

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION OAKLAND COUNTY	ORDER OF ADJUDICATION (CHILD PROTECTIVE PROCEEDINGS) ORDER _____ OF _____	CASE NO. _____
		PETITION NO. _____
Court address _____		JUDGE _____ one no. _____

In the matter of _____

☐ 1. Removal date: _____ (Specify for each child if different.)

THE COURT FINDS:

2. A petition has been submitted alleging that the above child(ren) come(s) within the provisions of MCL 712A.2(b).

3. The child(ren) ☐ is/are ☒ is not/are not subject to the continuing jurisdiction of another court.

Court: _____

4. ☐ Notice of hearing was given as required by law. ☐ Notice of proceedings is to be given as required by law.

5. ☒ a. Based on testimony, there is probable cause to believe the legal/putative father(s) is/are:
(Name each child, his/her father, and whether legal or putative.)

_____ the legal father.

☐ b. The putative father of _____ is unknown and cannot be identified.

☐ c. The putative father was notified as required by law and failed to establish paternity within the time set by the court.
The putative father waives all rights to further notice, including the right to notice of termination of parental rights and the right to an attorney.

6. The respondent(s) _____ father _____
Name(s)

☐ did not appear ☒ appeared in court in person or by Zoom for the Oral Ruling on _____
Manner of appearance

and ☒ was/were represented by an attorney. ☐ waived representation by an attorney.

☐ 7. The plea by _____
Name(s)

is knowingly, understandingly, and voluntarily made.

Use Note: Use of this form is optional when the court conducts the dispositional hearing immediately following adjudication.
Reference Note: The term "department" refers to the Michigan Department of Health and Human Services.

8. By ☒ a preponderance of the evidence, ☐ clear and convincing evidence, after
after
☒ trial of [REDACTED] father ,
☐ plea of admission by _____ ,
☐ no contest plea by _____ ,
☒ a. there are no statutory grounds to exercise jurisdiction over the child(ren).
☐ b. there are statutory grounds to exercise jurisdiction over the child(ren) (MCL 712A.2[b]). The statutory ground(s) is/are:
☐ failure to provide, when able to do so, support, education, medical, surgical, or other necessary care for health or morals.
☐ substantial risk of harm to mental well-being.
☐ abandonment by parents, guardian, or other custodian.
☐ lack of proper custody or guardianship.
☐ an unfit home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other custodian.
☐ failure to comply with a limited guardianship placement plan.
☐ failure to comply with a court-structured guardianship plan.
☐ when a guardianship is in place, failure to provide support or to regularly visit, contact or communicate with the child(ren) for a period of 2 years, either before or after a guardianship petition was filed and a support order entered.
☐ the juvenile is in danger of substantial physical or psychological harm and is dependent because
☐ the juvenile is homeless or not domiciled with a parent or other legally responsible person.
☐ the juvenile has repeatedly run away from home and is beyond the control of a parent or other legally responsible person.
☐ the juvenile is alleged to have committed a commercial sexual activity as that term is defined in MCL 750.462a or a delinquent act that is the result of force, fraud, coercion, or manipulation exercised by a parent or other adult.
☐ the juvenile's custodial parent or legally responsible person has died or has become permanently incapacitated and no appropriate parent or legally responsible person is willing and able to provide care for the juvenile.
9. Specific findings of facts and law are ☒ on the record. ☒ in the attached written opinion. ☐ as noted below.
- ☐ 10. ☐ a. Contrary to the welfare findings were made in a prior order.
☐ b. It is contrary to the welfare of the child(ren) to remain in the home because:
- ☐ 11. ☐ a. Consistent with the circumstances, reasonable efforts to prevent or eliminate removal of the child(ren) from the home were made as determined in a prior order. **OR**
☐ b. Consistent with the circumstances, reasonable efforts were made to prevent or eliminate removal of the child(ren) from the home. Those efforts include:
☐ c. Reasonable efforts to prevent or eliminate removal of the child(ren) from the home were not made.
☐ d. Reasonable efforts to prevent or eliminate removal of the child(ren) from the home were not required as determined in a prior order.
- ☐ 12. The child(ren) is/are Indian as defined in MCR 3.002(12).
☐ A removal hearing as required by MCR 3.967 was conducted in conjunction with this hearing.
☐ The evidence included the testimony of at least one qualified expert witness,
- _____, who has/have knowledge of the child rearing practices of the
Name(s)
Indian child(ren's) tribe, and testified that the continued custody of the child by the parent or Indian custodian
☐ is ☐ is not likely to result in serious emotional or physical damage to the child(ren).
- ☐ 13. The court finds by clear and convincing evidence that
☐ a. active efforts ☐ have ☐ have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. (Specify active efforts found as defined in MCR 3.002(1) and MCL 712B.3(a). Include separate sheets as necessary.)

Note: If the child(ren) were not removed before adjudication and the court determines at trial that removal is necessary, the court must make the required findings regarding contrary to the welfare and reasonable efforts to prevent removal.

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- ☐ b. these efforts have proved ☐ unsuccessful. ☐ successful.
- ☐ c. the continued custody of the Indian child(ren) by the parent or Indian custodian ☐ is ☐ is not likely to result in serious emotional or physical damage to the Indian child(ren).
- ☐ d. the Indian child(ren) ☐ should ☐ should not be removed from the home.
- ☐ 14.a. Reasonable efforts are not required to prevent or eliminate the child(ren)'s removal from the home due to the ☐ mother ☐ father subjecting the child(ren) to the aggravated circumstance(s) of _____ as provided in section MCL 722.638(1) and (2), and as evidenced by _____

- | | | |
|-----------------------------------|-----------------------------------|--|
| ☐ mother's | ☐ father's | conviction for murder of another child of the parent. |
| ☐ mother's | ☐ father's | conviction for voluntary manslaughter of another child of the parent. |
| ☐ mother's | ☐ father's | conviction for aiding or abetting in the murder or manslaughter of another child of the parent, attempting to murder the child(ren) or another child of the parent, or conspiring or soliciting to commit the murder of the child(ren) or another child of the parent. |
| ☐ mother's | ☐ father's | conviction for felony assault that resulted in serious bodily injury to the child(ren) or another child of the parent. |
| ☐ mother's | ☐ father's | involuntary termination of parental rights to a sibling of the child(ren) and failure by that parent to rectify the conditions that led to that termination. |
| ☐ mother | ☐ father | being required to register under the Sex Offender Registration Act. |

- b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return home are ☐ not required because the parent subjected the child or another child of the parent to one of the circumstances stated above.
- OR
- ☐ still recommended because:

(When item 14 is checked, either complete item 16 below or schedule a permanency planning hearing within 28 days of this determination.)

- ☐ 15. ☐ a. Reasonable efforts shall be made to preserve and reunify the family to make it possible for the child(ren) to safely return home.
- ☐ b. Reasonable efforts shall not be made to preserve and reunify the family because it would be detrimental to the child(ren)'s health and safety.
- ☐ 16. Because reasonable efforts to prevent or eliminate removal or to reunite the child(ren) and family are not required, a permanency planning hearing was conducted. (Use and attach form JC 19, Order Following Dispositional Review/Permanency Planning Hearing.)
17. Custody of the child(ren) with the parent/guardian/legal custodian
- ☐ a. presents a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.
- ☐ No provision of service or other arrangement except removal of the child(ren) is reasonably available to adequately safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, or mental well-being.
- ☐ Conditions of custody at the placement away from the home and with the individual with whom the child(ren) is/are placed are adequate to safeguard the child(ren)'s health and welfare.
- ☐ b. does not present a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.
- ☐ 18. ☐ a. All siblings are in joint placement.
- ☐ b. All siblings are not in joint placement because:

Sibling contact ☐ is occurring according to law. ☐ is not occurring because (see item 25 to order sibling contact):

- ☐ 19. Parenting time with _____, even if supervised, may be harmful to the child(ren).

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IT IS ORDERED:

- ☒ 20. The petition is dismissed, the child(ren) is/are released to mother and father, [REDACTED], and the jurisdiction of this court is terminated except that the court reserves the right to enforce orders for reimbursement of court costs, attorney fees, and other assessments that have accrued up to and including the date of this order.
- ☐ 21. Notice is to be given to the legal/putative father(s) as required by law. ☐ The father was not present and must appear at the next hearing. ☐ The putative father was present at this hearing and shall establish paternity within 14 days.
- ☐ 22. The child(ren)
- ☐ a. is/are placed with the department for care and supervision, and
- 1) the parent(s), guardian, or legal custodian shall execute all documents necessary to release confidential information regarding the child(ren), including medical, mental, and educational reports, and shall also, within 7 days, provide the department with the name(s) and address(es) of the medical provider(s) for the child(ren). Any medical provider of the child(ren) shall release the medical records of the child(ren) to the department.
- 2) if the child(ren) is/are placed in the home of a relative, a home study shall be performed by the department and a copy of the home study submitted to the court not more than 30 days after the placement.
- 3) upon request, the department shall release to the foster parent the information concerning the child(ren) in accordance with MCL 712A.13a(18).
- ☐ The child(ren) shall be taken into protective custody. To effect this order, _____ is authorized to enter the premises located at _____. This authorization to enter the premises and take the child(ren) into protective custody expires _____. ☐ Enter on LEIN
- ☐ b. is/are released to _____ under the supervision of _____ Name(s) of parent(s), guardian, or legal custodian the department. ☐ The following terms and conditions apply to the parent(s), guardian, legal custodian:
- ☐ 23. While the child(ren) is/are placed out of the home, the friend of the court must take the necessary steps to appropriately assign or redirect child support pursuant to law.
- ☐ 24. The child(ren) named _____ shall have ☐ a psychological evaluation ☐ counseling to determine appropriateness and conditions of parenting time.
- ☐ 25. Sibling contact shall be as follows:
- ☐ 26. ☐ a. Parenting time of _____ is ☐ unsupervised. ☐ supervised until further order of the court. ☐ The department has discretion to allow unsupervised or supervised parenting time by its designee.
- ☐ b. Parenting time of _____ is ☐ unsupervised. ☐ supervised until further order of the court. ☐ The department has discretion to allow unsupervised or supervised parenting time by its designee.
- ☐ c. Parenting time of _____ is ☐ unsupervised. ☐ supervised until further order of the court. ☐ The department has discretion to allow unsupervised or supervised parenting time by its designee.
- ☐ d.

IT IS ORDERED: (continued)

☐ 27. Placement shall continue pending disposition on _____

Date and time

☒ 28. Other: Based upon the evidence presented at trial as analyzed above, the Court finds that the Petitioner did not meet their burden of proof. The Court finds that the Petitioner failed to establish by a preponderance of the evidence that Respondent Father who is responsible for the care and maintenance of [REDACTED] neglected or refused to provide the proper or necessary support, education, medical, surgical, or other care necessary for the health or morals of [REDACTED] nor that [REDACTED] was subject to a substantial risk of harm to their mental well-being pursuant to MCL 712A.2(b)(1). The Court further finds that the Petitioner failed to establish by a preponderance of the evidence that Respondent Father's home or environment, is an unfit place for [REDACTED] to live in by reason of Respondent Father's neglect, cruelty, drunkenness, criminality, or depravity pursuant to MCL 712A.2(b)(2).

The Court finds that the Petitioner failed to establish that the minor child, [REDACTED] comes within the provisions of MCL 712A.2(b)(1) and/or (2) by a preponderance of the evidence. Since the Court finds that minor child, [REDACTED] does not come within the jurisdiction of the Court pursuant to MCL 712A.2(b)(1) or (2), no analysis under the provision of MCL 712A. 19b(3)(j) shall be explored.

Therefore, this Court shall dismiss this petition and order that the minor child, [REDACTED] shall be immediately returned to the care and custody of both his parents.

☐ 29. Prior orders remain in effect except as modified by this order.

Recommended by: [REDACTED]

LMD

MCL 722.638 - AGGRAVATED CIRCUMSTANCES

- (1) The department shall submit a petition for authorization by the court under Section 2(b) of Chapter XIA of 1939 PA 288, MCL 712A.2, if one or more of the following apply:
- (a) The department determines that a parent, guardian, or legal custodian, or a person who is 18 years of age or older and who resides for any length of time in the child's home, has abused the child or a sibling of the child and the abuse included one or more of the following:
 - (i) Abandonment of a young child.
 - (ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.
 - (iii) Battering, torture, or other serious physical harm.
 - (iv) Loss or serious impairment of an organ or limb.
 - (v) Life threatening injury.
 - (vi) Murder or attempted murder.
 - (b) The department determines that there is risk of harm, child abuse, or child neglect to the child and either of the following is true:
 - (i) The parent's rights to another child were terminated as a result of proceedings under Section 2(b) of Chapter XIA of 1939 PA 288, MCL 712A.2, or a similar law of another state and the parent has failed to rectify the conditions that led to the prior termination of parental rights.
 - (ii) The parent's rights to another child were voluntarily terminated following the initiation of proceedings under Section 2(b) of Chapter XIA of 1939 PA 288, MCL 712A.2, or a similar law of another state, the parent has failed to rectify the conditions that led to the prior termination of parental rights, and the proceeding involved abuse that included 1 or more of the following:
 - (A) Abandonment of a young child.
 - (B) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.
 - (C) Battering, torture, or other serious physical harm.
 - (D) Loss or serious impairment of an organ or limb.
 - (E) Life-threatening injury.
 - (F) Murder or attempted murder.
 - (G) Voluntary manslaughter.
 - (H) Aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.
- (2) In a petition submitted as required by subsection (1), if a parent is a suspected perpetrator or is suspected of placing the child at an unreasonable risk of harm due to the parent's failure to take reasonable steps to intervene to eliminate that risk, the department shall include a request for termination of parental rights at the initial dispositional hearing as authorized under Section 19b of Chapter XIA

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of 1939 PA 288, MCL 712A.19b.

- (3) If the department is considering petitioning for termination of parental rights at the initial dispositional hearing as authorized under section 19b of chapter XIIA of 1939 PA 288, MCL 712A.19b, even though the facts of the child's case do not require departmental action under subsection (1), the department shall hold a conference among the appropriate agency personnel to agree upon the course of action. The department shall notify the attorney representing the child of the time and place of the conference, and the attorney may attend. If an agreement is not reached at this conference, the department director or the director's designee shall resolve the disagreement after consulting the attorneys representing both the department and the child.

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STATE OF MICHIGAN
IN THE CIRCUIT COURT [REDACTED]
FAMILY DIVISION

IN RE [REDACTED] MINOR,

CASE NO: [REDACTED]

HON. [REDACTED]

OPINION AND ORDER

I. PROCEDURAL BACKGROUND

This matter is before the Court on a transferred permanent custody petition dated [REDACTED] regarding Respondent Father, [REDACTED] only¹.

The Petitioner, Michigan Department of Health and Human Services (MDHHS), filed a petition on [REDACTED] seeking to terminate the parental rights of Respondent Father, [REDACTED] and Non-Respondent Mother [REDACTED] to their minor child, [REDACTED] (born in [REDACTED] and now [REDACTED] years old). The petition authorized by the Court on [REDACTED], and filed on [REDACTED], alleged that minor child, [REDACTED] should come within the provisions of MCL 712A. 2(b)(1) and (2) and that it was contrary to his welfare to remain in the home because Child Protective Services (CPS) received allegations of severe physical abuse by Father. At the time of the complaint, [REDACTED] was intubated with brain hemorrhaging at the [REDACTED] Hospital. The petition further alleged that minor child, [REDACTED] presented with injuries consistent with physical abuse.

A Pretrial Hearing was held on [REDACTED]. The parties waived the time guidelines on the record to set this matter for a Jury Trial on [REDACTED], to be continued on [REDACTED], [REDACTED]. At another Pretrial Hearing held on [REDACTED], the Court found good cause based upon the Petitioner's oral motion to adjourn this matter to [REDACTED], to be continued on [REDACTED]. At a Pretrial Hearing held on [REDACTED] the Court found good cause to adjourn this matter a second time based upon the joint request of counsel to adjourn. The parties were given a

[REDACTED] testified that the petition as it related to Respondent Mother, [REDACTED] was not authorized and she was removed as a respondent. The minor child, [REDACTED] was to remain in the care of maternal grandmother, [REDACTED] and Mother was permitted to live in the home.

[REDACTED]

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tentative Jury Trial date in [REDACTED] based upon the availability of Respondent Father's counsel. At a Pretrial Hearing on [REDACTED] the Jury Trial was scheduled for [REDACTED] to be continued on [REDACTED]. For discovery purposes, the Court ordered a psychological evaluation at the department's expense. At a Pretrial Hearing held on [REDACTED], the Court adjourned the Jury Trial for a third time to [REDACTED], at the request of Respondent Father due to a necessary witness being unavailable. At a Pretrial Hearing held on [REDACTED] the Jury Trial to be held on [REDACTED] was changed to a Bench Trial at the request of Respondent Father. On [REDACTED] the Court heard Respondent Father's Motion in Limine RE: Expert Testimony Concerning Diagnosis of "Abusive Head Trauma" and denied the motion without prejudice for the reasons stated on the record. Specifically, the Court ruled that Respondent Father may renew the motion during the Bench Trial and the Court shall rule accordingly on this issue depending on the evidence presented.

A Bench Trial regarding jurisdiction and statutory grounds was held by the Court on [REDACTED] and continued [REDACTED]. During the Bench Trial on [REDACTED] the Court took judicial notice of the legal and social file, excluding all statements contained within that were hearsay. The Court entered a Stipulated Order Regarding the Admission of Exhibits based upon the parties' stipulation to the admission of joint exhibits 1-4 for the Court's consideration. The Court considered all the medical records for [REDACTED] which included the following admitted joint exhibits: Exhibit 1, medical records from [REDACTED]; Exhibit 2, medical records from [REDACTED]; Exhibit 3, medical records from the [REDACTED] and Exhibit 4, [REDACTED]. The Court also considered joint Exhibit 5, [REDACTED].

The Court heard from the following witnesses for the Petitioner: [REDACTED] CPS [REDACTED]; Dr. [REDACTED], Petitioner's Expert on [REDACTED]; [REDACTED] CPS Specialist [REDACTED], [REDACTED] Respondent Father on [REDACTED], Non-Respondent Mother on [REDACTED]. The Court heard from the following witnesses for the Respondent Father: Dr. [REDACTED] Respondent Father's Expert on [REDACTED], Maternal Grandmother of [REDACTED] on [REDACTED], Paternal Grandmother of [REDACTED] on [REDACTED]; and [REDACTED], [REDACTED] Pediatric Nurse Practitioner on [REDACTED].

At the conclusion of the Bench Trial, The Petitioners requested that the Court find that minor child, [REDACTED] was without proper care and custody and requested that the Court take jurisdiction over [REDACTED] pursuant to MCL 712A. 2(b)(1) and (2) through Respondent Father and find statutory grounds to terminate the parental rights of Respondent Father at initial disposition pursuant to MCL 712A. 19b(3)(j). The Respondent Father requested that the Court not take jurisdiction over [REDACTED] and if the Court was persuaded to find jurisdiction by a preponderance of the evidence, then not find statutory grounds by clear and convincing evidence. The L-GAL

Further, pursuant to MCL 712A.2(b)(2), the Court finds that there was a lack of evidence presented at trial Father's home or environment, is an unfit place for [REDACTED] to live in by reason of Father's neglect, cruelty, drunkenness, criminality, or depravity. Thus, the Court finds that [REDACTED] does not come within the provisions of MCL 712A.2(b)(2) by a preponderance of the evidence.

V. CONCLUSION

Based upon the evidence presented at trial as analyzed above, the Court finds that the Petitioner did not meet their burden of proof. The Court finds that the Petitioner failed to establish by a preponderance of the evidence that Respondent Father who is responsible for the care and maintenance of [REDACTED] neglected or refused to provide the proper or necessary support, education, medical, surgical, or other care necessary for the health or morals of [REDACTED] nor that [REDACTED] was subject to a substantial risk of harm to their mental well-being pursuant to MCL 712A.2(b)(1). The Court further finds that the Petitioner failed to establish by a preponderance of the evidence that Respondent Father's home or environment, is an unfit place for [REDACTED] to live in by reason of Respondent Father's neglect, cruelty, drunkenness, criminality, or depravity pursuant to MCL 712A.2(b)(2).

The Court finds that the Petitioner failed to establish that the minor child, [REDACTED] comes within the provisions of MCL 712A.2(b)(1) and/or (2) by a preponderance of the evidence. Since the Court finds that minor child, [REDACTED] does not come within the jurisdiction of the Court pursuant to MCL 712A.2(b)(1) or (2), no analysis under the provision of MCL 712A. 19b(3)(j) shall be explored.

Therefore, this Court shall dismiss this petition and order that the minor child, [REDACTED] shall be immediately returned to the care and custody of both his parents.

IT IS SO ORDERED:

[REDACTED]

[REDACTED]

Family Division

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