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STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
September 14, 2026
12:15 PM

In re BALTODANO, Minors.

No. 378683
Wayne Circuit Court
Family Division
LC No. 2025-000625-NA

Before: LETICA, P.J., and RICK and GARRETT, JJ.

PER CURIAM.

Respondent appeals by right the trial court's order terminating his parental rights to his minor children, BAB I, BAB II, BOB, KEB, KJB, RCB, and YRB under MCL 712A.19b(3)(b)(*i*) (parent's act caused injury or abuse to child or sibling), (g) (failure to provide proper care or custody), (j) (reasonable likelihood of harm if children are returned to parent), (k)(*ii*) (parent's sexual abuse of child or sibling involved penetration, attempted penetration, or assault with intent to penetrate), and (k)(*ix*) (parent's abuse of child or sibling included sexual abuse as defined in MCL 722.622). On appeal, respondent solely challenges the trial court's best-interests determination. Because the trial court failed to consider the fact that the children were placed with a relative when it determined their best interests, we vacate the court's best-interests determination and remand for consideration of the children's best interests in light of their placement with their mother.

I. FACTUAL BACKGROUND

This case arose because of respondent's sexual abuse of SVS, the half-sister of the seven children involved in this case. Respondent and nonrespondent-mother, JB, were married and lived together with the seven children and JB's two children from a previous relationship, SVS and MSD. In the beginning of the school year in 2024, respondent touched SVS's buttocks and breasts. SVS was 11 years old at that time. Thereafter, respondent continued to touch SVS inappropriately. When the touching occurred, respondent brought SVS into the bathroom, put her on his lap, and gave her his cell phone as a distraction.

After coming home from work on March 5, 2025, respondent went into the bathroom to shower. When JB walked by the bathroom to check on the children, she noticed that the bathroom door was slightly open. She opened the door further and saw respondent sitting on the toilet and SVS sitting on his lap. SVS was playing on respondent's phone while respondent touched his penis, which protruded from the hole of his boxer shorts. Respondent hurriedly put his penis inside his boxer shorts when he saw JB, who told SVS to get off respondent's lap and leave the bathroom. Respondent remarked, "Nothing happened," and later apologized to JB and stated, "We have to make sure she don't tell nobody in the school. We have to make sure she . . . don't tell your mother; we have to make sure she stays quiet." He also stated, "Everything's okay. She's still a virgin," and told JB he wanted to continue to take care of his family, and their "whole family life" was in her hands. JB felt her heart rate rise and asked respondent to take her to the hospital. At the hospital, she reported respondent's abuse.

In June 2025, petitioner, the Department of Health and Human Services (DHHS), petitioned to terminate respondent's parental rights to his seven children at the initial disposition. A termination hearing was held in August 2025. After hearing testimony from SVS, JB, and LaTavia Culberson, the Child Protective Services (CPS) investigator, the trial court determined there were grounds for jurisdiction under MCL 712A.2(b), and clear and convincing evidence supported terminating respondent's parental rights under MCL 712A.19b(3)(b)(*i*), (g), (j), (k)(*ii*), and (k)(*ix*). After hearing additional testimony from Culberson and JB, the court concluded that termination of respondent's parental rights was in the children's best interests. This appeal followed.

II. ANALYSIS

On appeal, respondent does not challenge the statutory grounds for termination. He challenges only the trial court's determination that terminating his parental rights was in the children's best interests. We review for clear error the trial court's best-interests determination. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). A finding of fact is clearly erroneous if we are left with a definite and firm conviction that a mistake was made, according deference to the trial court's special opportunity to observe the witnesses. *In re Miller*, 347 Mich App 420, 425; 15 NW3d 287 (2023).

"Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights." *In re Olive/Metts Minors*, 297 Mich App 35, 40; 823 NW2d 144 (2012). The best-interests determination must be proven by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). Factors to consider when determining whether termination is in a child's best interests include "the child's bond to the parent, the parent's parenting ability, [and] the child's need for permanency, stability, and finality[.]" *White*, 303 Mich App at 713 (quotation marks and citation omitted). In addition, "[a] child's placement with relatives is a factor that the trial court is required to consider." *In re Atchley*, 341 Mich App 332, 347; 990 NW2d 685 (2022) (quotation marks and citation omitted). Although a relative placement weighs against termination, that fact is not dispositive because a court may nevertheless terminate parental rights if it finds that doing so is in the child's best interests. *Id*. "[T]he trial court should weigh all evidence available to it," keeping in mind that the focus is on the child rather than the parent. *In re Payne/Pumphrey/Fortson*, 311 Mich App 49, 63; 874 NW2d 205 (2015).

Respondent challenges the trial court's application of the doctrine of anticipatory neglect. The doctrine "allows an inference that a parent's treatment of one child is probative of how that parent may treat other children." *In re Kellogg*, 331 Mich App 249, 259; 952 NW2d 544 (2020). "However, the probative value of such an inference is decreased by differences between the children, such as age and medical conditions." *Id*. Thus, although the doctrine of anticipatory neglect "recognizes that how a parent treats one child is *probative* of how that parent may treat other children, . . . 'probative' does not mean dispositive or conclusive, and the probative *value* of the evidence in question depends on the circumstances of each individual case." *In re C Pacyga*, ___ Mich App ___, ___; ___ NW3d ___ (2026) (Docket No. 375267); slip op at 14 (quotation marks and citation omitted). The doctrine applies in the context of determining a child's best interests, not just when considering the statutory grounds for termination as respondent suggests. See *In re Mota*, 334 Mich App 300, 323; 964 NW2d 881 (2020).

Respondent argues the trial court erred by applying the doctrine of anticipatory neglect because he treated his seven children different from how he treated JB's two children from her previous relationship. He also asserts that SVS, age 11, was significantly older than his children, who were all under age four.[1] Respondent's arguments are unavailing. Respondent was SVS's stepfather, and SVS referred to him as her "stepdad" while testifying. She lived together with respondent, JB, and her eight siblings and half-siblings before JB became aware of the sexual abuse. She did not tell anyone what respondent was doing to her because she was scared and thought she would "lose everything" if she did. Although respondent maintains he treated SVS "drastically different" from how he treated his own children, the record fails to support that claim.

In *Kellogg*, this Court declined to apply the doctrine of anticipatory neglect when the older child, a 12-year-old, was not in the respondent's care for nine years and had a long history of trauma and behavioral issues along with a mental-health history. This Court recognized that the differences between the older child and the child at issue, a three-year-old, decreased the probative value of the evidence. *Kellogg*, 331 Mich App at 260-261. Similarly, in *In re LaFrance*, 306 Mich App 713, 730-732; 858 NW2d 143 (2014), the youngest child suffered from cerebral palsy, but the older three children had no medical conditions that required special care, and there were no allegations of abuse or neglect involving those children. This Court determined that the trial court erred by invoking the anticipatory-neglect doctrine with respect to the older children. *Id*. at 732.

This case is more like *Mota* than *Kellogg* or *LaFrance*. In *Mota*, 334 Mich App at 303-304, the trial court terminated the respondent's parental rights to his three children after he sexually abused the children's half-sister, LP. In analyzing the anticipatory-neglect doctrine, this Court stated, "Although the doctrine is not a perfect fit in this case because LP is not respondent's child, respondent had been raising LP for a number of years as if she were his daughter." *Id*. at 323. It appears the same is true in the instant case. Moreover, although SVS was 11 years old and his children were all age four or younger, his children will obviously become closer in age to 11 as time passes, and, as the trial court recognized, harm may be inflicted in other ways, particularly considering respondent's claim that JB and SVS fabricated the allegations. The trial court expressed concern regarding the possibility of mental harm to the children in light of respondent's

[1] Because JB gave birth to three sets of twins, six of the seven children were twins.

repeated denials of wrongdoing and claims of fabrication. We find the court's concern reasonable considering respondent's attempt to convince JB not to say anything about what she witnessed and to persuade SVS not to say anything about respondent's conduct. In short, the trial court did not err by applying the doctrine of anticipatory neglect in the circumstances presented.

Next, respondent asserts that his bond with the children weighed against terminating his parental rights. He acknowledges the trial court's indication that it was "tough" to determine whether there was a bond because of the children's young ages, and, accordingly, the court did not accord much weight to the testimony indicating the lack of a bond. Respondent asserts that he "interpret[s] this as meaning that there was a bond as there was no credible testimony to the contrary." Respondent's suggestion that the trial court determined a bond existed mischaracterizes the record, which reflects that the court considered respondent's 30-minute virtual visit with the children and his inability to hold their attention and engage with them during the visit. The court noted, however, that the children were all age four or younger, which made the virtual visit difficult. Ultimately, the court opined that the children did not respond when respondent tried to engage them, "so that is a lack of a bond," but the court did not "put a lot of stock" in the issue considering the children's young ages. Accordingly, respondent erroneously asserts that there was a bond, which weighed against termination, but the absence of a bond was not a key factor in the court's best-interests determination in any event.

Finally, respondent argues that the trial court failed to consider the fact that the children were placed with a relative, which weighs against termination. On this point, we agree. A child's placement with relatives militates against termination. See MCL 712A.19a(8)(a). "[T]he fact that a child is living with relatives when the case proceeds to termination is a factor to be considered in determining whether termination is in the child's best interests." *Olive/Metts*, 297 Mich App at 43. "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." *Id*. Although a biological parent was not considered a "relative" before the amendment of MCL 712A.13a by 2022 PA 200, effective October 7, 2022, MCL 712A.13a(1)(j)(*i*) now defines a "relative" as an individual at least 18 years old who is "[r]elated to the child within the fifth degree by blood . . . ." See *In re Boshell/Shelton*, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 371973); slip op at 10. Accordingly, a biological parent is now a "relative" under MCL 712A.13a(1)(j). *Id*. Because the trial court failed to consider the children's placement with JB when it rendered its best-interests determination, we vacate the best-interests determination and remand for the court to consider the children's best interests in light of their placement with JB. See *In re CJM*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 367565); slip op at 5-6.

We vacate the trial court's best-interests determination and remand for the trial court to consider the children's best interests as discussed in this opinion. We retain jurisdiction.

/s/ Anica Letica
/s/ Michelle M. Rick
/s/ Kristina Robinson Garrett

Court of Appeals, State of Michigan

ORDER

IN RE BALTODANO MINORS

Docket No. 378683

LC No. 2025-000625-NA

Anica Letica
Presiding Judge

Michelle M. Rick

Kristina Robinson Garrett
Judges

For the reasons stated in the opinion issued with this order, we REMAND this case for further proceedings. We retain jurisdiction. After the remand proceedings conclude, we will review the decisions that the trial court made during those proceedings and consider any remaining issues in this appeal. Any challenges to the trial court's decisions on remand must be raised in this appeal. Therefore, the parties and the trial court must not initiate a new appeal from an order entered on remand within the scope of this appeal. The Clerk of the Court is directed to reject the initiation of a new appeal from such an order.

Appellant must initiate the proceedings on remand within 28 days of the Clerk's certification of this order, and the trial court must prioritize this matter until the proceedings are concluded. As stated in the accompanying opinion, we vacate the trial court's best-interests determination and remand solely for the trial court to address the children's best interests in light of their placement with a relative. The proceedings on remand are limited to this issue.

The parties must serve copies of their filings in the trial court on this Court. Appellant must file with this Court copies of all orders entered on remand within seven days of entry.

Appellant must ensure the transcript of all proceedings on remand is filed in the trial court and this Court within 21 days after completion of the proceedings.

Anica Letica
Presiding Judge

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

September 14, 2026
Date

Chief Clerk