STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of HATT Minors.

UNPUBLISHED
February 11, 2014

No. 316437
Marquette Circuit Court
Family Division
LC No. 11-009384-NA

In the Matter of LONG and MCCRACKEN-LONG Minors.

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Before: SAWYER, P.J., and BORRELLO and BECKERING, JJ.

PER CURIAM.

In these consolidated appeals, the father of minors S. H. and E. H., and the mother of minors G. L., L. M.-L., and S. L., appeal as of right from the order of the family division of the circuit court terminating their parental rights to their respective children under MCL 712A.19b(3)(c)(*i*) (conditions of adjudication continue to exist), and (g) (failure to provide proper care and custody).[1] We affirm.

[1] The trial court also terminated the parental rights of the biological fathers respectively of G. L. and L. M.-L, neither of whom is participating in this appeal. Petitioner also sought termination of the parental rights of the biological mother of S. H. and E. H., but the trial court declined to take any such action because petitioner failed to serve her with notice of the termination hearing. The father of S. L. was taking steps to establish a parental relationship with that child as this case progressed, and his parental rights were never put in jeopardy.

I. FACTS

Respondents-appellants married in September 2010 and brought their respective children into the resulting blended family, but have no children in common.[2] This case was opened in October 2010, in response to allegations that respondents-appellants were resorting to inappropriate corporal punishment. Soon other concerns arose, including a dirty household, and respondents-appellants' failure to interact with the children properly, especially in connection with the children's special needs. The children were removed from the home and a campaign of over two years of providing various services followed.

The concern about corporal punishment was quickly remedied, but not so the concerns relating to the condition of the home or how respondents-appellants related to the children. There were reports of general disarray, dog feces in the yard and basement, abundant dog hair in the house, and a bathroom that was so dirty that the toilet and sink were black. Also that respondents-appellants commonly addressed the children with inappropriate and offensive nicknames, withheld affection, treated the children unequally, and failed to read cues to address the children's needs. Although respondents-appellants showed that they could clean their house and follow specific recommendations regarding the children, the service providers reported that respondents-appellants tended to return to their old habits.

Although reunification was long the goal, because respondents-appellants persisted in showing an inability, or disinclination, to benefit from services, the children were never returned to them, and visits with the children were supervised, then suspended in response to how the children reacted. A petition to terminate parental rights was filed in December 2012.

At the termination hearing, service providers consistently reiterated that respondents-appellants failed to show that they would reliably keep their home clean and safe enough for the children to return to it, and had otherwise failed to develop basic parenting skills. The testimony also indicated that the children's various behavioral and other problems improved in foster care, and after parenting time was suspended. The children's lawyer-guardian ad litem recommended termination in connection with each child. The trial court issued its decision to terminate respondents-appellants' parental rights in May 2013.

On appeal, both respondents-appellants challenge the trial court's conclusions that two statutory grounds for termination were satisfied, and that termination was in the children's best interests. Respondent-mother additionally alleges that the services provided were inadequate, that the trial court erred in limiting her cross-examination of two witnesses, and that the court further erred in failing sufficiently to credit the testimony of her expert witness.

[2] Respondents-appellants began divorce proceedings shortly after the termination decision.

II. STATUTORY BASES FOR TERMINATION

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination has been met by clear and convincing evidence. MCL 712A.19b(3) and (5); MCR 3.977(H)(3)(a). An appellate court "review[s] for clear error . . . the court's decision that a ground for termination has been proven by clear and convincing evidence." *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). See also MCR 3.977(K). A finding is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). A reviewing court defers to the special ability of the trial court to judge the credibility of witnesses. *Id.*

Again, the trial court terminated respondents' parental rights under MCL 712A.19b(3)(c)(*i*), and (g), which provide as follows:

> (3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:
>
> * * *
>
> (c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:
>
> (*i*) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.
>
> * * *
>
> (g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

In this case, the trial court stated as follows in concluding that termination was appropriate under § 19b(3)(c)(*i*):

> The Court acknowledges some positive advancement made by [respondent-appellants]. There was evidence that [respondent-appellants] no longer used corporal discipline during supervised parenting times. . . .
>
> There was evidence that at times [respondent-appellants] were able to acceptably clean their home. . . . The condition of the home was clean for a very short period of time, indicating to the Court that [respondent-appellants] had the

knowledge and ability to clean the home, but it was clear that they allowed the home to revert to an unclean state, inappropriate for the return of the children. . . .

* * *

. . . While [respondent-appellants] appeared, at times compliant with the directions of the service providers, there was no sense by the service providers that [respondent-appellants] internalized and adopted the skills being taught. The Court finds that [respondent-appellants] were capable of benefiting from services, but chose not to employ the parenting skills taught.

The Court finds that [respondent-appellants] were provided with services for over two years and during this time, they lacked the ability to consistently demonstrate parenting skills such as: keeping the children within arm's reach, effectively planning for the parenting time, and meeting the needs of the children. In the course of two-and-a-half years, [respondent-appellants] were not able to move to unsupervised parenting time with all five children, due in large part to their inability to provide for the children's basic safety. The fact clearly demonstrates that the conditions that led to adjudication continue to exist, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the children's ages. After two plus years of services, [respondent-appellants] remain at the stage they were at in October of 2010.

In connection with § 19b(3)(g), the court stated as follows:

This matter began with a protective service referral in October of 2010. [Petitioner] immediately began providing services . . . . During the span of two-and-a-half years, [respondent-appellants] demonstrate little to no progress on improving identified areas of concern. [One services provider] testified that she had no idea how long it would take [respondent-appellants] to become safe, consistent parents and that she found it incredible that after such a long time, she was still using hands-on-hands and modeling teaching methods over and over to try and convey even the most basic parenting skills. [Another services provider] said she thought the "return would have occurred by now," as generally she did not carry a case as long as she was involved with [respondent-appellants]. . . .

The testimony and evidence show [respondents-appellants'] past and persistent inability to improve their parenting skills or make any significant, sustained, progress. The Court . . . believes that [respondent-appellants] were capable of providing proper parenting for the children but chose not to. [Respondent-appellants] were able to demonstrate their ability to learn and utilize skills for a period of time, but never did so long enough to convince the Court or the service providers that they could be depended upon to properly parent these children. The Court finds any additional efforts to rehabilitate [respondent-appellants] would be futile. There is no reasonable expectation that [respondent-appellants] will be able to provide proper care within a reasonable time considering the children's ages.

The court thus acknowledged that one of the conditions of the adjudication, improper corporal punishment, was no longer a problem, but credited evidence suggesting that maintaining a clean and safe home, and interacting properly with the children, remained problematic.

Respondents-appellants assert that some of the particulars in evidence that concerned the service providers seem of little significance, e.g., a single failure to remember suntan lotion for a beach outing, and otherwise make light of what was reported, e.g., suggesting that a bathroom described as dirty may not really be unsanitary or unsafe. However, the service providers were stressing that failure to plan appropriately for time with the children was a pervasive problem, even if any one example seemed trivial. And if multiple service providers characterized the bathroom as so dirty, including by way of a black toilet and sink, that it was not suitable for a child's use, and the trial court has credited that testimony, our duty is to defer to such factfinding, and rebuff respondents-appellants' attempts to characterize the record to suggest that the conditions were not as severe as the service providers reported.

It is not this Court's purpose to entertain even plausible alternative interpretations of the evidence presented; the test is whether the trial court's finding was clearly erroneous. *In re Trejo*, 462 Mich at 356-357; MCR 3.977(K). In light of abundant evidence that respondents-appellants have repeatedly failed to keep a clean and safe house suitable for children, including by lapsing into old, bad habits after demonstrating the ability to maintain suggested standards, the trial court did not clearly err in concluding that that aspect of the original adjudication remained a problem, for purposes of § 19b(3)(c)(*i*), or that respondents-appellants have failed to provide proper care and custody for purposes of § 19b(3)(g), or that there was no reasonable likelihood of remediation in reasonable time.

III. BEST INTERESTS

"If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the 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." MCL 712A.19b(5). The best-interest question is decided on the basis of the preponderance of the evidence. *In re Moss*, 301 Mich App 76, 83-90; 836 NW2d 182 (2013). An appellate court "review[s] for clear error . . . the court's decision regarding the child's best interest." *In re Trejo*, 462 Mich at 356-357. See also MCR 3.977(K).

The trial court found generally that respondents-appellants "are unable or unwilling to solve the problems that led to their unfit living conditions and inappropriate parenting skills," and that the "failure to cure the condition of the home environment and employ even the most basic safety measures, creates an environment where the children are likely to be physically harmed by the parents['] inattentiveness or emotionally damaged by [respondents-appellants'] inconsistent and inappropriate parenting styles." The court further found that respondents-appellants "placed their own needs above those of their children and sacrificed the children's well-being in order to protect their marriage and lifestyle." The court additionally observed that "[a]ll of the children have made extraordinary steps forward in their growth and development and are all doing much better in their out-of-home placements, than at the time of removal from the [respondents-appellants'] home."

A. E. H. AND S. H.

Concerning the best interests of respondent-father's daughters, the trial court opined as follows:

> The Court . . . finds that although the girls are with their aunt, there is no positive familial relationship between [respondent-father] and his sister . . . . At one time, the two had a close relationship, but it was destroyed in large part due to [respondent-father's] insistence on continuing a relationship with [respondent-mother].
>
> During the time the girls have been placed in the [the sister's] home, the relationship between [respondent-father] and [his sister] deteriorated to the point that mediation was suggested and a referral made by the Court. Mediation . . . resulted in an agreement. The agreement provided . . . that the parties would use the services of . . . [a particular foster-care worker] to help clarify situations, speak with the children's therapists for guidance, and speak, in a cordial manner to one another to clarify issues. The parties did not abide by this agreement and at the time of trial, had virtually no relationship . . . . As such, placement of the . . . girls with respondent-father's sister does not weigh against termination.

The court further noted that E. H. was being treated for attention-deficit disorder, tended to be anxious and unfocused, and became upset as parenting time approached. Also that S. H. felt a burden to, and unwanted by, respondent-father, did not want contact with respondent-mother, and had no desire to return to their care. The court further noted that S. H.'s counselor advised that the child "feels trusted and heard in the foster home, and . . . is functioning at a high level."

The court observed that E. H. and S. H. "expressed their feeling that their father chose [respondent-mother] over them," and found that "[i]t is clear [respondent-father] has chosen his wife over his children," having "allowed his marital relationship to come first and ruin his relationship with his sister as well as his daughter[s]."

Respondent-father correctly reports that the trial court recognized that he had participated in services but concluded that "he didn't benefit from them although he was capable of doing so," but does not offer any argument to rebut that damaging conclusion. "Failure to substantially comply with a court-ordered case service plan is evidence that return of the child to the parent may cause a substantial risk of harm to the child's life, physical health, or mental well being." *In re Trejo*, 462 Mich at 346 n 3 (internal quotation marks and citation omitted). The failure, perhaps even disinclination, to take advantage of benefits offered by services provided is an indication that respondent-father's persistent parenting deficiencies would pose a risk to his daughters' life, physical health, or mental well being if they were returned to him.

In arguing this issue, respondent-father points out that just after the termination decision, he and respondent-mother separated and he filed for divorce, that he has had positive

communication with this daughters, and that he hopes for improved relations with his sister who is caring for the girls, and asserts that in light of these developments the trial court should have granted his motion for reconsideration.[3] A trial court should grant a motion for reconsideration only where the moving party brings to light "a palpable error by which the court and parties have been misled and show that a different disposition of the motion must result from correction of the error." MCR 2.119(F)(3).

In this case, respondent-father did not bring to light any palpable error that infected the original termination decision, but rather urged the trial court to reconsider in light of post-termination developments. MCR 2.119(F)(3) does not envision motions for reconsideration functioning as a means of reopening decided issues to take account of subsequent factual developments. As petitioner's counsel stated at the motion hearing, "the system is meant to force people to make . . . changes before the . . . termination decision," adding, "[i]t would be impossible to get any type of permanency for kids if after the termination trial . . . we took a step back and said now they have made the changes they were supposed to make."

Further, the existence of divorce proceedings does not guarantee a permanent separation of the parties involved, and even if it did, that much remediation in this instance would not guarantee that respondent-father would not repeat the mistake of causing his daughters to feel marginalized as a consequence of how he conducted some new romance. And respondent-father's testimony that he had "tried' to improve the "[r]ocky" relationship between himself and his sister should hardly have convinced the trial court that its termination decision was infected by palpable error.

B. G. L.

The trial court noted that G. L. appeared the most "challenging child" involved in this case, having suffered a history of sexual, physical, and emotional abuse. The court described her as needing constant supervision, tending to engage in "challenging behaviors," and exhibiting bipolar disorder and attention deficit disorder, along with "traits of histrionic personality disorder, borderline personality disorder, and disassociative [sic] defenses." The court continued:

> Testimony . . . indicated that [G. L.] . . . was singled-out for harsher treatment and higher expectations were placed on her. [A services provider] expressed concern about the "scapegoating" of [G. L.]. According to [the services provider], [respondent-appellants] focused on [G. L.] as the source of familial problems, stating that "even the dog didn't like her." [Respondent-

[3] We note that respondent-father has failed to specifically include whether the trial court abused its discretion in denying the motion among the issues listed in his statement of the questions presented. See MCR 7.212(C)(5). Moreover, where a party first presents an issue in a motion for reconsideration, the issue is not preserved for appellate review. See *Pro-Staffers, Inc v Premier Mfg Support Servs, Inc*, 252 Mich App 318, 328-329; 651 NW2d 811 (2002).

> mother] did not acknowledge the severity of the abuse [G. L.] suffered and her need for treatment. She continually blamed [G. L.]'s issues on her medication.

The court noted that G. L. testified that she wanted to go home to her mother, but concluded that such return would not be in her best interests, adding that respondent-mother "has not demonstrated she is capable of parenting [G. L.] or putting [G. L.]'s interests first, a fact clearly exemplified by the calling of this child to testify as a witness at the termination [hearing]."

Respondent-mother protests that the trial court "heavily and improperly placed negative emphasis on the fact that [respondent-mother] decided to call [G. L.] to testify," explaining, "The testimony was kept short and sweet and was only conducted after special accommodations were provided to ensure that [G. L.] would be comfortable." Although we can readily sympathize with a mother who resorts to putting her child on the stand in hopes of eliciting testimony that would weigh in favor of preserving her parental rights, the trial court did not clearly err in regarding such resort, given that the child's preference in this regard was already in evidence through the testimony of her counselor.

Respondent-mother further emphasizes that G. L.'s brief testimony was entirely in favor of her being returned to her mother and siblings. However, the trial court had much more before it than the child's testimony. In addition to the evidence of keeping a poor home in general, and of G. L.'s special needs and respondent-mother's persistent failures to address them in particular, the lawyer-guardian ad litem opined that "the parents are . . . clearly not able to effectively parent [G. L.] at this time nor in any reasonable time," and so recommended termination. Respondent-mother's arguments concerning G. L. do not show the trial court's determination of her best interests to be clearly erroneous.

C. L. M.-L.

The trial court noted that L. M.-L. presented "special challenges," having at the time of removal from respondents-appellants' home "displayed speech and motor development delays." The court continued as follows:

> When [L. M.-L.] began to exhibit extreme negative behavior (i.e., smearing feces and urine and banging his head) before scheduled parenting time, parenting time was terminated. Once visits stopped, [L. M.-L.]'s disturbing behavior ceased. [Respondent-appellants] responded to [L. M.-L.]'s disturbing behavior by stating that they had played with their feces as children. It is clear that [L. M.-L.] has made great strides toward overcoming his other challenges. He is less anxious, more secure, and more independent. His speech and coordination have improved. [L. M.-L.] needs stability, safety, and permanency. [L. M.-L.]'s special needs are not recognized by [respondent-mother] and after over two years of services, she still was unable to demonstrate the ability to keep him within arm's length and safe.

Respondent-mother asserts that L. M.-L.'s counselor "reported that [L. M.-L.]'s foster mother canceled appointments, resulting in him not being seen for a couple of months," and posits that "[t]his missing of appointments could be an alternative hypothesis as to why he was

acting out instead of it being caused by visitations with his mom." Respondent-mother further emphasizes her expert's witness's testimony concerning the hazard of confirmation bias.[4] But, again, this Court does not generally entertain alternative interpretations of the evidence, but instead reviews a trial court's factual findings for clear error. *In re Trejo*, 462 Mich at 356-357; MCR 3.977(K). Respondent-mother's arguments fail to show that the trial court clearly erred in concluding that termination of her parental rights was in L. M.-L.'s best interests.

D. S. L.

Concerning [S. L.]'s best interests, the trial court stated as follows:

> [S. L.] was initially seen to have struggles with bonding to [respondent-mother]. She has continued to thrive in her foster home placement. Since the cessation of parenting time in November of 2012, the foster parents report that the physical aggression [S. L.] had been exhibiting has stopped, and she is no longer harming other children or the foster parents. [S. L.] is thriving developmentally. Like [L. M.-L.] and [G. L.], [S. L.] cannot wait for permanency any longer. [Respondent-mother] has not shown she can parent [S. L.].

In giving individualized attention to S. L., as it did with the other children involved in this case, the court fulfilled its duty to consider the best interests of each child individually. See *In re Olive/Metts Minors*, 297 Mich App 35, 42; 823 NW2d 144 (2012). Similarly, an appellant challenging such decision-making should likewise provide at least some argument specific to each child. But respondent-mother's brief on appeal is silent with regard to S. L.'s best interests. Respondent-mother's general protestations about confirmation bias, or how the evidence might be interpreted differently, does not expose the trial court's best-interest determinations in general as clearly erroneous. They, unaccompanied by any child-specific rebuttal, are thus insufficient to rebut the trial court's specific findings concerning S. L.

For these reasons, respondents-appellants have failed to show that the trial court clearly erred in determining that termination was in the best interests of each child.

IV. REUNIFICATION SERVICES

Natural parents have a fundamental liberty interest in maintaining custody of their children, a right implicating constitutional guarantees of due process. *In re Brock*, 442 Mich 101, 109; 499 NW2d 752 (1993); *In re Martyn*, 161 Mich App 474, 478; 411 NW2d 743 (1987). See also *Troxel v Granville*, 530 US 57, 65; 120 S Ct 2054; 147 L Ed 2d 49 (2000).

Where a court has taken temporary jurisdiction over a child, reasonable efforts must be undertaken to reunite the child with its natural parent or parents unless doing so would cause a substantial risk of harm to the child's physical or mental well being. *Tallman v Milton*, 192

[4] See Parts IV and VI, *infra*.

Mich App 606, 614-615; 482 NW2d 187 (1992), citing MCL 712A.19a(4). "The service plan must address '[w]hat the parent(s) . . . must do to achieve reunification' and '[w]hat the supervising agency must do to support parental objectives.' " *In re Rood*, 483 Mich 73, 97; 763 NW2d 587 (2009) (CORRIGAN, J., joined by KELLY, C.J. and MARKMAN, J.) (citation omitted; alteration by *Rood* Court).

In fact, this state's statutory law repeatedly reflects the policy of attempting reunification. MCL 712A.18f provides, in pertinent part, as follows:

> (1) If . . . an agency advised the court against placing a child in the custody of the child's parent, . . . the agency shall report in writing to the court what efforts were made to prevent the child's removal from his or her home or the efforts made to rectify the conditions that caused the child's removal from his or her home. The report shall include all of the following:
>
> (a) If services were provided to the . . . parent, . . . the services, including in-home services that were provided.
>
> (b) If services were not provided to the child and his or her parent, . . . the reasons why services were not provided.
>
> (2) Before the court enters an order of disposition . . . the agency shall prepare a case service plan that shall be available to the court and all the parties to the proceeding.
>
> (3) The case service plan shall . . . include . . . the following:
>
> * * *
>
> (c) Efforts to be made by the agency to return the child to his or her home.
>
> (d) Schedule of services to be provided to the parent . . . to facilitate the child's return to his or her home . . . .

The court rules also reflect the policy of attempting reunification: "When the court has placed a child with someone other than the custodial parent, guardian, or legal custodian, the court must determine whether reasonable efforts to prevent the removal of the child have been made or that reasonable efforts to prevent removal are not required." MCR 3.965(D)(1). "The court shall not enter an order of disposition until it has examined the case service plan . . . . The court may order compliance with all or part of the case service plan . . . ." MCR 3.973(F)(2). "The court . . . shall, when appropriate, include a statement in the order of disposition as to whether reasonable efforts were made . . . to rectify the conditions that caused the child to be removed from the child's home." MCR 3.973(F)(3)(b). See also MCR 3.975(F) (detailing how the court should review progress toward compliance with case service plans).

In this case, the record clearly indicates that respondent-mother was offered abundant services over the course of two years. The trial court enumerated sixteen distinct services, each

involving recurring meetings, inspections, or other exertions on the part of service providers, that had been provided between October 2010 and November 2012. In noting that there were some protestations that these services could have been provided in a better way, or progress with them better monitored, the court correctly concerned itself with whether what was offered was reasonable, not if it was optimal, or otherwise could have been better. On this record, the court's conclusion that respondents-appellants would not have "fared better had additional services been offered or had they be[en] given additional time or chances before the filing of the termination petition" was not clearly erroneous.

Respondent-mother does not argue that what was offered was inadequate, but instead protests that she was directed to address a bewildering array of concerns without the help of any simple, objective, way of showing her progress in doing so. She notes that this Court has held that the state, consistent with due process, may neither "create the conditions that will strip an individual of an interest protected under the due process clause," nor "set out with the overt purpose of virtually assuring the creation of a ground for termination of parental rights," *In re B & J*, 279 Mich App 12, 19; 756 NW2d 234 (2008) (internal quotation marks and citations omitted), and asserts that the numerous goals put before her, and the lack of objective standards for measuring her progress in connection with them, operated to assure her failure.

Respondent-mother's reliance on *In re B & J* is inapt. *In re B & J* explained that "when the state deliberately takes action with the purpose of virtually assuring the creation of a ground for termination of parental rights, and then proceeds to seek termination on that very ground, the state violates the due process rights of the parent." *Id.* at 19-20 (internal quotation marks omitted). In that case, the petitioner had offered almost no services, but in fact actively endeavored to cause the parents' status as illegal aliens, including their deportation, to establish grounds for termination. *Id.* at 14-17. The case at hand does not involve a similarly pernicious course of action on petitioner's part. Even respondents-appellants' own expert witness opined that petitioner "did a lot of work with this family, and placed a lot of resources at their disposal." Far from scheming from the start to defeat respondents-appellants' retention of their parental rights, petitioner provided many services over a long period with the overall goal of reunification.

That petitioner put forward numerous goals merely reflected respondent-mother's need to improve her parenting skills in numerous ways. Further, according to the testimony, certain key goals were always part of the plan—and always eluding respondent-mother's consistent achievement: treating the children equally, planning for events with the children, and maintaining consistency in parenting matters. Further, the foster-care worker who provided the direct case management in this instance testified that respondents-appellants did not complain that they had difficulty in understanding the goals put before them, or in tracking their progress in connection with them.

Respondent-mother's arguments concerning how specific goals might have been prioritized and addressed a few at time to keep them manageable, and how the various service providers might have endeavored to monitor progress toward those goals through standardized and objective means, do not bring to light a general failure to make reasonable attempts at reunification, but instead amount to recommendations on how petitioner might do a better job of attempting reunification. We decline the invitation to start micromanaging petitioner's services,

or methodology for monitoring progress, mindful that "administrative agencies, created by the Legislature, are intended to be repositories of special competence and expertise uniquely equipped to examine the facts and develop public policy within a particular field." *Attorney General v Blue Cross Blue Shield*, 291 Mich App 64, 86; 810 NW2d 603 (2010) (internal quotation marks and citations omitted). The inquiry remains whether the trial court clearly erred in concluding that there had been reasonable attempts at reunification. In this case, the efforts were abundant and reasonable.

For these reasons, we conclude that petitioner well satisfied its obligation to provide services in accord with statutory and court-rule mandates, see MCL 712A.19a(4); MCL 712A.18f; MCR 3.965(D)(1); MCR 3.973(F)(2); MCR 3.975(F), and thus that the trial court did not clearly err in concluding that there had been reasonable efforts to achieve reunification.

On appeal, respondent-mother for the first time argues that petitioner's approach to offering services and monitoring progress violated her substantive due process rights. She thus suggests that she had constitutional rights to reunification services beyond the reasonable efforts prescribed by statute and court rule. This unpreserved argument does not bring plain error to light, let alone one likely affecting the outcome of the proceedings below. See *Kern v Blethen-Coluni*, 240 Mich App 333, 336; 612 NW2d 838 (2000) (setting forth the standard of review for unpreserved issues in civil cases).

"The Due Process Clause contains a substantive component that bars certain arbitrary, wrongful government actions 'regardless of the fairness of the procedures used to implement them.' " *Zinermon v Burch*, 494 US 113, 125; 110 S Ct 975; 108 L Ed 2d 100 (1990), quoting *Daniels v Williams*, 474 US 327, 331; 106 S Ct 662; 88 L Ed 2d 662 (1986). Our state constitution parallels the federal constitution in guaranteeing substantive due process rights. *Cummins v Robinson Twp*, 283 Mich App 677, 700-701; 770 NW2d 421 (2009). "The underlying purpose of substantive due process is to secure the individual from the arbitrary exercise of governmental power." *Id.* at 701 (internal quotation marks and citations omitted). Accordingly, "A claim may be based on a denial of substantive due process where a plaintiff is deprived of property rights by irrational or arbitrary governmental action." *Bevan v Brandon Twp*, 438 Mich 385, 391; 475 NW2d 37 (1991) (internal quotation marks and citation omitted).

Respondent-mother's arguments concerning how petitioner might better have delivered its services, or monitored her progress in connection with them, even if taken at face value, do not admit of characterizing the abundant services petitioner provided over a period exceeding two years as irrational or arbitrary action. The trial court did not plainly err in declining to recognize that respondent-mother was entitled to anything more than the reasonable efforts at reunification called for by statute and court rule. Accordingly, its conclusion in this case that the efforts expended were reasonable did not result in any violation of respondent-mother's substantive due process rights.

V. DUE PROCESS: CROSS-EXAMINATION

Respondent-mother argues that she was denied her procedural due process right to confront adverse witnesses when, after her attorney had cross-examined two key service providers, the children's lawyer-guardian ad litem questioned those witnesses, and the trial court

did not permit respondent-mother's attorney to cross-examine them further. Respondent-mother asserts that the lawyer-guardian ad litem introduced new issues that her attorney was thus entitled to address.

But in her brief on appeal respondent-mother failed to specify any such new issues, let alone suggest how they left her at an unfair disadvantage for want of further cross-examination. Generally, an appellate court should neither "search the record for factual support for a party's claim," *McIntosh v McIntosh*, 282 Mich App 471, 485; 768 NW2d 325 (2009), nor attempt "to discover and rationalize the basis for his claims," *Houghton v Keller*, 256 Mich App 336, 339; 662 NW2d 854 (2003). We therefore deem this issue abandoned for failure of presentation.

VI. WEIGHT AND CREDIBILITY OF EXPERT TESTIMONY

Respondents-appellants offered the testimony of a licensed clinical psychologist, who opined that they were placed at a great disadvantage by the array of goals put forward and the lack of systematic and objective bases for measuring their progress in meeting them. Respondent-mother argues that the trial court failed to credit that witness's testimony, or otherwise give it weight commensurate with the witness's credentials, experience, and familiarity with this case.

Although the witness complained that the service providers had taken a "scattershot" approach to helping respondents-appellants reach their goals, she agreed on cross-examination that one could plausibly regard the approach that the service providers took as reflecting respondents-appellants' "scattershot" parenting. And when asked if the reunification services petitioner provided were reasonable, the witness answered, "I'd like to see more objectivity, but, yah, there [sic] were not unreasonable. They did put a lot of effort into working with this family. There's no question about that."

The court acknowledged that the witness stated that petitioner's approach in this regard was "scattershot," opined that setting forth fourteen goals instead of a few manageable ones was unreasonable, and protested a lack of systematic ways of measuring progress. But the court also noted that the witness acknowledged that the service providers had expended great efforts and resources on the family, and that those efforts were ultimately reasonable, even if not entirely to her liking. The court elaborated:

> [Respondents-appellants' expert] clearly felt there was a more optimum way to communicate how to acquire the parenting skills that would allow for the safe return of the children, to the [respondents-appellants]. She was equally clear that there were more services provided to the . . . family than to other parents in similar cases she was aware of and had reviewed. She found the efforts expended by the Department and the service providers were reasonable, although not as objective as she would have liked.

As discussed in part IV, *supra*, respondent-mother's arguments, and her witness's extensive testimony, to the effect that petitioner might better have administered its services, and monitored respondent-mother's progress with them, do not expose the efforts that were expended as less than reasonable, but instead only suggest that they could have been better still.

Respondent-mother's insistence that the trial court should have said more about her witness's testimony constitutes a failure to appreciate that the court, sitting as trier of fact, had broad discretion in assigning weight to a particular witness's testimony. See *Zeeland Farm Servs, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996) ("An appellate court recognizes . . . the factfinder's responsibility to determine the credibility and weight of trial testimony."). Respondent-mother also misapprehends the extent of a court's duty to expound upon what went on at trial. A trial court's findings need only be "sufficiently specific for meaningful appellate review." *People v Nelson*, 168 Mich App 781, 790; 425 NW2d 225 (1988). "Brief, definite, and pertinent findings and conclusions on the contested matters are sufficient." MCR 3.977(I)(1). A court need not " 'comment upon every matter in evidence or declare acceptance or rejection of every proposition argued.' " *Fletcher v Fletcher*, 447 Mich 871, 883; 526 NW2d 889 (1994), quoting *Baker v Baker*, 411 Mich 567, 583; 309 NW2d 532 (1981).

For these reasons, respondent-mother with this issue fails to bring error to light.

Affirmed.

/s/ David H. Sawyer
/s/ Stephen L. Borrello
/s/ Jane M. Beckering