporting the statutory grounds for termination, unless there is a claim that the admissions were not made knowingly, voluntarily, or understandingly. See *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011); see also MCR 3.971(D)(1).

Further, respondents do not argue there were irregularities in the plea proceedings or that their admissions were not knowingly, understanding, and voluntarily made.[1] Rather, respondents merely assert the trial court lacked clear and convincing evidence to find that a statutory ground for termination existed because, at the time of termination, respondents had improved for the better. However, respondents waived any appellate challenge to the existence of a statutory basis for terminating their parental rights. See *Hudson*, 294 Mich App at 264. Importantly, a respondent may not assign as error on appeal something that he or she admitted to below; allowing a respondent to do so would permit the respondent "to harbor error as an appellate parachute." *Id*. In other words, "[a] party cannot stipulate [to] a matter and then argue on appeal that the resultant action was error." *Holmes v Holmes*, 281 Mich App 575, 588; 760 NW2d 300 (2008) (quotation marks and citation omitted). For these reasons, respondents are not entitled to relief on this issue.

Respondent-father next contends that he was deprived of his due process rights as a result of repeated delays throughout these proceedings. Upon careful review of the record and applicable law, we conclude that respondent-father was not prejudiced by the delays in this case and, therefore, is not entitled to relief on this ground.

As a preliminary matter, respondent-father did not raise his due-process argument before the trial court, and thus, the constitutional issue is unpreserved for appeal. See *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008). In the context of termination of parental rights proceedings, unpreserved issues are reviewed for plain error affecting substantial rights. See *Tolas Oil & Gas Exploration Co v Bach Servs & Mfg, LLC*, 347 Mich App 280, 294 n 3; 14 NW2d 472 (2023); *In re Pederson*, 331 Mich App 445, 463; 951 NW2d 704 (2020). To establish plain error, a party must show: (1) an error occurred; (2) the error was plain—i.e., clear or obvious; and (3) the plain error affected substantial rights. See *In re VanDalen*, 293 Mich App 120, 135; 809 NW2d 412 (2011). An error affects substantial rights if it caused prejudice, meaning it affected the outcome of the proceedings. See *In re Utrera*, 281 Mich App at 9. Furthermore, reversal is warranted only where the plain error "seriously affected the integrity, fairness, or public reputation of judicial proceedings." *In re Mota*, 334 Mich App 300, 311; 964 NW2d 881 (2020).

[1] Our review leads us to conclude that the trial court complied with MCR 3.971.

"The fundamental requisite of due process of law is the opportunity to be heard. The hearing must be at a meaningful time and in a meaningful manner. Due process requires fundamental fairness, which is determined in a particular situation first by considering any relevant precedents and then by assessing the several interests that are at stake. In Michigan, procedures to ensure due process to a parent facing removal of his child from the home or termination of his parental rights are set forth by statute, court rule, DH[H]S policies and procedures, and various federal laws . . . . [D]ue process is flexible and calls for such procedural protections as the particular situation demands." *In re Sanborn*, 337 Mich App 252, 268; 976 NW2d 44 (2021) (quotation marks and citations omitted; alterations in original).

In the matter before us, the record shows that there were multiple adjournments and delays for various reasons. Importantly, respondent-father does not contend that the adjournments were improperly granted, nor does he point to any statute or case law demonstrating that the hearings were not held in a timely manner as required by law. Instead, respondent-father asserts that delays in child-protective proceedings are inherently prejudicial. However, contrary to his assertion, the delays in this case afforded respondent-father several opportunities that worked to his benefit. During this period, he was able to: (1) make progress toward sobriety; (2) strengthen his relationship with the minor child through continued parenting time; (3) make necessary improvements to his home; (4) arrange a payment plan for overdue property taxes; and (5) participate in supportive services, including Infant Mental Health (IMH) services. There is no indication in the record that the delays prevented the trial court from meaningfully considering whether respondent-father could become capable of caring for his child within a reasonable time. See *In re Rood*, 483 Mich 73, 114-115; 763 NW2d 587 (2009).

While respondent-father claims that the delays hindered his ability to prepare for trial and present a meaningful defense, he provides no explanation or evidence to support this assertion. The record is devoid of any indication that his substantial rights were adversely affected by the adjournments. Rather, it is evident that the minor child, rather than respondent-father, was adversely impacted by the protracted proceedings. Accordingly, even assuming the adjournments were improvidently granted, respondent-father cannot establish that his substantial rights were affected. He is therefore not entitled to relief. See *In re Utrera*, 281 Mich App at 13-14; *In re Sanborn*, 337 Mich App at 270-272.

Respondents additionally contend that the trial court erred in finding that the DHHS made reasonable efforts to reunify them with their minor child.

"In order to preserve an argument that [DHHS] failed to provide adequate services, the respondent must object or indicate that the services provided to them were somehow inadequate . . . ." *In re Atchley*, 341 Mich App at 336 (quotation marks and citation omitted; second alteration in original). Respondents argued in the trial court they were entitled to services to assist them with establishing a bond with the minor child, which included expanded and unsupervised parenting time. The reasonable efforts arguments are thus preserved. See *id*. at 336-337. We review "for clear error the trial court's factual finding that [DHHS] made reasonable efforts to reunify [a] respondent[] with [a] child." *Id*. at 338. "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 Miller*, 347 Mich App at 425 (quotation marks and citation omitted).

Generally, DHHS "has a statutory duty to make reasonable efforts to reunify the child and the family . . . ." *In re Atchley*, 341 Mich App at 338 (quotation marks and citation omitted), citing MCL 712A.19a(2). This means [DHHS] "must create a service plan outlining the steps that both it and the parent will take to rectify the issues that led to court involvement and to achieve reunification." *In re Hicks/Brown*, 500 Mich 79, 85-86; 893 NW2d 637 (2017). "While [DHHS] has a responsibility to expend reasonable efforts to provide services to secure reunification, there exists a commensurate responsibility on the part of respondents to participate in the services that are offered." *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012). A respondent-parent must both participate in services and "demonstrate that they sufficiently benefited from the services provided." *Id*. *In re Atchley*, 341 Mich App at 338-339. Additionally, "the quality of reunification efforts *may bear* on whether there is sufficient evidence to terminate a parent's rights . . . ." *In re MJC*, 349 Mich App 42, 51; 27 NW3d 122 (2023) (quotation marks and citation omitted). However, a parent's waiver of the right to contest statutory grounds for termination does not waive the right to contest other issues, including the adequacy of reunification efforts. *Id*. at 50-54. "Failure to make reasonable efforts toward reunification warrants reversal." *Id*. at 50.

Here, the principal barrier to reunification was respondents' longstanding substance abuse. The record demonstrates that DHHS undertook significant and ongoing efforts to assist respondents in overcoming this barrier. Specifically, DHHS provided multiple referrals for substance abuse assessments, counseling, inpatient and outpatient treatment programs, and regular drug screenings. Respondents were repeatedly encouraged to seek and participate in inpatient treatment but continued to struggle with substance use throughout the proceedings. Respondent-mother appeared intoxicated at several parenting time sessions. Nevertheless, respondents were afforded supervised parenting time, referred for parenting classes, and provided with Infant Mental Health (IMH) services to support their parenting skills and facilitate the development of a bond with the minor child. After the minor child had been in DHHS care for nearly three years, respondents began testing negative for heroin and fentanyl in September 2023. However, as of the April 30, 2025 best interests hearing, both respondents were still in the process of weaning off methadone, and respondent-father continued to use marijuana against the advice of his addiction therapist. Respondent-mother also continued to use methadone, marijuana, and nicotine during her pregnancy. Despite the services provided, respondents simply did not demonstrate an ability to obtain or maintain sobriety.

Respondents further assert that DHHS failed to make reasonable efforts because it did not immediately implement the Foster Care Review Board's recommendation for two weekly parenting time sessions. This contention is not supported by the record. The evidence reflects that as of April 2024, respondents were granted two supervised parenting times per week. These increased visits continued, despite indications that the minor child was experiencing stress and anxiety related to the visitation schedule.

Although respondents were never afforded unsupervised parenting time, the record shows that they did not begin to address their substance abuse issues or demonstrate improvement until September 2023, at which point a supplemental petition for termination was already pending.

Pursuant to MCL 712A.19b(4) and MCR 3.977(D), parenting time may be suspended when a termination petition is pending. Despite this, DHHS continued to provide supervised parenting time and even increased the frequency in April 2024. The caseworker testified that unsupervised parenting time was not appropriate due to several factors: (1) the pending termination petition; (2) the child's demonstrated difficulty adjusting to changes in the visitation schedule; and (3) the need to monitor respondents' interactions with the child to assess and address any negative emotional or behavioral responses. Moreover, the caseworker and IMH therapist used supervised visits to assist respondents in developing appropriate parenting skills. Unsupervised visits in respondents' home were not feasible due to health and safety concerns, including sewage in the basement and the presence of dogs, which posed risks to the minor child given her asthma and allergies.

Respondent-father also contends that DHHS failed to adequately investigate the reasons for changes in the minor child's behavior during the proceedings. Again, the record refutes this claim. The child was provided with IMH services beginning in April 2021, and the IMH therapist testified that the child's behavioral changes coincided with her development and growing awareness of her circumstances. The therapist explained that as the child matured, she began to understand that her living situation was atypical, given that due to respondents' substance abuse, she had never been in their care and was still working toward forming a secure attachment at the time of termination. The child was described as being very attached to her foster mother, who had cared for her since she was seven weeks old. The IMH therapist further testified that an earlier transition might have eased the child's adjustment, and that the outcome could have been different had respondents benefited from services earlier. The trial court expressly found this testimony credible. Respondent-father's speculative assertion that the child's behavioral changes were attributable to the foster mother's fiancé is unsupported by the record. In sum, the evidence demonstrates that DHHS provided respondents with services tailored to facilitate reunification, but respondents failed to make sufficient and timely progress.

B. BEST INTERESTS.

Respondents contend that the trial court erred in concluding that termination of their parental rights was in the minor child's best interests. They assert that the record does not support a finding that severing the parent-child relationship served the welfare of the child, and they challenge both the factual support for the trial court's decision and its weighing of the relevant factors.

In reviewing a trial court's determination regarding the best interests of the minor child, this Court applies the clear error standard. See *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). A factual finding is considered clearly erroneous when, after reviewing the entire record, the appellate court is left with a definite and firm conviction that a mistake has been made. This standard gives due deference to the trial court's unique position to assess witness credibility and the weight of the evidence presented. See *In re Miller*, 347 Mich App at 425 (quotation marks and citation omitted).

The trial court is required to terminate parental rights if the DHHS has proven a statutory ground for termination by clear and convincing evidence, and if, by a preponderance of the evidence based on the entire record, termination is determined to be in the child's best interests.

In re White, 303 Mich App at 713. The trial court must weigh all relevant evidence to ascertain the interests of the child, giving primary consideration to the child's needs and welfare, not the wishes of the parent. See *In re Atchley*, 341 Mich App at 346. In making its best-interest determination, the court must consider a broad array of factors. The court's analysis may include, among other factors, the strength and quality of the child's bond with the parent; the parent's capacity and willingness to provide appropriate care; the child's need for permanency, stability, and finality; and whether remaining in the parent's home or being placed in a foster or adoptive home would better serve those needs. Additional considerations may encompass the parent's history of domestic violence or substance abuse, compliance with case service plans, the frequency and quality of visitation, the child's well-being while in foster care, and the likelihood or availability of adoption. See *In re White*, 303 Mich App at 713-714.

The record reflects that, although the minor child had an existing bond with respondents, it was not a healthy or secure parent-child relationship. The minor child at times referred to respondents as "visit mom" and "visit dad," indicating a lack of consistent attachment. The minor child was notably more attached to respondent-mother than respondent-father, who struggled to form a bond throughout the proceedings. Importantly, the child demonstrated significant anxiety and negative behaviors before and after parenting time, including physical illness, pulling out her own hair and eyelashes, incontinence, uncontrollable crying, and finger-sucking. These symptoms persisted for several days at a time. Although some regulation of the child's behavior occurred over weekends, the distress re-emerged with the resumption of parenting time. The minor child occasionally verbalized the desire not to attend parenting time or to reduce the frequency of visits. While there is no dispute that respondents care deeply for the child, the evidence demonstrates that the relationship was detrimental to the child's emotional and psychological well-being. See *In re CR*, 250 Mich App 185, 196-197; 646 NW2d 506 (2001), overruled in part by *In re Sanders*, 495 Mich 394, 422-423; 852 NW2d 524 (2014); *In re Pederson*, 331 Mich App at 477.

The trial court also appropriately considered that the parent-child bond is only one of several factors. See *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012). The record establishes that respondents failed to substantially benefit from their respective case service plans for the majority of the proceedings. Respondents did not achieve any degree of sobriety from fentanyl and heroin until the minor child had been in foster care for nearly three years. Even after the filing of the supplemental petition for termination and up to the final best interests hearing, respondents remained without stable or appropriate housing and continued to rely on methadone as part of their recovery, raising concerns about their ability to maintain long-term sobriety. Of particular note, respondent-father minimized the risks of parenting while using opiates, testifying that he believed he could safely parent the minor child while taking fentanyl. Due to ongoing substance abuse and the minor child's resulting anxiety, respondents were never granted unsupervised parenting time. See *In re Simpson*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 368248); slip op at 8 (recognizing a parent's history of substance abuse as relevant to the best interests analysis). Furthermore, respondent-mother, while pregnant, continued to test positive for marijuana prior to termination. The uncertainty regarding respondents' ability to care for two young children is exacerbated by the fact that the minor child required mental health services to address trauma and instability experienced during the proceedings.

The evidence further demonstrated that the minor child was thriving in the care of her foster mother, who had served as her primary caregiver since the child was seven weeks old. The minor child had formed a strong, healthy attachment to the foster mother, who was fully committed to the child's well-being and expressed a clear desire to pursue adoption. The foster environment provided the minor child with the stability, consistency, and permanency that respondents were unable to offer. Given the child's demonstrated need for a secure and permanent home, and respondents' ongoing inability to meet those needs, the trial court's conclusion that termination of parental rights was in the child's best interests was supported by the record. See *In re Simpson*, ___ Mich App at ___; slip op at 8 (noting that a respondent's "failure to obtain a permanent, safe, and stable home supported the trial court's best interests finding") (quotation marks and citation omitted).

C. VISITING JUDGE.

Respondent-father contends that a procedural error occurred when the judge who presided over the best interests hearing—a visiting judge—did not personally enter the order terminating parental rights. Instead, a different judge, who had not presided over any substantive portion of the proceedings, entered the order. Respondent-father asserts this process violated MCR 2.613(B), which generally requires that the judge who hears a matter must be the one to enter the corresponding order. He therefore argues that the entry of the order by a third jurist was impermissible and grounds for reversal. However, respondent-father failed to preserve this issue for appellate review. At no point did respondent-father object to the entry of the order by the third jurist or raise an argument based on MCR 2.613(B), despite having the opportunity to do so at the June 10, 2025 hearing. Because this objection was not made in the trial court, it is considered unpreserved. See *In re Utrera*, 281 Mich App at 8. In parental termination cases, we review unpreserved issues under the plain error standard, which requires a showing of (1) error, (2) that was plain, (3) that affected substantial rights, and (4) resulted in prejudice. See *Tolas Oil & Gas Exploration Co v Bach*, 347 Mich App at 294 n 3; *In re Pederson*, 331 Mich App ay 463 (2020).

Upon review, the record shows that the third jurist did not set aside, vacate, or amend the findings of the visiting judge who presided over the best- interests hearing. Instead, the third jurist merely read the visiting judge's written opinion into the record and entered the order terminating respondents' parental rights solely because the visiting judge was unavailable to do so. The third jurist explicitly acknowledged on the record that she lacked "authority to alter the substance of the decision or to make independent findings," and she did not engage in any independent fact-finding or legal rulings. The entry of the order was thus a ministerial act to effectuate the decision already rendered by the judge who heard the evidence. This is not a case where an unfamiliar judge made substantive decisions regarding the termination of parental rights. As such, respondent-father's substantial rights were not compromised by the fact that a different judge entered the order. See, *People v McCline*, 442 Mich 127, 133; 499 NW2d 341 (1993); *People v Bell*, 209 Mich App 273, 277; 530 NW2d 167 (1995). Accordingly, we find no plain error affecting substantial rights, and we affirm the orders in both dockets.

Affirmed.

/s/ Michelle M. Rick
/s/ Christopher M. Murray
/s/ Stephen L. Borrello