

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
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In re R. J. PELLEGRIN-NEHRING, Minor.

Nos. 377562; 377563
Alcona Circuit Court
Family Division
LC No. 25-002796-NA

Before: BORRELLO, P.J., and BAZZI and LIEVENSE, JJ.

PER CURIAM.

In these consolidated appeals,¹ respondents appeal as of right the termination of their parental rights to their minor child, RPN, under MCL 712A.19b(3)(i) (failure to rectify conditions leading to prior termination), and (j) (reasonable likelihood that children will be harmed if returned to parent). For the reasons set forth in this opinion, we vacate the order terminating respondents’ parental rights and remand for further proceedings.

I. BASIC FACTS AND PROCEDURAL HISTORY

On May 11, 2025, RPN was born at a hospital in Traverse City, Michigan, where he remained for several weeks for treatment in the neonatal intensive care unit (NICU) as a premature infant. While respondents resided in Alcona County, it appears that respondent-mother was “flown to Traverse City” for medical care approximately two weeks before going into labor, and she remained in the Traverse City hospital until RPN’s birth. Respondent-mother purportedly did not know she was pregnant until she was admitted to the Traverse City hospital.² Two days after the minor child’s birth, the Department of Health and Human Services (DHHS) filed a permanent

¹ *In re R J Pellegrin-Nehring, Minor*, unpublished order of the Court of Appeals, issued October 9, 2025 (Docket Nos. 377562 and 377563).

² We note that respondent-mother simultaneously asserted that she was unaware that she was pregnant until May 4, 2025, or May 6, 2025.

custody petition in the Alcona Circuit Court,³ requesting that the trial court exercise jurisdiction over RPN under MCL 712A.2(b)(1) and (2), and terminate respondents' parental rights under MCL 712A.19b(3)(g), (i), and (j). DHHS's petition detailed respondents' extensive history with Children's Protective Services (CPS) and alleged that respondents failed to rectify the conditions that led to the termination of their parental rights to RPN's three siblings, including "unsanitary and hazardous" living conditions, physical neglect, and improper supervision. Respondents' parental rights were previously terminated to their two oldest children on October 31, 2023, and to their third child on May 31, 2024. The petition further delineated the substantial services and resources provided by DHHS in the prior child protective proceedings.

On May 14, 2025, the trial court held a preliminary hearing regarding the petition; at the time of the hearing, RPN remained in the hospital in Traverse City,⁴ but respondents had returned to their shared home in Alcona County. Ashlyn Martin, a CPS investigator and foster care worker, testified that respondents' parental rights to three of their minor children were previously terminated because of "physical neglect, the conditions of the home that the parents are living in, in addition to parenting skills and overall ability to provide [] a safe, stable environment for their children." Martin further shared that she recently attempted to visit respondents' residence, but she was repeatedly unable to examine the home, and Martin noted that this was the same residence that had been the subject of concern in the previous child protective proceedings. Martin asserted that respondent-mother "reported to the Traverse City Worker that [respondents are] currently staying in a camper on [her mother's] property without water or electricity." Martin affirmed that DHHS was seeking termination of respondents' parental rights to RPN at the initial disposition.

In response, the trial court opined:

I have authorized the petition based on the stipulation of the parties. But based on the testimony, I am satisfied that there, due to the history of physical neglect, and this child's fragile health being a preemie, that there is a substantial risk of harm to the child if the child is allowed to go home with the parents. Reasonable efforts have been made previously.

This Court will take judicial notice that a number of services have been provided and that this case, when it first started, with the first child . . . that the parties were residing with [respondent-mother's mother] and the Court takes note of the condition of that home. It was completely unsafe for an infant. And due to the lack of cooperation now, to see whether or not the condition of the home has improved, I, on behalf of the child, will presume that the condition of the home is the same as it was and imposes [a] serious threat to the health and safety of the child, and that the previous efforts made to prevent removal have not improved the condition of the house at all.

³ All references to the trial court pertain to the Alcona Circuit Court.

⁴ There is no dispute that the hospital in Traverse City is not within the county boundary of Alcona County.

I am satisfied that continuing the child to reside with the parents would pose a safety [risk] that's contrary to the welfare of [RPN] to remain with the parents at this time. And that the placement, current placement, in the NICU and then to be released to an adequate foster care home would be appropriate to care for the infant at this time.

So, I am satisfied that it's contrary to the welfare of the child to reside with the parents and that reasonable efforts have been made. Actually, I would say extraordinary efforts have been made in the past to unify this family to no avail. So I'm satisfied that the placement anticipated after the child [is] released from the NICU is appropriate.

After the trial court iterated respondents' rights, the following exchange occurred:

The Court: Okay. [Respondent-mother], you had a question.

[Respondent-Mother]: Yes. I was wondering is there a way we can transfer the child out of that, out of that county or transfer to a different county?

The Court: Well, you really don't have grinds [sic], grounds to. You live in this county and the child will live in this county. So, this is the county of jurisdiction.

You can talk to your—

[Respondent-Father]: Okay. We just thought we would ask.

The Court: Yeah. You can talk to your attorneys about that more. But because you live here and the child lives here, this is the county with jurisdiction.

[Respondent-Father]: Okay.

The trial court subsequently entered an order consistent with its statements on the record, authorizing the petition and ordering the removal of RPN from respondents' care. As pertinent to the present appeal, the section addressing whether reasonable efforts were required in light of aggravated circumstances (box 16) was left blank. On May 27, 2025, following RPN's release from the Traverse City hospital, he was placed in a licensed foster home with one of his siblings in Iosco County.

On August 11, 2025, the trial court held an adjudication by jury trial. Martin testified that she first familiarized herself with respondents in June 2023, when she was the assigned foster care worker for respondents' two oldest children. Martin shared that during the previous child protective proceeding, respondents were living in their own apartment in Alcona County, but they were evicted from the premises, resulting in respondents moving into a camper on the property of respondent-mother's mother, which is where respondents resided since October 2023. Respondent-mother's parents and respondent-mother's disabled brother also lived on the property. Martin asserted, however, that respondents' apartment was in a similarly "deplorable condition." Martin was additionally responsible for overseeing RPN's case, and Martin immediately called

respondent-mother's mother after learning of RPN's birth to schedule a home visit. But respondent-mother's mother did not answer Martin's call, resulting in Martin conducting "an unannounced home visit" on May 13, 2025, but no one opened the door. Martin then called respondent-father because Martin was aware respondents remained in the Traverse City hospital, and respondent-father indicated that respondent-mother's mother was asleep and would return Martin's call. Martin asserted that despite waiting "a couple hours," respondent-mother's mother did not contact Martin. The following day, Martin returned to the property of respondent-mother's mother to attempt "another unannounced home visit," but "again, nobody answered the door," resulting in Martin filing a petition on behalf of DHHS.

Martin expressed that, after the authorization of the petition, Martin was able to evaluate the residence, detailing:

It was not safe for a newborn child. The outside of the yard looks similar to what the pictures were, just a lot of clutter, debris in the yard. Upon entering the home, there's a very foul odor, smell of the home that smelled like urine. They have an aggressive dog in the home which they locked up during the time that I was there, but they have indicated on numerous occasions that the dog is not safe to be around other people, and they have said that they will not get rid of that dog. The floor was covered with a filthy film of dirt. The bathroom had [] dirt[-] or feces[-]like substance stained on the toilet and the . . . bathtub.

Martin further noted that respondents' previous three children were all born premature, such that respondents should have been cognizant of the possibility that RPN may be born early, but as of the date of the home evaluation on May 15, 2025, "which was four days after [RPN] was born and there were no baby supplies in the home." Respondents were present during the evaluation, but RPN remained in the hospital for treatment. Martin also shared that while the residence of respondent-mother's mother had running water, respondents were "living in the camper on the property, which does not have electricity or running water in the camper." Martin testified that respondents provided conflicting answers regarding whether RPN would be staying in the home or in respondents' camper. Regarding the camper, Martin shared that she "could not even step foot inside the camper because there was so much clutter and debris and garbage covering the floor," and that the camper was not structurally sound. In light of the foregoing, Martin did not believe that the premises were safe for a newborn child. During the adjudication, photographs of the property of respondent-mother's mother from December 2023 and May 29, 2025, as captured by respondent-mother's brother-in-law, were admitted and depicted the unkempt and unsanitary condition of the property, both inside the residence and throughout the exterior premises.

Martin testified that she was last able to contact respondents on June 26, 2025, and Martin was previously meeting with respondents "semi-regularly to collect breast milk for [RPN]." However, after Martin informed respondents that she would need to conduct another evaluation of the property of respondent-mother's mother, respondents stopped communications and the provision of breast milk. Martin clarified that respondent-mother only supplied breast milk for RPN on two occasions, and the breast milk was not consumable because it was unhygienic. Martin stated that respondent-mother, during previous child protective proceedings, was instructed on "proper sanitization for her breasts and how to properly be pumping and storing breast milk."

Concerning respondents' capacity to care for RPN, Martin expressed that respondents "have never shown an understanding on how to care for a young child," that RPN is "particularly vulnerable, being premature and being so young that I . . . don't think it would be safe for [RPN] to be in his parents' care," and that respondents had "never been able to independently parent a newborn child in the five years that we've been dealing with them." Martin further elaborated, "They've been provided a number of services to try and teach them how to adequately parent a young child, but there was a lot of resistance and pushback. And essentially refusal to participate in the services to show benefit." Martin testified that respondents "haven't had any services this time around to be documenting whether they're doing anything to improve their situation." Martin noted that while a parent-agency treatment plan was developed for the present case, Martin did not review the plan with respondents because DHHS was seeking termination at the initial disposition. Martin asserted, "Policy does not require that services be offered."

Erika Rice, a DHHS foster care worker, testified that she oversaw case management for respondents' two oldest children, and she asserted that a parent-agency treatment plan was instituted, which included services for parenting skills and cleaning. Rice elaborated, "The services we provided were to address parenting skills, keeping your child safe and maintaining a home environment so, I would say there was not a benefit of those services." Rice further shared that while respondents consistently participated in parenting time, she was concerned about respondents' parenting skills because "almost, at every parenting time, there was some sort of concern regarding choking hazards," and respondents failed to adequately supervise their children.

Rice additionally expressed that there "was an overall concern regarding the hygiene of the parents, specifically, [respondent-mother]," because the agency "would have to sanitize [the] parenting time room following her departure from visits due to the odor." Rice maintained similar apprehensions regarding respondents' home, as to both cleanliness and safety detailing, "Lots of, like just cords and trash and debris and old food laying around." Rice noted that respondents had moved into their own apartment for a period of time, but there were similar concerns regarding the safety and cleanliness of that residence. Rice further stated that respondents neglected to attend medical appointments for their two oldest children. Rice did not believe respondents benefited from the DHHS resources provided, and she tried to accommodate respondent-mother's "cognitive limitations" by seeking hands-on support with different providers. DHHS additionally provided respondents "seven to nine months when the termination petition was filed" regarding their two oldest children to comply, but respondents failed to do so. Rice resolved, "I have genuine concerns about the safety of an infant or a toddler in their care."

Carla Shastal, an adult protective services worker, testified that she received a referral regarding respondent-mother on April 8, 2025, but she was denied access to respondents' home allegedly because of respondent-mother's mother. Shastal expressed that while there were allegations respondent-mother was pregnant at that time and neglecting to seek medical care, respondent-mother denied her pregnancy. Respondent-mother subsequently contacted Shastal, apologized for her lack of knowledge regarding her pregnancy, and informed Shastal that RPN was born.

Respondent-mother testified that she benefited from prior DHHS services as evidenced by respondent-mother's care of her nieces for approximately seven months before the adjudication. Respondent-mother expressed that while the camper lacked running water, she maintained access

to her mother's residence to "get showers, clothes." Respondent-mother further asserted, "We have multiple pictures of the house being clean to the point where the kids were on the floor and they weren't [near] choking hazards. But they were never mentioned or never shown." Respondent-mother did not believe the photographs provided accurately reflected the general state of the property. Respondent-mother contended, "We've been deep cleaning the entire house to the point where if they were to come in, there isn't as much clutter. We've been removing stuff. Going out truckloads of things that just aren't necessary." Respondent-mother shared that respondents cleaned different parts of the home on a daily basis. Respondent-mother's mother similarly testified that the photographs did not represent the general state of the property, and that respondent-mother assisted with cleaning.

Regarding when respondents were previously permitted parenting time in the residence of respondent-mother's mother, respondent-mother alleged, "We would spend three or four hours just keeping up. I mean, there's a couple times where we've left, like, a kid blanket on the floor from when they were playing, but it was never horrendous." Respondent-mother additionally stated that respondents had a notable amount of baby supplies for RPN in a storage unit and in the home, including diapers, bottles, a crib, and clothing. When the trial court questioned why respondent-mother failed to sufficiently clean the residence despite knowing she was pregnant and RPN would be residing in the home, she responded that respondents stayed in the hospital for approximately two weeks before RPN's birth and were thus unaware of the state of the residence with respondent-mother's family members remaining there. Respondent-mother further asserted that she first learned she was pregnant with RPN on May 4, 2025, or May 6, 2025, because of her high blood pressure, resulting in her hospitalization.

Respondent-father testified that the plan after RPN's birth was to collect the baby supplies from the storage unit and the residence of respondent-mother's mother before respondents returned to the home with RPN. Respondent-father acknowledged that DHHS previously provided services to respondents. Regarding cleaning, respondent-father contended, "I would sweep and mop the kitchen. I would sweep [] up the bathroom floor. We would sweep and vacuum in the living room. I would do laundry now and again. I would do dishes," in addition to assisting with yard work and garbage disposal. Respondent-father asserted, if provided the opportunity, "I would make sure everything in the house is completely spotless. There would be no clutter on the floor. Everything is going to be put away where it belongs. We would make sure everything is out for the child as needed and ready to just grab and go." Respondent-father expressed that since the termination of respondents' parental rights to their third child in May 2024, respondents "learned to do a lot better with cleaning, even though we don't always . . . do it. Everybody's been a lot more hands on with learning things. We've been trying to expand what we do know, and what, if we don't know something, we try to learn it."

Following the parties' closing arguments, the jury determined that there were statutory grounds for the trial court to assume jurisdiction over RPN under MCL 712A.2(b)(1) and (2). In the accompanying order of adjudication, box 11(b), which states, "Consistent with the circumstances, reasonable efforts were made to prevent or eliminate removal of the child(ren) from the home. These efforts include:" was checked off, and the order delineated the various services respondents were presumably provided in the previous child protective proceedings. The order further stated that respondents "have been offered services and have not reduced the barriers that caused their children to come into care." Notably, box 14, the portion of the order addressing

aggravated circumstances—which expressly provided that reasonable efforts were not required if a respondent’s parental rights to the subject child’s siblings had been involuntarily terminated and the respondents failed to rectify the conditions that led to that termination—was left blank.

Following the jury’s dismissal, the trial court conducted the initial dispositional hearing that same day, August 11, 2025. DHHS’s counsel reiterated the agency’s request for the immediate termination of respondents’ parental rights to RPN under MCL 712A.19b(3)(g), (i), and (j). Following the parties’ arguments, the trial court opined:

I do not come to this in a vacuum. I’ve been involved in this case since the beginning. We have a long history of here with, here with [respondents], since 2019. And I am fully aware of all of the services that have been provided, in-home services. They were provided [with] a dumpster. People coming into the home, two [to] three times a week to show them how to clean, to help with chore charts, to help them learn how to manage the household. And all of it to no avail.

And, and I will say that even on the part of [respondent-mother], it’s just not a lack of understanding. There has been defiance involved, along the way. I recall when she was breastfeeding and pumping and that was being sent to the foster care home and there was dog hair in the milk and dirt around the opening and she was offered the services of a lactation specialist, which she soundly rejected and said I don’t need that. Even though it would have allowed her to continue to pump and to provide breast milk for her child, she chose not to do that because she was angry at the prospect of having to work with somebody who could teach her how to do that hygienically.

The, the house in question, here, at the beginning of this case, [RPN’s maternal grandmother’s] house, all the birds and dogs and cats and there was animal feces everywhere. It was really not just unhygienic. I would say . . . it’s about as bad as I’ve seen in a 40-year long career. And the attempt was to just get them to clean it up.

The court further detailed the dire state of respondents’ previous apartment, in addition to the property of respondent-mother’s mother where respondents presently resided, and it questioned why respondents failed to address the agency’s concerns regarding cleanliness following Martin’s most recent evaluation.

The trial court resolved:

I am satisfied by clear and convincing evidence, that there is no reasonable likelihood that these parents, within a reasonable time are going to be able to provide proper care and custody and a safe environment. I’m satisfied[] that based under [MCL 712A.19b(3)(i)], all of their siblings, the rights to all of their siblings have been terminated due to the state of this household.

* * *

And I'm satisfied under [MCL 712A.19b(3)(j)] as well. That due to their conduct and capacity, if [RPN] were returned to them, he was at risk of serious harm. I don't think there's any way that anybody could think that at this point, this far down the road, even though they may desire to clean that house up, and I'm not saying they don't. I don't think either one of them [has] the capacity or the will to make that house a safe environment for a child.

The court did not expressly address MCL 712A.19b(3)(g) on the record. Regarding RPN's best interests, the trial court stated that respondents did not maintain a bond with RPN, and it recognized while respondents desired a bond with their minor child, "you also have to be willing to provide a safe environment for that child and that has not been done to date." The court further advanced that RPN required stability, and his current placement was willing to adopt RPN while facilitating and maintaining a relationship between RPN and his siblings.

The trial court reiterated, "I can't, I cannot, I cannot ignore, in my mind, the testimony that I've heard over and over and over from the case workers in this case about the efforts." The court concluded:

I am satisfied after the hearing and all the testimony and the history in this case that reasonable efforts, I would say far beyond reasonable efforts were made to preserve and to unify this family, to make it possible for the children to return safely home. But I'm also satisfied [by] clear and convincing evidence that a statutory basis exists for terminating the parental rights of [respondents] and that it is, in fact, in the best interest[s] of [RPN] to terminate those parental rights.

The trial court entered the corresponding order terminating respondents' parental rights, with box 6(a) checked: "Reasonable efforts were made to preserve and unify the family to make it possible for the child(ren) to safely return to the child(ren)'s home. Those efforts were unsuccessful." Respondents now appeal.

II. JURISDICTION

Respondent-father argues that the trial court improperly exercised jurisdiction over RPN because the child was not "found within the county" as required under the pertinent statute governing jurisdiction in Michigan child protection proceedings. We disagree.

"To properly exercise jurisdiction, the trial court must find that a statutory basis for jurisdiction exists." *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004). "Jurisdiction must be established by a preponderance of the evidence." *Id.* "We review the trial court's decision to exercise jurisdiction for clear error in light of the court's findings of fact." *Id.* "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." *In re Kellogg*, 331 Mich App 249, 253; 952 NW2d 544 (2020) (quotation marks and citation omitted). "We review de novo underlying issues of statutory interpretation." *In re Christie*, 339 Mich App 1, 4; 981 NW2d 172 (2021).

"MCL 712A.2(b) governs a circuit court's jurisdiction over a minor child in a child protective proceeding." *Christie*, 339 Mich App at 4. The statute provides, in pertinent part:

(b) Jurisdiction in proceedings concerning a juvenile under 18 years of age *found within the county*:

(1) Whose parent or other person legally responsible for the care and maintenance of the juvenile, when able to do so, neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for his or her health or morals, who is subject to a substantial risk of harm to his or her mental well-being, who is abandoned by his or her parents, guardian, or other custodian, or who is without proper custody or guardianship

* * *

(2) Whose home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other custodian, is an unfit place for the juvenile to live in. As used in this sub-subdivision, “neglect” means that term as defined in section 2 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.602. [MCL 712A.2(b)(1)-(2) (emphasis added).]

For jurisdiction to be established pursuant to MCL 712A.2(b)(2), there must be allegations and a preponderance of the evidence demonstrating that a respondent’s home is an unfit place for the minor child to reside. *In re Long*, 326 Mich App 455, 462; 927 NW2d 724 (2018).

Respondents live in Alcona County. The pertinent inquiry is whether RPN is “found within the county.” “As used in MCL 712A.2, a child is ‘found within the county’ in which the offense against the child occurred, in which the offense committed by the juvenile occurred, or in which the minor is physically present.” MCR 3.926(A). “Offense against a child” is defined as “an act or omission by a parent, guardian, nonparent adult, or legal custodian asserted as grounds for bringing the child within the jurisdiction of the court pursuant to the Juvenile Code.” MCR 3.903(C)(9). In the present case, DHHS did not allege any particular offenses against RPN under MCL 712A.2(b)(1), rather, the agency primarily relied on the doctrine of anticipatory neglect, which “recognizes that [h]ow a parent treats one child is certainly probative of how that parent may treat other children.” *Kellogg*, 331 Mich App at 259 (alteration in original; quotation marks and citation omitted). “Abuse or neglect of the second child is not a prerequisite for jurisdiction of that child and application of the doctrine of anticipatory neglect.” *Id.* (quotation marks and citation omitted). However, although “the doctrine of anticipatory neglect may satisfy the parental-conduct component of the jurisdictional statute, it does not satisfy the geographic component relative to the child required by MCL 712A.2(b).” *Christie*, 339 Mich App at 6.

Respondent-father argues that this case is analogous to *Christie*, when this Court determined that the trial court lacked jurisdiction over two teenage children who were not living with their noncustodial mother. *Id.* at 7. In *Christie*, the teenagers had lived exclusively with their father in Kent County since 2015, and they had not seen their mother, who lived in Grand Traverse County, since 2018. *Id.* at 3. When DHHS filed a petition to terminate the mother’s parental rights as to her three-year-old son after the death of her infant daughter “in a co-sleeping incident,” the agency included the mother’s two teenage sons in the petition, despite the teenagers having not seen their mother in approximately two years. *Id.* DHHS filed the petition in Grand Traverse

County, where the mother resided. *Id.* This Court resolved, “The events that resulted in the death of respondent-mother’s infant daughter were insufficient, by themselves, to permit the Grand Traverse Circuit Court to exercise jurisdiction” over the teenagers. *Id.* at 5. The *Christie* Court opined that neither teenager was “physically present” in Grand Traverse County, and “neither [parent] committed any offense in that county triggering the Grand Traverse Circuit Court’s jurisdiction.” *Id.* This Court reversed and remanded the matter for an entry of an order of dismissal. *Id.* at 7.

There are several notable distinctions, however, between the present case and *Christie*. First, it is undisputed that respondents both resided in Alcona County, intended to return to Alcona County following RPN’s birth, and had been the subjects of prior child protective proceedings commenced in Alcona County. Second, respondents and RPN were temporarily present in Grand Traverse County because respondent-mother was unexpectedly admitted to a hospital in Traverse City following complications from an unknown pregnancy, requiring both respondent-mother and RPN to receive medical care. Nothing in the record indicates that either respondent had any other connection to Grand Traverse County or intended to remain there. Third, *Christie* involved allegations of the mother’s abuse that resulted in the death of an infant daughter and, therefore, did not implicate the geographic location of the alleged conditions. In this case, by contrast, the primary concerns underlying the petition were the unclean and unsafe conditions of the residence where respondents lived—namely, the home of respondent-mother’s mother and respondents’ camper on the property in Alcona County. Accordingly, the location of the residence was directly relevant to the allegations supporting the petition.

Further, because jurisdiction under MCL 712A.2(b)(2) concerns the unfit nature of the home environment, the location of that home environment is particularly relevant here. The evidence established that respondents resided on the property of respondent-mother’s mother in Alcona County and that the premises contained significant grime, filth, clutter, and a variety of animals. Respondents’ failure to maintain the premises formed a principal basis for the petition. When considered in conjunction with the definition of an “offense against the child,” these circumstances support the conclusion that the minor child was “found within the county” for purposes of establishing jurisdiction. Accordingly, considering the foregoing, we are not left with a definite and firm conviction that the trial court erred by determining, by a preponderance of the evidence, that it had jurisdiction over RPN.

III. TERMINATION AT INITIAL DISPOSITION

Respondents argue that the trial court erred by terminating their parental rights at the initial disposition without determining whether aggravated circumstances existed to warrant termination without reasonable efforts toward reunification. We agree.

Respondents did not challenge the propriety of termination at the initial disposition during the lower court proceedings. Thus, this issue is unpreserved. This Court reviews unpreserved errors in child protective proceedings for plain error. *In re Pederson*, 331 Mich App 445, 463; 951 NW2d 704 (2020). See also *Tolas Oil & Gas Exploration Co v Bach Servs & Mfg, LLC*, 347 Mich App 280, 294 n 3; 14 NW3d 472 (2023) (exempting child protective proceedings from this Court’s holding that the plain-error rule does not apply to civil cases because of the “different constitutional considerations” implicated). The requirements to avoid forfeiture under the plain-error rule are:

“1) the error must have occurred, 2) the error was plain, i.e., clear or obvious, 3) and the plain error affected substantial rights.” *In re Sanborn*, 337 Mich App 252, 258; 976 NW2d 44 (2021) (quotation marks and citation omitted). “Generally, an error affects substantial rights if it caused prejudice, i.e., it affected the outcome of the proceedings.” *In re Utrera*, 281 Mich App 1, 9; 761 NW2d 253 (2008).

In general, DHHS has “an affirmative duty to make reasonable efforts to reunify a family before seeking termination of parental rights” under MCL 712A.19a(2). *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. MCL 712A.19a(2) provides, in pertinent part:

The court shall conduct a permanency planning hearing within 30 days after there is a judicial determination that reasonable efforts to reunite the child and family are not required. Reasonable efforts to reunify the child and family must be made in all cases except if any of the following apply:

* * *

(c) The parent has had rights to the child’s siblings involuntarily terminated and the parent has failed to rectify the conditions that led to that termination of parental rights.

“MCL 712A.19a(2) is designed to protect the right of parents and children to have a meaningful chance at reunification unless there are extreme circumstances.” *Walters*, ___ Mich App at ___; slip op at 5.

In the present case, an aggravated circumstance—i.e., respondents’ prior terminations—existed that justified forgoing reasonable efforts and terminating respondents’ parental rights to RPN at the initial disposition. The trial court, however, failed to make the requisite judicial determination relieving the agency of its obligation to provide reasonable efforts and authorizing termination at the initial disposition. Instead, in both its written orders and oral pronouncements, the trial court repeatedly stated that reasonable efforts toward reunification had been made and that respondents failed to benefit from the services provided, such that termination was necessary. Notably, the trial court made no reference to MCL 712A.19a(2), and the agency likewise omitted any reference to that provision in its petition. See *In re Berryman/Hurd/Morgan/Morgan-Hurd*, ___ Mich App ___, ___; ___ NW3d ___ (2026) (Docket No. 374775); slip op at 5. See also *Walters*, ___ Mich App at ___; slip op at 4.

Further, the agency’s provision of services and resources during a prior child protective proceeding does not establish that DHHS fulfilled its obligation to make reasonable efforts in a subsequent, distinct termination proceeding involving a different child. Rather, it is the existence

of aggravated circumstances and the requisite judicial determination based on those circumstances that may permit the agency to forgo reasonable efforts in an ensuing case—not the fact that reasonable efforts were made in a previous proceeding. See *Walters*, ___ Mich App at ___; slip op at 7 (stating that “establishing an exception to the duty to provide reunification services is a mandatory prerequisite to termination at the initial disposition”). As recognized in *Walters*, *id.* at ___; slip op at 4, “the court failed to acknowledge the presence of this added duty when terminating parental rights at the initial disposition and thus did not make any of the requisite findings.”

We vacate the trial court’s order terminating respondents’ parental rights.⁵ 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/ Stephen L. Borrello

/s/ Mariam S. Bazzi

/s/ Andrew J. Lievens

⁵ As stated in *Walters*, ___ Mich App at ___; slip op at 7, “this error warrants reversal despite being unpreserved,” because “the fairness and integrity of the proceeding was seriously affected by the damage done to the framework in which the case progressed.” Further, because we are vacating and remanding the matter for further proceedings, we decline to address respondents’ remaining issues on appeal.