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STATE OF MICHIGAN

COURT OF APPEALS

In re Guardianship of LNW, Minor.

TARA LYNN MATHEWSON, formerly known as TARA LYNN WILLIAMS,

Petitioner-Appellant,

v

DAVID CHARLES BINGAMAN and TIFFANY BINGAMAN, Guardians,

Respondents-Appellees.

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August 14, 2026
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No. 375611
Montcalm Circuit Court,
Family Division
LC No. 2021-000027-JG

Before: ACKERMAN, P.J., and REDFORD and FEENEY, JJ.

FEENEY, J. *(dissenting)*.

" 'An abuse of discretion occurs when the trial court chooses an outcome falling outside the range of principled outcomes.' " *In re COH*, 495 Mich 184, 202; 848 NW2d 107 (2014), quoting *Edry v Adelman*, 486 Mich 634, 639, 786 NW2d 567 (2010).[1] "An error of law, such as the application of the wrong legal standard, necessarily constitutes an abuse of discretion." *In re Lombard*, 351 Mich App 523, 531; 35 NW3d 751 (2024). To the extent that the trial court required the petitioner's child to request visitation with her mother before the court could grant petitioner's

[1] The majority opinion asserts that the proper standard of review is found in *Berger v Berger*, 277 Mich App 700, 705; 747 NW2d 336 (2008), which considered a trial court's custody decision following divorce proceedings. This case is factually distinct in that it does not center around divorce proceedings. Although I acknowledge that *In re COH*, 495 Mich at 202, is also factually distinct—in that it considered a grandparent's petition for guardianship posttermination—I believe that its abuse-of-discretion definition is more instructive to the crux of this issue because it was provided in the narrow context of "a trial court's decision regarding what factors to consider in making the best-interest determination . . . ."

request for parenting time, and that parenting time requests could only be decided at the annual guardianship review hearings, I believe that the trial court abused its discretion.

First, the trial court made its decision to deny petitioner's motion for parenting time based primarily upon the testimony of Megan Ledin, the only witness who had met with the child.[2] Ledin counseled with LNW regularly until 2020 and subsequently engaged with the child on occasion, with their last meeting on December 6, 2024. Prior to termination, Ledin stated that she believed it was petitioner's moral and legal obligation to terminate her parental rights so that LNW's grandmother could adopt her. At the March 2025 annual review hearing where petitioner's parenting-time request was discussed, Ledin testified that "a stressful part of [LNW's] life is she didn't think she would see her birth parents again." Unfortunately, no independent expert met with LNW before the hearing, and no one has explained to LNW that she can maintain the guardianship while having the opportunity to visit her mother in a supervised or other setting. Regardless, the trial court has chosen to wait until LNW indicates a desire to see her mother. That decision is evidenced by the trial court's following statements: "I think that this Court will eventually grant [parenting time] because I think it's inevitable that the child's gonna want to see [petitioner]," and "I want you to know that in the future, it is going to occur and there will be a time when I am confident that [the child] wants to have contact with you, that that occurs." The evidence is unclear whether LNW even believes that seeing petitioner is an option.

Critically, however, placing the burden on LNW to be the one who decides *when* parenting time will begin is inappropriate and unsupported by the law. MCL 722.27a(1) of the Child Custody Act, MCL 722.21 *et seq*., makes it clear that parenting time: (1) should be granted pursuant to the child's best interests, (2) is presumed to be in the child's best interests, and (3) "shall be granted to a parent in a frequency, duration, and type reasonably calculated to promote a strong relationship between the child and the parent granted parenting time." If clear and convincing evidence shows that parenting time "would endanger the child's physical, mental or emotional health," then the child does not have a right to parenting time. MCL 722.27a(3). Although the trial court chose not to consider the parenting-time factors set forth in MCL 722.27a(7), those factors clearly do not leave the decision to grant or deny parenting time up to the child because requiring the child ask for parenting time as a prerequisite would place too much pressure on the child—requiring them to indicate their divided loyalty between parents or pit their caregivers versus their parents. This is the same reason we do not let every 14-year-old decide where to live when their parents are separated or divorced. The child may not want to disappoint their guardian by saying that they desire parenting time with their parent, but they also may not want to disappoint their parent by not requesting parenting time. It is a Catch-22 that places children in very unenviable circumstances that are rife with potential for conflict and promote improper influence.

In *In re COH*, 495 Mich at 203, our Supreme Court stated that when determining whether a guardianship is in a child's best interests posttermination, "depending on the circumstances, a case may more reasonably lend itself to application of the Child Custody Act factors, some

[2] Notably, Ledin was under a six-month probationary period from the Licensing and Regulatory Administration, which she never revealed to the trial court; when that issue was raised on reconsideration, the trial court denied any relief.

combination of the Adoption Code and Child Custody Act factors, *or a unique set of factors developed by the trial court for purposes of a particular case*." (Emphasis added.) Here, the trial court set forth no "unique set of factors," see *id*., to guide its analysis other than wanting to wait until the child "insist[s]" that she is "ready" to have contact with her mother. Apparently, until then, petitioner can simply continue to work on maintaining her sobriety, participating in her recovery coach duties, parenting her stepchildren with her husband, and improving her relationship with the guardian in the hopes of someday having some opportunity to see her daughter. Notably, the trial court ordered no reunification therapy or therapy between the petitioner and the guardian.

Second, the trial court was apparently operating under the mistaken belief that parenting-time requests in the face of juvenile guardianships can *only* be addressed during the annual guardianship review hearings. No such statutory limitation exists. MCL 712A.19a(13) states that "[t]he court shall review a guardianship created under this section annually and may conduct additional reviews as the court considers necessary." Under MCL 712A.19a(14), when making the determinations under this section, the trial "court shall consider any written or oral information concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, relative with whom the child is placed, or guardian ad litem in addition to any other evidence, including the appropriateness of parenting time, offered at the hearing." Neither provision limits parenting-time requests to guardianship review hearings, and motions for parenting time can be filed at any time consistent with MCR 2.119 motion-practice requirements. The fact that petitioner filed her petition for parenting time in August 2023, and the hearing on the petition was adjourned until the regularly scheduled annual review hearing in March 2024, and then continued until the next regularly scheduled annual review hearing in March 2025, was outside the realm of reasonableness. Although several issues with different parties created the need for multiple adjournments, this extended and extreme delay was apparently impacted by the misconception that parenting time could only be addressed at the annual review hearings. No cases or statutes support this interpretation.[3]

Third, after this Court reversed the trial court's termination of petitioner's parental rights[4] on October 15, 2019, and remanded this case for further proceedings, the case moved toward juvenile guardianship with petitioner's mother on March 1, 2021. Because we only have the juvenile guardianship file and not the neglect file to review, I cannot determine what happened, i.e., whether the trial court held review hearings between the October 2019 reversal and the December 1, 2020 permanency planning hearing (a span of 14 months) as part of the re-opened child protective proceeding.[5]

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[3] It is also extremely surprising that the 2026 guardianship review hearing was also adjourned until resolution of this appeal, and it is unclear whether the misconception referenced above contributed to yet another opportunity to delay progress in this case.

[4] *In re L N Winters*, unpublished per curiam opinion of the Court of Appeals, issued October 15, 2019 (Docket No. 348031).

[5] Because all parties agree that petitioner's last parenting time was in 2018, it appears that the trial court did not "reopen" the child protective case with the intent to continue providing services toward reunification.

Moreover, shortly after the guardianship orders were signed in March 2021, the trial court entered a June 3, 2021 order—*nunc pro tunc*—forbidding petitioner from having any contact with LNW. There were no motions pending when the court entered this order. "The function of [a *nunc pro tunc*] order is to supply an Omission in the record of action previously taken by the court but not properly recorded; an order Nunc pro tunc may not be utilized to supply previously Omitted action." *Sleboede v Sleboede*, 384 Mich 555, 558-559; 184 NW2d 923 (1971). This *nunc pro tunc* order was not only inappropriate, but it also served to continue blocking any contact between LNW and petitioner, who had their last in-person parenting time in 2018 before the termination decision was reversed.[6] For all intents and purposes, this order effectively terminated petitioner's relationship with LNW—despite this Court's 2019 ruling to the contrary.

It is truly inconceivable that petitioner, whose probation officer testified that she has tested clean since July 2019, who is in the process of becoming a certified alcohol and drug counselor, who has mothered her stepchildren for years, and whose parental rights have not been terminated, should be legally barred from having any parenting time with her biological daughter who is under a juvenile guardianship with her maternal grandmother. For all these reasons, I believe that the trial court abused its discretion in denying—until some unknown and unknowable date in the

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[6] In *Mathewson v Mills*, unpublished per curiam opinion of the Court of Appeals, issued March 23, 2023 (Docket No 362798), pp 4-5, another circuit judge in the same jurisdiction entered an order barring the petitioner in this case from having any contact with the children that her husband, Christopher Mathewson, had with Nora Mills, the defendant in that case. A panel of this Court reversed that order, reasoning that the trial court took judicial notice and made its own investigation outside the evidence presented at trial regarding whether petitioner was a recovery coach and then used that information to inappropriately assess petitioner's credibility. *Id*. at 5. The trial court noted "multiple times that it was 'stunned' " that petitioner "was clean from drug use and serving as a recovery coach," and the court found "that it made no sense that [petitioner] allowed her daughter to wind up in guardianship yet subsequently attempted to improve herself as a stepmother . . . ." *Id.* at 8. The panel of this Court determined that the trial court's assessment of petitioner's motivation was irrelevant and "further suggests that the trial court held a bias against her, presumably on the basis of her former addiction and the turmoil it caused. To that end, the trial court abused its discretion and imposed conditions regarding [petitioner] that went against the great weight of the evidence." *Id.* at 9. One wonders if petitioner's former reputation with substances permeates this jurisdiction; two reversals in petitioner's favor are nothing short of remarkable.

Notably, the panel's unpublished opinion in *Mathewson* provides further context for petitioner's behavior in the time between this Court's reversal of her termination case and the initiation of the guardianship proceedings. For example, the panel stated that shortly after this Court's reversal of petitioner's termination case, petitioner and Mathewson entered a domestic relationship and resided together with Mathewson's children. *Id*. at 1. Mills "even wrote a letter of support for [petitioner] a couple of months before the custody request, indicating that the children never spoke badly about [petitioner] and that [petitioner] was safe around children." *Id.* at 3. Additionally, evidence showed that petitioner "trained to be a peer recovery coach and eventually took on paid and volunteer positions in that field." *Id*. at 2.

future—petitioner's request to have contact—any contact—with her child. For these reasons, I respectfully dissent.

/s/ Kathleen A. Feeney