

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
May 11, 2026
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In re M. HOLLIS, Minor.

Nos. 377690; 377696
Lenawee Circuit Court
Family Division
LC No. 24-000099-NA

Before: BORRELLO, P.J., and M. J. KELLY and ACKERMAN, JJ.

PER CURIAM.

In these consolidated appeals, the respondent-parents each appeal the trial court’s order terminating their parental rights to their minor child, MH, under MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist and there is no reasonable likelihood that they will be rectified within a reasonable time) and MCL 712A.19b(3)(j) (reasonable likelihood that the child will be harmed if returned to the home of the parent). We affirm.

I. FACTUAL BACKGROUND

The events that led to Department of Health and Human Services (DHHS) involvement with MH began in April 2024 when respondent-mother filed a petition for a personal protection order (PPO) against respondent-father. The petition alleged that respondent-father was an “abusive, controlling narcissist” and that respondent-father had punched respondent-mother “very hard.” Respondent-mother said she was afraid for the safety of herself and her child, MH. The petition was granted, and a PPO was entered on April 18, 2024. At the time she filed the petition for a PPO, respondent-mother had been in a relationship with respondent-father for approximately eight years, although they were not married. She later denied that the allegations in the petition for the PPO about domestic violence were true.

Around the time that the PPO was filed, Children’s Protective Services (CPS) opened an investigation into allegations of domestic violence and substance abuse in the household. A CPS worker attempted to create a safety plan, but respondent-mother and respondent-father refused to complete or sign the safety plan. Respondents were opposed to engaging in the services offered

by CPS because they believed their family did not need help. Although there was a PPO in place, respondent-mother moved back into respondent-father's home.

While CPS was working with the family to address the concerns highlighted in this first investigation, CPS received another complaint that led to a new investigation. In the second report, CPS was investigating a complaint made by respondent-mother to law enforcement regarding a domestic assault wherein respondent-father allegedly punched respondent-mother in the back while she was holding MH. Police officers found respondent-mother hiding in a ditch with MH in the middle of the night because she thought respondent-father had driven by in his truck. The police spoke with respondent-father about the event, and he denied assaulting respondent-mother, saying that he had not seen respondent-mother in days and that "she was probably smoking dope."

Because the second investigation involved allegations of domestic violence with MH present, and because respondents were refusing to participate in services related to the first investigation, the second investigation was opened as a "Category I" investigation, with "an intensive risk level." The trial court issued an ex parte order to remove MH from respondents' custody on June 22, 2024, finding that it was contrary to MH's welfare to remain in respondents' custody because there were domestic violence allegations and concerns about substance abuse and untreated mental health issues.¹

At the first preliminary hearing on June 24, respondents were not present, although their court-appointed attorneys were. Counsel for DHHS reported that DHHS had not been able to carry out MH's removal according to the ex parte removal order, so the hearing was adjourned. The hearing resumed three days later, although unfortunately no transcript of that hearing exists. That said, the record documents that the court found there was probable cause that one or more of the allegations in the petition was true and authorized the petition. Additionally, the court held that parenting time with both parents, even if supervised, would potentially be harmful to MH.

The adjudication by bench trial took place over two days in September 2024. Respondent-father testified that he had never gotten physical in an argument with respondent-mother and that respondents had never been in a physical altercation in front of their child. Respondent-mother testified and denied that the allegations in the PPO were true. She denied using any substances other than marijuana and the medications she was prescribed for her bipolar disorder. CPS investigator Brittany Kelly gave an overview of the initial CPS investigations and the lack of cooperation she encountered from respondents. After closing arguments, the court found by a preponderance of the evidence that the child was in an unsafe environment, whether due to domestic violence or because respondent-mother was mentally unstable. The court held that there were statutory grounds to exercise jurisdiction over the child. The court also permitted respondents weekly visitation supervised in a therapeutic setting.

¹ As will be discussed, respondent-father's sister spoke with a CPS worker, Brittany Kelly, about her suspicions of domestic abuse, substance abuse, and untreated mental health issues in the home, which informed DHHS's decision to remove MH from the home.

In October 2024, the court held the dispositional hearing. Brandi DeLaGarza, the foster care worker for the family, identified the barriers to reunification as unstable mental health, the instability of the relationship between the parties, substance use, domestic violence, and following through with case services. There was a delay in starting parenting time because Brenee Moore, the therapist who would be supervising, had limited availability. DeLaGarza recommended that respondents be allowed additional visitations to make up for the times they were unable to visit due to Moore's unavailability. After closing arguments, the court reviewed and approved the proposed case service plan. The court ordered supervised parenting time but held that it should not be restricted to therapeutic parenting time if Moore was not available to supervise. In their case service plans, respondents agreed, among other things, to be emotionally and mentally stable, participate in weekly counseling, participate in random drug screens, address domestic violence concerns in individual counseling, and participate in parent education classes.

At the first permanency planning hearing in January 2025, respondent-mother and respondent-father reported that they had gotten married. Respondent-father testified and denied that he was not engaging in services, instead arguing that the providers would not call him back. He did admit, however, that he did not have a phone or access to e-mail. He refused to comply with the drug screens because he did not trust the providers. He also said he was not addressing domestic violence in therapy because there was no domestic violence in his relationship with respondent-mother. Respondent-mother testified next that she had been considering leaving respondent-father, but she realized the problem was not him; it was the voices she was hearing. She had been recently hospitalized for inpatient psychiatric treatment, but she said she felt a lot better. She also refused to take a drug test.

DeLaGarza provided an update from her perspective. She noted that there had been some concerning interactions between respondents in front of MH at parenting time and with service providers. MH was acting as a caregiver to respondents after they argued in front of her during parenting visits. MH's caregivers had observed that she was angry and antisocial with her peers at preschool following her visits with respondents. Following the hearing, the court amended MH's visitation so that parenting visits would be allowed at Moore's discretion and changed the goal to both reunification and adoption.

At the next permanency planning hearing, DeLaGarza opined that respondents were partially participating in services. In order to recommend that parenting time be reinstated, Moore was requiring that they complete drug screens, which they had not done until the day of the hearing. Additionally, both of respondents' individual therapists had dropped them as clients, so they were both transitioning to new therapists. Moore was requiring that the parents demonstrate stable compliance with their service plans before recommending parenting time. The court noted that the goal remained reunification and adoption but said that if no progress were made during the next reporting period, the court would order DHHS to file a petition for termination.

The final permanency planning hearing took place in June 2025, and the court received the results of the drug screens that respondents submitted on the day of the last permanency planning hearing. Both respondents had tested positive for amphetamine and methamphetamine. Respondent-father submitted additional drug screens in April 2025 and May 2025, which were also positive for amphetamine and methamphetamine. Respondent-mother admitted that she was addicted to amphetamine and methamphetamine and would be entering inpatient rehabilitation

later in the week. Respondent-father again denied that there were any issues of domestic violence between him and respondent-mother, and he also denied that he used illicit drugs. He blamed his positive drug screens on his prescription medications. DeLaGarza testified that she called the drug-testing laboratory that performed respondent-father's tests with a list of his prescription medications, and the laboratory confirmed that his prescription medications would not have caused a false positive. The court updated the goal to adoption and scheduled a permanency planning hearing along with a termination hearing.

In July 2025, DHHS filed a supplemental petition for termination of respondents' parental rights. The court conducted the combined permanency planning and termination hearing over two days in August 2025. Respondent-mother testified that she did not go to inpatient rehabilitation because the facility was full. She reported feeling more stable than she was a year ago because she was no longer sleeping in a vehicle, "running off every five minutes," or attacking respondent-father. She opined that it was in MH's best interests to return to her care.

Respondent-father testified next, denying both a substance abuse and domestic violence problem. When asked why MH was removed from his care, he replied, "My sister is an a*****e, that's why"—a reference to his sister's report to DHHS of issues in respondents' home. He said he did not need additional services from DHHS because "I don't need nobody's help. I don't want their help for sure. I just don't want them people's help at all. I will keep going to counseling and all of that, but I don't want nothing to do with them people there."

Finally, DeLaGarza testified that respondents had been attending counseling, but only sporadically. She noted with concern that shortly after the last court hearing, the police were called to respondents' home because they were arguing, and respondent-father turned off the power to the home and broke a window to try to get back in after respondent-mother locked him out. However, the parties continued to minimize and deny domestic violence.

After closing arguments, the court held that DHHS met its statutory obligation to provide reasonable efforts to reunification. The court found statutory grounds for termination had been established under MCL 712A.19b(3)(c)(i) and MCL 712A.19b(3)(j). The court also examined the best-interest factors and concluded that it was in MH's best interests to terminate respondents' parental rights. The court entered an order terminating respondents' parental rights, and this appeal followed.

II. STANDARDS OF REVIEW

The interpretation and application of statutes and court rules are reviewed *de novo*. *In re Ferranti*, 504 Mich 1, 14; 934 NW2d 610 (2019). "Whether child protective proceedings complied with a parent's right to due process presents a question of constitutional law, which we also review *de novo*." *Id.*

We review the trial court's factual findings on appeal in a termination case for clear error. See MCR 3.977(K). A trial court's decisions regarding reasonable efforts, statutory grounds for termination, and best interests are also reviewed for clear error. *In re Sanborn*, 337 Mich App 252, 258, 276; 976 NW2d 44 (2021); *In re White*, 303 Mich App 701, 709; 846 NW2d 61 (2014). A finding is clearly erroneous if, "although there is evidence to support it, the reviewing court on the

entire evidence is left with the definite and firm conviction that a mistake has been made.” *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009) (cleaned up). In other words, a clear error is “more than just maybe or probably wrong.” *Id.*

Additionally, we review a trial court’s decision to suspend or modify parenting time for an abuse of discretion. *In re Laster*, 303 Mich App 485, 490-491; 845 NW2d 540 (2013), superseded by statute on other grounds as recognized by *In re Ott*, 344 Mich App 723, 738-741; 2 NW3d 120 (2022). We also review a trial court’s decision regarding the admission of evidence for an abuse of discretion. *In re Utrera*, 281 Mich App 1, 15; 761 NW2d 253 (2008). “An abuse of discretion occurs when the trial court chooses an outcome falling outside the range of principled outcomes.” *In re COH, ERH, JRG, & KBH*, 495 Mich 184, 202; 848 NW2d 107 (2014) (quotation marks and citation omitted).

When a party fails to preserve a claim of ineffective assistance of counsel, our review is limited to mistakes apparent on the record. *In re LT*, 342 Mich App 126, 133; 992 NW2d 903 (2022). For other unpreserved issues, our review is “limited to plain error affecting substantial rights.” *Utrera*, 281 Mich App at 8. “To avoid forfeiture under the plain error rule, three requirements must be met: 1) the error must have occurred, 2) the error was plain, i.e., clear or obvious, 3) and the plain error affected substantial rights.” *Sanborn*, 337 Mich App at 258 (cleaned up). In general, an error affects substantial rights if “it caused prejudice, i.e., it affected the outcome of the proceedings.” *Id.* (cleaned up).

III. RESPONDENT-MOTHER’S APPEAL (DOCKET NO. 377690)

Respondent-mother argues on appeal that her due-process rights were violated by errors in the proceedings leading up to and including the adjudication trial, and that DHHS did not demonstrate reasonable efforts toward reunification. We disagree.

A. DUE PROCESS

A parent has a “fundamental right to direct the care, custody, and control of his or her child free from governmental interference.” *In re Sanders*, 495 Mich 394, 415; 852 NW2d 524 (2014). This interest is a “core liberty interest recognized by the Fourteenth Amendment.” *Id.* To that end, “[t]he procedures used in adjudicative hearings protect the parents from the risk of erroneous deprivation of their parental rights.” *Id.* at 417 (cleaned up). “Procedural due process limits actions by the government and requires it to institute safeguards in proceedings that affect those rights protected by due process, such as life, liberty, or property.” *In re VanDalen*, 293 Mich App 120, 132; 809 NW2d 412 (2011) (cleaned up). Indeed, “[t]he fundamental requisite of due process of law is the opportunity to be heard.” *In re Rood*, 483 Mich 73, 92; 763 NW2d 587 (2009) (cleaned up).

A procedural due process claim requires us to consider: “(1) whether a liberty or property interest exists which the state has interfered with, and (2) whether the procedures attendant upon the deprivation were constitutionally sufficient.” *VanDalen*, 293 Mich App at 132 (cleaned up). Generally, we must examine:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government[']s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. [*Id.* (cleaned up).]

In Michigan, certain due process protections are provided by statute and court rule. At preliminary hearings, MCR 3.965 requires, in relevant part, that the court (1) determine whether the respondent has been notified, (2) read the allegations in the petition in open court unless waived, (3) advise respondent of the right to the assistance of an attorney, and (4) determine whether to authorize the petition. MCR 3.965(B)(1), (4), (6), and (12). If the court removes the child from a parent's care or custody, the court must advise the parent of the right to appeal that decision. MCR 3.965(B)(15). Additionally, reasonable-efforts findings must be made wherein

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. The court must make this determination at the earliest possible time, but no later than 60 days from the date of removal, and must state the factual basis for the determination in the court order. [MCR 3.965(C)(4).]

Further, the court must permit frequent parenting time with the child unless parenting time, even if supervised, may be harmful to the child. MCR 3.965(C)(7). If the visits may be harmful, the court may order the child to undergo a psychological evaluation or counseling, or both, to determine the appropriateness and the conditions of parenting time. MCL 712A.13a(13).

Additional protections are provided at the adjudication. Specifically, MCR 3.972 requires, in pertinent part, that the rules of evidence apply to the trial, and that if the court determines that one or more statutory grounds for jurisdiction have been proven, the court must advise the respondent that "appellate review is available to challenge any errors in the adjudicatory process, which may be challenged in an appeal from the court's initial order of disposition." MCR 3.972(C)(1), (F)(1). As with any appeal, the party seeking reversal must provide this Court with a record that verifies the basis of his or her argument. *Petraszewsky v Keeth (On Remand)*, 201 Mich App 535, 540; 506 NW2d 890 (1993).

Respondent-mother alleges that her due-process rights were violated by a series of errors at the preliminary hearings conducted on June 24, 2024, and June 27, 2024.

1. JUNE 24, 2024 HEARING²

Respondent-mother first argues that her due-process rights were violated because the trial court conducted the June 24, 2024 preliminary hearing without her present, there was no

² To preserve an issue for appellate review, respondent must raise the issue before the trial court. *Utrera*, 281 Mich App at 8. Respondent-mother did not raise these alleged errors in the trial court

reasonable-efforts finding made by the court, her attorney failed to challenge the factual basis for the removal order, and she was not provided appeal rights.

Under MCR 3.965(B)(1), the court must determine whether a parent has been notified of a preliminary hearing, and the hearing may be adjourned if the parent is not present. However, the court may conduct the hearing in the absence of the parent “if notice has been given or if the court finds that a reasonable attempt to give notice was made.” MCR 3.965(B)(1). In this case, the court entered an ex parte order to take MH into custody on June 22, 2024. On the second page of the order, the parties were directed to appear at the preliminary hearing on June 24, 2024. Kelly testified that she left a copy of the order on the door of the family home and also sent the order by text message to both respondents. The court’s written order issued on June 24, 2024, stated that notice of the hearing was given as required by law. Consequently, the court was permitted to conduct the preliminary hearing in respondent-mother’s absence under MCR 3.965(B)(1) because it found that notice was given. Respondent-mother has not demonstrated that her due-process rights were violated by her absence at the June 24, 2024 hearing when the court conducted the hearing as permitted by MCR 3.965(B), and she is not entitled to relief on this basis.

Next, respondent-mother argues that the court violated her due-process rights by failing to make a reasonable-efforts determination at the June 24, 2024 hearing. However, this allegation is not supported by the record. The court’s written order issued after the June 24, 2024 preliminary hearing stated that reasonable efforts to prevent or eliminate the removal of the child were made as determined by the court’s removal order. The court’s removal order found that reasonable efforts were made to prevent or eliminate the need for removal, including a CPS investigation, several attempts to engage with the family and offer services, and coordination with law enforcement. Accordingly, respondent-mother’s argument that the court did not make a reasonable-efforts determination at the June 24, 2024 hearing is not supported by the record, and so she is not entitled to relief on this basis. *Petraszewsky*, 201 Mich App at 540.

Respondent-mother also argues that her attorney failed to challenge the factual basis for the court’s removal order at the June 24, 2024 hearing. Under MCR 3.963(B)(1), a trial court must find, before ordering a child’s removal, that (a) the child is at a substantial risk of harm and immediate removal is necessary, (b) the circumstances warrant removal, (c) reasonable efforts were made to prevent the need for removal, (d) no other remedy other than protective custody is available, and (e) it is contrary to the child’s welfare to continue to live in the home. The court’s removal order made each of these findings. Specifically, the court found that it was contrary to MH’s welfare to remain in respondents’ care because: (1) respondents had engaged in “domestic violence altercations” in front of MH, (2) there was a concern of substance abuse in the home, (3) respondents were not participating in services, (4) the parties were in violation of the PPO, and (5) there was a concern that respondent-mother had untreated mental health issues.

Respondent-mother appears to be arguing that her counsel was ineffective for failing to object to these conclusions, although she does not cite the standard for an ineffective-assistance

regarding the preliminary hearing on June 24, 2024, and so they are unpreserved. Accordingly, we review under the plain error standard. *Id.*

claim or provide relevant caselaw that would demonstrate that her counsel’s performance was deficient. A respondent asserting a claim of ineffective assistance of counsel must show that “(1) counsel’s performance was deficient, falling below an objective standard of reasonableness, and that (2) the deficient performance prejudiced the respondent.” *In re Martin*, 316 Mich App 73, 85; 896 NW2d 452 (2016). Here, the trial court made the necessary findings under MCR 3.963(B)(1) before removing MH from respondents’ care. Consequently, an objection on this basis would have been meritless, and counsel is not ineffective for failing to raise a futile objection or advance a meritless argument. *People v Isrow*, 339 Mich App 522, 532; 984 NW2d 528 (2021). Further, respondent-mother has not argued, and it is not apparent from the record, how counsel’s purportedly deficient performance prejudiced respondent-mother. In the end, respondent has not demonstrated that she is entitled to relief on this basis.

Finally, respondent argues that her due-process rights were violated because the court failed to inform her of her appellate rights following the June 24, 2024 hearing. This argument is without merit. If the court orders the removal of the child from the parents’ custody, MCR 3.965(B)(15) provides that “the court shall advise the parent, guardian, or legal custodian of the right to appeal that action.” Here, the record reflects that respondents were served with an advice of rights regarding appeal form along with a copy of the order following the June 24, 2024 hearing. Accordingly, respondent-mother has not established the factual predicate of this claim, and so the claim necessarily fails. *Petraszewsky*, 201 Mich App at 540.

2. JUNE 27, 2024 HEARING³

Next, respondent-mother argues that errors at the continued June 27, 2024 preliminary hearing violated her due-process rights. Respondent-mother argues that there was no record of notice to her, no “reasonable efforts” findings made, and no advice of her right to appeal. She also argues that her rights were violated when the court suspended visitation without making the requisite finding that visits would be harmful to MH. Although there is no transcript available for this hearing, “a court speaks through its written orders and judgments, not through its oral pronouncements.” *In re Contempt of Henry*, 282 Mich App 656, 678; 765 NW2d 44 (2009). Accordingly, when viewed through the framework of the court’s written order following this hearing, respondent-mother’s claims of error are without merit.

First, respondent-mother’s contention that she was not provided notice of the June 27, 2024 hearing is not supported by the record. The record contains proofs of service demonstrating that she was notified of the hearing by mail, e-mail, and text message. Furthermore, the order following the June 27, 2024 hearing indicates that both respondent-mother and her counsel were present at

³ There is no record of the preliminary hearing conducted on June 27, 2024, and so no transcript of this hearing is available for review. Accordingly, although the arguments regarding the June 27, 2024 preliminary hearing appear to be unpreserved, it is impossible to say with certainty. However, because respondent-mother’s claims regarding this preliminary hearing lack merit, she is not entitled to relief even under the more exacting standard of review applicable to preserved claims.

the June 27, 2024 hearing.⁴ Consequently, respondent-mother has not proven the factual predicate for her due-process claim that she was not provided notice, nor has she demonstrated that the alleged lack of notice was prejudicial because she was apparently able to attend the hearing.

Respondent-mother's claim that the court failed to make reasonable-efforts findings also lacks merit. The court's order following the hearing finds that reasonable efforts were made to prevent or eliminate the removal of MH from respondents' home, and those efforts included "investigating the safety of the child in the home and custody of the parents which was blocked and opposed by the parents, subjecting the child to harm." Accordingly, because the trial court made findings in its written order that DHHS made reasonable efforts to prevent removal, this claim is also unsupported by the record. *Petraszewsky*, 201 Mich App at 540.

Next, respondent-mother claims that she was not advised of her right to appeal as required by MCR 3.965(B)(15). This too is contradicted by the record. The proof of service signed on June 27, 2024 indicates that respondent-mother was served with a copy of the order following the preliminary hearing, along with an advice of rights form, which notified her of her right to appeal. Consequently, this alleged error is not supported by the record. *Petraszewsky*, 201 Mich App at 540.

Finally, respondent-mother argues that the court did not make a finding that visitation would be harmful to MH before suspending visitation, which violates court rules and caselaw. Again, respondent-mother's argument is without merit. The trial court's order following the June 27, 2024 hearing stated, "[p]arenting time with [respondent-father] and [respondent-mother], even if supervised, may be harmful to the child(ren)." The order also directed that MH undergo a trauma assessment to determine the appropriateness and conditions of parenting time. Under MCR 3.965(C)(7)(a), "the court must permit each parent frequent parenting time with a child in placement unless parenting time, even if supervised, may be harmful to the child." Further, the court is permitted to order that the child undergo a psychological evaluation to determine the conditions under which parenting time would be appropriate. MCL 712A.13a(13). Here, the trial court found that parenting time would potentially be harmful even if supervised, and so it suspended parenting time and ordered that MH undergo a trauma evaluation before permitting parenting time. The trial court's decision was permitted by MCR 3.965 and MCL 712A.13a(13), and respondent-mother has not demonstrated that the court clearly erred by following the procedure outlined by statute and court rule. Accordingly, respondent-mother has not demonstrated that she is entitled to relief.

3. SEPTEMBER 2024 ADJUDICATION TRIAL

Respondent-mother also complains of alleged evidentiary errors at the adjudication trial that deprived her of the right to a fair trial. The first error respondent-mother raises is the court's

⁴ Admittedly, the order contains an internal contradiction: after listing respondent-father and his attorney as being present, the next line says they "were not present." But this only strengthens the evidence that respondent-mother *was* present—the trial court went out of its way to note respondent-father's absence, *not* respondent-mother's.

apparent qualification of Moore as an expert witness even though she was not presented as such, nor were the parties afforded the opportunity to voir dire Moore regarding her qualifications.

The qualification of a witness as an expert and the admissibility of expert testimony are within the trial court's discretion. *People v Murray*, 234 Mich App 46, 52; 593 NW2d 690 (1999). Testimony by expert witnesses is governed by MRE 702, which provides:

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the proponent demonstrates to the court that it is more likely than not that:

- (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- (b) the testimony is based on sufficient facts or data;
- (c) the testimony is the product of reliable principles and methods; and
- (d) the expert's opinion reflects a reliable application of the principles and methods to the facts of the case.

A trial court acts as a gatekeeper to ensure that any expert testimony admitted is reliable, and "the exercise of this gatekeeper role is within a court's discretion . . ." *Gilbert v DaimlerChrysler Corp*, 470 Mich 749, 780; 685 NW2d 391 (2004). The trial court may "neither abandon this obligation nor perform the function inadequately." *Id.* (cleaned up). "Under MRE 702, the trial court [has] an independent obligation to review all expert opinion testimony in order to ensure that the opinion testimony" meets the requirements for admission. *Craig ex rel Craig v Oakwood Hosp*, 471 Mich 67, 82; 684 NW2d 296 (2004) (emphasis omitted). "While a party may waive any claim of error by failing to call this gatekeeping obligation to the court's attention, the court must evaluate expert testimony under MRE 702 once that issue is raised." *Id.* (emphasis omitted). Additionally, the court may permit an opposing party to examine the expert witness regarding his or her qualifications, but this is not a matter of right:

Though the court may in its discretion allow the opposing party to examine a witness as to his qualification before permitting him to give his opinion, such preliminary cross-examination is not a matter of right

While it is the usual practice for such a privilege to be granted to opposing counsel before the witness expresses his opinion, we are not prepared to hold that it is error to refuse it. It lies within the discretion of the trial court to determine finally whether the witness is qualified to give an opinion upon the particular subject. [*People v Kimbrough*, 193 Mich 330, 335; 159 NW 533 (1916) (cleaned up).]

In the instant case, respondent-mother objected to Moore's testimony that touched on respondent-father's physical limitations in caring for a very young child because Moore was not qualified as a medical expert, and the court responded that Moore was "an expert recognized for purposes of counseling, as well as parenting recommendations . . ." The court overruled the

objection, but it then asked whether anyone wanted to provide further argument on the objection or raise a different objection to Moore's testimony. No party raised any objection to the court's statement that it had recognized Moore as an expert regarding counseling and parenting-time recommendations. Because this claim of error is unpreserved, respondent-mother must demonstrate that "1) the error must have occurred, 2) the error was plain, i.e., clear or obvious, 3) and the plain error affected substantial rights." *Sanborn*, 337 Mich App at 258 (cleaned up). Consequently, to be entitled to relief, respondent-mother must show that the court's decision to permit Moore to testify as an expert was erroneous under MRE 702.

Because Moore clearly qualified as an expert under MRE 702, respondent-mother cannot show that the court erred in permitting her to testify as such. Moore testified that she was a licensed therapist with a master's degree in social work, and that she had been practicing for 18 or 19 years. Further, the court opined that Moore's testimony was relevant, and indeed necessary, to assist the court in establishing appropriate parenting-time conditions:

I know I had asked for a recommendation on parenting time given the allegations that were contained in the first court order after the hearing conducted by Judge Costello considering that I had not presided over that and that there were still some unanswered questions as to whether or not it was safe. So, I do need to overrule your objection because it is important to understand why and whether or not your client cooperated with that. Go ahead.

Finally, Moore's opinion was based on her interactions with respondents, and the application of her extensive training and experience to those interactions. In sum, respondent-mother has not shown that the court erred when it permitted Moore to testify as an expert in the area of counseling and parenting-time recommendations, and so respondent-mother is not entitled to relief on this basis.⁵

Next, respondent-mother argues that the trial court erred when it permitted Kelly to testify to the hearsay statements of respondent-father's sister regarding the history of domestic violence, potential substance abuse, and mental health issues in the home. "Hearsay" is a statement that "(1) the declarant does not make while testifying at the current trial or hearing; and (2) a party offers in evidence to prove the truth of the matter asserted in the statement." MRE 801(c). Hearsay is generally inadmissible unless it falls within an enumerated exception. MRE 802. A corollary to this definition, however, is that "[a] statement that is not offered to prove the truth of the matter asserted is not hearsay." *Airgas Specialty Prods v Mich Occupational Safety & Health Admin*,

⁵ Even if she had been able to demonstrate that the court's decision to admit Moore's testimony was clearly erroneous, respondent-mother would also need to demonstrate that the error "caused prejudice, i.e., it affected the outcome of the proceedings." *Sanborn*, 337 Mich App at 258 (citation and quotation marks omitted). Here, the court recognized Moore's testimony for the purpose of establishing the conditions under which parenting visits would be safe for MH, which was permissible under MCL 712A.13a(13). Consequently, even if she had established that the court erred in permitting Moore to testify as an expert, she would not be able to show that she was prejudiced by the testimony because the testimony was permitted by statute.

338 Mich App 482, 515; 980 NW2d 530 (2021). For example, a declarant’s out-of-court statements that are offered to explain their effect on another person’s actions or behavior, rather than offered to prove the truth of the matter asserted, are not hearsay. See *People v Knolton*, 86 Mich App 424, 429; 272 NW2d 669 (1978).

In the present case, Kelly was testifying regarding the differences between the five different categories of a CPS investigation. As relevant to this case, a “Category II” investigation would be an investigation where the allegations were substantiated and the family is offered services for a period of longer than 90 days, whereas a “Category I” investigation would necessitate court involvement. Kelly testified that for the first complaint involving respondents, she opened a Category II investigation, which did not require court involvement. Kelly was then asked about the sources of information that prompted her to open the investigation as a Category II investigation. In the context of this discussion, she testified that respondent-father’s sister had concerns about MH’s safety in the home, including concerns about domestic violence, substance abuse, and untreated mental-health issues. The court overruled respondent-mother’s hearsay objection because the testimony was used for the nonhearsay purpose of explaining the actions Kelly took during her investigation, including her decision to open the investigation as a Category II instead of some other category.

The court’s decision is supported by Michigan law. An out-of-court statement can be used to explain its effect on the listener rather than to prove the truth of the matter asserted. *People v Garcia*, 31 Mich App 447, 455; 187 NW2d 711 (1971) (holding that a police officer’s testimony regarding the contents of a dispatch call was admissible to show that, as a result of the statement, the officers reacted and went to the scene). Here, the court admitted testimony regarding the concerns that respondent-father’s sister had about the possible domestic violence, substance abuse, and mental health issues in the home to explain why Kelly opened a Category II investigation. Moreover, because the adjudication was conducted by bench trial, there was little danger that the testimony would be used by the factfinder for an improper purpose. See *People v Parker*, 319 Mich App 664, 672; 903 NW2d 405 (2017) (noting that a trained jurist “is presumed to know how to sift through reliable versus unreliable evidence, lessening any prejudicial impact of hearsay admitted into evidence”). Respondent-mother fails to show that the trial court abused its discretion in admitting Kelly’s testimony for a nonhearsay purpose, and so respondent-mother is not entitled to relief on this basis.

B. REASONABLE EFFORTS

Respondent-mother argues that the trial court erred when it held that DHHS made reasonable efforts toward reunification. This argument is without merit.

Under MCL 712A.19a(2), except when certain aggravating circumstances are present which are inapplicable in this case, DHHS has a statutory duty to make reasonable efforts to reunify the child with his or her family. *In re Atchley*, 341 Mich App 332, 337; 990 NW2d 685 (2022). This means that DHHS “must create a service plan outlining the steps that both it and the parent will take to rectify the issues that led to court involvement and to achieve reunification.” *Id.* at 338-339 (cleaned up). “While the [DHHS] has a responsibility to expend reasonable efforts to provide services to secure reunification, there exists a commensurate responsibility on the part of respondents to participate in the services that are offered.” *In re Frey*, 297 Mich App 242, 248;

824 NW2d 569 (2012). This means that a respondent must participate in services and “demonstrate that they sufficiently benefitted from the services provided.” *Id.* When a respondent was offered various services but did not participate in and complete the mandated requirements, the trial court may correctly find that the respondent’s insufficient compliance with and benefit from the services provided by DHHS necessitates the termination of the respondent’s parental rights. *Id.*

Respondent-mother raises several concerns related to the supervised parenting visits she was permitted by the court. The first objection was that there was an unreasonable delay in conducting a trauma assessment of MH, which the court required before it would permit respondent-mother to have parenting time with MH. The court ordered the trauma assessment following the June 27, 2024 hearing. The Lenawee Child Trauma Assessment Center (CTAC) received the referral the next day. On July 1, 2024, a CTAC employee contacted the foster-care caseworker regarding the parameters of the assessment. The next week, CTAC contacted MH’s foster placement to schedule the trauma assessment and later contacted respondents to schedule a clinical observation of their interactions with MH as a part of the assessment. CTAC was unable to reach respondent-mother regarding the scheduling of the clinical observation until August 5, 2024. MH’s trauma assessment and clinical observation were held on August 20, 2024.

At the pretrial hearing on July 23, 2024, the court asked whether an assessment regarding the appropriateness of parenting time could be provided before the August 20, 2024 assessment, and then the court announced that it would review the transcript of the preliminary hearing before making any changes to parenting time. Moore was also asked to conduct an evaluation of the appropriateness and conditions for parenting time. Respondent-mother failed to call or attend two scheduled appointments with Moore in August 2024. Consequently, the record reveals that the delay in starting supervised parenting time with MH was at least partly attributable to respondent-mother. She delayed contacting CTAC for several weeks to schedule a clinical evaluation, and she failed to attend Moore’s scheduled evaluations.

Additionally, respondent-mother argues that when the court did permit therapeutic parenting time following the September 2024 adjudication, Moore was unavailable to supervise the visits, which made such visits essentially unavailable to respondent-mother. This argument is also without merit. As noted above, respondent-mother missed two appointments with Moore in August 2024. After the court ordered supervised visitation, Moore scheduled another intake appointment with respondent-mother on September 22, 2024, which respondent-mother again failed to attend. Due to concerns about the availability of therapeutic visitation, the foster care case supervisor agreed to oversee supervised parenting time. Respondent-mother then had supervised parenting time with either the foster-care caseworker or Moore on ten occasions in the last three months of 2024. Respondent-mother did not confirm the visits scheduled for December 20, 2024, and December 23, 2024, so those visits were canceled.

Although respondent-mother now argues that she was not permitted parenting time because the agency did not have sufficient services under contract to monitor the supervised parenting, this is not supported by the record. As noted above, when respondents expressed frustration with Moore’s availability to monitor their supervised visits, the court allowed that supervised parenting time be conducted without the supervision of a therapist because “it is important that these parents be able to visit with their child and to continue to observe the parents with the child.” Over the next several months, respondents were permitted visits both with and without Moore’s supervision.

Consequently, respondent-mother's argument that DHHS did not undertake reasonable efforts to reunify the family in this regard is without merit.

Next, respondent-mother argues that the court improperly denied parenting time to pressure respondents into complying with their case service plan. Again, this is not supported by the record. During respondents' parenting time visits in October, November, and December 2024, respondents displayed inappropriate behavior, which the court viewed as harmful to MH's mental and emotional health. For example, on December 9, 2024, MH asked for respondent-mother's help with some toys, and respondent-mother called her a "brat" without provocation. Respondent-mother had limited involvement with MH, and then when MH tried to engage with respondent-mother, respondent-mother "asked [MH] why she was yelling at her." At the December 16, 2024 visit, respondent-mother reported hearing auditory hallucinations. Additionally, respondent-mother ended the October 30, 2024 visit early after "whispering things to herself for the majority of the visit," including "going to ruin my day, I can[']t, huh?" The court also heard testimony that MH was acting as a caregiver to her parents when she witnessed respondents arguing with each other during parenting time. Visits with respondents (or occasions when respondents failed to attend the visits) affected MH's mental and emotional health because she would be more angry, antisocial, and even aggressive with her peers after visits. Accordingly, the court concluded that the visits with respondents were having a detrimental effect on MH and suspended visitation until Moore deemed respondents able to have safe and healthy visits with MH that would not negatively affect her mental health.

Respondent-mother's argument that the court suspended visitation to "pressure [respondents] into compliance" with the case service plan is not supported by the record. The court heard evidence that visits with respondents were harmful to MH even though the visits were supervised, and so it appropriately suspended parenting time. See MCL 712A.18(p) ("If the court determines that parenting time, even if supervised, may be harmful to the juvenile's . . . mental well-being, the court may suspend parenting time until the risk of harm no longer exists."). In the end, respondent-mother has not demonstrated that DHHS failed to make reasonable efforts to reunify the family by failing to provide her with parenting time, and so she is not entitled to relief on this basis.

Respondent also contends that DHHS failed to make reasonable efforts because it did not provide help with her ongoing transportation issues, and it failed to provide her with domestic violence counseling and substance abuse treatment. These arguments are also without merit.

As to transportation, respondent-mother argues that "the caseworker did not know that the parents had lost their vehicle and had no way to get to any scheduled appointments at the time of the March 10, 2025 Review Hearing." This misstates the record. Respondent-mother testified that respondent-father's truck was damaged, and so they no longer had access to respondent-father's truck. However, she also reported that they were using a truck loaned to them by respondent-father's friend, so they were able to drive to appointments in the loaned truck. Consequently, respondent-mother's argument that respondents "had lost their vehicle and had no way to get to any scheduled appointments" is not supported by the record.

Respondent-mother argues that DHHS failed to make reasonable efforts to provide domestic violence counseling because at the review hearing on January 6, 2025, respondent-

mother reported that she was on the waiting list for domestic violence counseling. Again, this misstates the record. DeLaGarza testified that although respondent-mother was on the waiting list for counseling, “she is only on the waiting list because she missed two intake appointments back in November.” Although DHHS had a duty to provide respondent-mother with services, she had a corresponding duty to participate in those services when offered. *Frey*, 297 Mich App at 248. Any delay in the provision of services that resulted from respondent-mother’s lack of participation does not indicate that DHHS failed in its duty to provide her those services.

Finally, respondent-mother argues that when she admitted she was a methamphetamine user, she requested assistance from DHHS in obtaining a substance abuse or inpatient treatment and “DHHS refused to help her because the case goal had been changed to adoption” Respondent-mother reported substance abuse issues to her counselor from Orchard’s Parenting Services in May 2025, and she indicated that she wanted to go to Harbor Light Rehabilitation’s inpatient rehabilitation program. Respondent-mother apparently spoke with someone at Harbor Light, and they told her that she could enter their inpatient program “at any time.” She testified that she planned to do so during the week of June 2, 2025. However, at the August 25, 2025 termination hearing, respondent-mother still had not checked into rehabilitation because the program was now full. Respondent-mother testified that she sought the help of her caseworker at Community Mental Health (CMH) to find an outpatient substance abuse counselor. DeLaGarza testified, however, that respondent-mother did not ask her for assistance:

Q. As it relates to assisting [respondent-mother] with substance abuse treatment, can you just give us any updates into what efforts the agency made to assist her?

A. She did state that she wanted to go to one specific in-patient rehab. I think Harbor Light is the name and it is in Monroe. She was trying to get in there. I did try to call myself but they stated that she would have to be the one to call since it is voluntary to go in there. I did ask her when I served them the paperwork on August 7th if she had any updates about rehab and she told me that beds were full and that she was waiting for her CMH case manager to contact her back and I told her to let me know if she needed any help with that and then I didn’t hear back about that specifically until August 18th, but it was basically just to say that she had told her case manager that she was looking for counseling at this point.

Consequently, respondent-mother’s argument that “DHHS refused to help her because the case goal had been changed to adoption” appears to be without merit. Respondent-mother was set on attending Harbor Light’s inpatient rehabilitation program, and when that was no longer an option, she was working with CMH to find an alternate program. DeLaGarza offered to help find her an alternate program, but respondent-mother did not take her up on her offer.

In the end, respondent-mother has not demonstrated that the trial court’s finding that DHHS made reasonable efforts to reunify the family was clearly erroneous.

III. RESPONDENT-FATHER’S APPEAL (DOCKET NO. 377696)

Respondent-father contends that the trial court clearly erred in finding statutory grounds to terminate his parental rights, that DHHS failed to demonstrate reasonable efforts toward reunification, and that the trial court clearly erred in concluding that termination was in MH’s best interests.

A. STATUTORY GROUNDS

First, respondent-father argues that the trial court clearly erred when it found that statutory grounds existed to terminate his parental rights. We disagree.

To terminate parental rights, a trial court must first find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met. *VanDalen*, 293 Mich App at 139. At the termination hearing, the trial court “may take into consideration any evidence that had been properly introduced and admitted at the adjudication trial, MCR 3.977(E), along with any additional relevant and material evidence that is received by the court at the termination hearing, MCR 3.977(H)(2).” *In re Mota*, 334 Mich App 300, 316; 964 NW2d 881 (2020). Evidence is clear and convincing if it

produces in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence so clear, direct and weighty and convincing as to enable the factfinder to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue. [*In re Pederson*, 331 Mich App 445, 472; 951 NW2d 704 (2020) (cleaned up).]

Under MCL 712A.19b(3)(c)(i), termination is warranted when:

(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.

Termination under this provision is appropriate when “the totality of the evidence amply supports” the finding that the respondent has not achieved “any meaningful change in the conditions” that led to the trial court assuming jurisdiction of the child. *Williams*, 286 Mich App at 272.

Respondent-father first argues that the trial court clearly erred when it found that termination was warranted under MCL 712A.19b(3)(c)(i) because respondent-father made meaningful progress on each of the issues identified by DHHS, and his progress was ongoing. This is not supported by the record.

One of the barriers to reunification identified by DHHS was domestic violence. Respondent-father’s case-service plan required that he “participate in domestic violence services and . . . show benefit through said services.” DeLaGarza’s court report for the period of June to

August 2025 noted that although respondent-father was sporadically attending individual therapy, “[respondent-father] has yet to participate in any services that would address domestic violence and continues to deny that domestic violence is a current concern in their relationship.” And yet, in June 2025, police officers were called to respondents’ home because respondents were arguing. Respondent-mother locked respondent-father out of the home, and he turned off the power and broke a window trying to get back in, apparently injuring respondent-mother in the process. Consequently, the trial court concluded that respondent-father had not demonstrated that he was benefiting from the services designed to target the domestic-violence issues:

[I]f he resolved those, [it] could have helped him resolve some of the domestic violence dynamics in the home and helped him develop some conflict resolution skills that didn’t involve things like breaking windows in order to get back into the house, which happened just recently, or some of the other litany of phone calls that were tracked and received by the court during the course of time. Interactions with neighbors resulted in police calls. His interaction with his wife that resulted in police calls. Sure, every couple fight[s], but not every couple has fights that regularly require police involvement and attention to make sure that nothing significant is happening or no one needs to be arrested.

Respondent-father refused to acknowledge that domestic violence was a problem he needed to address, but the police were called to the family home following an argument in which respondent-mother was observed to have been injured. Accordingly, respondent-father’s argument that he had “learned and implemented de-escalation strategies” is not supported by the record, and the trial court did not clearly err when it found that domestic violence continued to be an issue that prevented reunification.

Additionally, respondent-father argues that the trial court erred when it determined that substance abuse continued to be a barrier to reunification. This argument is also without merit. In his case-service plan, respondent-father agreed that he would “demonstrate his sobriety by participating in random drug screens” and that a missed screen without prior authorization would count as a positive screen. Even though he agreed to regular screening in his case-service plan, respondent-father refused to be tested until March 10, 2025. Respondent-father tested positive for amphetamine and methamphetamine in March 2025, April 2025, and May 2025. He participated in a substance-abuse evaluation during which he reported that he did not have any issues with alcohol or substance abuse, and “so no services were recommended because of that.” Respondent-father denied using methamphetamine or any street drugs, and he blamed his positive drug tests on his prescription medications. However, when DeLaGarza called the laboratory with a list of respondent-father’s prescription medications, she was told that the medications would not cause a positive test for methamphetamines or amphetamines. Although the trial court offered to provide funds if respondent-father wanted to seek further testing, respondent-father did not provide any evidence that would refute DeLaGarza’s testimony that respondent-father’s prescription medications could not have caused a false-positive drug screen. In the end, the record is clear that respondent-father repeatedly denied that he had a substance-abuse issue despite clear evidence to the contrary. The court did not clearly err in holding that this barrier to reunification had not been rectified.

Next, respondent-father argues that his compliance with his case service plan improved rather than stagnated during the pendency of the case. This, too, is contradicted by the record. Respondent-father agreed in his case service plan “to be emotionally and mentally stable.” However, as noted above, the police were called to respondents’ home because of an argument in which respondent-father shut off the power and broke a window to get back into the family home. Additionally, DeLaGarza noted that despite respondent-father attending individual therapy, albeit sporadically, there “continues to be concern for [respondent-father’s] ability to regulate his emotions and behavior due to his verbally aggressive and combative behavior toward service providers when he is in disagreement with their opinions and recommendations.” When asked what he had learned from parenting class, he proceeded to blame CPS and Moore for removing MH from his care—specifically, that CPS “put [MH] in the middle of it,” “[j]ust like that Moore lady put her in the middle of it”—without any introspection about his own actions that led to court involvement. Contrary to respondent-father’s argument, the record indicates that he continued to demonstrate emotional and mental instability in his interactions with respondent-mother and his case-service providers. The mere fact that he may have completed an Orchard’s Family Services parenting program does not rebut any of these observations. Consequently, respondent-father has not demonstrated that the court clearly erred when it found that his compliance with his case service plan continued to be a barrier to reunification.

Finally, respondent-father argues that even if the court properly concluded that some of the concerns remained, MCL 712A.19b(3)(c)(i) required proof that there was no reasonable likelihood of rectification within a reasonable time. Respondent-father continued to deny that he had any issues with substance abuse or domestic violence or that he needed any treatment for those issues despite clear evidence to the contrary. Given the documented lack of progress, we are not left with a definite and firm conviction that the trial court erred when it found no reasonable likelihood existed that the conditions that led to the adjudication would be rectified by respondent-father within a reasonable time considering MH’s age. See *White*, 303 Mich App at 710 (“A parent’s failure to participate in and benefit from a service plan is evidence that the parent will not be able to provide a child proper care and custody.”).⁶

B. REASONABLE EFFORTS

Like respondent-mother, respondent-father argues that the trial court erred when it terminated his parental rights because DHHS failed to make reasonable efforts toward reunification after the court suspended respondent-father’s parenting time. Although respondent-father broadly alleges that DHHS did not undertake reasonable efforts toward reunification, his

⁶ Because the trial court did not clearly err when it found that a statutory ground for termination was established under MCL 712A.19b(3)(c)(i), we need not and do not determine whether the trial court correctly determined that termination was also warranted under MCL 712A.19b(3)(j). *Sanborn*, 337 Mich App at 272 (“If the trial court did not clearly err by finding one statutory ground existed, then that one ground is sufficient to affirm the termination of respondent’s parental rights.”).

argument focuses solely on the suspension of his parenting time. Again, we disagree that his argument warrants relief.

Under MCL 712A.13a(13), “a parent is entitled to parenting time with a removed child unless it may be harmful to the juvenile’s life, physical health, or mental well-being.” *Ott*, 344 Mich App at 739 (cleaned up). This is true both before and after adjudication. *Id.* Likewise, a case service plan must include a schedule for regular and frequent parenting time between the child and his or her parent “unless parenting time, even if supervised, would be harmful to the child as determined by the court under section 13a of this chapter or otherwise” MCL 712A.18f(3)(e). Finally, MCL 712A.18(1)(p) provides that after the court finds that a child is within the court’s jurisdiction, the court may enter a dispositional order regarding parenting time:

Parenting time between the juvenile and the juvenile’s parent must not be less than 1 time every 7 days unless the court determines either that exigent circumstances require less frequent parenting time or that parenting time, even if supervised, may be harmful to the juvenile’s life, physical health, or mental well-being. If the court determines that parenting time, even if supervised, may be harmful to the juvenile’s life, physical health, or mental well-being, the court may suspend parenting time until the risk of harm no longer exists. The court may order the juvenile to have a psychological evaluation or counseling, or both, to determine the appropriateness and the conditions of parenting time. [MCL 712A.18(1)(p).]

Consequently, these provisions “[make] it abundantly clear that even following adjudication, a parent has a statutory right to parenting time unless it may be harmful to the child’s life, physical health, or mental well-being.” *Ott*, 344 Mich App at 741. If the court makes such a determination, it “may suspend parenting time until the risk of harm no longer exists.” MCL 712A.13a(13); MCL 712A.18(1)(p). The trial court has “broad authority” in effectuating orders once a child is within its jurisdiction, although the orders must be “appropriate for the welfare of the juvenile and society in view of the facts proven and ascertained.” *Sanders*, 495 Mich at 406 (quotation marks and citation omitted).

Respondent-father argues that his parenting time was suspended because he was inconsistent with services, not because the court made a legally sufficient finding that parenting time posed a risk of harm to MH. This is not supported by the record. Respondent-father participated in parenting time supervised by either Moore or DeLaGarza in October, November, and December 2024. Moore summarized these visits for the court and opined that it would be in MH’s best interests to suspend visitation until respondents could demonstrate safe and appropriate behavior in parenting time. Additionally, the court heard testimony that MH was acting as a caregiver to her parents during parenting time after they argued with each other. MH’s caregivers and teachers observed that she was aggressive and antisocial after her parenting-time visits.

Contrary to respondent-father’s argument, the record reflects that the court made the requisite determination of harm before suspending respondent-father’s parenting time. The court agreed with the arguments provided by DHHS’s counsel and the lawyer-guardian ad litem that it was not MH’s responsibility to make everyone feel safe and comfortable in parenting time “because mom and dad are arguing during the one hour that they have with the child.” The court was permitted to seek the input of a clinical professional to determine “the appropriateness and the

conditions of parenting time.” MCL 712A.13a(13); MCL 712A.18(1)(p). Accordingly, the court ordered that visitation be at the discretion of Moore:

She has first[-]hand experience with both of these parents with the challenges that they are facing and if and when Ms. DeLaGarza and Ms. Brenee Moore come to a place where they can consider whether or not parenting time for [MH] is safe then certainly they can get with [the lawyer-guardian ad litem] and maybe reinstitute that but I would indicate that I would recognize that Ms. Brenee Moore has recommended at this point that the parenting time be suspended until both parents engage in services in order to try to at least avoid some of these dynamics during parenting time.

Consequently, respondent-father’s argument that parenting time was suspended because of his failure to participate in services is without merit. Parenting time was appropriately suspended because the visits were harmful to MH. The trial court’s reference to respondents’ need to “engage in services” was an explanation of how he could resume parenting time. Respondent-father was required to demonstrate that he was benefiting from services to ensure that the risk of harm to MH no longer existed before resuming parenting time. MCL 712A.13a(13). His inconsistent compliance with the requirements of his case service plan, coupled with his continued aggressive behavior toward respondent-mother and service providers, makes clear that respondent-father was unable to demonstrate that he would be able to safely parent MH, even if supervised. Accordingly, the trial court did not abuse its discretion when it suspended respondent-father’s parenting time, and he is not entitled to relief on this basis.

C. BEST-INTEREST DETERMINATION

Finally, respondent-father argues that the trial court erred when it concluded that it was in MH’s best interests to terminate his parental rights. Again, we disagree.

Before a trial court may terminate parental rights, the court is required to find by a preponderance of the evidence that termination is in the child’s best interests. *Sanborn*, 337 Mich App at 276. “Parents have a significant interest in the companionship, care, custody, and management of their children, and the interest is an element of liberty protected by due process.” *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). However, “the focus at the best-interest stage has always been on the child, not the parent.” *In re Moss*, 301 Mich App 76, 87; 836 NW2d 182 (2013).

“In making its best-interest determination, the trial court may consider the whole record, including evidence introduced by any party.” *Sanborn*, 337 Mich App at 276 (cleaned up). A number of factors may be relevant to the court’s best-interest determination, including “the child’s bond to the parent, the parent’s parenting ability, the child’s need for permanency, stability, and finality, and the advantages of a foster home over the parent’s home.” *White*, 303 Mich App at 713 (cleaned up). “The trial court may also consider a parent’s history of domestic violence, the parent’s compliance with his or her case service plan, the parent’s visitation history with the child, the children’s wellbeing while in care, and the possibility of adoption.” *In re Rippy*, 330 Mich App 350, 360-361; 948 NW2d 131 (2019) (cleaned up). A child’s safety and well-being and the risk a child might face if returned to the parent’s care are also relevant to the best-interest

determination. *VanDalen*, 293 Mich App at 141-142. Further, the court may consider the testimony and reports of witnesses, such as psychologists, therapists, and caseworkers. *In re Conley*, 216 Mich App 41, 44; 549 NW2d 353 (1996).

Here, the court appropriately considered the facts that weighed both for and against termination. Weighing against termination was the “affectionate bond” between respondent-father and MH, which was apparent during the parenting-time visits respondent-father was permitted before the visits were suspended. However, the bond between respondent-father and MH was also marked by “the dynamics of domestic violence in the home.” The court found it significant that MH’s caregivers reported that she displayed a fear of men when she first came into care. So even though the court found that a bond existed, the court also opined that the bond was “characterized by a lot of very dangerous things that significantly limited [MH’s] development and caused her a lot of challenges that she continues to try to overcome.”

Additionally, the court considered the fact that MH was placed with a relative. Generally speaking, “a child’s placement with relatives weighs against termination.” *In re Olive/Metts*, 297 Mich App 35, 43; 823 NW2d 144 (2012). Here, the trial court explicitly addressed relative placement when considering the best-interest factors. It acknowledged that MH was placed with relatives but concluded that this factor did not outweigh the considerations favoring termination. Further, the record supported the trial court’s finding that the relative foster parents had an estranged relationship with respondent-father, with respondent-father himself testifying, “They are no relation to me no more, but you already know that because I’ve told you that the last time I was in court that they were all dead to me and they are.” Consequently, although the court considered this factor, it did not give the factor undue weight. Accordingly, the trial court’s consideration of this factor was sufficient to meet the requirements of *Olive/Metts*.

However, the court also considered several factors that weighed in favor of termination. The first such factor was respondent-father’s demonstrated lack of compliance with and benefit from his case service plan. The case service plan was designed to target, among other things, concerns about domestic violence, substance abuse, and mental and emotional instability. Despite several months of partial compliance with his plan, respondent-father had not demonstrated progress in these areas. He maintained that domestic violence was not an issue in the home, and yet the police were called in the final months of the case because of an argument between respondents in which respondent-father broke a window, apparently injuring respondent-mother in the process. Additionally, respondent-father agreed to “maintain his sobriety,” and yet he tested positive for amphetamines and methamphetamines in three consecutive drug screens. At the termination hearing, he maintained that he did not have a problem with substance abuse. Finally, at the termination hearing, respondent-father maintained that he was “getting better” at his emotional stability because he was not “tearing [his lawyer’s] head off right now,” but he also admitted that he and respondent-mother argue a lot at home, mostly about MH. In sum, respondent-father had not demonstrated that he had complied with and benefited from his case-service plan such that MH was not in danger of being drawn back into the cycle of substance abuse, domestic violence, and emotional instability that led to her removal.

The court also considered MH’s progress in her foster placement. During an initial assessment, MH was identified as having delays in fine motor skills, cognition, language and communication, and emotional coping behaviors. In her foster placement, she was making

progress with her speech through the therapies offered at her school, and her foster family was meeting all of her specialized medical needs. The court observed that MH was benefiting and making progress in the “stable, safe, relative environment” that her foster placement offered. Again, this progress was “attributed, unfortunately not to the parents, but rather to the Department’s decision to ask the court to remove the child and to require attention to this child for the challenges that she had and needed to overcome as a result of her exposure to her parents in the home.” Additionally, the court found that MH was bonded with her foster family, and there was a high likelihood that she would be adopted.

Consequently, the court appropriately considered the factors that Michigan caselaw deems important in its best-interest determination, and its findings were not clearly erroneous. Although the existence of a bond between respondent-father and MH weighed against termination, many of the other factors the court considered, such as respondent-father’s failure to adhere to and benefit from the case service plan, the advantages of MH’s foster-care placement, and the possibility of adoption, weighed in favor of termination. At this point, MH’s need for permanency, stability, and finality with her foster family, where she is thriving, is paramount. See *Atchley*, 341 Mich App at 347-348 (affirming the trial court’s termination of parental rights when the child was “doing better in foster care and her need for stability and permanency weighed in favor of termination”). Accordingly, respondent-father has not demonstrated that the trial court clearly erred when it determined that it was in MH’s best interests to terminate his parental rights.

Affirmed.

/s/ Stephen L. Borrello
/s/ Michael J. Kelly
/s/ Matthew S. Ackerman