# STATE OF MICHIGAN

# COURT OF APPEALS

UNPUBLISHED
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*In re* N.S.L. WILLIAMS, Minor.

No. 376851; 376852
Wayne Circuit Court
Juvenile Division
LC No. 2018-001298-NA

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

PER CURIAM.

In these consolidated appeals,[1] respondents appeal by right the trial court's order assuming jurisdiction over their minor child, NSLW. We affirm.

## I. FACTUAL AND PROCEDURAL BACKGROUND

In January 2025, the Department of Health and Human Services (DHHS) filed a petition requesting that the trial court exercise jurisdiction over NSLW under MCL 712A.2(b)(1) and MCL 712A.2(b)(2) and remove her from respondents' care.[2] DHHS alleged that in late October 2024, respondent-mother had kicked then-14-year-old NSLW out of her home and refused to let NSLW return, so NSLW began living with her paternal adult sister. DHHS alleged that less than two weeks later, NSLW was admitted to the hospital following an intentional overdose. According to DHHS, NSLW had been prescribed several medications to treat her ongoing behavioral and

[1] *In re Williams*, unpublished order of the Court of Appeals, entered August 20, 2025 (Docket Nos. 376851; 376852).

[2] This was not DHHS's first involvement in NSLW's care and custody. In August 2018, DHHS filed a petition alleging that NSLW's maternal grandmother physically abused her and that respondent-mother did not protect her from that abuse. The trial court assumed jurisdiction over NSLW and placed her with respondent-father, who was not a party to the 2018 matter. In October 2019, the trial court determined respondent-mother successfully completed her treatment plan, terminated jurisdiction over NSLW, and returned NSLW to respondent-mother's custody.

mental-health issues, and following a dispute with her adult sister, NSLW locked herself in a room and intentionally took a significant number of her prescribed pills. DHHS further alleged that on November 22, 2024, it received a complaint from the hospital that respondents refused to pick NSLW up from the hospital even though she was ready for discharge. Following a preliminary hearing regarding the alleged circumstances, the trial court authorized the petition and placed NSLW under the care and supervision of DHHS.

The trial court subsequently conducted an adjudication bench trial, during which the court received documentary evidence and testimony from several witnesses regarding the alleged facts and circumstances that gave rise to DHHS's petition. The evidence and testimony demonstrated that during its investigation, Children's Protective Services (CPS) contacted respondents, both of whom continually refused to pick NSLW up from the hospital due the severity of her mental-health issues and her related, and often violent, behavioral outbursts.[3] In an effort to find a suitable placement for NSLW so that she did not have to remain in the hospital, CPS contacted several of NSLW's relatives, none of whom were willing to take NSLW into their care for the same reasons. CPS then contacted NSLW's adult sister, as she was the last person with whom NSLW had resided, but NSLW's sister stated that she did not wish to care for NSLW at that time and that, regardless, respondents had not given her anything that would authorize her to provide for NSLW's schooling, medical, or mental-health needs. NSLW's sister eventually agreed to take NSLW back into her care, but when she attempted to check NSLW out of the hospital, the staff refused to release NSLW to her and required that one or both respondents check her out. After much back and forth, respondent-father eventually drove to the hospital to sign NSLW out of the hospital and to sign a safety plan put forth by DHHS allowing DHHS to place NSLW in her sister's care. It was only after NSLW had stayed in the hospital approximately one month beyond her discharge date that DHHS was able to place NSLW in her sister's care.

At the close of proofs, the court concluded that a preponderance of the evidence supported the exercise of jurisdiction under MCL 712A.2(b)(1), but not under MCL 712A.2(b)(2). The court found that respondents refused to pick NSLW up from the hospital even though she was ready to be discharged on November 22, 2024. The court also found that respondent-mother had been attempting to give legal custody of NSLW to NSLW's sister while NSLW was in the hospital, but respondent-mother still had not done so by the time of the adjudication trial. The court further found that although respondents left NSLW in her sister's care shortly before her November 2024 hospitalization, they did so without providing NSLW's sister the legal authority necessary to provide for NSLW's needs, including her significant medical and mental-health needs. When making its findings, the court acknowledged that, given the severity of NSLW's mental-health and

[3] According to respondent-father and NSLW's sister, NSLW's issues began when NSLW was 11 or 12 years old, and respondent-father testified that NSLW had been hospitalized nearly a dozen times since then to treat her issues. Respondent-father testified that NSLW was participating in counseling and was prescribed several medications to treat her mental health, but none of it seemed to have any lasting positive effects on NSLW's mental health and behavior. Respondent-father further testified that he, and eventually respondent-mother, found NSLW's issues to be too unmanageable, which is why both of them refused to pick her up from the hospital or let her back into their homes following her hospital stay in November 2024.

behavioral issues, respondents' "situation [wa]s difficult," but it emphasized that "[a]t the end of the day it [wa]s these parents' responsibility to provide care for their child," and respondents did not do so or otherwise arrange for another legally responsible person to do so. The court thereafter entered an order of adjudication assuming jurisdiction over NSLW that was consistent with the court's findings on the record.

Respondents then moved for rehearing or reconsideration of the trial court's order of adjudication, arguing that, in light of our Supreme Court's decision in *In re Lange*, ___ Mich ___; ___ NW3d ___ (2025) (Docket No. 166509), there was insufficient evidence establishing that they had neglected or abused NSLW and the court's assumption of jurisdiction was therefore erroneous. The court denied respondents' motion and affirmed its order of adjudication. These appeals followed.

## II. DISCUSSION

Respondents argue that the trial court clearly erred by exercising jurisdiction over NSLW because DHHS failed to establish a statutory basis for jurisdiction. "Whether a trial court can assert jurisdiction over a child protective proceeding is a question of law that we review de novo." *In re Hull*, 345 Mich App 562, 567; 7 NW3d 114 (2023). "Challenges to the court's decision to exercise jurisdiction are reviewed for clear error in light of the court's finding of fact." *In re Boshell/Shelton*, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 371973); slip op at 3 (quotation marks and citation omitted). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *Id*. at ___; slip op at 3 (quotation marks and citation omitted).

To properly exercise jurisdiction, the trial court must find, by a preponderance of the evidence, that at least one statutory basis for jurisdiction under MCL 712A.2(b) exists. *Id*. at ___; slip op at 2-3. "A preponderance of the evidence is evidence that, when weighed with that evidence opposed to it, has more convincing force and the greater probability of truth." *Id*. at ___; slip op at 3 (cleaned up). When determining whether jurisdiction exists, "the trial court must examine the child's situation at the time the petition was filed because MCL 712A.2(b) speaks in the present tense." *In re Leach*, 347 Mich App 26, 32; 14 NW3d 178 (2023) (cleaned up).

On appeal, respondents challenge the trial court's assumption of jurisdiction under MCL 712A.2(b)(1), arguing that there was not a preponderance of the evidence establishing that they had neglected or abused NSLW or that they were, consistent with the language in that provision, actually able to provide proper care for NSLW given her severe mental-health and behavioral issues.[4] MCL 712A.2(b)(1) provides, in part, that a court may assume jurisdiction over a child when a preponderance of the evidence establishes that "a parent . . . , *when able to do so*, neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care

[4] Respondent-father also argues that the trial court's assumption of jurisdiction under MCL 712A.2(b)(2) was improper because there was not a preponderance of the evidence establishing an unfit home environment by way of abuse or neglect. But as noted above, the trial court did not assume jurisdiction of NSLW on this basis.

necessary for his or her health or morals[.]" (Emphasis added.) As our Supreme Court made clear in *Lange*, ___ Mich at ___; slip op at 8-10, a core requirement of this particular provision is that a parent must necessarily have the ability to provide proper care for his or her child's particular needs before a court can find that the parents had neglected or refused to do so.

Even assuming that respondents lacked such ability here, whether a parent neglects or refuses to provide proper care to his or her child despite being able to do so is only one of "a number of alternative grounds for taking jurisdiction" that are expressly set forth in MCL 712A.2(b)(1). *In re Baham*, 331 Mich App 737, 747; 954 NW2d 529 (2020). These alternative grounds include if the child is: (1) "subject to a substantial risk of harm to his or her mental well-being"; (3) "abandoned by his or her parents, guardian, or other custodian"; or (4) "without proper custody or guardianship." MCL 712A.2(b)(1).

Here, the trial court found that a preponderance of the evidence established all four possible grounds for assuming jurisdiction under MCL 712A.2(b)(1). Respondents do not directly challenge the court's assumption of jurisdiction under any of the three alternative grounds enumerated above, and we do not see reversible error in the court's conclusion that at least one of them was satisfied. In particular, we find no reason to disrupt the trial court's determination that assumption of jurisdiction under MCL 712A.2(b)(1) was appropriate because NSLW was "without proper custody or guardianship."

As the statute provides, " '[w]ithout proper custody or guardianship' does not mean a parent has placed the juvenile with another person who is legally responsible for the care and maintenance of the juvenile and who is able to and does provide the juvenile with proper care and maintenance." MCL 712A.2(b)(1)(C). Although a parent's placement of the child with a relative prior to DHHS filing its petition can often indicate that the child is not "without proper custody or guardianship," relative placement alone is not dispositive. See *In re Dixon (On Reconsideration)*, 347 Mich App 337, 356-357; 14 NW3d 497 (2023); *Baham*, 331 Mich App at 748-750; see also *In re Faulkner*, ___ Mich App ___; ___ NW3d ___ (2025) (Docket No. 369927); slip op at 6-7. Rather, the focus must be on whether that pre-petition placement (be it a relative or not) was legally responsible for the child's proper care and maintenance, was able to provide that care and maintenance to the child, and did, in fact, provide such care and maintenance to the child. *Dixon*, 347 Mich App at 357; *Baham*, 331 Mich App at 748-749; see also MCL 712A.2(b)(1)(C).

In concluding that jurisdiction under MCL 712A.1(b)(1) was proper on this basis, the trial court found that both respondents refused to pick NSLW up from the hospital when she was ready for discharge and did not arrange other accommodations so that NSLW could be properly cared for. Regarding the latter point, the court noted that NSLW was sent to live with her adult sister without respondents having provided NSLW's sister with the legal authority necessary to allow her "to provide for [NSLW's] medical care or treatment . . . or even to pick [NSLW] up [from the hospital] due to her mental and behavioral issues."

The record evidence supports these findings. The record indicates that although NSLW was living with her adult sister for approximately two weeks prior to her hospitalization, NSLW's sister had no legal authority to provide for NSLW's needs—namely, her significant medical and mental-health needs. The CPS investigator testified that during her investigation, respondent-mother reported that "she was attempting to give custody of [NSLW] to [NSLW's] sister" but had

not done so yet. NSLW's sister testified that she received some sort of "written consent" from respondent-mother to care for NSLW around the time that NSLW first began living with her, but she never received any such documentation from respondent-father, which would have been necessary for her to legally act as NSLW's caregiver. Nor, for that matter, does it appear that the written consent provided by respondent-mother was a legitimate legal instrument conveying authority to NSLW's sister. By the sister's own admission, the written document was a "pointless note" that did not actually allow her to obtain the care that NSLW needed, and the sister correspondingly testified that hospital staff would not release NSLW to her when she provided them with the note.

Additionally, the testimony of NSLW's sister, respondent-father, and the CPS investigator all established that respondent-father assisted in NSLW's discharge from the hospital and in picking up NSLW's medically necessary mental-health medications, which she had been taking for years, because NSLW's sister had no recognized legal authority to do such things on her own. NSLW's sister also testified that during the CPS investigation, an investigator told her that she did not have any "paperwork submitted" indicating that she had the legal authority to provide for NSLW's care and needs, and the CPS investigator's testimony corroborated that the sister did not have any authority to act in NSLW's interests without one or both respondents' assistance.

Furthermore, the testimony provided at the adjudication trial indicated that NSLW's sister was no longer willing to care for NSLW at the time that DHHS filed the petition. See *Baham*, 331 Mich App at 748-749, quoting *In the Matter of Curry*, 113 Mich App 821, 826-827; 318 NW2d 567 (1982) (recognizing that state involvement may be warranted when " 'there is a demonstration that the person entrusted with the care of the child by that child's parent is *either unwilling or incapable* of providing for the health, maintenance and well being of the child' ") (emphasis added). The CPS investigator testified that DHHS first became involved in the matter because neither respondent would pick NSLW up from the hospital and NSLW's sister had reported that she "was no longer willing to care for [NSLW] at that time," leaving NSLW with nowhere to go. And NSLW's sister likewise testified that NSLW's "reaction" to their dispute "was a little too extreme for" her to manage and that she therefore "could not keep [NSLW] . . . at her home at that time." NSLW's sister also made no attempt to pick NSLW up from the hospital until after DHHS became involved and pressed her to consider taking NSLW back into her care given respondents' refusal to do so. Cf. *Baham*, 331 Mich App at 748 (explaining that "if a *parent* places a child in the care of a relative whose home is not unfit, then the 'without proper custody or guardianship' language is not satisfied").

Although we, like the trial court, fully recognize the difficult position respondents were in due to NSLW's behavioral and mental-health issues, we are also "mindful of the deference owed to the trial court's decision." *Lange*, ___ Mich at ___; slip op at 14; see also *Boshell/Shelton*, ___ Mich App at ___; slip op at 3. And in light of the evidence before the trial court when making its decision regarding jurisdiction, it is apparent that no guardianship of NSLW was ever established and that NSLW's sister was both unwilling and legally unable to provide proper care and custody to NSLW, thereby satisfying the "without proper custody or guardianship" language in MCL 712A.2(b)(1). See *Baham*, 331 Mich App at 748-750; see also *Dixon*, 347 Mich App at 355-357.

We therefore see no reversible error in the trial court's decision to assume jurisdiction over NSLW on this basis.[5]

Affirmed.

/s/ Sima G. Patel
/s/ Brock A. Swartzle
/s/ Philip P. Mariani

[5] To the extent that respondent-mother argues that the trial court failed to expressly find that respondents' custody was contrary to NSLW's welfare and that DHHS made reasonable efforts to prevent removal, the record clearly reflects otherwise. The trial court expressly made these findings at the preliminary hearing and in its order immediately following that hearing, and it indicated as much in its order of adjudication.