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STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
September 14, 2026
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In re HPD, Minor.

No. 378185
Macomb Probate Court
LC No. 2023-245185-GM

Before: BAZZI, P.J., and PATEL and ACKERMAN, JJ.

PER CURIAM.

In this guardianship proceeding, appellant-father and appellant-mother appeal as of right the probate court's order continuing the guardianship of their minor son, HPD, with appellees, HPD's maternal grandparents. Because the probate court failed to articulate its findings supporting its determination that a continuation was warranted under MCL 700.5209(2)(c), we vacate and remand for further proceedings consistent with this opinion.

I. BASIC FACTS AND PROCEDURAL HISTORY

Appellants began a romantic relationship in 2021. In May 2021, appellant-father was charged with misdemeanor domestic violence in the 46th District Court following an incident that did not involve appellant-mother. In 2022, a warrant was entered in the domestic violence case, and appellants moved to Florida while the case was pending. HPD was born in Florida in February 2023. Shortly after HPD's birth, appellant-mother returned to Michigan and moved in with appellees. However, appellant-mother's mental health deteriorated, requiring her hospitalization in April 2023.

While appellant-mother was hospitalized, appellees filed an emergency petition for temporary and full guardianship of HPD. Following a hearing, the probate court granted the emergency petition for a temporary guardianship, which was set to expire on June 5, 2023. On the expiration date, the probate court held a hearing and thereafter discharged the temporary guardianship and appointed appellees as HPD's full guardians pursuant to MCL 700.5204(2)(b).

Later that month, appellant-mother filed a petition to terminate the guardianship. She alleged that she and appellant-father were in a healthy and committed relationship, and appellants were capable of raising HPD. She also stated that appellees were using HPD to coerce her into

leaving appellant-father. In September 2023, the court denied the petition to terminate the guardianship and ordered appellants to comply with several conditions, including their completion of parenting classes through Orchards Children's Services, appellant-father's completion of a domestic violence class and resolution of outstanding warrants, and appellant-mother's completion of a domestic violence victims' class and continuation of mental health treatment.

Over the next several months, appellants filed multiple petitions to modify or terminate the guardianship. Relevant to this appeal, appellant-mother filed a petition to terminate the guardianship on May 23, 2024. The court held a hearing on the petition in August 2024. Appellants argued that they completed all the requirements in the court's earlier orders and termination of the guardianship was warranted. The court stated that it was not inclined to grant the petition and decided to impose a transition plan for reunification. It recognized that appellants complied with some conditions imposed in the prior orders. However, it identified several areas of concern that appellants needed to address, including appellant-father's compliance with and resolution of any criminal proceedings, and appellants' ongoing mental health issues. The court also voiced concerns about appellant-father's "deceptive behavior with the Court" and stated it was "going to want proofs" of his compliance.

On September 13, 2024, the probate court entered a written order denying the petition to terminate and continuing the guardianship under a court-structured plan pursuant to MCL 700.5209(2)(b)(*ii*). The order included the following conditions: (1) Dr. Terry Rudolph would perform a mental health examination of both appellants to determine whether they were safe and suitable caregivers for HPD, (2) appellant-mother was required to provide the court with updated medical records regarding her mental health, and (3) appellant-father was required to provide the court documents regarding the status of his criminal cases. The court also outlined conditions regarding visitation.

In the following months, the court conducted several review hearings and entered orders regarding the requirements of appellants' court-structured plan. Of note, appellant-father reported at a December 2024 hearing that he had been sentenced to two years of probation in his domestic violence case, which required him to participate in a 52-week domestic violence class. At a January 2025 hearing, a representative from Orchards Children's Services appeared and asked to be released from further obligations in the case because of appellant-father's inability to conduct himself appropriately with their staff. The court granted the request, and appellant-father's visitation schedule was modified so that he no longer attended visitation at Orchards Children's Services.

As the case progressed, appellants filed multiple petitions to modify the guardianship regarding visitation. The court held a hearing on one such petition on September 29, 2025, which doubled as a review hearing for appellants' compliance with the court-structured plan under MCL 700.5209(2)(b)(*iii*). Appellant-father argued that he and appellant-mother had complied with all of the court's orders and that reunification should have been progressing. Appellees, however, highlighted concerns about appellant-mother's mental health based on behaviors they were seeing during visits. In response to questioning from the court, appellant-mother said that she was compliant with her mental health provider's recommendations and working with her doctor to wean off all medications. Appellant-father admitted, in response to the court's questioning, that

he had been terminated from the domestic violence class with the HEAL program that was a requirement of his probation and was taking classes under a new program.

After the parties finished presenting their arguments and evidence, the court addressed appellants' compliance with the court-structured plan. The court first highlighted some areas in which appellants demonstrated compliance. However, there were some requirements that they had not met. Specifically, appellant-father had not completed the domestic violence class that was a term of his probation. Also, appellant-father had not provided any probation report or signed a release to permit Orchards Children's Services to speak with his probation officer, so the court was not able to get unbiased information about his probation compliance. The court also noted it was "very, very concerned" about the reports regarding appellants' behavioral and mental health. Accordingly, it found that appellants failed to substantially comply with their court-structured plan and indicated a written order would be forthcoming. On October 23, 2025, the court issued a written order holding that appellants failed to substantially comply with the court-structured plan under MCL 700.5209(2)(b)(*ii*), and that a continuation of the guardianship would be in HPD's best interests under MCL 700.5209(2)(c). This appeal followed as of right.

II. GUARDIANSHIP CONTINUATION

Appellants contend the probate court erred by determining that (1) they failed to substantially comply with their court-structured plan and (2) the factors in MCL 700.5209(2)(c) were met. While the probate court did not clearly err with respect to its findings regarding appellants' compliance, we conclude that remand is necessary for the court to explicitly address the factors provided in MCL 700.5209(2)(c) and MCL 700.5101(a).

"We review [a] probate court's dispositional rulings for an abuse of discretion." *In re Redd Guardianship*, 321 Mich App 398, 403; 909 NW2d 289 (2017). "A probate court abuses its discretion when it chooses an outcome outside the range of reasonable and principled outcomes." *Id*. (quotation marks and citation omitted). The probate court's findings of fact are reviewed for clear error. *Id*. "A factual finding is clearly erroneous when this Court is left with a definite and firm conviction that a mistake has been made." *Id*. (quotation marks and citation omitted). The probate court's statutory or constitutional interpretations are reviewed de novo. *Id*. at 404.

"Parents have a constitutionally protected right to make decisions about the care, custody, and management of their children." *Zawilanski v Marshall*, 317 Mich App 43, 49; 894 NW2d 141 (2016). Consequently, the Due Process Clause of the United States Constitution "does not permit a State to infringe on the fundamental right of parents to make child rearing decisions simply because a state judge believes a 'better' decision could be made." *In re Versalle Guardianship*, 334 Mich App 173, 177; 963 NW2d 701 (2020) (quotation marks and citation omitted). This fundamental right applies to parents who are a part of a guardianship proceeding. *Id*. at 178-179. However, the state has a legitimate interest in protecting a child's mental, physical, and emotional well-being. *Id*. at 177.

In Michigan, the Estates and Protected Individuals Code (EPIC), MCL 700.1101 *et seq*., governs the establishment and termination of minor guardianships. See MCL 700.5201. After the probate court appoints a guardian for a minor, it may review the guardianship as it deems

necessary, but must review the guardianship at least annually if the minor is under six years old. MCL 700.5207(1).

When a party files a petition to terminate a guardianship, the probate court may take several actions after notice and hearing. See MCL 700.5209(2). The court may terminate the guardianship if it determines that termination is in the best interests of the minor and enter orders related to the minor child's transition and reintegration into the parent's home. MCL 700.5209(2)(a). Or, as is relevant here, the court may:

> (b) Continue the guardianship for not more than 1 year after the hearing date if the court determines that it is in the best interests of the minor, and do any of the following:
>
> * * *
>
> (*ii*) If the guardianship is ordered under [MCL 700.5204], order the parent or parents to follow a court-structured plan that enables the minor to return to the home of his or her parent or parents.
>
> (*iii*) If a guardianship is continued under subparagraph (*i*) or (*ii*), schedule and conduct a hearing to review the guardianship before the expiration of the period of time that the guardianship is continued and either terminate the guardianship or limited guardianship or proceed under subdivision (c) or (d).
>
> (c) If the minor resides with the guardian or limited guardian for not less than 1 year and if the court finds that the minor's parent or parents have failed to provide the minor with parental care, love, guidance, and attention appropriate to the child's age and individual needs resulting in a substantial disruption of the parent-child relationship, continue the guardianship if it is established by clear and convincing evidence that the continuation would serve the best interests of the minor.
>
> (d) Appoint an attorney to represent the minor or refer the matter to the family independence agency. The attorney or the family independence agency may file a complaint on behalf of the minor requesting the family division of the circuit court to take jurisdiction of the minor under section 2(b) of chapter XIIA of 1939 PA 288, MCL 712A.2. [MCL 700.5209(2)(b)(*ii*) and (*iii*), (c), and (d).]

The court must consider the following factors when determining the best interests of the child:

> (*i*) The love, affection, and other emotional ties existing between the parties involved and the child.
>
> (*ii*) The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue educating and raising the child in the child's religion or creed, if any.

(*iii*) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.

(*iv*) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.

(*v*) The permanence, as a family unit, of the existing or proposed custodial home.

(*vi*) The moral fitness of the parties involved.

(*vii*) The mental and physical health of the parties involved.

(*viii*) The child's home, school, and community record.

(*ix*) The child's reasonable preference, if the court considers the child to be of sufficient age to express a preference.

(*x*) The party's willingness and ability to facilitate and encourage a close and continuing parent-child relationship between the child and his or her parent or parents.

(*xi*) Domestic violence regardless of whether the violence is directed against or witnessed by the child.

(*xii*) Any other factor considered by the court to be relevant to a particular dispute regarding termination of a guardianship, removal of a guardian, or parenting time. [MCL 700.5101(a).]

These best-interest factors are also codified in the Child Custody Act, MCL 722.21 *et seq*., which governs child-custody disputes. See MCL 722.23. Because the Child Custody Act and the guardianship statutes share the same goal of promoting the best interests of children, "the two statutes may be interpreted consistent with each other, or in pari materia." *Deschaine v St Germain*, 256 Mich App 665, 670 n 9; 671 NW2d 79 (2003).

A. COMPLIANCE WITH COURT-STRUCTURED PLAN

Appellants contest the probate court's finding that they failed to substantially comply with their court-structured plan. In its order continuing the guardianship, the court found that appellants failed to substantially comply in the following ways:

1. [Appellant-father] has failed to comply with the requirements of his probation and complete the Domestic Violence HEAL program;

2. [Appellant-father] has failed to provide reports from his probation officer regarding the status of his compliance with his probation and has further refused to

sign necessary releases for DHHS [Department of Health and Human Services] to receive necessary information to supervise the structed [sic] plan;

3. [Appellant-father] has failed to substantially comply with behavioral health treatment;

4. [Appellant-father] has failed to progress behaviorally to increase visitations; and

5. [Appellant-mother] has not provided sufficient evidence she is compliant with her mental health care provider's recommendations and is currently stable with treatment.

First, appellants contest the probate court's factual finding that appellant-father "failed to comply with the requirements of his probation and complete the Domestic Violence HEAL program." The records in appellant-father's domestic violence case indicate that he violated the terms of his probation by failing to enroll in the HEAL program, and in April 2025, he was sentenced to five days in jail for the violation. In July 2025, appellant-father was alleged to have violated the terms of his probation a second time by failing to abide by the HEAL program policies, which resulted in him being terminated from the program. Appellant-father admitted at the September 2025 review hearing that he was "kicked out" of his initial domestic violence program. Because it is clear that appellant-father did not comply with the terms of his probation as required by his court-structured plan, the probate court did not clearly err with respect to this finding.

Next, appellants contend that the probate court erred when it concluded that appellant-father failed to provide reports from his probation officer and sign releases for the case supervisor to receive the information necessary to determine whether he was complying with his court-structured plan. The probate court made clear during the August 2024 hearing in which it imposed the court-structured plan that appellant-father would have to provide proof of his compliance in light of his untrustworthy representations in court. The September 13, 2024, order similarly provided that appellant-father was required to provide documentation regarding the status of his criminal cases. Further, the probate court explicitly provided in a December 19, 2024 order that appellant-father "provide the Court with copies of updated reports *from his probation office*" regarding the status of his probation compliance. (Emphasis added.)

However, appellant-father's failure to provide probation reports continued to present an issue. At a May 19, 2025 hearing, Orchards Children's Services alerted the court to the fact that appellant-father would not sign a release to allow caseworkers to contact his probation officer and verify the status of his probation. In response, he represented that his probation officer declined to prepare a letter for the court and he refused to sign a release for Orchards Children's Services because he felt that he should personally communicate the status of his probation to the court. The court reiterated that it needed proofs in light of appellant-father's obfuscation, and told appellant-father on the record that it needed an unbiased source of information regarding the status of his probation—either a report from his probation officer or a release for Orchards Children's Services to obtain the information. In an August 6, 2025 filing, appellant-father again represented that his probation officer would not provide a report, but that he was "in excellent compliance with probation for said conviction."

Appellants contend that appellant-father substantially complied with the court's order to provide updated probation reports by providing the information himself, and that his refusal to sign a release was reasonable because "[a]ny additional intermediary would have been just that—without adding anything *substantial*." It is clear from the record, however, that appellant-father was not providing accurate information to the probate court about the status of his probation. For example, while he represented that he was in "excellent compliance" with his probation in August 2025, this was *after* he had been sentenced to a five-day jail term for his first probation violation and *after* he had been charged with a second probation violation. Further, he did not sign a release of information, claiming at the September 2025 review hearing that he "was not aware that that was ordered." The record clearly demonstrates that appellant-father did not provide the probation reports ordered by the court, nor had he provided a release that would have allowed the court to verify his probation status. The probate court did not clearly err when it found that appellant-father did not substantially comply with his obligation to provide probation reports.

Appellants also dispute the probate court's third and fourth findings, i.e., that appellant-father failed to substantially comply with his behavioral health treatment and progress behaviorally to increase his visitations. Specifically, appellants point out that appellant-father submitted a letter from his therapist demonstrating that he consistently attended therapy sessions as ordered by the probate court. However, as this Court has held in the context of child-protective proceedings, parents must not only cooperate and participate in the services ordered by the court, they must also benefit from those services. See *In re TK*, 306 Mich App 698, 711; 859 NW2d 208 (2014) ("Not only must respondent cooperate and participate in the services, she must benefit from them."). Although the service providers involved in this case consistently reported that appellant-father's interactions with HPD during parenting were positive, his interactions with the other individuals involved in the case displayed a failure to benefit from his treatment. In January 2025, Orchards Children's Services asked to be removed from the case because of "numerous concerns about [appellant-father's] behavior throughout the service period of this case making it difficult to work with the family." Specifically, Orchards Children's Services had concerns about appellant-father's argumentative and harassing behavior and his "ability to refrain from inappropriate behaviors or communication to or in front of the child."

The incident that led to appellant-father's termination from the HEAL program demonstrates that his argumentative and harassing behavior continued despite his therapy attendance. Appellant-father made the following account to Orchards Children's Services regarding his termination from the program:

> [Appellant-father] noted that he had thought the class was going well, but he was told by the organization's staff that he did not abide by a policy, so his last meeting was 7/3/25. [Appellant-father] reported that he went through his course handbook and noted that the policy was not in there and instead "created on the fly." [Appellant-father] noted that he could not continue with HEAL and is considering pursuing legal action against the organization.

Appellant-father also made other representations to the court that indicated a lack of responsibility for his actions, such as maintaining that he had a history of "non-violent behavior and peaceful, successful conflict resolution," and that his jury conviction of domestic violence did "not include any harmful or dangerous actions taken by [him]." The record is clear that, although appellant-

father was participating in therapy, he had not meaningfully benefited from treatment and continued to display behavioral concerns. Consequently, the probate court did not clearly err in finding that appellant-father failed to substantially comply with the aspects of the court-structured plan that related to his behavioral health treatment.

Finally, appellants contend that the probate court erred when it held that appellant-mother did not provide sufficient evidence that she was compliant with her mental health care provider's recommendations and stable with her treatment. Appellant-mother reported that after she gave birth to HPD, she was diagnosed with schizoaffective disorder. An August 2024 letter from appellant-mother's clinical case manager indicated that she was receiving oral medications and an injection to manage her schizoaffective disorder. Dr. Rudolph's independent psychological evaluation of appellant-mother in September 2024 provided a diagnosis of "Bipolar I Disorder, Most Recent Episode Manic, in Partial Remission." He recommended that she continue psychotherapy and receive a psychiatric consultation regarding the effectiveness of her psychotropic medication.

Appellant-mother also provided a July 2025 letter from her psychiatric provider to the court, which stated she was "compliant with treatment." However, she subsequently testified at the September 2025 review hearing that her provider had been "working with [appellant-mother] for three months, weaning [her] off medication." Appellant-mother maintained that she was compliant with her provider's recommendations and had documentation confirming she was mentally stable, but she did not have the document available during the hearing for the court to review.[1] Given the significant questions regarding appellant-mother's mental health and her decision to discontinue medication, we are not left with the impression that the probate court made a mistake when it determined that appellant-mother had not provided sufficient evidence that she was compliant with her mental health care provider's recommendations and stable in her treatment.

In the end, appellants have not demonstrated that the probate court clearly erred when it determined that they failed to demonstrate substantial compliance with several of the requirements of their court-structured plan.

B. SUFFICIENCY OF FINDINGS

Next, appellants contend that the probate court erred by continuing the guardianship under MCL 700.5209(2)(c). In the instant case, appellants filed a petition to terminate the guardianship on May 23, 2024, which the probate court denied on September 13, 2024, continuing the guardianship and entering a court-structured plan under MCL 700.5209(2)(b)(*ii*). MCL 700.5209(2)(b)(*iii*) requires that the court review a guardianship that has been continued under MCL 700.5209(2)(b)(*ii*) before the expiration of the one-year period following the continuance

[1] On appeal, appellants attach a September 25, 2025 letter from appellant-mother's provider to this effect, however, this letter does not appear to have been presented to the probate court and therefore is not part of the lower court record. See *Golden v Baghdoian*, 222 Mich App 220, 222 n 2; 564 NW2d 505 (1997) (noting that on appeal, this Court "must consider the actual record and cannot evaluate material that is not of record").

and either terminate the guardianship or proceed under MCL 700.5209(2)(c) or (d). Following the review hearing, the probate court continued the guardianship, citing MCL 700.5209(2)(c).

As stated above, MCL 700.5209(2)(c) provides:

> If the minor resides with the guardian or limited guardian for not less than 1 year and *if the court finds that the minor's parent or parents have failed to provide the minor with parental care, love, guidance, and attention appropriate to the child's age and individual needs resulting in a substantial disruption of the parent-child relationship*, continue the guardianship *if it is established by clear and convincing evidence that the continuation would serve the best interests of the minor*. [Emphasis added.]

Accordingly, the probate court must make the foregoing factual determinations before continuing a guardianship after a review hearing. A court is "generally not obligated to articulate extensive findings regarding every conceivable detail." *In re Williams*, 333 Mich App 172, 183; 958 NW2d 629 (2020). "However, when a statute or court rule requires factual findings as to an enumerated list of factors, the trial court must make a record of its findings as to each and every factor sufficient for this Court to conduct a meaningful review." *Id*. In the context of child-custody disputes, this Court has held that "the finder of fact must state his or her factual findings and conclusions under each best interest factor." *Rittershaus v Rittershaus*, 273 Mich App 462, 475; 730 NW2d 262 (2007) (quotation marks and citation omitted).

In addressing MCL 700.5209(2)(c), the probate court's written order stated only: "It is in the best interests of the Minor to continue the guardianship." Further, in its ruling during the review hearing, the court only addressed the issue of respondents' compliance and did not make any reference to the relevant statutory provisions. The probate court did not assess whether appellants "failed to provide [HPD] with parental care, love, guidance, and attention appropriate to the child's age and individual needs resulting in a substantial disruption of the parent-child relationship." MCL 700.5209(2)(c). Likewise, although the court concluded that it was in HPD's best interests to continue the guardianship, it did not consider, evaluate, or determine whether the best-interest factors listed in MCL 700.5101(a) weighed in favor of continuation as required by MCL 700.5209(2)(c).

Because the probate court did not make any reviewable findings of fact regarding the requirements of MCL 700.5209(2)(c), remand for a new hearing is necessary. See *Quint v Quint*, 351 Mich App 162, 178; 34 NW3d 616 (2024) (vacating a trial court's order and remanding for a new custody hearing where the court failed to consider one of the statutory best-interest factors); *Rittershaus*, 273 Mich App at 475-476 (noting that remand for a new child-custody hearing is the proper remedy when a trial court fails to make the required best-interest findings). Accordingly, we vacate the probate court's order continuing the guardianship and remand the case for a new hearing. On remand, the probate court should make the necessary factual findings under MCL 700.5209(2)(c), address the best-interest factors under MCL 700.5101(a), and consider all up-to-date information. See *Williams*, 333 Mich App at 185.

Vacated and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Mariam S. Bazzi
/s/ Sima G. Patel
/s/ Matthew S. Ackerman