

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
August 19, 2026
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In re L-S MOREHEAD, Minor.

No. 375278
Muskegon Circuit Court
Family Division
LC No. 23-005301-NA

AFTER REMAND

Before: SWARTZLE, P.J., and MALDONADO and ACKERMAN, JJ.

PER CURIAM.

This case returns to us after remand to the trial court to conduct a new best-interest determination given that its initial analysis did not consider relative placement. Because the trial court on remand considered relative placement, and its finding that termination was in the child’s best interests was not clear error, we affirm.

The Department of Health and Human Services (DHHS) sought to remove the child, LSM, from respondent-father’s care and custody after respondent-father was arrested for felony surveilling an unclothed person, MCL 750.539j(1)(a). Respondent-father was found guilty of the charge, sentenced to serve 18 months to 15 years, and was required to register under the Sex Offenders Registration Act (SORA), MCL 28.721 *et seq.*

After removal, the child was placed with his paternal aunt. At the termination hearing, the following evidence was considered with regard to LSM’s placement with his aunt:

[DHHS foster-care specialist Laura] Borek also recalled LSM telling her that “he was tired of the inconsistency in his life with his father,” that “he wanted to remain living with his aunt,” and that he “was very excited about the prospect of a possible adoption with his Aunt.” Borek testified that she believed that it was in LSM’s best interests to be adopted by his aunt because the home was “a very stable and loving

environment for him” and he was “thriving.” The aunt told Borek that her preference was to adopt LSM. The trial court then heard testimony from another DHHS foster-care worker, Tiffany Kitchen. Kitchen took over the case from Borek in November 2024 and described LSM as “doing phenomenal” in his aunt’s home. She also recalled LSM stating that he would prefer to stay with his aunt until he reached adulthood and the aunt stating that she preferred to adopt LSM. Kitchen also believed that it was in LSM’s best interests for respondent-father’s parental rights to be terminated to make him available for adoption. Because LSM and his aunt preferred adoption, the LGAL supported adoption and agreed that it was in LSM’s best interests for respondent-father’s parental rights to be terminated. [*In re Morehead*, unpublished per curiam opinion of the Court of Appeals, issued February 18, 2026 (Docket No. 375278), p 2.]

The trial court found that DHHS made reasonable efforts toward reunifications, found that termination was in LSM’s best interests, and terminated respondent-father’s rights under MCL 712A.19b(3)(g) and (j).

Respondent-father appealed the termination to this Court, and we affirmed in part and vacated in part. We affirmed that reasonable efforts were made and that there were statutory grounds for termination but vacated the trial court’s best-interests decision because the trial court did not acknowledge LSM’s relative placement with his aunt “when making its best interests findings, much less acknowledge that this placement weighed against termination.” *In re Morehead*, unpub op at 6. We remanded with the direction “that the trial court fully address the best-interest factors when rendering its decision,” and retained jurisdiction to ensure prompt resolution. *Id.*

On remand, the trial court specifically acknowledged relative placement when deciding whether termination was in the child’s best interests:

[I]t is the finding of the Court that the best interest of [LSM] is served by the termination of the respondent’s parental rights here. Even though the child was in a relative placement, that relative placement actually is also serving as the prospective adoptive family.

Given the time LSM had been with his aunt; the permanence, stability, and finality of that placement; and LSM’s desire to remain there as a permanent home, the trial court found that termination was in the child’s best interests.

This case now returns to the Court after remand.

After remand, the sole issue is the trial court’s best-interests determination, and specifically whether it properly considered relative placement in the process. We review the trial court’s findings for clear error, i.e., whether the Court “is left with a definite and firm conviction that a mistake has been made.” *In re Atchley*, 341 Mich App 332, 338, 346; 990 NW2d 685 (2022).

A trial court must consider relative placement when making a decision on a child’s best interests. “A trial court’s failure to explicitly address whether termination is appropriate in light

of the children’s placement with relatives renders the factual record inadequate to make a best-interest determination and requires reversal.” *In re Olive/Metts Minors*, 297 Mich App 35, 43; 823 NW2d 144 (2012). Placement with a relative generally weighs against termination. *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010). Relative placement is not dispositive, however, and a trial court may find that termination is in the child’s best interests even if the child is placed with a relative. *In re Atchley*, 341 Mich App at 347. Furthermore, when the trial court considers the child’s relative placement “its underlying reasoning need not be so specific” and findings are sufficient if the trial court was aware of the issues and correctly applied the law. *In re Gentry*, ___ Mich App ___, ___; ___ NW3d ___ (2026) (Docket No. 376583); slip op at 4-5.

On review of the entire record, we find no clear error with respect to the trial court’s conclusion that termination was in the best interests of the child. With respect to relative placement in particular, the trial court adequately considered the child’s placement with his paternal aunt, as a close reading of the trial court’s explanation shows.

As recounted earlier, the trial court noted with respect to the relative placement: “Even though the child was in a relative placement, that relative placement actually is also serving as the prospective adoptive family.” Thus, the trial court began its explanation with a dependent clause: “Even though the child was in a relative placement.” In grammatical terms, this dependent clause beginning with “Even though” sets up a contradistinction between the rest of the dependent clause (“the child was in a relative placement”) with what follows in the main clause: “that relative placement actually is also serving as the prospective adoptive family.” With this contradistinction, the trial court observed the dual-nature of this particular relative placement—(1) the placement was with a relative, but (2) the placement was a prospective adoptive one. That the trial court recognized two material aspects of this placement, not just one, is further signaled by that court with the words “actually” and “also” in the latter independent clause.

The second material aspect—prospective adoption—clearly weighed in favor of termination, as the trial court repeatedly explained during the initial termination proceeding and on remand. Given the contradistinction created by the structure of the sentence, the first dependent clause can only be read as a contrary to the second independent clause, i.e., an implicit recognition that, generally speaking, a relative placement weighed against termination. While the trial court could have been more explicit on this score, it need not make elaborate factual findings or explain itself at length. Instead, a short and plain explanation that acknowledged the fact of a relative placement and that such placement generally weighed against termination was sufficient. The fact that the trial court made this acknowledgement implicitly by way of contradistinction in the same sentence that it recognized explicitly an aspect of that placement that strongly weighed in favor of termination does not somehow undermine its reasoning.

The trial court followed this Court’s directive on remand. The trial court’s ultimate decision—that termination was in the child’s best interests—was not clearly erroneous based on all of the factors considered by that court.

Affirmed.

/s/ Brock A. Swartzle
/s/ Matthew S. Ackerman

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MALDONADO, J. (*dissenting*).

Although the trial court acknowledged that the child was in a relative placement on remand, the trial court’s best-interests analysis demonstrates that it did not weigh that placement against termination. Therefore, I respectfully dissent.

The fact that a child is in the care of a relative at the time of the termination hearing “is an explicit factor to consider in determining whether termination was in the [child’s] best interests.” *In re Olive/Metts Minors*, 297 Mich App 35, 43; 823 NW2d 144 (2012), (quotation marks and citation omitted). Moreover, placement with a relative weighs against termination. *In re Atchley*, 341 Mich App 332, 346-347; 990 NW2d 685 (2022). A relative caretaker may allow the parent to maintain a relationship with the child, which may be in the child’s best interests. See *In re Mason*, 486 Mich 142, 168-169; 782 NW2d 747 (2010). When a trial court fails to “explicitly address” whether termination is appropriate in light of the children’s placement with relatives, the record is inadequate to make a best-interest determination, and the matter requires reversal. *In re Olive/Metts*, 297 Mich App at 43.

I agree with my colleagues in the majority that a trial court’s findings need not be extensive, and that a short and plain explanation that acknowledges relative placement and weighs that placement against termination is sufficient. See MCR 3.977(I)(1) (“Brief, definite, and pertinent findings and conclusions on contested matters are sufficient.”). However, I disagree that the trial

court's findings in this case were sufficient to show that the trial court acknowledged relative placement *and* weighed that placement against termination as required. See *In re Olive/Metts Minors*, 297 Mich App at 43; *In re Atchley*, 341 Mich App at 347.

The majority concludes that the trial court implicitly recognized that relative placement weighed against termination by beginning its best-interests analysis with the following statement, "Even though the child was in a relative placement, that relative placement actually is also serving as the prospective adoptive family." While this statement certainly acknowledges relative placement, it does not show that the trial court weighed that factor *against* termination. In my opinion, this statement reflects that the trial court acknowledged relative placement and then found that the placement weighed in *favor* of termination because of the relative placement's intent to adopt LSM.

Moreover, the rest of the trial court's analysis also does not reflect that the trial court weighed the relative placement against termination. In its best-interests analysis, the trial court noted that it intended to compare the current placement to respondent-father's home, relying on *In re Foster*, 285 Mich App 630; 776 NW2d 415 (2009); however, it in fact did very little comparison. Largely the only factor discussed by the trial court was the significant period of time that LSM had been with the relative placement, which it found spoke "to the permanence, stability, and essentially now the finality of the placement." The trial court then provided a very brief summary of the proceedings, noting only that, with regard to respondent-father, the matter was delayed due to pending criminal charges. Finally, the trial court acknowledged that the relative placement expressed interest in adopting LSM and that LSM expressed a preference for staying in his current placement with his paternal aunt. Nothing in the trial court's analysis demonstrated that it understood that relative placement must be weighed against termination.

Even when a child is placed with a relative, a trial court may nevertheless terminate parental rights if the court finds that termination is in the child's best interests. *In re Atchley*, 341 Mich App at 346-347. But in such cases, relative placement still weighs against termination but ultimately is outweighed by other factors that lead to a conclusion that termination is in the child's best interests. In this case, the trial court's analysis does not indicate that it weighed LSM's placement with a relative against termination and nevertheless concluded based on all the evidence available to it that it was in LSM's best interests to terminate respondent-father's parental rights. Though this is likely the case here, the trial court is still required to articulate those findings on the record.

Therefore, I would vacate the trial court's best-interest determination and once again remand for further consideration of LSM's best interests instructing the trial court to weigh the relative placement against termination as required. *Id.*

/s/ Allie Greenleaf Maldonado