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STATE OF MICHIGAN
COURT OF APPEALS

In re McDAID, Minors.

UNPUBLISHED
September 21, 2023

No. 364341
St. Joseph Circuit Court
Family Division
LC No. 2022-000950-NA

Before: SWARTZLE, P.J., and O’BRIEN and FEENEY, JJ.

FEENEY, J. (*concurring*)

I concur in the result but write separately to provide guidance on remand. Given the testimony gleaned at the original preliminary hearing, an emergency removal hearing would be appropriate on remand to protect HM and ZM from a substantial risk of harm to their life, physical health or mental well-being. See *In re Williams*, 333 Mich App 172, 185; 958 NW2d 629 (2020), MCR 3.965(C)(2), and MCL 712A.13a(9); see also *Fletcher v Fletcher*, 447 Mich 871, 889; 526 NW2d 889 (1994). Indeed, this Court’s reversal does not indicate that respondent is able to safely care for ZM, a medically fragile child, and HM, a child whose developmental delays are best served through Early On participation. Rather, the trial court failed to make the required factual findings supporting the factors in MCR 3.965(C)(2) and MCL 712A.13a(9) regarding each child after addressing and encouraging respondent at the preliminary hearing, and merely checking boxes on a SCAO form is insufficient to permit appellate review.

/s/ Kathleen A. Feeney