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STATE OF MICHIGAN

COURT OF APPEALS

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In re HARRISON/MCDONALD/PURDIE, Minors.

No. 379635; 379636
Wayne Circuit Court
Family Division
LC No. 2016-523338-NA

Before: LETICA, P.J., and O'BRIEN and REDFORD, JJ.

PER CURIAM.

In Docket No. 379635, respondent-mother appeals as of right the order terminating her parental rights to three of her children, JTP, JMM, and GLH. In Docket No. 379636, respondent-father appeals as of right the same order terminating his parental rights to his biological son, GLH.[1] Respondents' appeals were consolidated "to advance the efficient administration of the appellate process." *In re Harrison/McDonald/Purdie Minors*, unpublished order of the Court of Appeals, entered March 4, 2026 (Docket Nos. 379635 & 379636). On appeal, respondents argue reasonable efforts involving accommodations under the Americans with Disabilities Act (ADA), 42 USC 12101 *et seq*., were not made, and termination of their parental rights was not in the children's best interests. We disagree.

I. FACTUAL AND PROCEDURAL BACKGROUND

In July 2023, Children's Protective Services (CPS) received a complaint alleging respondent-father struck JMM in the head for clogging the toilet. The impact caused JMM to hit the wall and the resulting cut in the back of JMM's head required four staples. Law enforcement was called to the home, but respondent-father "fled the scene" and was not apprehended. On a separate occasion in April 2023, JMM required several stitches in his head because respondent-father struck him. JTP, JMM, and GLH were taken to the hospital for physical and sexual abuse examinations in August 2023. Medical staff observed bruises and injuries in various stages of

[1] The father of JTP and JMM is deceased.

healing "all over" JTP's and JMM's bodies, and new injuries to JMM's head. JMM indicated respondent-father frequently hits him on the chest, back, and head and "he fears living in the same house as [respondent-father]." JTP had cigarette burn marks on his body. JTP and JMM said respondent-father caused the bruises and cigarette burns, and disclosed respondent-father hit them with a rope, as well as with his fists and hands. "It was alleged that [respondent-father] touched [JTP's] genital area," but it is unclear who made this allegation. JTP and JMM were also malnourished and underweight.

Respondent-mother admitted to CPS that respondent-father "did not allow the children to eat while in the home for several weeks" and tells the children they are "not allowed to eat if [respondent-mother] is not in the kitchen." JTP and JMM were permitted to eat only "syrup and bread sandwiches." Respondent-mother acknowledged there was ongoing domestic violence in the home but declined to receive the offered information about domestic violence shelters. The children witnessed domestic violence between respondents on multiple occasions.

Respondents' parental rights to other children were terminated previously. In 1987, two children were removed from respondent-father after he failed to rectify an unfit home, despite his completion of domestic violence therapy. In 2013, respondent-father discharged a firearm inside the home while one of his children was present. In 2016, respondent-mother abandoned several of her children with a man who sexually abused another child. She was offered services, which were not completed. Neither respondent benefited from previous services, and they failed to rectify the conditions that led to the prior terminations, putting JTP, JMM, and GLH at risk of harm. Accordingly, petitioner, the Department of Health and Human Services (DHHS), requested termination of respondents' parental rights under MCL 712A.19b(3)(b)(*i*), (b)(*ii*), (g), (*i*), (j), and (k)(*iii*).

At the preliminary hearing, the court determined the children were tortured in respondents' home and found "without hesitation" there was probable cause to authorize DHHS's petition. It emphasized: "The Department need not, let me repeat that, need not make any efforts to reunify with either parent." The children were placed with JMM's half-sister, R. Moore, who was willing to adopt all three children. The court supported the permanency plan for adoption. Initially, the safety plan permitted parenting time at Moore's home, but the court suspended all contact between respondents and the children after respondents arrived one evening while respondent-father was drunk and carrying a handgun.

Respondent-mother made a request for a bench trial, and after the court discussed guardianship with Moore, it adopted a concurrent goal of guardianship. At the adjudication, respondents pleaded no contest to the factual basis of the allegations in the petition and the establishing of statutory grounds for termination under MCL 712A.19b(3)(b)(*i*) and (*ii*), (g), (*i*), and (j). Respondents confirmed they agreed to waive trial by judge or jury "on the issues of jurisdiction and also the issue of whether there's grounds for termination. But [they were] going [to] reserve the right to contest whether it's in the best interest of [the] children to terminate [their] rights." DHHS recommended respondents complete psychological evaluations, parenting classes, individual therapy with a domestic violence component, maintenance of adequate housing and income, and parenting time in a therapeutic setting. Respondent-mother's counsel requested transportation assistance so respondents could get to the therapeutic parenting-time location. Respondents made no other objections or identified inadequacies in the respective service plans.

The best-interest hearing spanned several days, after which the court determined termination of respondents' parental rights was in the children's best interests. Although several parenting-time sessions with respondents and GLH went well, the court could not "ignore all the other evidence," particularly respondents' treatment of JTP and JMM, and found the best way to keep them safe and provide them with stability was termination. This appeal followed.

II. DISCUSSION

A. REASONABLE EFFORTS

Respondents argue DHHS failed to provide reasonable efforts to reunify the family in compliance with the ADA after their psychological evaluations revealed intellectual disabilities. We disagree.

To preserve an argument that services provided by DHHS were inadequate, a respondent must indicate their inadequacy or object when the service plan is adopted or shortly after. *In re Atchley*, 341 Mich App 332, 336; 990 NW2d 685 (2022). However, "because of the constantly changing dynamic in a child protective case . . . a respondent has multiple opportunities to, as the circumstances change, object to the adequacy of the services being provided." *Id*. at 337-338.

Respondents indicated only a need for transportation assistance at the initial disposition when the service plan was discussed. Neither respondent raised an objection regarding the adequacy of services until respondent-mother's psychological evaluation revealed her cognitive deficit, at which point her counsel requested the ADA be applied to the case. Because a respondent can object to the adequacy of services when circumstances change, respondent-mother preserved the issue in the trial court. *Id*. at 336. Respondent-father, however, has not pointed to a portion of the transcript when he preserved the issue of reasonable efforts under the ADA.

This Court reviews unpreserved errors in child-protective proceedings for plain error. *In re Pederson*, 331 Mich App 445, 463; 951 NW2d 704 (2020). See also *Tolas Oil & Gas Exploration Co v Bach Servs & Mfg, LLC*, 347 Mich App 280, 294 n 3; 14 NW3d 472 (2023) (exempting termination of parental rights cases from this Court's holding that the plain-error rule does not apply to civil cases because of the "different constitutional considerations" involved). The requirements to avoid forfeiture under the plain-error rule are: "1) the error must have occurred, 2) the error was plain, i.e., clear or obvious, 3) and the plain error affected substantial rights." *In re Sanborn*, 337 Mich App 252, 258; 976 NW2d 44 (2021) (quotation marks and citation omitted). "Generally, an error affects substantial rights if it caused prejudice, i.e., it affected the outcome of the proceedings." *In re Utrera*, 281 Mich App 1, 9; 761 NW2d 253 (2008).

1. REASONABLE EFFORTS NOT REQUIRED

In general, DHHS "has an affirmative duty to make reasonable efforts to reunify a family before seeking termination of parental rights" under Michigan's Probate Code. *In re Hicks/Brown*, 500 Mich 79, 85; 893 NW2d 637 (2017), citing MCL 712A.18f(3)(b) and (c); MCL 712A.19a(2). Exceptions to this rule are provided in MCL 712A.19a(2). *In re Hicks/Brown*, 500 Mich at 85 n 4. See also *In re Simonetta*, 340 Mich App 700, 707; 987 NW2d 919 (2022). MCL 712A.19a(2) states, in relevant part:

> Reasonable efforts to reunify the child and family must be made in all cases except if any of the following apply:
>
> (a) There is a judicial determination that the parent has subjected the child to aggravated circumstances as provided in section 18(1) and (2) of the child protection law, 1975 PA 238, MCL 722.638.
>
> * * *
>
> (c) The parent has had rights to the child's siblings involuntarily terminated and the parent has failed to rectify the conditions that led to that termination of parental rights.

"Battering, torture, or other serious physical harm" comprises an aggravated circumstance under MCL 722.638(1)(a)(*iii*).

Respondents previously had rights to other children terminated: the mother in 2016 and the father in 1987 and 2013. Neither parent benefited from services such that the conditions leading to those previous terminations were rectified, leading DHHS to seek termination in the petition. Accordingly, reasonable efforts toward reunification were not required under MCL 712A.19a(2)(c).

Additionally, at the preliminary hearing, the court opined that the children were tortured in respondents' home before emphasizing: "The Department need not, let me repeat that, need not make any efforts to reunify with either parent." The order after the preliminary hearing indicates reasonable efforts were not required to prevent removal due to respondents subjecting the children to torture and battery, comprising aggravated circumstances under MCL 722.638(1)[(a)(*iii*)]. There was a judicial determination respondents subjected the children to aggravated circumstances, and DHHS was not required to make reasonable efforts toward reunification. *In re Rippy*, 330 Mich App 350, 358-360; 948 NW2d 131 (2019).

Inconsistent with that finding, the order after the December 2023 pretrial indicates "reasonable efforts shall be made," although this change was not discussed at the December 2023 pretrial. The court adopted guardianship as a concurrent permanency plan despite Moore's desire to adopt, which was expressed as early as March 2024, confirmed by the September 2024 hearing, and reiterated at the best-interest hearing. The court recognized the "only type of permanency plan" that could be considered with a permanent-custody petition was adoption but paradoxically followed that statement, saying: "I will have a concurrent plan of guardianship, [and] reasonable efforts towards that." By statute, however, reasonable efforts were not required given the aggravated circumstances leading DHHS to seek termination at the initial disposition and the previous termination of parental rights for both parents.

2. REASONABLE EFFORTS UNDER THE ADA

Assuming, for purposes of appellate review, that reasonable efforts were required, respondents' arguments regarding inadequacy of efforts under the ADA have little merit. When reasonable efforts are required, 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 at 85-86, citing MCL 712A.18f(3)(d). In cases when the ADA is applicable, DHHS "must make 'reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless . . . the modifications would fundamentally alter . . . the service' provided."[2] *In re Hicks/Brown*, 500 Mich at 86, citing 28 CFR 35.130(b)(7) (2016). Consequently, reunification efforts are not reasonable if DHHS "failed to modify its standard procedures in ways that are reasonably necessary to accommodate a disability under the ADA." *In re Hicks/Brown*, 500 Mich at 86.

However, DHHS "cannot accommodate a disability of which it is unaware." *Id*. at 87. The requirement for DHHS to provide reasonable accommodations arises once DHHS has knowledge of the disability, "either because that disability is obvious" or because it was informed of the disability. *Id*. Finally, a respondent challenging services provided "must establish that he or she would have fared better if other services had been offered" and must identify services that would appropriately accommodate their disability. *In re Sanborn*, 337 Mich App at 264.

a. RESPONDENT-MOTHER (DOCKET NO. 379635)

In her statement of questions presented on appeal, respondent-mother did not raise this issue. Issues not included in an appellant's statement of questions presented may be considered waived in termination proceedings. *In re BKD*, 246 Mich App 212, 218; 631 NW2d 353 (2001) (finding an issue waived for appellate review "because respondent failed to properly present this issue in his statement of questions presented."). Accordingly, we need not address respondent-mother's assertion DHHS failed to provide reasonable efforts in compliance with *In re Hicks/Brown*, 500 Mich 79.

We note, nonetheless, DHHS provided one-on-one assistance designed to address respondent-mother's specific needs, comprising efforts beyond those typically offered. This included DHHS ensuring respondent-mother had extra help getting to appointments by providing bus passes and Uber rides, and having DHHS staff transport respondents to parenting times[3] and service appointments on numerous occasions. One of the case service workers from DHHS stated that the worker also "went over and beyond" when explaining things to respondent-mother and answering questions, so she could comprehend "what was going on," and helped respondent-mother read and fill out paperwork. Respondent-mother said she trusted the worker, who,

[2] Respondent-mother's briefs in this Court discuss active efforts and assert they should have been provided. However, as stated by the lawyer-guardian ad litem (L-GAL) in his brief, "active efforts . . . to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family" is a standard applied in cases involving the Indian Child Welfare Act (ICWA), 25 USC 1901 *et seq*., and the Michigan Indian Family Preservation Act (MIFPA), MCL 712B.1 *et seq*. *In re England*, 314 Mich App 245, 259; 887 NW2d 10 (2016); 25 USC 1912(d); MCL 712B.15(3). Respondent-mother's assertion "active efforts" were not made argues a standard that does not apply to this case.

[3] Parenting time with respondent-father and GLH began on July 29, 2025.

according to respondent-mother, was the "best worker" she had, and wanted to keep working with her. The worker did acknowledge that some things did not take place. These included not making a referral for one-on-one parenting classes, a parent partner, or an evaluation of respondent-mother's adaptive functioning as recommended by respondent-mother's psychological evaluation. The caseworker testified that before she was assigned the case, respondent-mother was also given a substantial amount of one-on-one time.

b. RESPONDENT-FATHER (DOCKET NO. 379636)

Respondent-father's unpreserved claim relating to reasonable efforts under the ADA lacks merit. The foster-care worker indicated respondent-father was not "really involved" until adjudication in May 2025. "He didn't really call, didn't answer his phone, hard to find him." She offered him the same services offered to respondent-mother. Another foster-care worker assisted respondents by personally transporting them on several occasions, in addition to providing bus passes and Uber rides. Respondent-father was "a little bit more high functioning" than respondent-mother but needed assistance "with transportation and understanding certain reports." Ray "ensured that he was able to get directly to services," "overexplain[ed] everything," and made sure he understood "what was needed, and why it was needed."

Respondent-father's psychological evaluation, completed on November 6, 2025, recommended individual counseling, a psychiatric evaluation, parenting classes, family therapy, and regular parenting time. Respondent-father completed some individual therapy but was terminated for missing sessions. He completed some parenting classes but was verbally abusive to respondent-mother in one of the sessions and was terminated after missing several classes. Respondent-father attended parenting time with GLH and those sessions went well. Respondent-father simply suggests "he needs more efforts from the Agency" but has not identified any services beyond what was offered to him that would have accommodated his borderline cognitive deficit and which would enable him to successfully complete the services. *In re Sanborn*, 337 Mich App at 264, 266. The only element of the recommendation not met was a psychiatric evaluation, which on its own was unlikely to help respondent-father succeed with services. The trial court did not clearly err when it determined reasonable efforts were made as to respondent-father. *In re Atchley*, 341 Mich App at 338.

In sum, reasonable efforts toward reunification were not required in this case because petitioner sought termination at the initial disposition, considering the aggravated circumstances excusing that requirement. Respondent-mother did not properly raise the issue in her statement of questions presented, and we need not address it. Respondent-father's argument lacks merit because he was offered assistance to accommodate his transportation requirements, and his service plan included the same programs recommended by his psychological evaluation. The trial court did not clearly err when it determined reasonable efforts were made as to respondent-father. *Id*.

B. BEST INTERESTS

A trial court's determination of best interests is reviewed for clear error. *In re Sanborn*, 337 Mich App at 276. "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." *Id*. (quotation marks and citation omitted).

The trial court must find by a preponderance of the evidence that termination of a respondent's parental rights is in a child's best interests. *In re Moss*, 301 Mich App 76, 83; 836 NW2d 182 (2013). The focus at this stage of the proceedings is on the child. *In re Atchley*, 341 Mich App at 346. The trial court must "decide the best interests of each child individually." *In re Olive/Metts*, 297 Mich App 35, 42; 823 NW2d 144 (2012). In general, keeping siblings together will be in each child's best interests. *Id*. In determining whether termination is in the best interests of the children, the court may consider the parent-child bond, the parent's parenting ability, use of inappropriate parenting techniques, a parent's compliance with their treatment plan, parenting-time attendance, and domestic violence. *In re Sanborn*, 337 Mich App at 276-277. It may also consider the children's need for permanence, stability, and finality, the child's age, the child's well-being in care, and the possibility of adoption. *Id*. at 277. Placement with a relative weighs against termination. *In re Olive/Metts*, 297 Mich App at 43.

1. RESPONDENT-MOTHER (DOCKET NO. 379635)

Respondent-mother's poor parenting ability suggests termination is in the children's best interests. *In re Sanborn*, 337 Mich App at 276. She completed the best-interest assessment, which found she demonstrated "poor decision-making, poor judgment, instability, an inability to provide the basic necessities for her children[,] and a pattern of abusive and neglectful parenting." These behaviors were unlikely to change. She avoided taking responsibility for CPS and court involvement and blamed Moore instead, suggesting Moore would not prioritize protection of her children. The assessment concluded that respondent-mother's parental rights should be terminated.

Additionally, respondent-mother scored poorly on the Parent Awareness Skills Survey. The evaluator noted respondent-mother often did not know how she would respond to certain situations or indicated she would punish the child. On three occasions during parenting time, respondent-mother hit her sons, causing them to stop coming out of fear she was going to hit them again. She also expressed a clear preference for GLH and ignored JTP's attempts to interact with her. Respondent-mother completed about two-thirds of parenting classes but was terminated from the service. Ray acknowledged more progress could be made but indicated she did not feel the conditions which led to respondent-mother's previous termination were rectified such that she could properly care for the children in a reasonable time. Respondent-mother made some progress in learning her relationship with respondent-father is unhealthy, but she was currently living with him and planning to do so in the future. She declined domestic violence resources and denied it was an issue, despite having acknowledged ongoing domestic violence when she pleaded no contest to the factual allegations in the petition. Respondent-mother's parenting abilities and the ongoing domestic violence between respondents suggest termination is in all three children's best interests. *In re Sanborn*, 337 Mich App at 276-277.

Further, JTP and JMM stopped attending parenting-time sessions with respondent-mother because of her poor parenting abilities, diminishing any bond that existed between them at case initiation. JTP and JMM expressed preferences to remain with Moore, to whom they are bonded. The minimal parent-child bond between respondent-mother and JTP and JMM, as well as their preferences, suggest termination is in JTP's and JMM's best interests. Respondent-mother allegedly only wanted GLH. GLH is four years old and cannot express a preference. The parenting-time sessions with GLH went well, and GLH appeared bonded to respondents.

However, parenting-time sessions were causing GLH confusion about parental figures, resulting in psychological issues. GLH was also bonded to Moore and expressed excitement when she picked him up from sessions. While there is a bond between GLH and respondent-mother, he is also bonded to Moore, who can provide a stable, permanent home where GLH can remain with his siblings, which is typically in a child's best interests. *In re Olive/Metts*, 297 Mich App at 42. Overall, respondent-mother lacks a meaningful bond with JTP and JMM, who prefer to remain with Moore. GLH is bonded with respondent-mother but displays confusion about his parental figures. He is also bonded with Moore, in whose home GLH can remain with his siblings. These considerations also support the conclusion that termination is in the children's best interests.

Additionally, Moore wishes to adopt all three children and does not want contact with respondents. In general, placement with a relative weighs against termination, *In re Olive/Metts*, 297 Mich App at 43, but in this case, placement with Moore may weigh less heavily because she wishes for no contact with respondents. The children, after having been malnourished, gained weight and overcame difficult behaviors in Moore's care. JTP and JMM indicated they get full meals and are not physically abused in Moore's home. JTP also indicated GLH was struck by respondent-father in respondents' home, suggesting this placement is safer for GLH as well. Overall, the advantages of Moore's home, which contributed to the children's well-being in her care, and the possibility of adoption outweigh the fact that Moore is a relative and suggest termination is in the children's best interests. *In re Sanborn*, 337 Mich App at 276-277.

We also note, this Court found in *In re Gonzales/Martinez*, 310 Mich App 426, 435; 871 NW2d 868 (2015):

> In the present case, the children were placed with relatives—their aunt and uncle. However, a guardianship had been considered and rejected because the children's aunt and uncle did not feel safe around respondent and did not want to have contact with her. Given the facts, fear of the respondent is understandable. There was evidence that respondent had violently attacked an elderly woman, had not successfully addressed her substance abuse and mental health issues, and was not motivated to make the necessary changes to address those issues. Respondent also continued to have contact with the children's abuser, even going so far as to indicate her desire to start a family with him.
>
> The children's aunt and uncle were willing to adopt them, and both children were excelling in their new environment. The trial court's finding that termination was in the best interests of the children was not clearly erroneous. [See *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003)].

Given the considerations discussed above, it was not clear error for the trial court to determine termination of respondent-mother's parental rights was in the children's best interests. *In re Sanborn*, 337 Mich App at 276.

2. RESPONDENT-FATHER (DOCKET NO. 379636)

Respondent-father completed a best-interest assessment, which found he has "violent tendencies" involving firearms that would not positively influence GLH. He "avoided

acknowledging any responsibility for the situation," blaming respondent-mother, and would likely continue to justify his actions. His plan for avoiding future CPS and court involvement failed to address the allegations in the petition. The assessment concluded that respondent-father's parental rights to GLH should be terminated.

Respondent-father had his parental rights to three children terminated for circumstances involving domestic violence, which has not been rectified. The factual allegations in the petition, to which respondent-father pleaded no contest, indicate ongoing domestic violence in the home. Respondents were involved in domestic violence disputes during the proceedings. Respondent-mother indicated respondent-father would "spin" the story if she called the police, and he would avoid consequences. In addition to the allegations of physical abuse of JTP and JMM in the petition, JTP indicated respondent-father struck GLH when he was a baby. Respondent-father denied this occurred. During the best-interest hearing, the court commented: "[O]ne of the issues I've got right now is, quite frankly, the credibility . . . . Not—somebody's not telling the truth. And either I'm not being told, you know, the truth today or [JMM] and . . . [JTP] made all this up." Given inconsistencies in respondents' respective explanations for how the children sustained the injuries that led to their removal, the court was justified in finding JTP and JMM more credible than respondents. Respondent-father's pattern of engaging in domestic violence is reflected in his physical abuse of JTP, JMM, and possibly GLH. These behaviors also reflect respondent-father's poor parenting ability and use of inappropriate parenting techniques. His behavior also resulted in suspension of parenting time after he arrived at Moore's home drunk and carrying a handgun. Respondent-father failed to acknowledge he was the primary reason for CPS and court involvement. As such, the following factors suggest respondent-father's parental rights to GLH should be terminated: poor parenting ability, inappropriate parenting techniques, and engaging in domestic violence. *In re Sanborn*, 337 Mich App at 276-277.

GLH needs permanence, stability, and finality. GLH is young, and Moore wishes to adopt him into a stable home where he can remain with his siblings and his needs are met. GLH is bonded with Moore. Moore's home is free from domestic violence, according to JTP. Despite the parent-child bond in this case, other important considerations, including GLH's need for permanence and stability, his young age, well-being in care, and the possibility of adoption into a home where he can remain with his siblings support a finding that termination of respondent-father's parental rights is in GLH's best interests. *Id*. at 276-277; *In re Olive/Metts*, 297 Mich App at 42. Overall, the best-interest factors discussed support the trial court's determination that termination of respondent-father's parental rights was in GLH's best interests, and the trial court did not clearly err in making that finding.

III. CONCLUSION

For the reasons detailed above, we affirm.

/s/ Anica Letica
/s/ Colleen A. O'Brien
/s/ James Robert Redford