

MICHIGAN COURT OF APPEALS

In re Berryman/Hurd/Morgan/Morgan-Hurd Minors; In re M. K. Berryman, Minor

Docket Nos. 374775 and 374776 (Mich. Ct. App. Mar. 23, 2026) · No. Docket Nos. 374775 and 374776 ·
Decided March 23, 2026

SUMMARY

The Michigan Court of Appeals vacated an order terminating respondents’ parental rights at initial disposition and remanded for further proceedings. The court held that the trial court plainly erred by finding that aggravated circumstances excused the Department of Health and Human Services from making reasonable reunification efforts without making the required factual findings supported by clear and convincing evidence. The court directed DHHS to prepare case service plans and ordered reasonable efforts toward reunification unless a legally sufficient determination otherwise is made.

CASE DETAILS

COURT	Michigan Court of Appeals
WRITING FOR THE COURT	Philip P. Mariani; Michelle M. Rick, P.J.; Christopher P. Yates, J.; Philip P. Mariani, J.
JURISDICTION	Michigan Court of Appeals
DECIDED	March 23, 2026
DOCKET	Docket Nos. 374775 and 374776
DISPOSITION	vacated
PROCEDURAL POSTURE	Respondents appealed by right from the Wayne Circuit Court Family Division's order terminating their parental rights at initial disposition.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo. Because the aggravated-circumstances issue was not raised below, the court reviewed it for plain error affecting substantial rights.
PRECEDENTIAL VALUE	published and precedential, subject to revision until final publication in the Michigan Appeals Reports
PARTIES	Respondent-mother, Respondent-father v. Department of Health and Human Services

TOPICS

termination of parental rights

family law procedure

parental rights

appellate procedure

statutory interpretation

PRACTICE AREAS

family law

child welfare

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appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court plainly erred by terminating respondents' parental rights at initial disposition without properly determining that aggravated circumstances under MCL 712A.19a(2)(a) and MCL 722.638 existed.
2. Whether the statutory aggravated-circumstances exceptions require a judicial finding, supported by clear and convincing evidence, that the statutory abuse and unreasonable-risk requirements are satisfied before reasonable reunification efforts may be excused.
3. Whether the trial court's failure to make the required findings affected respondents' substantial rights and warranted vacatur of the termination order.

HOLDINGS

1. A trial court may terminate parental rights at initial disposition without reasonable reunification efforts only when a statutory exception applies and the court makes the required judicial determination of aggravated circumstances.
2. Before excusing reasonable reunification efforts, the trial court must find by clear and convincing evidence that a statutorily identified individual abused the child or a sibling in a manner including one of the enumerated serious circumstances and that the respondent was a suspected perpetrator or suspected of placing the child at unreasonable risk by failing to take reasonable steps to intervene.
3. The trial court's references to improper supervision and an unfit home did not constitute the required aggravated-circumstances findings because the court did not identify a statutory basis, articulate supporting facts, or find by clear and convincing evidence that the shooting was included in statutory abuse by a listed individual.

KEY QUOTATIONS

“In most circumstances, . . . DHHS has an affirmative duty to make reasonable efforts to achieve reunification before a court may terminate parental rights,” (at 3)

“Only when an ambiguity exists in the language of the statute is it proper for a court to go beyond the statutory text to ascertain legislative intent.” (at 3)

“The listed individual perpetrating the abuse need not have also been the perpetrator of a circumstance listed in MCL 722.638(1)(a); the statute is still satisfied if a different individual committed one of the six delineated circumstances, so long as that circumstance was included in the abuse perpetrated by the listed individual.” (at 4)

“The shooting incident was certainly tragic and also troubling, inasmuch as several young children, including MKB, were left without adult supervision in an area of respondents’ home containing an unsecured, loaded gun.” (at 7)

FACTUAL BACKGROUND

DHHS became involved after 21-month-old MKB was shot by his six-year-old cousin while the children were in respondents' care. Respondent-mother had left the home briefly, and an unsecured, loaded handgun placed on a high shelf was found and fired by the cousin; MKB survived but required reconstructive surgery. The trial court terminated respondents' parental rights at initial disposition without requiring DHHS to provide reasonable reunification efforts, relying on unexplained findings of improper supervision and an unfit home.

PROCEDURAL HISTORY

The trial court authorized DHHS's petition, removed the children from respondents' care, and granted supervised parenting time. Although the petition and preliminary hearing did not identify or litigate aggravated circumstances, the trial court indicated that reasonable efforts toward reunification were unnecessary, later found statutory grounds for termination, and terminated respondents' parental rights after a best-interests hearing. The Michigan Court of Appeals held that the trial court plainly erred by terminating parental rights at initial disposition without properly determining that a statutory exception to the reasonable-efforts requirement existed.

DISPOSITION

vacated

REMAND INSTRUCTIONS

DHHS shall prepare a case service plan for each respondent, and the trial court shall order reasonable efforts toward reunification unless or until a determination is properly sought and made on the record that such efforts are excused by law. The court of appeals did not retain jurisdiction.

CASES CITED

- In re Barber/Espinoza, ___ Mich ___, ___; ___ NW3d ___ (2025) (Docket No. 167745); slip op at 3, 4, 9-12
- In re Walters, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 369318); slip op at 3, 4, 7
- LeFever v Matthews, 336 Mich App 651, 662; 971 NW2d 672 (2021)
- In re MJC, 349 Mich App 42, 48; 27 NW3d 122 (2023)
- In re Pederson, 331 Mich App 445, 463; 951 NW2d 704 (2020)
- In re Smith-Taylor, 509 Mich 935, 935 (2022)
- In re Simonetta, 507 Mich 943, 943 (2021)
- In re Utrera, 281 Mich App 1, 16; 761 NW2d 253 (2008)