

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
October 22, 2026
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In re COBB/JENNINGS, Minors.

No. 375815
Wayne Circuit Court
Family Division
LC No. 2019-002026-NA

In re E. L. COBB, Minor.

No. 375816
Wayne Circuit Court
Family Division
LC No. 2019-002026-NA

Before: PATEL, P.J., and M. J. KELLY and GARRETT, JJ.

PER CURIAM.

These consolidated appeals¹ relate to child protective proceedings concerning ELC, JXC, LSC, and BKJ. In Docket No. 375815, respondent-mother (mother) appeals by right the order terminating her parental rights to all four children under MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), (c)(ii) (other conditions supporting jurisdiction have not been rectified), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood of harm if children are returned to parent). In Docket No. 375816, respondent-father (father) appeals by right

¹ *In re Cobb/Jennings Minors; In re E L Cobb Minor*, unpublished order of the Court of Appeals, entered June 3, 2025 (Docket Nos. 375815 & 375816).

the same order terminating his parental rights to ELC under MCL 712A.19b(3)(c)(i), (g), and (j).² We affirm.

I. BASIC FACTS AND PROCEDURAL HISTORY

All four children at issue in this case have special needs, ranging from mild to severe. The children were removed from mother's care in November 2019 because of concerns regarding proper housing, mother's mental-health issues, her inability to financially and emotionally support the children, and allegations of physical abuse. Mother had a prior criminal and Children's Protective Services history and was on Michigan's Child Abuse and Neglect Central Registry, which made it difficult for her to obtain Section 8 housing. After the children's removal from her care, mother visited the children but otherwise demonstrated inconsistent progress and participation in her case service plan. She tested positive for cocaine numerous times during the pendency of these proceedings and failed to appear for drug testing on several occasions. Father was largely uninvolved in the reunification process and rarely visited ELC or communicated with caseworkers. Petitioner, the Department of Health and Human Services, ultimately filed a supplemental petition to terminate both respondents' parental rights. Mother pleaded no contest to the statutory grounds for termination. The trial court held a bench trial on the statutory grounds alleged against father and determined that clear and convincing evidence supported the statutory grounds. Thereafter, the court held a best-interests hearing and determined that termination of respondents' parental rights was in the children's best interests. These appeals followed.³

II. MOTHER'S NO-CONTEST PLEA

Mother first argues that her plea was not knowingly, voluntarily, and intelligently tendered. She contends that the inadequacy of the transcript of the plea hearing makes it impossible to review her plea and requests a remand to the trial court to allow her to withdraw her plea and proceed to trial on the statutory grounds. Although most of mother's responses to the trial court's questions were "[i]naudible," it appears from the record that she responded "[y]es" to the questions because the court continued to ask her questions and accepted her plea. The context of the exchange does not indicate that she answered negatively to any of the court's questions. The record shows that all of mother's responses were either "[y]es" or "[i]naudible." Mother responded "[y]es" when asked whether she understood she was waiving her right to a trial. She also responded "[y]es" when asked if she understood that her plea would result in the court finding that the statutory grounds for termination were established. The trial court's stipulated order settling the record indicates that mother was advised of her rights and tendered her plea. At the hearing on petitioner's

² The trial court also terminated the parental rights of the father of LSC and BKJ, but he has not appealed the trial court's order. The parental rights of JXC's father were terminated in a previous proceeding.

³ Petitioner moved to remand this case to the trial court to settle the record because of numerous inaudible, unintelligible, and unrecorded portions of the hearings. This Court granted the motion, *In re Cobb/Jennings Minors; In re E L Cobb Minor*, unpublished order of the Court of Appeals, entered May 4, 2026 (Docket Nos. 375815 & 375816), and the trial court entered a stipulated order settling the record.

motion to settle the record, mother's attorney approved the stipulated order. Moreover, at the plea proceeding, mother's attorney indicated he was satisfied with mother's waiver of rights. A waiver is "the intentional relinquishment or abandonment of a known right" that "eliminates any error." *In re MJC*, 349 Mich App 42, 49; 27 NW3d 122 (2023) (quotation marks and citations omitted). "A party who waives a right is precluded from seeking appellate review" because no error occurred. *Id.*

III. TRANSCRIPT DEFICIENCIES INVOLVING FATHER

Father argues that the incomplete transcripts of his termination proceeding denied him his constitutional rights to due process and equal protection. Because he failed to raise this issue in the trial court, it is not preserved for our review. See *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008). "Unpreserved issues are reviewed for plain error affecting substantial rights." *In re Lovitt*, 351 Mich App 237, 242-243; 34 NW3d 645 (2024). Under the plain-error test, the respondent must show "that (1) error occurred; (2) the error was plain, i.e., clear or obvious; and (3) the plain error affected their substantial rights." *In re Ferranti*, 504 Mich 1, 29; 934 NW2d 610 (2019) (quotation marks and citation omitted). "Generally, an error affects substantial rights if it caused prejudice, i.e., it affected the outcome of the proceedings." *Utrera*, 281 Mich App at 9.

The inability to provide a full and complete transcript does not automatically entitle the party challenging the failure to relief. *People v Craig*, 342 Mich App 217, 226; 994 NW2d 792 (2022).⁴ Rather, a party's constitutional rights are satisfied if "the surviving record is sufficient to allow evaluation of the appeal." *Id.* at 227 (quotation marks and citation omitted). Whether the record is sufficient to allow for meaningful appellate review will depend on the particular issues raised and whether the record is sufficient to evaluate those issues. *Id.* The burden is on the party challenging the record deficiency to show that transcription failures were prejudicial. *People v Abdella*, 200 Mich App 473, 475-476; 505 NW2d 18 (1993).

Father's substantive claim on appeal is that termination of his parental rights was not in ELC's best interests. The trial court held the second half of father's statutory-grounds hearing and the entire best-interests hearing on March 10, 2025, and the transcript of the proceedings held that day was largely complete. The settled statement of facts indicates that there were 11 times where the audio was inaudible but that the surrounding text clarified the missing portions. The settled statement of facts also indicates, "The certified record as a whole is accurate and completely reflects the record for the remainder of the proceedings held on March 10, 2025." The surviving record is therefore sufficient to allow to this Court to review father's substantive claim of error.

Further, father and his trial counsel were present at the October 7, 2024 hearing where the overwhelming majority of the transcription problems occurred. Yet, father fails to identify anything that occurred at that hearing that is relevant to his substantive argument on appeal, instead making a broad claim that his right to appeal was impeded. Father also fails to assert a substantive claim of error regarding the statutory bases for terminating his parental rights. He has therefore

⁴ This Court has applied criminal-law concepts to cases involving child-protective proceedings. See, e.g., *MJC*, 349 Mich App at 58-59.

failed to show how he was prejudiced by the incomplete transcripts. See *Abdella*, 200 Mich App at 475-476.

IV. BEST INTERESTS

Both respondents argue that termination of their parental rights was not in the children's best interests. We review for clear error the trial court's determination whether termination of parental rights is in a child's best interests. *In re Hudson*, 294 Mich App, 261, 264; 817 NW2d 115 (2011). "A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made." *Id.* Whether termination of parental rights is in a child's best interests must be proven by a preponderance of the evidence." *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013).

Under MCL 712A.19b(5), if a trial court determines that statutory grounds for termination of parental rights exist and that termination is in a child's best interests, "the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." In making its best-interests determination, the court must "decide the best interests of each child individually." *In re Olive/Metts Minors*, 297 Mich App 35, 42; 823 NW2d 144 (2012). Factors to consider include the child's bond with the parent, the parenting ability of the parent, "the advantages of a foster home over the parent's home," and "the child's need for permanency, stability, and finality." *Id.* at 41-42. Other relevant factors include "the parent's compliance with his or her case service plan, the parent's visitation history with the child, the children's well-being while in care, and the possibility of adoption." *In re Medina*, 317 Mich App 219, 237-238; 894 NW2d 653 (2016) (citation omitted). Additionally, "because a child's placement with relatives weighs against termination . . . the fact that a child is living with relatives when the case proceeds to termination" must be considered when determining a child's best interests. *Olive/Metts*, 297 Mich App at 43 (quotation marks and citation omitted).

It is undisputed that mother loved and had a bond with all four children who are the subjects of this appeal. However, ample evidence was presented showing that mother's parenting ability weighed in favor of termination. Mother repeatedly tested positive for cocaine during these proceedings. She failed to provide proof of steady employment or housing. Moreover, ELC told a caseworker that mother gave him marijuana, although mother claimed that ELC took it from her car. We defer to the trial court's special ability to judge witness credibility. *Medina*, 317 Mich App at 227. Considering the record as a whole, the trial court did not clearly err by determining that mother could not properly care for her children.

In addition, the children's need for permanency, stability, and finality weighed in favor of termination. The children had varying degrees of special needs that either developed or worsened during these proceedings, and ELC had sexually abused two of his siblings. The proceedings continued for more than five years, and Nicole Rowley, the children's caseworker, described how the lack of stability prevented the children from healing. Although mother completed a parenting course and participated in some therapy, she did little else to comply with her case service plan during the five-year pendency of these proceedings. She missed several drug screens, and many of the drug screens she took tested positive. She received some substance-abuse treatment but did not show long-term improvement. She also failed to demonstrate steady housing or employment. Ultimately, the record shows that mother did not make any significant progress. Mother testified

at the best-interests hearing that she was employed, she could obtain housing if her criminal record was expunged, and she was willing to address her mental-health issues. Considering the amount of time mother had already been provided, however, the trial court did not err by refusing to give her more time.

Although mother visited the children regularly during the course of the proceedings, the more recent visits showed concerning behavior by both mother and the children, to the extent that mother's visitation was suspended in 2024. As previously stated, ELC indicated that mother gave him marijuana at one visit. In addition, the children behaved uncontrollably and violently at other visits at the foster-care facility. These visits suggested that mother was a destabilizing element in the children's lives.

Regarding the children's well-being in care and the possibility of adoption, the record shows that LSC enjoyed living with her grandmother but that she had challenges involving school and being the only child remaining at her grandmother's home. Petitioner was also uncertain whether the grandmother's adoption of LSC would be suitable. The court specifically considered the fact that LSC was placed with a relative and recognized that a relative placement weighs against termination. The court opined, however, that the continuing risk of harm that mother presented to LSC outweighed the fact that LSC had been placed with a relative.

In addition, the record shows that BKJ had difficulties psychologically and academically but had adjusted to his foster home placement, and petitioner expected that he would be adopted. JXC's caseworker expressed that he was doing well in foster care, but it was uncertain whether he would be adopted. He had psychological issues that were still being addressed. Finally, the plan was for ELC to remain at a mental-health facility until he was at least 18 years old. All of the children were doing better in their respective placements than in mother's care.

Mother argues that because some of the children will be placed in a psychiatric treatment facility or another institution rather than a home, the result would be the same regardless of whether her parental rights were terminated. She contends that, in such circumstances, termination was not warranted. However, the permanency plan for the children, with the exception of ELC, was adoption. ELC was in a psychiatric facility, and his permanency plan was another planned permanent living arrangement (APPLA). Considering the best-interest factors set forth in *Olive/Metts Minors*, 297 Mich App at 41-43 and *Medina*, 317 Mich App at 237-238, we cannot conclude that the trial court clearly erred by determining that termination of mother's parental rights was in the children's best interests.

Similarly, the trial court did not clearly err by finding that termination of father's parental rights was in ELC's best interests. Although father believed he had a bond with ELC, he knew very little about ELC or his challenges, he had little involvement in ELC's life, he did not visit ELC for long periods of time during these proceedings, and ELC himself told Rowley that he did not want to continue visits with father. Father blamed the caseworkers for his shortcomings but admitted he had not attempted to correct any communication issues involving the caseworkers since 2021. Rowley testified that she had been unable to contact father since she became the caseworker in October 2024 and that father was not interested in speaking with her.

Although father claimed that he earned enough money to provide for ELC, he failed to do so. He testified that he provided some items for ELC but the items were thrown away. Father did not know whether he was required to pay child support for ELC. Father claimed that he could buy a suitable house to care for ELC at any time, but he lived in a one-bedroom home. Regardless of his purported ability to do so, the evidence showed that father had not in fact provided for ELC. In addition, ELC resided in a mental-health facility and was expected to remain there until he was at least 18 years old. The record shows that ELC was doing well at the facility.

Finally, although father participated in some therapy and claimed to have completed a parenting course, he did not provide proof of completion, and petitioner indicated that father was terminated from the course before completing it. The evidence showed that father did not comply with his case service plan, as he admitted as much. Considering the evidence presented regarding father, the trial court did not clearly err by concluding that termination of father's parental rights was in ELC's best interests.

Affirmed.

/s/ Sima G. Patel
/s/ Michael J. Kelly
/s/ Kristina Robinson Garrett