

MICHIGAN SUPREME COURT

In re Ferranti, Minor

SC No. 157907-8; COA Nos. 340117 and 340118 · No. SC No. 157907-8; COA Nos. 340117 and 340118;
Otsego CC Family Division No. 13-000071-NA · Decided July 5, 2018

SUMMARY

The Michigan Supreme Court directed oral argument on whether to grant the appellants' application for leave to appeal or take other action in a child protective proceeding involving termination of parental rights. The Court requested supplemental briefing on collateral attacks to the initial adjudication, preservation and review standards, due process, trial-court home visits, and in-chambers interviews of children.

CASE DETAILS

COURT	Michigan Supreme Court
WRITING FOR THE COURT	Stephen J. Markman, Chief Justice; Brian K. Zahra; Bridget M. McCormack; David F. Viviano; Richard H. Bernstein; Kurtis T. Wilder; Elizabeth T. Clement
JURISDICTION	Michigan
DECIDED	July 5, 2018
DOCKET	SC No. 157907-8; COA Nos. 340117 and 340118; Otsego CC Family Division No. 13-000071-NA
DISPOSITION	other
PROCEDURAL POSTURE	The Michigan Supreme Court considered an application for leave to appeal from the Michigan Court of Appeals' May 10, 2018 judgment and directed the Clerk to schedule oral argument on whether to grant the application or take other action.
PRECEDENTIAL VALUE	Procedural order directing supplemental briefing and oral argument; no merits holding stated.
PARTIES	Respondent-parents

TOPICS

termination of parental rights family law procedure appellate procedure due process preservation of error

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether *In re Hatcher* correctly held that the collateral-attack rule bars respondent-parents from challenging the court's initial exercise of jurisdiction on appeal from an order terminating parental rights in the same proceeding.
2. If *Hatcher* was incorrectly decided, what standard governs review of a challenge to the initial adjudication when the respondents did not appeal the first dispositional order appealable as of right, and what steps are required to preserve alleged adjudication errors for appeal.
3. If *Hatcher* was correctly decided, whether due-process concerns may override the collateral-bar rule.
4. Whether a trial court may visit a respondent's home to observe its condition and, if so, what parameters govern such a visit.
5. Whether a trial court may interview a child who is the subject of child-protective proceedings in chambers and, if so, what parameters govern such an interview.

KEY QUOTATIONS

"We direct the Clerk to schedule oral argument on whether to grant the application or take other action." (at 1-2)

FACTUAL BACKGROUND

The order concerns child-protective proceedings involving a minor and the termination of parental rights. The order itself does not recite substantive facts about the family or the alleged conditions supporting the proceedings.

PROCEDURAL HISTORY

The matter arose from child-protective proceedings in the Otsego County Circuit Court Family Division, case No. 13-000071-NA. After the Court of Appeals entered judgment on May 10, 2018, the respondent-parents sought leave to appeal in the Michigan Supreme Court. The Supreme Court ordered supplemental briefing and invited amicus briefs concerning jurisdictional, preservation, due-process, home-visit, and in-chambers child-interview issues.

DISPOSITION

other

CASES CITED

- *In re Hatcher*, 443 Mich 426 (1993)
- *In re Hudson*, 483 Mich 928 (2009)
- *In re Sanders*, 495 Mich 394 (2014)

- In re Wangler, 498 Mich 911 (2015)

OPINION

in Re J Ferranti Minor

PER CURIAM.

Order Michigan Supreme Court Lansing, Michigan July 5, 2018 Stephen J. Markman, Chief Justice 157907-8 Brian K. Zahra Bridget M. McCormack David F. Viviano Richard H. Bernstein Kurtis T. Wilder Elizabeth T. Clement, Justices In re FERRANTI, Minor. SC: 157907-8 COA: 340117; 340118

Otsego CC Family Division: 13-000071-NA _____/ On order of the Court, the application for leave to appeal the May 10, 2018 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other action. MCR 7.305(H)(1). The appellants shall file a supplemental brief within 35 days of the date of this order addressing: (1) whether this Court's opinion in In re Hatcher, 443 Mich 426 (1993), correctly held that the collateral attack rule applied to bar the respondent-parents from challenging the court's initial exercise of jurisdiction over the respondents on appeal from an order terminating parental rights in that same proceeding; (2) if not, (a) by what standard should courts review the respondents' challenge to the initial adjudication, in light of the respondents' failure to appeal the first dispositional order appealable of right, see MCR 3.993(A)(1), and (b) what must a respondent do to preserve for appeal any alleged errors in the adjudication, see e.g., In re Hudson, 483 Mich 928 (2009); (3) if Hatcher was correctly decided, whether due process concerns may override the collateral bar rule, see, In re Sanders, 495 Mich 394 (2014), and In re Wangler, 498 Mich 911 (2015); (4) whether a trial court is permitted to visit a respondent's home to observe its condition, and, if so, what parameters should apply to doing so; and (5) whether a trial court may interview a child who is the subject of child protective proceedings in chambers, and, if so, what parameters should apply to doing so. In addition to the brief, the appellants shall electronically file an appendix conforming to MCR 7.312(D)(2). In the brief, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellees shall file supplemental briefs within 21 days of being served with the appellants' brief. The appellees shall also electronically file appendices, or in the alternative, stipulate to the use 2 of the appendix filed by the appellants. A reply, if any, must be filed by the appellants within 14 days of being served with the appellees' briefs. The parties should not submit mere restatements of their application papers. The Family Law Section and the Children's Law Section of the State Bar of Michigan, the Legal Services Association of Michigan, and the Michigan State Planning Body for Legal Services are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae. I,

Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court. July 5, 2018 p0703 Clerk

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/michigan-michigan-supreme-court/2018/in-re-ferranti-minor-j77smsy0>