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STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
November 17, 2026
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In re A. F. LUGO, Minor.

No. 378092
Wayne Circuit Court
Juvenile Division
LC No. 2024-001926-NA

Before: LIEVENSE, P.J., and SWARTZLE and MARIANI, JJ.

PER CURIAM.

Respondent-father appeals the trial court's order regarding his child, arguing that the trial court erred by finding that there was sufficient evidence to exercise jurisdiction. Because there was sufficient evidence, we affirm.

This child-welfare case began when the teenage child reported to the police that he was beaten with an extension cord and piece of wood by respondent-father. The child was taken to the hospital, and photographs were taken of bruises and abrasions on the child's legs and arms. Respondent-father was arrested for assault.

At the adjudication bench trial, both the child and respondent-father testified. The child stated that on the evening of the assault, he was at a neighbor's house. When the child returned home, he learned that his father had been told that the child did not have permission to leave the house. According to the child, when respondent-father arrived home, respondent-father used a piece of wood and an extension cord to strike the child while he was lying down to sleep. The child also claimed that this was not the first time that he was assaulted by respondent-father and testified that respondent-father had previously used his hands or a belt to hit him. Additionally, the child stated that he had not attended school for at least a year and a half.

When respondent-father testified, he claimed that he merely reprimanded the child for leaving the home without permission. He alleged that the child was lying and "making this up" to hurt respondent-father. Respondent-father was unable to explain the abrasions on the child or the child's absence from school, admitting that he failed to enroll the child with a school district. When asked if he wanted his son to return to his care, respondent-father stated that it was his

preference that the child return to the Dominican Republic and live with his mother. It was indicated, however, that the child's mother wanted him to remain in the United States, believing it would be in his best interests.[1]

The trial court found by a preponderance of the evidence that the child came within the jurisdiction of the court as to respondent-father. The trial court found that there was a substantial risk of harm to the child's mental well-being and that respondent-father failed to provide proper support and care for the child. Further, the trial court found that respondent-father provided an unfit home due to physical abuse and educational neglect, supported by the child's credible testimony, medical records, and respondent-father's admission of failing to enroll the child in school.

Respondent-father now appeals.

Respondent-father argues that the trial court erred in finding that jurisdictional grounds under MCL 712A.2(b) were established. For the trial court's decision to exercise jurisdiction, we review for clear error, i.e., "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." *In re BZ*, 264 Mich App 286, 295-297; 690 NW2d 505 (2004).

The trial court may exercise jurisdiction under MCL 712A.2(b) if the petitioner at trial proves by a preponderance of the evidence at least one statutory ground for jurisdiction. *In re Ferranti*, 504 Mich 1, 15; 934 NW2d 610 (2019). Jurisdiction may be found where (1) respondent neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for the child's health or morals when he is legally responsible and has the ability to do so; (2) the child is subject to a substantial risk of harm to his mental well-being; (3) the child is abandoned; or (4) the child is without proper custody or guardianship. MCL 712A.2(b)(1). Additionally, jurisdiction can be established where the child's home is unfit due to respondent's neglect, cruelty, drunkenness, criminality, or depravity. MCL 712A.2(b)(2).

Here, the trial court did not clearly err when finding that jurisdiction was established by a preponderance of the evidence under either MCL 712A.2(b)(1) or (2). Due to respondent-father's neglect, the child was subjected to a substantial risk of harm to his mental well-being, an unfit home, and the deprivation of necessary care. Although absenteeism from school alone—without a showing of harm—is insufficient for neglect, see *In re Smith*, 507 Mich 905, 905-906; 956 NW2d 226 (2021), a complete failure to enroll the child in school or to otherwise provide schooling certainly caused harm by denying the child access to an education that is required by law, see MCL 380.1561. The child testified that he had not attended school for at least a year and a half, and

[1] Respondent-father had full custody of the child. Respondent-mother lives in the Dominican Republic, and the child had not lived with her for over five years. Respondent-mother appeared at the proceedings, but the trial court declined to exercise jurisdiction with respect to respondent-mother, and she is not participating in this appeal. Further, the trial court made no decision as to whether the child would be returned to the Dominican Republic, stating "that [it] is up to his mother and the Department and the child."

respondent-father admitted that the child was not currently enrolled at a school at the time of hearing and did not indicate that the child was being educated at home.

In addition to signs of educational neglect, there was also evidence of physical abuse committed by respondent-father to justify jurisdiction. Respondent-father argues that there was insufficient evidence to find that he had hit the child because he was found not guilty of child abuse in criminal court. First, there are two different burdens of proofs at play between a criminal case and a trial on juvenile jurisdiction; there could be sufficient evidence to find by a preponderance of the evidence respondent-father hit the child, but the same evidence could be insufficient to make such finding beyond a reasonable doubt. *In re MU*, 264 Mich App 270, 280; 690 NW2d 495 (2004). Second, the trial court found the child credible, and we defer to this credibility determination. *In re White*, 303 Mich App 701, 711; 846 NW2d 61 (2014). Given the corroborating medical records, the trial court did not clearly err when finding that the child was subjected to physical abuse.

Therefore, there was sufficient evidence to determine that respondent-father neglected to provide proper care for the child under MCL 712A.2(b)(1) in light of the child's educational, medical, and testimonial history. See *In re Nash*, 165 Mich App 450, 456; 419 NW2d 1 (1987). This alone was sufficient for the trial court's jurisdiction. Thus, the trial court did not clearly err when it exercised jurisdiction.

Affirmed.

/s/ Andrew J. Lievense
/s/ Brock A. Swartzle
/s/ Philip P. Mariani