

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
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In re LEWIS/PITTS, Minors.

Nos. 376739, 376740
Wayne Circuit Court
Family Division
LC Nos. 2024-000803-NA
2024-000804-NA

Before: CAMERON, P.J., and MALDONADO and WALLACE, JJ.

PER CURIAM.

In Docket No. 376739 of these consolidated appeals,¹ respondent appeals by right the trial court’s order terminating his parental rights to his daughter, ANL, under MCL 712A.19b(3)(b)(i) (parent sexually abused child or sibling and there is a reasonable likelihood of injury or abuse if placed with parent) and (j) (reasonable likelihood of harm if returned to the parent). In Docket No. 376740, respondent appeals by right the trial court’s order terminating his parental rights to his son, NLP, under the same statutory provisions. We vacate and remand for further proceedings.

I. BACKGROUND FACTS

This case arose after ANL disclosed that respondent made sexually explicit comments to her and engaged in inappropriate conduct with her while she was in his care. According to ANL, respondent’s sexual misconduct began when she was about 11 years old. She disclosed several incidents involving sexually charged comments and behavior that made her feel uncomfortable, but explained that respondent never physically touched her during any of these incidents.

¹ *In re Lewis/Pitts Minors*, unpublished order of the Court of Appeals, entered August 13, 2025 (Docket Nos. 376739 and 376740).

Children’s Protective Services (CPS) began investigating the allegations of sexual abuse in August 2023. In April 2024, petitioner, the Michigan Department of Health and Human Services (DHHS), sought to terminate respondent’s rights to both ANL and NLP at the initial disposition. The petitions did not allege the existence of any aggravating circumstances that would have permitted termination at the initial disposition without first providing reasonable efforts toward reunification. The trial court authorized the petition and placed the children with their mothers.

After the adjudication, the trial court assumed jurisdiction over both children. The trial court found that DHHS had established statutory grounds to terminate respondent’s parental rights. But the trial court made no finding that aggravating circumstances existed to excuse DHHS from its statutory obligation to make reasonable efforts toward reunification. The trial court subsequently found that termination of respondent’s parental rights was in the children’s best interests and terminated respondent’s parental rights to ANL and NLP. This appeal followed.

II. STANDARDS OF REVIEW

We review the trial court’s findings regarding reasonable efforts for clear error. *In re Sanborn*, 337 Mich App 252, 258; 976 NW2d 44 (2021). “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 272-273, 276 (quotation marks and citation omitted). The interpretation and application of statutes and court rules is reviewed de novo. *In re Ferranti*, 504 Mich 1, 14; 934 NW2d 610 (2019).

III. ANALYSIS

The trial court erred by terminating respondent’s parental rights at the initial disposition without determining whether aggravated circumstances existed to warrant termination without reasonable efforts toward reunification.²

² We note that respondent’s statement of questions presented challenges only the trial court’s findings regarding statutory grounds for termination and the best-interests findings; it does not specifically challenge the propriety of terminating his parental rights at the initial disposition. Ordinarily, an issue that is not identified in respondent’s statement of questions presented is deemed abandoned. *In re Rippy*, 330 Mich App 350, 362 n 5; 948 NW2d 131 (2019). Nonetheless, we exercise our discretion to address the issue. Throughout the proceedings in the trial court, respondent repeatedly raised the issue that he had not been provided a treatment plan, and the trial court referenced whether respondent would have benefited from reunification services. Additionally, this Court recently addressed a trial court’s error in terminating a respondent’s parental rights at the initial disposition without requiring reasonable efforts toward reunification despite the fact that the “issue was not raised by either party.” *In re Walters*, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 369318); slip op at 2. Because this issue impacts respondent’s fundamental right to the care, custody, and control of his children, we exercise our discretion to consider the issue. See *id.* at ___; slip op at 2-3.

Generally, DHHS has “an affirmative duty to make reasonable efforts to reunify a family before seeking termination of parental rights[]” under MCL 712A.19a(2). *In re Sanborn*, 337 Mich App at 258 (quotation marks and citations omitted). “Reasonable efforts to reunify the child and family must be made in all cases except those involving aggravated circumstances under MCL 712A.19a(2).” *Id.* at 259 (quotation marks and citations omitted). “MCL 712A.19a(2)(a) requires a judicial determination that aggravated circumstances exist before [DHHS] is excused from making reasonable efforts.” *In re Smith-Taylor*, 509 Mich 935, 936 (2022). “Under no circumstances may a trial court terminate a parent’s rights without first finding that one of these exceptions applies.” *In re Walters*, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 369318); slip op at 1.

Here, DHHS sought termination of respondent’s parental rights at the initial disposition. But the petitions did not allege aggravating circumstances, and the trial court did not make the juridical determination or factual findings necessary to excuse DHHS from its statutory obligation to make reasonable efforts toward reunification under MCL 712A.19a(2). Absent such a finding, DHHS was obligated to make reasonable efforts toward reunification, but did not do so. Because DHHS sought termination at the initial disposition without making reasonable efforts toward reunification, and because the trial court did not find that any provision under MCL 712A.19a(2) applied, the trial court erred by terminating respondent’s parental rights at the initial disposition. *In re Smith-Taylor*, 509 Mich at 936; *In re Walters*, ___ Mich App at ___; slip op at 9.³

We vacate the trial court’s orders terminating respondent’s parental rights. On remand, the trial court shall determine whether aggravated circumstances exist that would relieve DHHS of its duty to provide reasonable efforts toward reunification under MCL 712A.19a(2). If not, it shall direct DHHS to prepare a case service plan to ensure that reasonable efforts toward reunification are provided. We do not retain jurisdiction.

/s/ Thomas C. Cameron
/s/ Allie Greenleaf Maldonado
/s/ Randy J. Wallace

³ Because the trial court erred when it terminated respondent’s parental rights at the initial disposition without properly finding aggravating circumstances existed, we need not consider whether the trial court’s statutory-grounds and best-interests determinations were erroneous.