

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
December 2, 2010

In the Matter of PBM, Minor.

No. 291874  
Berrien Circuit Court  
Family Division  
LC No. 08-000103-NA

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ON REMAND

Before: TALBOT, P.J., and WHITBECK and OWENS, JJ.

MEMORANDUM.

This matter is on remand from our Supreme Court to address the tardy request by S. Mullins for a jury trial.<sup>1</sup> We affirm.

Mullins did not file her jury request until two days before trial was scheduled to initiate. The trial court denied the request because it was untimely and stated concerns that the request would “significantly delay the proceedings.” Because the start of the trial was postponed, albeit for other reasons, Mullins contends that her late jury request could have been accommodated by the trial court without incurring any significant further delay.

This Court reviews a trial court’s denial of an untimely request for a jury trial for an abuse of discretion.<sup>2</sup> An abuse of discretion is found to occur when a trial court’s decision falls outside of the range of reasonable and principled outcomes.<sup>3</sup>

While Mullins had a right to a jury trial,<sup>4</sup> that right was not without limitations. In accordance with the Michigan Rules of Court:

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<sup>1</sup> *In re PM*, \_\_\_ Mich \_\_\_, 789 NW2d 172 (2010).

<sup>2</sup> *In the Matter of Hubel*, 148 Mich App 696, 699-700; 384 NW2d 849 (1986).

<sup>3</sup> *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006).

<sup>4</sup> MCL 712A.17(2).

(B) A party who is entitled to a trial by jury may demand a jury by filing a written demand with the court within:

(1) 14 days after the court gives notice of the right to jury trial, or

(2) 14 days after an appearance by an attorney or lawyer-guardian ad litem, whichever is later, but no later than 21 days before trial.

The court may excuse a late filing in the interest of justice.<sup>[5]</sup>

There appears to be no factual dispute that Mullins received notice of the impending January 28, 2009, trial date on November 20, 2008, through personal service of the summons. The summons indicated that she must request a jury within 14 days of its receipt, which she failed to do. Given the substantial amount of time available to Mullins between receipt of the notice and the trial date, and the failure to provide any excuse for the delay in submission of the jury request until two days before trial was scheduled to begin, we find the trial court did not abuse its discretion in denying her request.

Affirmed.

/s/ Michael J. Talbot  
/s/ William C. Whitbeck  
/s/ Donald S. Owens

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<sup>5</sup> MCR 3.911; see also MCR 3.965(B)(7).